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2d Session }

SENATE

{ REPORT
104-355

TO AMEND THE OLDER AMERICANS ACT OF 1955 TO IMPROVE THE PROVISIONS RELATING TO INDIANS, AND FOR OTHER PURPOSES

AUGUST 27, 1996.—Ordered to be printed

Filed under authority of the order of the Senate of August 2, 1996

Mr. MCCAIN, from the Committee on Indian Affairs,
submitted the following

REPORT

[To accompany S. 1972]

The Committee on Indian Affairs, to which was referred the bill (S. 1972) to amend the Older Americans Act of 1965 to improve the provisions relating to Indians, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of S. 1972 is to amend the Older Americans Act of 1965 to improve provisions relating to Native American programs.

BACKGROUND

The Older Americans Act authorizes the organization and delivery of home and community based care to older Americans. The Act is administered by the Administration on Aging within the U.S. Department of Health and Human Services and operated through a network of State and tribal area service providers. Through this network, critical human and social services are provided to older Americans aged 60 and over on a daily basis.

Title VI of the Act authorizes grant awards to Indian tribal governments and tribal organizations to implement programs to benefit older Native Americans. Currently, Indian tribes and tribal organizations participate in Older Americans Act programs including

home-delivered meals and other nutrition services, supportive services such as transportation and other access services, senior community service employment, elder abuse prevention and the long term care ombudsman program. These programs have proven to be of great benefit to many older Native Americans.

Tribal applicants are required to submit statistical data on programs and activities to be carried out with grant funding under title VI as well as semi-annual reports on financial information, including the unduplicated count of persons served and the total number of services provided. Indian tribes have experienced difficulty in meeting certain requirements under the Act while still providing services to elders in small, rural and geographically-isolated Indian communities. The inability to tailor nutritional and supportive programs that meet the unique characteristics and culture of Native American and Alaska Native communities has posed additional problems for many tribal communities.

Certain requirements under the Act do not conform to the unique characteristics of Indian reservations, which are characterized by geographic isolation, high poverty and unemployment levels. Indian tribes have expressed the need for additional flexibility under the Act because the application and reporting requirements have proven to be unworkable and inefficient. Other types of nutritional programs have not proven to be effective for rural and isolated areas such as those found in Alaska Native communities.

S. 1972 will clarify certain provisions of the Older Americans Act in order to provide more flexibility to Indian tribal applicants in meeting application and reporting requirements. The bill authorizes the Assistant Secretary for Aging to take into consideration the unique cultural and geographical circumstances facing American Indian and Alaska Native populations. These changes will enable Indian tribes to tailor supportive and nutrition services authorized under the Act to better meet the diverse needs of American Indian and Alaska Native communities.

The Assistant Secretary for Aging may also waive or exempt certain application or reporting requirements for tribal applicants in geographically-isolated areas or those programs that serve small, rural Indian populations. Many tribal programs that serve small Indian or Alaska Native populations spend undue amounts of time and money trying to fulfill onerous and inflexible reporting requirements. The bill authorizes the Assistant Secretary to grant a waiver or exemption to Indian tribal programs where appropriate, while maintaining the strict accountability standards that are required under the Act.

LEGISLATIVE HISTORY

S. 1972 was introduced on July 18, 1996 by Senator McCain for himself and Senators Inouye and Stevens and was referred to the Committee on Indian Affairs.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTE

In open business session on July 24, 1996 the Committee on Indian Affairs ordered the bill reported with the recommendation that the Senate pass the bill as reported.

SECTION-BY-SECTION ANALYSIS

SECTION 1. SHORT TITLE

This section cites the short title of the bill, as the “Older Americans Indian Technical Amendments Act.”

SECTION 2. INDIAN EMPLOYMENT; DEFINITION OF INDIAN RESERVATION

This section amends section 502(b)(1)(B) of the Act (42 U.S.C. 3056(b)(1)(B)) by modifying the definition of “reservation” in the current Act to conform with the definition found in section 2601(2) of the Energy Policy Act of 1992.

SECTION 3. POPULATION STATISTICS DEVELOPMENT

This section amends section 614(b) of the Act (42 U.S.C. 3057e(b)) by striking the word “certification” and inserting the word “approval.”

SECTION 4. REPORTING REQUIREMENTS

This section amends section 614(c) of the Act (42 U.S.C. 3057e(c)) by adding a new paragraph (2) which authorizes the Assistant Secretary on Aging to waive or exempt the reporting requirements of section (a)(3) for applicants that serve Indian populations in geographically-isolated areas or applicants that serve small Indian populations, while maintaining strict accountability standards of the Act.

SECTION 5. EXPENDITURE OF FUNDS FOR NUTRITION SERVICES

This section amends section 614(c) of the Act (42 U.S.C. 3057e(c)) by adding a new paragraph (3) which requires the Assistant Secretary on Aging, in determining whether an application complies with the requirements of subsection (a)(8), to take into account the unique cultural and geographical considerations of the Indian populations to be served.

SECTION 6. COORDINATION OF SERVICES

This section amends section 614(c) of the Act (42 U.S.C. 3057e(c)) by adding a new paragraph (4) which requires the Assistant Secretary on Aging, in determining whether an application complies with the requirements of subsection (a)(12), to provide flexibility tribal applicants by requiring only that they submit an appropriate narrative description of the geographical area and population to be served and an appropriate assurance against duplicate services being provided.

COST AND BUDGETARY CONSIDERATION

The cost estimate for S. 1972 as calculated by the Congressional Budget Office is set forth below:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 8, 1996.

Hon. JOHN MCCAIN,
*Chairman, Committee on Indian Affairs,
U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office (CBO) has reviewed S. 1972, the Older Americans Indian Technical Amendments Act, as ordered reported by the Committee on Indian Affairs on July 24, 1996. CBO estimates that enactment of S. 1972 would have no effect on the federal budget. Because enactment of the bill would affect neither direct spending nor receipts, pay-as-you-go procedures would not apply.

S. 1972 would change the definition of Indian reservation as it applies to Native American participants in the Senior Community Service Employment program under Title V of the Older Americans Act. Under current law, tribal organizations may receive grants to provide services to Native Americans living on or near federal or state reservations. S. 1972 would modify the definition to conform with the definition in section 2601(2) of the Energy Policy Act of 1992. The new definition would clarify that Native Americans living on former reservations—particularly in Oklahoma—would be eligible for services under Title V. Although tribal organizations on these former reservations currently receive grants under Title V, they are not explicitly included in the definition used in the Older Americans Act. The new definition would not include state reservations or Native Americans living near—but not on—reservations. While state reservations are included in the current law definition, no state-recognized tribal organization is receiving grants under Title V of the Older Americans Act.

Other provisions of the bill would reduce the reporting requirements for applicants that serve Indian populations in geographically isolated areas and allow the Department of Health and Human Services to provide maximum flexibility to applicants who take into account local customs and cultural needs of Indian populations receiving nutrition services. The bill also would provide flexibility to grantees in documenting their efforts to coordinate the provision of services. CBO estimates that these changes would have no budgetary effect.

S. 1972 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4) and would impose no costs on state, local, or tribal governments. The bill would make it easier for tribal organizations to apply for grants under the Older Americans Act of 1965.

If you wish further details on this estimate, we will be pleased to provide them. CBO staff contacts for federal budgetary effects are Dottie Rosenbaum and Christi Hawley. For private sector effects, the contact is Connie Rhind, and for state and local government effects, the contact is Marjorie Miller.

Sincerely,

JAMES L. BLUM
(For June E. O'Neill, Director).

REGULATORY IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires each report accompanying a bill to evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill. The Committee believes that S. 1972 will have no regulatory or paperwork impact

EXECUTIVE COMMUNICATIONS

The Committee has not received any executive communication from the Administration on Aging on S. 1972.

CHANGES IN EXISTING LAW

In compliance with subsection 12 of rule XXVI of the Standing Rules of the Senate, the Committee states that enactment of S. 1972 will result in the following changes in 42 U.S.C. 3001 et seq. with existing language which is to be deleted are in black brackets and the new language which is to be added is in italics:

42 U.S.C. § 3056(b)(1)(B)

“(B)(i) will provide employment for eligible individuals in the community in which such individuals reside, or in nearby communities, or

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

* * * * *

42 U.S.C. § 3057e(b)

“(b) POPULATION STATISTICS DEVELOPMENT.—For the purpose of any application submitted under this part, the tribal organization may develop its own population statistics, with [certification] approval from the Bureau of Indian Affairs, in order to establish eligibility.”

* * * * *

42 U.S.C. § 3057e(c)

“(c)(1) APPROVAL BY ASSISTANT SECRETARY.—The Assistant Secretary shall approve any application which complies with the provisions of subsection (a) of this section.

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

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

“(4) In determining whether an application complies with the requirements of subsection (a)(12), the Assistant Secretary shall require only that an applicant provide an appropriate narrative description of the geographical area to be served and an assurance that procedures will be adopted to ensure against duplicate services being provided to the same recipients.”

