

THE OLDER AMERICANS ACT  
AMENDMENTS OF 2000—Continued

Mr. DEWINE. Mr. President, the business before us is the Older Americans Act.

The PRESIDING OFFICER. Who yields time to the Senator from Ohio?

Mr. DEWINE. I yield myself as much time as I may consume.

The PRESIDING OFFICER. The time is under the control of Senator JEFFORDS of Vermont.

Mr. JEFFORDS. Mr. President, how much time do I have?

The PRESIDING OFFICER. There are 108 minutes remaining.

Mr. JEFFORDS. How much time does the Senator desire?

Mr. DEWINE. One minute, and then I will ask that my colleague from Iowa be recognized.

Mr. JEFFORDS. I yield 5 minutes to the Senator from Ohio.

Mr. DEWINE. Mr. President, the business before the Senate is the Older Americans Act. Specifically, we have Senator GREGG's amendment. I rise, very reluctantly, to oppose that amendment. In a moment, I will explain to my colleagues why I believe that amendment is unnecessary and why I believe it simply must be turned down if we are going to pass the Older Americans Act this year.

Before I do that, I want to allow my colleague from Iowa, who has come to the floor and has a major provision in this bill, to talk about this provision. I compliment him on it. He has been the lead sponsor in the Senate on a separate bill. We incorporated his bill into the Older Americans Act. The provision he will explain to the Senate is one of the new provisions of the Older Americans Act in this bill and it is a major contribution. I thank him for that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Ms. MIKULSKI. Mr. President, I have a question for the Senator from Ohio. He has the floor. I thought we would be alternating in the spirit of comity. What was the preference?

Mr. DEWINE. I was trying to accommodate Mr. GRASSLEY, whom I asked to come over here about this time. It is my understanding he has about 10 minutes. I would be happy to have you proceed at any point. At some point, I am going to talk about the Gregg amendment and why I think it should be opposed. I will be on the floor, so it doesn't matter when I do it.

Ms. MIKULSKI. My suggestion is that Senator GRASSLEY proceed and then our colleague, Senator MURRAY, proceed. She wishes to speak for 10 minutes. How about if those two speak—GRASSLEY followed by MURRAY—and then, if it is appropriate, unless other Members want to speak, the Senator and I can engage in debate on the amendment.

Mr. DEWINE. That is fine with me.

Mr. JEFFORDS. Mr. President, I yield to the Senator from Iowa 10 minutes.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I rise today in support of H.R. 782, the Older Americans Act Amendments of 2000. I join my colleagues in commending Chairmen JEFFORDS and DEWINE and other members of the committee for their hard work and endless energy in bringing this important measure to the floor.

In its 35th year, the Older Americans Act continues to meet its mission of helping seniors stay independent and part of their community. The wide array of services available under the act serve as the life-line to millions of seniors across the Nation.

Seniors in both rural and urban areas rely heavily on one or more of these services: nutrition services such as home-delivered meals; meals served in congregate settings; transportation services to medical appointments; legal assistance; protection from abuse through the ombudsman program; pension counseling services; in-home services; and volunteer and employment opportunities for older persons.

As chairman of the Senate Special Committee on Aging, I am particularly pleased that this bill contains the National Family Caregiver Support Program. Over the past 3 years, Senator BREAU and I have convened a number of hearings to examine the important role that family caregivers play. More than 20 million Americans are caring for an aging or ailing family member. To put this number in perspective, there are fewer than 2 million seniors living in nursing homes. So simply by looking at the numbers, we can conclude that the bulk of caring for our Nation's elderly is carried out by family and friends in the form of informal caregiving.

The story of Barbara Boyd, a state legislator from Ohio who testified before the Special Committee on Aging last year, provides a good example of what a caregivers job entails. Ms. Boyd cared at home for her mother who had Alzheimer's disease and breast cancer. Her mother had \$20,000 in savings and a monthly Social Security check. That went quickly. Her prescription drugs alone ran \$400 a month. Antibiotics, ointments to prevent skin breakdown, incontinence supplies, and other expenses cost hundreds of dollars a month.

Ms. Boyd exhausted her own savings to care for her mother, and exhausted herself. She isn't complaining. Family caregivers don't complain.

The contribution of family caregivers is enormous. Economically, family caregiving is worth billions of dollars. Emotionally and physically, caregiving is often an overwhelming task. Caregivers know what it entails to juggle personal and professional demands with the responsibilities that accompany caregiving.

This is why the Family Caregiving Support Program, now a part of the Older Americans Act bill before us, is

critically important to families caring for loved ones who are ill or who have disabilities. The program uses existing resources to meet a pressing need. In this case, the already successful network of aging centers will administer the program.

It will serve millions of caregivers throughout hundreds of communities nationwide by providing: respite care; information and assistance; caregiving counseling and training and supplemental services to caregivers and their families.

Our country is aging, and that demographic shift creates new needs, and this legislation helps us meet those needs. The Older Americans Act not only serves as a critical safety net, but it embraces important principles that we should uphold in policies that serve our nation's elderly.

The act calls attention to the need to prepare our nation's aging population for its own longevity by enhancing health promotion opportunities, improving flexibility for states and area agencies on aging, by modernizing programs and services, and in calling for a White House Conference on Aging in 2005.

Finally, the act provides authorization for the thirteen area agencies on aging in my home state of Iowa. In 1999, these funds enabled the agencies to serve nearly 293,000 elderly Iowans. The services the act funds are critical to older Americans in my state and throughout the country.

I ask unanimous consent that a copy of a letter I recently received from Representative BOYD be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OHIO HOUSE OF REPRESENTATIVES,

Columbus, OH, October 16, 2000.

Senator CHUCK GRASSLEY,  
Dirksen Senate Office Building,  
Washington, DC.

DEAR SENATOR GRASSLEY: We have in the state of Ohio term limits, and I am at the end of my fourth term. I will certainly miss the House, but I know my work is not done. I will continue to advocate for the elderly, especially Alzheimer's and caregivers. There is a rumor that I will be in other areas of "expertise", which are Welfare Reform, Human Services, and healthcare. It is my understanding that I have a great advocacy being voiced in my interest in public policy in the state of Ohio.

My passion will always revolve around the issue of caregiving. I have found that I remain a voice on the issue and a sounding board for those who are heartbroken.

October 21st will be two years since Mother passed, and there is not a day that dawns that I do not think of her. She, in her last years, taught me more than I ever learned in college. Everyday I marvel at the fact that I did what I set out to do during those five and a half years. Truly, my heavenly father watches over me.

If there is ever an opportunity to serve on a national level, on a board or committee on caregiving, please keep me in mind. I will be sure to keep in touch with you.

Thank you again for giving me an opportunity to tell my story as a caregiver.

Yours in Service,

BARBARA BOYD,  
*State Representative.*

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I am pleased to join with my colleagues on the HELP Committee in urging passage of this important bipartisan legislation to reauthorize the Older Americans Act.

For more than 30 years, the Older Americans Act has been our Nation's most important resource for helping seniors get the services they need in their own communities.

The OAA provides funding for senior centers, transportation, recreation, adult education, Meals-on-Wheels, preventive health care, and other essential services.

In fiscal year 2000 alone, OAA programs have provided more than \$15 million in services in Washington State.

In addition, the act provides resources for the Nation's largest program for older workers, and it provides subsidized jobs and training to more than 65,000 low-income workers over age 54.

With more people retiring, the demand for OAA services has grown dramatically in recent years. Unfortunately, the program has not kept pace with current needs.

Today, we have an opportunity to finally reauthorize the Older Americans Act, and I'm calling on my colleagues to pass a clean reauthorization bill that is based on the bipartisan legislation developed by the members of the HELP Committee.

As a member of the Aging Subcommittee of the HELP Committee, I have been eager to pass a strong reauthorization bill.

While I'm disappointed it has taken so long, I know this bill will improve the programs that seniors and their families rely on.

As I have traveled around my State, I've seen the impact these programs are making. It's not just seniors who want the act reauthorized. Their families, physicians and communities also want to see the Act strengthened.

The safety net programs authorized in the Older Americans Act provide a life line for our most vulnerable citizens.

The Older Americans Act closes the gaps in services and offers seniors a way to maintain a dignified quality of life.

The nutritional assistance programs alone are critical to addressing the needs of low and moderate income seniors.

Job training programs allow seniors to keep their economic independence and to maintain important social ties to their communities.

The most significant improvement in this legislation is the creation of the new Family Caregiver Support program.

This innovative new program will offer families real support in meeting the long term care needs of their loved ones.

It will also provide assistance to older spouses—often older women—who are left to care for a frail family member.

The Aging Subcommittee heard testimony from many family members who are struggling to care for their aging parents. Because they don't have any help, they face significant financial and emotional burdens.

I know this new program will begin to address the problems facing those families who are caring for aging relatives in their homes.

I thank the chairman of the Aging Subcommittee, Senator DEWINE, for his leadership in making this bill a reality.

I also thank Senator MIKULSKI for her efforts and hard work in making sure we honor the commitment to our seniors before we adjourn for the year.

I urge my colleagues to defeat the pending amendment and send this bill to the President without further delay.

We cannot allow this session to end without continuing the programs that have served America's seniors so well throughout the years.

I yield the floor.

Mr. JEFFORDS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Ninety-three minutes.

Mr. JEFFORDS. Mr. President, I yield to the Senator from Ohio 15 minutes.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. I thank the Chair, and I thank the chairman of the committee.

Mr. President, I rise very reluctantly to oppose the amendment of my colleague, Senator GREGG. I do so reluctantly because it is very well intended. Frankly, as I listened to his speech, there was very little, if anything, about which I disagreed. The bottom line is that the reforms he has requested and about which he has been so eloquent over the last few years are, in fact, included in the bill that is in front of us. The reality is that while those reforms are already in the bill, if his amendment were accepted, it would kill the bill at this late date.

We need to keep in mind that the House of Representatives has already passed this bill overwhelmingly with only two dissenting votes. This bill is the result of over 2 years of compromise work and labor. This bill has the accountability and the reforms that my colleague was asking about and has requested. I salute him for bringing these issues up not just on the floor today but, frankly, for bringing them up during the committee hearings, and I salute him for bringing them up before that. Because of what my colleague has done and because of the issues he has raised, we have incorporated these reforms into this bill. He

gets a lot of credit, I believe, for doing that.

I think, therefore, his amendment is simply just not necessary and ultimately, at this late date, turns out to be an amendment that could kill this bill.

I would like to talk a minute about this bill from the point of view of the Governors. I think when looking at it from the point of view of the Governors, we can get a better understanding of the reforms this bill makes, the improvements this bill makes, and the accountability that is now in this bill that does not exist in the status quo.

Let me make something very clear. The killing of this bill will not improve the status quo. We will be stuck with the status quo if this bill goes down. The question is, Does this bill fundamentally improve where we are today and bring about more accountability? I think clearly a fair reading of this bill indicates that it would.

Let me talk about this bill from the point of view of the Governors.

First of all, this bill recognizes growth in States that have more senior citizens, and therefore it is fair and it is the right thing to do.

No. 2, this bill has numerous reforms in regard to title V. We recall what title V is. Title V is employment for seniors who couldn't get a job. That helps them; it not only helps them but helps the community. We have these all over the country. My colleague talked about Green Thumb and talked about the National Park Service. These jobs are all over the country in all 50 States. They are very valuable to the seniors and very valuable to the communities that are being served.

The appropriators have traditionally, year after year, split this money 78 percent and 22 percent—78 percent going to the 9 or 10 national contractors and 22 percent going to the States. That has not changed. That is what the appropriators have done year after year.

We bring about some more equity and fairness. We say dollars on top of that up to \$35 million—any additional dollars up to \$35 million—we are going to split and we are going to reverse that. Basically, we are going to have 25 percent that is going to go national but 75 percent of the money will be spent by the Governors in the local communities as they see fit. That is a fundamental change. Again, it is one of the reasons the Governors of our Nation want this bill.

We then go further and say beyond \$35 million—if the appropriators put in beyond \$35 million—it would be a 50-50 split; again, certainly an improvement over the status quo. Again, we get to the issue of accountability.

The next reason the Governors like this bill is that they get to submit for the first time a plan to the Department of Labor for the national contractors that are coming into the States. The complaint we hear from them now is: These national contractors come into

our States, and they may be doing good work, but they may be in the wrong area or they may not spread around the States. The Governors and the people in the States of Ohio, or Illinois, or Pennsylvania, or Florida understand what our communities' needs are. We ought to have some input in that.

This bill says: Yes, you can have that input. You can submit this plan to the Department of Labor, and they have to pay attention to it for the first time. That is an improvement in local control. That is one of the reasons the States like this bill so much and one of the reasons the National Governors' Association has endorsed this bill wholeheartedly.

We next provide more accountability. We say after the national contractor comes in, after the national contractor begins its work, after they have this employment, if the State of Ohio or the State of Vermont or the State of Massachusetts decides the contractor is not doing a good job, they have redress and procedures they can follow to hold that national group accountable—again, a very significant improvement. Again, a reform that is contained in this bill.

In summary, Governors will have a greater role in planning and administering a program within a State. Under our reauthorization bill, Governors will submit a State plan to the Department of Labor which will describe where these jobs are needed within a State, where the population of older individuals who qualify for the program are located, and describe how the plan would coordinate with the programs under the Workforce Investment Act. The Governors are also given, under our bill, the opportunity to submit recommendations to the Secretary of Labor regarding proposed projects within the State that would be carried out by the public and private nonprofit grantees.

Finally, under our bill, the Governors can hold those public and private grantees that operate in their States, for the first time, accountable if they fail to serve seniors. Under the bill, the Governor can request the Secretary of Labor to review a public and private nonprofit grantee operating within the State. If the grantee is not meeting performance standards, the Secretary, under our bill, is required to take corrective action against that grantee.

Next, new cost controls will prevent misuse of funds by the grantees. That is very important. The reauthorization bill would codify definitions of administrative expenses and programmatic expenses. It would also require at least 75 percent of a grantee's funds be used for enrollee wages and benefits. This bill also explicitly states that the funds a grantee receives for the program must be used solely for that particular program. Moreover, the bill expressly requires each grantee to comply with OMB circulars and rules, and requires the grantees to maintain records sufficient to permit tracing of

funds to ensure that funds have not been spent unlawfully.

Further, grantees will be required to serve seniors or they will lose their grant. The reauthorization bill introduces performance measures in competition into the program for the first time.

The bill will establish a three-strikes-and-you-are-out policy to ensure performance goals are met. Failure to meet performance standards will first result in technical assistance and require the grantee to come up with a plan for the future. Failure to meet performance standards a second consecutive year will result in a net loss of 25 percent of the grant which will be competitively bid in an open competition. Failure to meet performance standards a third year will cut off the grantee from the program, and the grant will be competitively bid in open competition. Failure of a public and private nonprofit agency grantee to meet performance standards a fourth year in an individual State will also lead to the loss of the grant, which will then be competitively bid in an open competition.

These reforms significantly improve the Older Americans Act. They protect the taxpayers and provide seniors with a jobs program that works. Failure to pass these reforms this year will only continue a system that has not served the job placement needs of seniors in many States and will not correct the deficiencies in the administration and planning of the program. The only way these improvements will be realized is to pass this bill, the Older Americans Act, a bipartisan, bicameral initiative.

Under the bill, funding may only be used for provisions of title V. I want to make this very clear. The provisions of training and jobs to low-income seniors is the only legal use of money under our bill. You can't use, under this bill, money for lobbying. Under our bill you cannot use it for litigation. We make sure of that by specific reference to the OMB circular and we make reference in the bill to that which prohibits that type of activity.

Each grantee receiving funds must comply with the law. They cannot do lobbying; they cannot do electioneering activities. That is under our bill, as well.

Under our bill, the Secretary must conduct a review and apply responsibility tests to all applicants receiving funds, just as the Gregg amendment provided. Under our bill, it is simple: If you fail to meet a responsibility test, you cannot be a grantee.

Putting this bill together has not been an easy task. Let me remind my colleagues, it has been 8 years since Congress reauthorized the Older Americans Act. It has been 5 years since that last reauthorization expired. It has not been easy, but we are here today with a bill that fundamentally changes the status quo. Our bill makes significant and substantial improvements to the existing Older Americans Act. Failure

to pass this bill would mean that we are going to be stuck with the status quo for at least 2 more years.

I will be quite candid. After what we have gone through to put this together, if this bill fails today, I don't know how anybody thinks we could put another bill together next year or the year after. It would force another Congress to rehash these issues and try to pass a bipartisan bill. Keep in mind, we now have a bill that is more acceptable to our friends in the House. We worked this bill and coordinated this bill closely with them. They passed this bill yesterday 405-2. This bill has the support, as I indicated a moment ago, for very good and substantial reasons, of the National Governors' Association. It is not easy getting all 50 Governors to agree on anything. They agree on this bill. They want this bill. They have lobbied for the bill. They have been a part of putting it together. Failure to pass this bill means we will be stuck with the status quo for a long time.

I congratulate my colleague from New Hampshire for his work. I believe it is abundantly clear we have covered the concerns he has raised. The good news is if we pass the bill before the Senate, we can change the status quo for the better, particularly title V.

Let me talk for a moment about the status of title V. It is funded now at \$440 million annually and administered by the Department of Labor, which awards grants to 10 national organizations, AARP, Green Thumb, U.S. Forest Service, and the State governments. As I outlined, 78 percent of the funds are awarded by the Department of Labor on a noncompetitive basis to the 10 national organizations; 22 percent of the funds are distributed to the States. That is the status quo. As I indicated a moment ago, we fundamentally change that status quo.

Let me conclude by referencing the bill. If my colleagues have concerns about the reforms, whether or not they were in this bill, I reference them to this bill, to actually look at the bill. We provide for accountability in regard to title V entities in two separate ways. One, we do it before the fact, before they are chosen; second, we provide it after the fact.

The first is what is labeled in the bill as a responsibility test. In the section on the responsibility test, it outlines what the Federal Government must look at before a grantee is chosen. Let me emphasize this is not in current law. The great improvement this bill makes is we put this in law. No matter who the Secretary of Labor is, no matter which party runs the Department of Labor, they have to follow the law. They have strict criteria that they have to follow. We spell it out.

The bill provides:

Before final selection of a grantee, the Secretary shall conduct a review of available records to assess the applicant agency or State's overall responsibility to administer Federal funds.

As part of that, the Secretary may consider any information about that

proposed grantee-specific language which I will read.

The organization's history with regard to the management of other grants—

So I listened very carefully to the concerns of my colleague from New Hampshire about a specific grantee. I say to him, look at the language in this bill. We have addressed those concerns. The Department of Labor will look at these things and they will look at a past history and they will look at a pattern and they will look to see if there have been problems in the past. We go on and spell this out, page after page, all the different things the Department can look at and should, in fact, look at:

Failure to submit required reports; failure to maintain effective cash management or cost controls; failure to ensure that a subrecipient complies with the Office of Management and Budget Circular[s]; failure to audit a subrecipient within the required period; willful obstruction of audit process; failure to establish a mechanism to resolve a subrecipient's audit in a timely fashion—[et cetera, et cetera.]

I will not read them all. They are all here. Then we also provide any history and we provide any information.

So the Department, for the first time, is being told they have to consider this information, and that is what the law will be after we pass this bill.

We next say after the fact, if they get that, if they do get the grant, we then provide in a section called "National Performance Measures And Competition For Public And Private Nonprofit Agencies And Organizations":

The Secretary shall determine if each public or private nonprofit agency or organization that is a grantee has met the national performance measures established. . . .

We outline, as I indicated a minute ago, how that is done as well. That is in this bill as well. We step them down and we punish them and we eventually, if they keep doing it, say they do not get any more money and they are gone. That is what is in this bill.

So let me conclude. We have a strong bill in front of us. It is a bipartisan bill. It is our chance to pass the Older Americans Act. We will not have another chance in this Congress. We may not get another chance in the next Congress. It is the right thing to do. There are groups across this country that want this but, more importantly, the senior citizens of this country need it. It is the right thing to do.

We address the concerns my colleague has raised. I again thank my colleague from New Hampshire for raising this amendment, but I very reluctantly must oppose it, and I urge my colleagues to oppose it. Make no mistake about it, we have this covered. We have the reforms in the bill and, No. 2, if his amendment would pass, this bill would die and we would not reauthorize the Older Americans Act.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I yield myself such time as I may consume. I yield myself enough time to congratulate the Senator from Ohio for doing a tremendous job. We have been waiting 8 long years to solve some of these problems. I also congratulate the Senator from New Hampshire for raising these issues over and over. I firmly believe we have, now, a bill that takes care of those problems and we have one that we must vote in favor of, otherwise this bill will die. That would be a terrible thing to happen.

I suggest the absence of a quorum, and I ask the time be charged evenly against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MIKULSKI. Mr. President, I thank my colleagues for all of their kind comments on this legislation and also how they were complimentary, both on the content and the bipartisan nature of it. We really only have one unresolved issue and that is the amendment raised by our colleague from New Hampshire. I say to my colleague from New Hampshire, we admire his stewardship over Federal funds and his insistence on accountability. However, we think his amendment, though very well intentioned, is really misguided.

We are concerned, both on the basis of content and then also the consequences for this legislation. Number one, if the Gregg amendment should prevail, this could have the consequence of really killing this bill. This is a bill that has been arrived at through a very delicate bipartisan agreement, not only within our own institution but in the House. We are in the closing hours of the 106th Congress. If an amendment is agreed to, we are going to have to have a conference on this bill will go back to the House. Then the lid goes off and we will be involved in a variety of other discussions. I think my colleagues know that once you start talking you tend not to stop talking.

So we really encourage that people be aware this could sink the Older Americans Act for the 106th Congress. I would so regret that because we have worked so hard among ourselves with constituency groups and others. Really, from the standpoint of process, I hope, one would really look at this.

The second point is, in terms of the Gregg amendment itself, we are concerned that it does not provide due process. What it would do is allow a preliminary finding from an agency other than the Department of Labor to stop an organization from running its jobs program. There would be no opportunity to appeal or to be heard. There would be an audit by the IG or GAO,

which would then serve as a final determinant. Audits are meant to raise questions, not to be a final determination. So we would raise that as, really, a very serious question.

This amendment is not needed. Current law already prohibits using these funds for lobbying or litigation against the Government. These are in well-known, well-circulated OMB circulars. Also, our own legislation pending before the Senate already has pretty firm, strict, and clear accountability. It says if you don't meet the standards, you lose all or part of your grant. And then those funds not used, because you have lost them, will be able to be competed for by other national organizations. This is a process for recompeting funds of a State or nonprofit agency or organization that does not meet established performance standards. I believe the process will work, and we should not interfere with it.

We believe we do have very firm accountability in this legislation. These performance measures in this bill are simply this: If an organization or a State fails to meet these standards or improve its performance, other entities will get the opportunity to competitively bid for a portion or all of the organization's grant. We establish a minimum amount that must be spent on enrollee wages and fringe benefits. We clarify the way the organization must define and report their costs, so there is no room for ambiguity. We codify our own clear responsibility tests and have very firm criteria for granting eligibility. We require a broad planning process so the area of greatest need within a State is served as efficiently and as specifically as possible. These provisions will ensure seniors get the high-quality services they deserve, and taxpayers will get value for their dollar.

Also, know that in addition to what we have in this legislation, as I said, the Government already has Government-wide standards and procedures, applicable to the suspension and debarment of any Federal contractor and grant recipient. The NSCERC is currently engaged in an audit resolution process with DOL. All indications are that this process is working and we should not interfere with it.

Also, during the debate words were used such as "slush fund," et cetera. I think that was a little harsh and inaccurate. Did the National Senior Citizens Education Research Center have problems? You bet.

The Department of Labor did an audit. They found that there was no malicious intent to defraud. There was no intent to be scum or scam. What they did was essentially have a certain program related to the HIP indemnity in the wrong category.

Do they owe the Federal Government some money? Yes. Is there discussion ongoing now about the most effective way to recapture that? Yes.

I ask unanimous consent that a document giving the status of the National

Senior Citizens Education and Research Center grant program be printed in the RECORD, along with a letter from the Department of Labor essentially saying how all of this is currently going through a process and is coming to a satisfactory conclusion. Some serious mistakes were made, but they were not malicious, they were not criminal, and they were not intentional.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATUS OF THE NATIONAL SENIOR CITIZENS EDUCATION AND RESEARCH CENTER GRANT, OCTOBER 5, 2000

The Senior Community Service Employment Program (SCSEP) provides community service employment opportunities to economically disadvantaged senior citizens. The National Senior Citizens Education and Research Center (NSCERC) is one of 10 national grantees. It is funded for over \$65.0 million, which it subgrants to about 150 groups in 28 States, including local governments, and nonprofit organizations. This year it will provide positions to about 15,000 low-income seniors.

Prior to 1996, the SCSEP program was operated by the National Council of Senior Citizens, NCSC. As a result of 1995 legislation, NCSC as a 501(c)(4) organization became ineligible to be a grantee. Consequently, a novation agreement was made which transferred the grant to NSCERC, an affiliated but separate 501(c)(3) organization.

An audit was conducted by the Department's Inspector General (IG) of NCSC's program administration which covered a three year period from July 1, 1992 thru June 30, 1995. The audit was initiated by the IG as part of its regular responsibility to audit federal employment programs. A Final Determination was issued in March, 2000 disallowing nearly \$5 million. This determination is under appeal to the Department's Office of Administrative Law Judges (ALJ's). The ALJ's decision can be appealed to the Secretary.

"About 78 percent of the disallowed costs are attributed to NCSC's/NSCERC's treatment of the program's Hospital Indemnity Insurance Plan (HIP) refunds and administrative funds. Payments for participant insurance were charged to the SCSEP grant. NCSC/NSCERC treated the refunds as royalty income instead of program income, crediting the refunds to the NCSC organization rather than to the SCSEP grant."

The OIG has also conducted audits of the NCSC's/NSCERC's grants for subsequent fiscal years. There are substantial amounts of questioned costs for these years, as well. A large portion of the questioned costs related to the same issue, the proper application of HIP refunds. The Department, NCSC, and its successor grantee NSCERC continue to work to resolve issues related to these subsequent audits. On March 24, 2000, the Department issued an Initial Determination on the second audit, covering the period 7/1/95 to 6/30/96. This determination proposes to disallow \$1.3 million in direct cost against both NCSC and NSCERC. The Department anticipates issuing a final determination in the near future.

As a result of these audit findings the Department has taken the following steps:

1. Payments for the hospital insurance indemnity plan, which produced the refunds were phased out as of September 1999.

2. An escrow account has been established to receive refunds and other insurance payments until a final resolution can be reached on the audits. As of March 2000, the escrow account totaled approximately \$3.1 million.

3. A clear organizational separation was established between NCSC and NSCERC. Each organization now has a separate board and management.

4. The Department is committed to providing "due process" and a fair and equitable resolution of the audit findings.

U.S. DEPARTMENT OF LABOR, ASSISTANT SECRETARY FOR EMPLOYMENT AND TRAINING,

Washington, DC, October 24, 2000.

Hon. EDWARD M. KENNEDY, U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: We are pleased to respond to your request for information about the status of the agency determinations with respect to the Department of Labor's (DOL) Final Determination of the National Council of Senior Citizens (NCSC) and National Senior Citizens Education and Research Center (NSCERC) audits conducted by the DOL's Office of the Inspector General (OIG).

Prior to 1996, NCSC operated a grant under the Senior Community Service Employment Program (SCSEP). Pursuant to legislative and regulatory requirements, NCSC as a 501(c)(4) organization became ineligible to be a grantee. Consequently a novation agreement was made which transferred the grant to NSCERC, an affiliated but separate 501(c)(3) organization.

The status of the DOL's Final Determination is as follows:

Background: The OIG issued an audit on February 3, 1999 which covered the period from July 1, 1992 through June 30, 1995—with a total cost audited of \$184,746,124. Of the audited costs, \$5,814,942 or 3.1 percent of the total grant funds was questioned by the auditors.

Final Determinations: On March 2, 2000, ETA issued a Final Determination disallowing \$4,961,583 or 2.7 percent of the total costs audited.

Current Status: The Final Determination was appealed to the Office of Administrative Law Judges on March 20, 2000.

The OIG issued a second audit on September 24, 1999. The resolution status of this audit is as follows:

Background: The audit covered the period from July 1, 1995 through June 30, 1996 with a total cost audited of \$60,828,900. Of the audited costs, the auditors questioned \$2,250,828 or 3.7 percent; they also questioned the indirect cost allocation base proposed by NCSC and NSCERC.

Initial Determination: On March 24, 2000, ETA issued an Initial Determination proposing a disallowance of \$1,262,607 in direct costs and an undetermined amount of indirect costs pending the negotiation of a Final Indirect Cost Agreement between the Department of Labor, NCSC and NSCERC.

Current Status: The Department of Labor's Office of Cost Determination is currently in negotiations with NCSC and NSCERC to reach an agreement on the final indirect cost rate. If an agreement is reached, a Final Determination will be issued relating to the questioned direct costs only. If no agreement is reached, a Final Determination will be issued addressing both the direct and indirect questioned costs with an indirect costs rate determined by the Office of Cost Determination.

A third OIG audit was issued March 29, 2000. It covered the period from July 1, 1996 through December 31, 1997. The Department of Labor has not issued an Initial Determination, pending a review of the indirect cost rate.

Should you or your staff have any questions, please contact Raymond J. Uhalde, Deputy Assistant Secretary of Labor. Mr. Uhalde can be reached at (202) 693-2700.

As a courtesy, I am sending a copy of this letter to Senate Health Education, Labor and Pensions Committee Chairman, Senator Jeffords.

Sincerely,

RAYMOND J. UHALDE  
(For Raymond L. Bramucci).

#### GOOD REASONS TO SUPPORT SCSEP

The Senior Community Service Employment Program (SCSEP) authorized under Title V of the Older Americans Act should be preserved and expanded for the following reasons:

1. The SCSEP is our country's only workforce development program designed exclusively to maximize the productive contributions of a rapidly growing older population through training, retraining, and community service and is a good model of success in the area of welfare-to-work programs. History has taught us that mainstream employment and training programs like JTPA and CETA are not successful in serving older workers. A targeted approach is needed.

2. The SCSEP is primarily operated by private, nonprofit national aging organizations that are customer-focused, mission driven, and experienced in serving older, low-income people. These nonprofit organizations work in close partnership with the Governors, Department of Labor, aging network, and employment and training system, actively participating in One Stop Service initiatives designed to streamline and integrate services.

3. The SCSEP is a critical part of the Older Americans Act, balancing the dual goals of community service as well as employment and training for low-income seniors. Many nutrition programs and other services for seniors are dependent on labor provided by SCSEP.

4. The SCSEP has consistently exceeded all goals established by Congress and the Department of Labor, surpassing the 20% placement goal for more than 15 years. Virtually all appropriated funds are spent each grant year, in stark contrast to similar programs.

5. The SCSEP is a means tested program, serving low-income Americans age 55+. The program serves less than 1% of those who are eligible; long waiting lists are common in most areas of the country.

6. The SCSEP serves the oldest and poorest in our society, and those most in need: 41% of enrollees are minorities—the highest minority participation rate of any Older Americans Act program; 73% are female; 36% are age 70 and older; 83% are age 60 and older; 36% do not have a high school education; and 11% have disabilities.

7. The SCSEP ensures national responsiveness to local needs by directly involving participants in meeting critical human needs in their communities, from child and elder care to public safety and environmental preservation. The SCSEP has been a major contributor to national disaster relief efforts, most recently resulting from floods in the midwest, hurricanes in the southeast, and the California earthquakes.

8. The SCSEP has demonstrated high standards of performance and fiscal accountability unique in government programs. Less than 15% of funding is spent on administrative costs—one of the lowest rates among federal programs.

9. The SCSEP historically has enjoyed strong public support because it is based on the principles of personal responsibility, lifelong learning, and service to community. In addition, the program is extremely popular among participants, host agencies, employers, communities, and the membership of our nation's largest aging organizations.

Ms. MIKULSKI. Mr. President, the other point I want to make is we have

the accountability. This is a good program, and it is hard to administer. The Senior Community Service Employment Program is under title V. Do you know what it does? It helps old people of modest income find work. This is not easy.

This program itself serves the oldest and poorest in our society. Forty-one percent are minorities, the highest minority participation of any Older Americans Act program. This primarily helps women. Seventy percent of them are women. They are old. They are poor. They are trying to add extra money to hold body, soul, and prescription drugs together.

At the same time, 83 percent are over 60; 36 percent do not have a high school education; 11 percent have disabilities. This is a very intensive hands-on program to operate. It takes a lot of help to get people ready for a job and a lot of professionalism to find the jobs for them. By all accounts, all of the grantees have met those criteria.

I could go through example after example in my own State, but I will give two. An 85-year-old woman is now a senior aide working as a library assistant for \$7.17 an hour. Another 71-year-old female was employed as a customer service rep of one of our Maryland agencies because she had good manners and a good work ethic, and therefore they taught her the skills to earn some extra money. These are the kinds of people this program helps.

Many of the nonprofits that operate these programs operate with a very low margin. This is a very cost-intensive and labor-intensive program to operate. I hope we defeat the Gregg amendment because: First, it is not necessary. We have good, tight accountability requirements in the bill and responsibility. Second, it will kill the bill. And third, we do not need to add more bureaucracy, more shackles, more audits, more paperwork just because we are cranky with one organization. Let's give them the chance to meet the responsibilities established by the Department of Labor and pay the money back, and let's renew the Older Americans Act and leave this Senate with our heads held high that we defied the laws of inertia in this institution and reauthorized the Older Americans Act.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I yield myself such time as I may use.

Mr. President, the case has been very well stated by the Senators from Ohio, Vermont, and Maryland. I listened carefully to the points the Senator from New Hampshire made earlier today. It is worthy for our committee to give consideration to these points. I thought the Senator from Ohio and others thoroughly explained how steps were already taken to address those issues and went into considerable detail in explaining the provisions of the bill that will address the challenges which the good Senator raised.

A great deal of time was taken by the committee to address those challenges. I think the committee has done a good job in addressing them. I do not think, therefore, that amendment is necessary to ensure the interests of the elderly people, as well as the taxpayers.

We must remember that it is not unusual for auditors to identify expenditures which do not conform with the terms of a grant, and for the Department to require repayment of the disputed amounts. Disallowed costs are usually nothing more than good-faith errors or honest disagreements over the interpretation of the terms of a grant.

For example, during 1998, the Employment and Training Administration of the Department of Labor which administers title V of the Older Americans Act, amongst the many workforce programs it supervises, reviewed 84 audits, examining \$30 million in questioned costs, and ultimately disallowed \$18 million in grantee expenditures. The disallowed costs included agencies of State and local governments, as well as private organizations, and the disallowance of costs is a routine part of supervision that in no way impugns the integrity of the grantees involved.

The Gregg amendment is an extreme and unfair response to a problem which has already been remedied. The Department of Labor has already disallowed the insurance royalty payments which were the major focus of the inspector general's report on NCSC's Title V program grant, ordered the financial practice in question terminated, and demanded repayment of the disallowed costs. The cost items which DOL has disallowed cover the period between 1992 and 1996. The objectionable practices have been stopped. The matter is currently before an administrative law judge.

Furthermore, the legislation reported from the HELP Committee already addresses the financial accountability of title V program operators. It establishes strong new performance measures which program operators must meet each year, and provides for removal of operators who consistently fail to meet performance standards. It sets strict limits on the purposes for which the funds can be used. It sets forth in statute a 14-point "Responsibility Test" which each program operator must pass in order to be eligible to participate in the title V programs. Section 514(d) requires a detailed examination of the organization's past performance in administering federal funds. The Department will have ample authority to disqualify those program operators whom it deems untrustworthy or unreliable. The procedures we have established are tough and fair. After extensive review of the Senior Community Service Employment Program, the committee believes that these new performance standards and responsibility tests will effectively protect the interest of both the senior citizens who participate in the program and the taxpayers who fund it.

SENATOR GREGG'S "DEAR COLLEAGUE LETTER"

The Senator from New Hampshire claimed in a "Dear Colleague" dated September 27 that: "Under current law, nine grantees—mostly aligned with the Democratic Party and organized labor—receive over \$400 million in federal grant dollars on a noncompetitive basis." This statement is both factually inaccurate and highly misleading. Firstly, over \$400 million does not go to private organizations under the Senior Citizens Community Employment Act. Of that amount, \$96 million actually goes directly to state government agencies, and an additional \$28 million goes to the U.S. Forest Service. Secondly, the largest private grantee is Green Thumb, which receives \$107 million each year. Green Thumb's principal activity is operating senior employment programs and its political involvement is minimal. AARP receives \$51 million and the National Council on the Aging receives \$38 million. They are broadbased advocacy groups for senior concerns, not aligned with any political party. Another \$38 million is divided amongst four organizations focused on serving low income minorities—African-Americans, Hispanics, Asians, and American Indians, and \$15 million is provided to the National Urban League to support its senior employment efforts.

The National Council of Senior Citizens, which the Senator from New Hampshire has so sharply criticized, receives less than 15 percent of the total appropriation for title V. While I certainly disagree with the allegations he has leveled against NCSC, it would be grossly unfair to impugn the legitimacy of the entire Senior Community Service Employment Program based on those allegations even if his claims about NCSC were accurate. The same organizations which are receiving funds today to operate senior employment programs were selected to operate those programs in the Reagan and Bush administrations, as well as in the current administration. The facts clearly demonstrate that these program operators were not selected because of their partisan "alignment," as the "Dear Colleague" letter implies. They have been selected because of their strong track record of delivering employment services to seniors.

#### NCSC/NSCERC PROGRAMS

As I noted earlier, the inspector general reports which the Senator from New Hampshire discussed cover the period from 1992 to 1996. In fact, NCSC has not been the recipient of grants to operate senior employment programs since that time. As a result of legislation passed by Congress in 1995, NCSC as a 501(c)(4) organization became ineligible to be a grantee. A new 501(c)(3) organization, the National Senior Citizens Education and Research Center (NSCERC) was established to receive the grant and operate the program. Federal funds received by NSCERC have been used by NSCERC to operate the senior employment program. Thus,

the activities, political and otherwise, which NCSC may have engaged in since that time are not relevant to the operation of the Senior Community Service Employment program in any way.

Let's look at the program which NSCERC operates and the impact it has on the lives of thousands of older Americans each year. One hundred and forty-four senior employment projects are operated by NSCERC in 27 states and the District of Columbia. More than 15,500 seniors are enrolled in these programs each year, working in public and non-profit organizations. Most of these older workers would be living below the poverty line but for this program. Three quarters of them are women and half are minorities. A third of them never graduated from high school. Without this program it would be extremely difficult for them to find employment. This program makes an enormous difference in their lives. (Worker Profiles).

The impact of the program extends far beyond the seniors who are employed in it. They perform a broad variety of community services, including teaching children as aides in schools and day care centers, performing clerical work in libraries and in government and charitable organization offices, delivering meals to homebound elderly, assisting with in-home health care services, and driving senior citizen transport vans. Their work touches the lives of countless people—the very young and the very old, the sick, the frail, and the disabled. We should not make light of their contributions, nor of the importance of the non-profit senior employment program operators who make the program possible.

Let me give you a few examples. NSCERC works with the Flint Michigan Community School system and operates a Senior AIDES project in the schools. Dr. James E. Ray, the Superintendent of Community Education explains the importance of the program:

Flint Community Schools and NSCERC have piloted a unique Title V intergenerational tutor training program. This initiative has proven to be very successful in meeting the educational and emotional needs of our at-risk elementary school children, while at the same time providing income assistance and social purpose for low-income senior citizens. It has been so successful in fact that a consultant for the U.S. Department of Labor (DOL) recommended that DOL partner with the U.S. Department of Education to expand the program nationwide.

NSCERC works with the Mexican American Opportunity Foundation in Los Angeles to help Hispanic children bridge the language barrier. Martin Castro, president of the foundation, describes the program:

Since 1978, our agency, the Mexican American Opportunity Foundation, has operated three Title V Programs through contractual agreements with the National Council of Senior Citizens and now with the National Senior Citizens Education and Research Center. Our three Senior AIDES Programs, with a combined enrollment of almost 300 Senior Aides, have provided thousands of Hispanic

elderly with the opportunity to remain in the workforce while simultaneously increasing their skills to obtain unsubsidized employment. . . . This partnership has allowed our organization to develop a comprehensive intergenerational model in teaching preschool children in a bilingual and bicultural environment. It has allowed our preschool children in East Los Angeles, the majority of whom speak only Spanish, to learn English by the time they enter Kindergarten. Senior Aides assigned to our child care centers have contributed enormously to the success of this teaching model.

NSCERC and its predecessor NCSC have worked with Seniors Inc. in Colorado to operate that state's largest program. Seniors Inc.'s executive director Lewis Kallas explains the significance of NSCERC's participation:

Seniors Inc. is Colorado's largest Title V local sponsor with 225 senior positions in 18 countries. We have contracted with Colorado's Aging Services Division and NSCERC to effectively administer the Title V Program since 1970. Our long and positive relationship and experiences with NCSC, and now NSCERC, have resulted in a Colorado program that serves as a national model. Much of this success is directly attributed to the National Council of Senior Citizens and NSCERC. These national organizations do business with one thing in mind—the needs of older and vulnerable senior citizens—My insight is not in passing; but rather historic and based upon real experiences that I now have enhanced the lives of thousands of low-income Colorado seniors.

While the prime purpose of the program is to fund community service employment for low income seniors, it also helps to train these workers and place many of them in unsubsidized jobs. Of the nine national organizations and fifty states that operate senior employment programs, NSCERC has one of the highest success rates in placing senior workers in unsubsidized jobs. It has the third highest placement rate amongst national organizations, and its placement rate is higher than the rates achieved by 41 of the states. (1998)

#### "DISALLOWED COSTS"

The Senator from New Hampshire has made it sound as if having "disallowed costs" means a program operator has engaged in serious misconduct. That is simply not an accurate portrayal. Agencies which receive substantial federal grants are audited routinely. It is not unusual for the auditors to identify expenditures which do not conform with the terms of a grant, and for the Department to require repayment of the disputed amounts. "Disallowed costs" are usually nothing more than good faith errors or honest disagreements over the interpretation of the terms of a grant. For example, between 1997 and 1999, the Employment and Training Administration of the Department of Labor, which administers title V of the Older Americans Act amongst the many workforce programs it supervises, reviewed 71 audits—examining \$102.4 million in questioned costs out of \$1.9 billion in federal grants examined, and ultimately disallowing \$76.8 million in grantee expenditures. The percentage of costs questioned by the inspector general

was 5.3 percent, and the percentage disallowed by the Department of Labor was 4.0 percent. The grantees found to have "disallowed costs" included agencies of State and local governments as well as numerous private organizations. The disallowance of costs is a routine part of grant supervision, and in no way impugns the integrity of the grantees involved.

The inspector general's audit which questioned certain expenditures by NCSC covered the fiscal years 1992 through 1995. The audit was completed in February of 1999. Based on that audit, the Department of Labor issued its final determination disallowing \$5 million in costs over the three year period. During that period, NCSC had received approximately \$180 million in funding for the operation title V programs. Thus, the amount disallowed constituted less than 3 percent of the federal funds which NCSC received during that period. Most of the disputed amount involved one administrative practice by NCSC which was disapproved by the auditors. A subsequent audit covering fiscal year 1996 led to an initial determination of \$1.3 million in disallowed costs for that period. Most of the disallowance arose from the same disputed administrative practice. Again, this disallowance involved less than 3 percent of the \$61 million in funding which the organization received to operate title V programs.

The administrative practice which gave rise to the disallowances involved payments from a health insurance company which provided coverage to NCSC members and to title V program participants. The health insurance premiums for senior citizens participating in the title V program were properly paid from the title V grant. Under the terms of the policy, the insurance company made a payment to NCSC at the end of each year based upon the profit it made on the account during that year. NCSC viewed those payments as "royalties" for the use of the organization's name by the insurer in soliciting business. Such royalties would belong to the organization. The DOL auditors viewed those payments as "rebates." If they were rebates, then the portion attributable to title V participants should have been credited to the federal grant. The treatment of those payments from the insurer constitutes an overwhelming majority (approximately 80 percent of the costs which DOL has disallowed).

When the issue of these disputed payments from the insurance company was raised by the first inspector general's Report in early 1999, the practice was stopped. Federal funds have not been used to purchase insurance for more than one year. Over \$3 million has been placed by NCSC in an escrow account to cover a portion of the reimbursement which the Department of Labor is seeking. The issue of whether the payments were "royalties" or "rebates" is currently pending before an administrative law judge. Like all disputes regarding disallowed costs, this case will

be resolved through the established legal process. Congressional intervention in that legal process would be wrong. The administrative practice which the auditors objected to is no longer taking place. It was terminated more than one year ago. No congressional action is needed to prevent this practice from occurring in the future. Any attempt to change the law retroactively or to impose harsh additional penalties after the fact would be unfair and unconstitutional. Congress is expressly prohibited from passing *ex post facto* laws, and that is what the Gregg amendment would be.

#### CONCLUSION

There are governmentwide regulations established by the Office of Management and Budget which set forth the standards for debarring a grantee from further participation in a federal program. The disallowance of costs in the NCSC/NSCERC matter is not the type of incident which would even remotely justify debarment under the existing rules. There is no rational basis for establishing a different debarment standard for title V of the Older Americans Act than for every other program in the federal government. Yet, that is what the Gregg amendment would do. It would set a much harsher standard and apply that standard retroactively. The amendment should be soundly rejected.

The rules governing debarment should remain uniform throughout the federal system. These rules certainly should not be changed retroactively for one program.

The Senate should not allow this issue to jeopardize passage of the Older Americans Act, which is so important to the well-being of so many senior citizens across America. The legislation before you represents a delicate consensus which has been reached across the aisle and between the Chambers. Its provisions have been carefully negotiated over a 2-year period. It is supported by the National Governors' Association and by more than 40 senior citizens organizations. The House of Representatives has already passed it. The Gregg amendment would unravel that consensus. If the Gregg amendment were to pass, the Older Americans Act would not be reauthorized this year. We should not allow this narrow issue to stand in the way of a very important bill. We owe it to millions of seniors to look at the big picture—to reauthorize the Older Americans Act and to create the National Family Caregiver Program.

So I again commend all of our colleagues, the chairman of our committee, Senator DEWINE, and particularly the good work of the Senator from Maryland. Their work has been indispensable.

I think we have a very solid piece of legislation. I hope we will get an overwhelming vote in the Senate in support of it.

Mr. BREAUX. Will the Senator from Massachusetts yield me time?

Mr. KENNEDY. Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. Fifty-eight minutes.

Mr. KENNEDY. Sure.

Mr. BREAUX. Five minutes is fine.

Mr. KENNEDY. That is fine.

Mr. BREAUX. I thank the Senator from Massachusetts for yielding me some time to make some comments on this very important legislation.

The Older Americans Act is a piece of legislation that is incredibly important, not only to the 14 percent of all Americans who are legally classified as being elderly—those who are over the age of 65—but it is a piece of legislation that is incredibly important, not only to them but also to their children, to their grandchildren, and to other members of their family and friends who are concerned that, while we make great strides in technology in this country in keeping people living longer, it is also extremely important we recognize that just having medical technology to allow people to live longer is not as important as also making sure we allow them to live better.

It is one thing to live longer, but if you are living longer in conditions that are not what we, as Americans, think are ideal, sometimes people wonder whether, in fact, it is really worth it.

So the Older Americans Act clearly addresses some of these types of issues and questions about how do we, with medical science, as a society, allow our citizens to enjoy living longer lives but also living better, more fruitful lives in their golden years.

Part of that is the Older Americans Act, which provides, in many cases, some of the services that allow people to live better lives. It really is a wonder that this act is supported not only by seniors in this country but, I think, by most Americans by a very large margin. It has not been reauthorized in over 5 years. People would say: What is the matter, Congress? Don't you realize the importance and the numbers of older Americans who depend on this particular piece of legislation?

In many cases, they depend on it for their transportation because many seniors are homebound and have no way of getting around. It is a program that provides hot meals delivered to the homes of seniors who do not have the ability to go outside their home for meals. That is extremely important. It is a program that encourages the employment of more and more seniors in the workforce, which is incredibly important at a time when we actually have a labor shortage in this country. It has been shown, very clearly, that the shortfall can be made up, in many cases, by talented, experienced, learned seniors who can contribute to the workforce past their normal retirement years.

It is a program that provides assistance for adult day care, which is extremely important now, as more and more of the traditional caregivers are working themselves. It is a program

that helps provide adult day care for seniors in this country, which is incredibly important.

It is a program that addresses the question of abuse prevention, and helps elders in this country to know what their civil rights are to make sure they are not taken advantage of by unscrupulous telemarketers, for instance.

All of those things are done by the Older Americans Act, which expired 5 years ago.

Finally, today, this body—and the House did a couple days ago, I think—will be able to reauthorize this very important program.

I am delighted that part of the program contains legislation that I have introduced called the National Caregiver Program. I introduced it along with Senator CHUCK GRASSLEY and other distinguished Members of the Senate. This is now going to be part of the Older Americans Act.

If I may take a moment to say what the National Caregiver Program does, I think it addresses something that is an incredibly serious problem, and one that is growing every day, of the so-called "sandwich generation"—those adults in this country who are trying to raise small children but also are having to divide up their time by helping to take care of their senior parents. That is a very serious problem for many Americans—making sure I am taking care of my children, that I am raising them properly, but that I am also taking care of my parents who have given me so much and it is now time for me to help them in their golden years.

The National Caregiver Program will provide \$125 million a year. It is an authorization to provide assistance for all of those who are caring for an aging parent or an aging spouse, for instance, in their home. I think this is very important and something that this legislation, for the first time, will make available.

We have had hearings in Louisiana by the aging committee, of which I serve as the ranking Democratic member, with Chairman CHUCK GRASSLEY. We are told there are about 22 million families in America who are struggling every day in their lives to provide care for their children and at the same time trying to balance that with caring for a senior parent or a senior spouse.

The National Caregiver Program that is now part of this legislation will provide information to these families about available services of which many of them are not aware. This program will offer individual counseling to these family caregivers about support groups and how you go about making caregiving work more efficiently and better.

It will provide respite care, which is so incredibly important. Sometimes families who are providing 24-hour-a-day care, 7 days a week, 12 months out of the year for their children, and are trying to do it for their parents as well—in the same home—quite frankly,

need a break. They need a rest from this 24-hour-a-day burden, which they are happy to do. It is a joy to be able to be in a position to provide this type of service. But every now and then you simply need a break.

The National Caregiver Program will be able to provide what we call respite care, to give someone a break, to get out of the house, to go out with their family and enjoy a meal outside of the home, or to take a child to a school function, knowing that someone will be there to take care of their adult family member who still resides in their home. Also, it can provide some other supplemental services, which I happen to think is incredibly important.

So I say to my colleagues—both on the Republican side as well as on our side of the aisle—this is good legislation. It is important legislation. Everywhere I went in Louisiana over the past couple days, I spoke with senior groups and aging councils, and they all asked the same question: Senator, when is Congress going to get around to passing the Older Americans Act? For the life of me, I never had a good reason to tell them why we have not done it before.

Is this a program that has some things that are not run 100 percent correctly? We have had examples of that in the past, but you cannot tell me a Federal program that can't be improved upon.

The PRESIDING OFFICER. The Senator has used his 5 minutes.

Mr. BREAUX. I ask for 2 more minutes, if that is all right.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BREAUX. Let me conclude by saying there were problems in the program back in the early 1990s that are being corrected—have been corrected. I think the fact is, Congress is showing that we are going to provide careful and adequate oversight to this program. I think it is very important. We, on the aging committee, have spent an incredible amount of time, under Chairman GRASSLEY's leadership, looking at programs that benefit seniors. We are making sure we have GAO looking at these programs, and making sure they are run properly. I can tell you, they are getting a great deal more scrutiny than they have had in the past. The end result is that we have a better program than we had back in the early 1990s.

It is essential. It is important. It is necessary. It has widespread, across-the-board support. I commend Senator JEFFORDS and Senator KENNEDY for at last being able to bring this to the floor of the Senate. They eliminated all the roadblocks. I think this is well on its way to passing as a clean bill. I strongly support it and strongly oppose any amendments which would probably result in the bill not passing because of the lateness of the hour. I add my strong voice to the support of those who know this is the right thing to do and the right time to do it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I see my friend from Vermont on the floor. If he wanted to make some other remarks on this legislation, I would certainly yield for that purpose, if I could get the floor back after he has concluded. I want to address the Senate on another related matter on health care.

Mr. JEFFORDS. I have 3 minutes.

Mr. KENNEDY. I yield then to the Senator from Vermont and ask unanimous consent that after he concludes, I be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I first thank all Members for the support they have given to this legislation during the period it has been under consideration. It has been a long time, some 8 years now, for those of us who have been strong in wanting to get it revised and take a good look at it. Eight years is long enough.

I also thank the Senator from New Hampshire for his long-term efforts to reauthorize the act. As the chairman of the Aging Subcommittee during the last Congress, Senator GREGG was instrumental in bringing to light many of the improvements that are now included in this bill.

Let me be clear about the changes that have been made to the Senior Employment programs in this bill, the effort that has gone into crafting this balanced agreement, and the broad support this compromise enjoys.

This act makes significant reforms to the Senior Employment Program. That is where the problems have been. It focuses the purposes of employment programs on enrollee economic self-sufficiency and on unsubsidized employment in the public and private sectors. It coordinates SCEP with the Workforce Investment Act programs. That is important. Importantly, it implements stringent eligibility and accountability tests for all grant applicants. Administrative and program costs are now defined in statute and capped so that resources are directed into employment services for the elderly.

The bill includes new cost controls that will prevent the misuse of funds by grantees. It also would require at least 75 percent of a grantee's funds be used for enrollee wages and benefits, and the bill explicitly states that the funds a grantee receives must be used solely for the employment program.

Moreover, the bill expressly requires each grantee to comply with OMB circulars and rules and requires the grantees to maintain records sufficient to permit tracing of funds to ensure that funds have not been spent unlawfully.

The bill institutes and requires performance outcome measures, annual grantee evaluations, grantee accountability, and it creates a new grant competition for those not meeting performance measures.

It provides Governors and States greater resources and influence over

job slot allocations, but also requires broad stakeholder participation in a State Senior Employment Services Plan coordinated through the Governors' offices.

This bill marks a landmark agreement between the States and the grantee providers of jobs. The bill allocates new funding above the current level of effort such that any increases up to \$35 million will be divided 75 percent to States and 25 percent to other grantees; amounts above \$35 million would be divided 50/50. This was very important to the States and a good compromise.

Finally, grantees will be required to serve seniors or they will lose their grant. Our bill introduces performance measures and competition into the senior employment program for the first time. The bill would establish a "three strikes and you're out" policy to ensure performance goals are met.

Failure to meet performance measures will first result in technical assistance and will require the grantee to come up with a plan on how it will meet performance measures in the future.

Failure to meet performance standards a second consecutive year will result in a loss of 25 percent of the grant, which will be competitively bid in an open competition.

Failure to meet performance standards a third consecutive year will cut off the grantee from the program, and the grant will be competitively bid in an open competition.

Failure of a public and private non-profit agency grantee to meet performance measures in an individual state will also lead to the loss of the grant, which will then be competitively bid in an open competition.

These reforms significantly improve the Older Americans Act, protect the taxpayers and, and provide seniors with a jobs program that works. Failure to pass these reforms this year will maintain the status quo. It will only continue a system that does not serve the job placement needs of seniors in many states, and will not correct the deficiencies in the administration and planning of the program. The only way these improvements will be realized is to pass the Older Americans Act Amendments of 2000, a bipartisan, bicameral initiative.

The bill will bring agreement for the first time in almost 10 years. It is supported by the National Governors Association, the Southern Governors Association, the Administration, and over 40 national aging groups. Yesterday, the House passed this measure on a vote of 405-2. This measure has 73 cosponsors in the Senate.

This is a delicate compromise, and any further amendments to this measure will surely prevent it from being enacted this year. I urge all of my colleagues to vote against any amendments and join in the bipartisan and bicameral effort to pass the Older Americans Act.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

#### THE CREDIBILITY GAP IN HEALTH CARE

Mr. KENNEDY. Mr. President, few, if any, issues are of greater concern to American families than quality, affordable health care. Americans want an end to HMO abuses. They want good health insurance coverage. They want a prescription drug benefit for senior citizens under Medicare. They want to preserve and strengthen Medicare, so that it will be there for both today's and tomorrow's senior citizens. And they want these priorities not only for themselves and their loved ones but for every American, because they know that good health care should be a basic right for all.

The choice in this election is clear, and it is not just a choice between different programs, it is also a choice based on who can be trusted to do the right thing for the American people. AL GORE's record and his program are clear. He has been deeply involved in health care throughout his career.

The current administration has made significant progress in improving health care in a variety of ways—from expanding health insurance to protecting Medicare. He has consistently stood for patients and against powerful special interests.

AL GORE lays out a constructive, solid program that is consistent with his solid record. He is for expanding insurance coverage to all Americans, starting with children and their parents. He is for a strong Patients' Bill of Rights. He has a sensible plan for adding prescription drug coverage to Medicare. He will fight to preserve Medicare, without unacceptable changes designed to undermine Medicare and force senior citizens into HMOs and private insurance plans.

George W. Bush's approach is very different. His proposals are deeply flawed. But even worse than the specifics of his proposals is his failure to come clean with the American people about his record in Texas or about his own proposals.

On health care, George Bush doesn't just have a credibility gap. He has a credibility chasm. He has consistently stood with the powerful against the people. He refuses to take on the drug companies, the insurance companies, or the HMOs. His budget plan puts tax cuts for the wealthy ahead of every other priority, and leaves no room for needed investments in American families. On health care, his values are not the values of the American people.

On the issue of the Patients' Bill of Rights, George Bush said in the third debate that he did support a national Patients' Bill of Rights. He said he wanted all people covered. He said that he was in favor of a patients' right to sue, as provided under Texas law. He said he brought Republicans and Demo-

crats together in the State of Texas to pass a Patients' Bill of Rights.

That's what he said. But the reality is very different. Governor Bush vetoed the first Patients' Bill of Rights passed in Texas. He fought to make the second bill as narrow and limited as possible. He was so opposed to the provision allowing patients to sue their HMOs that he refused to sign the final bill, allowing it to become law without his signature. That's not the record of a person who is candid about where he stands and what he has done. And it's not a record that recommends him for national office for any citizen concerned about a strong, effective Patients' Bill of Rights. It's the record of a candidate who stands with powerful insurance companies and HMOs, not with American families. And it isn't a record that shows leadership, either. In Congress, the House of Representatives passed a good Patients' Bill of Rights by an overwhelming bipartisan margin. That bill is supported by all the organizations of doctors, nurses, and patients. No other proposal enjoys support from any of those groups. Yet it remains mired in the Senate because of the adamant opposition of the Senate Republican leadership.

On the most recent vote on this bill, we were one vote shy of having a majority. Governor Bush is now the leader of his party. One phone call from Governor Bush to TRENT LOTT and that bill would be law today. But Governor Bush has declined to make that call, just as he has declined to support the Patients' Bill of Rights itself.

Yesterday, my good friend from Texas stated that the only reason Governor Bush vetoed that first bill and let the right to sue under the second program become law without his signature was that there was a disagreement on how much the caps on pain and suffering would be. I regret that my colleague has been misled. The fact is there was no provision for lawsuits in the first Patients' Bill of Rights bill vetoed by the Governor. To reiterate, there was no provision for lawsuits at all in the first bill, yet the Governor vetoed it.

In the second bill, there also was no issue about the caps on pain and suffering. Texas already had caps on pain and suffering under their existing general tort law, and everybody assumed those caps would apply to lawsuits against HMOs. There was never any discussion of this issue. The fact is that Mr. Bush, despite what he may say today, simply doesn't believe health plans should be held accountable. That is why he refused to sign the law allowing suits against HMOs. Once again, he distorted his record in Texas, and both the record and distortions call into serious questions where he would stand as President.

In the course of the debate yesterday, my colleagues from Texas said they were tired of hearing Texas "trashed". They implied that I had said offensive things about their State. Let me be

clear. I think Texas is a wonderful State. I have many good friends in Texas. Texas has produced statesmen who have made our country a better place—from Sam Houston to Lyndon Johnson. It produces much of the oil that keeps our country running. I have no quarrel with the State of Texas. My quarrel is with George W. Bush's distortion of his record in Texas. My quarrel is with the priorities that the Bush record in Texas demonstrates. My quarrel is with the idea that the interests of powerful special interests are more important than the interests of patients. My quarrel is with the idea that tax cuts for the wealthy are more important than health care for children.

On health insurance, the record is equally clear and equally bleak. Governor Bush claims he wants insurance for all Americans. He blames Vice President GORE for the growth in the number of uninsured. Governor Bush's record in Texas is one of the worst in the country. Texas has the second highest proportion of uninsured Americans in the country. It has the second highest proportion of uninsured children in the country. Yet Governor Bush has not only done nothing to address this problem, he has actually fought against solutions. In Texas, he placed a higher priority on large, new tax breaks for the oil industry instead of good health care for children and their families.

When Congress passed the Child Health Insurance Program in 1997, we put affordable health insurance for children within the reach of every moderate- and low-income working family. Yet George Bush's Texas was one of the last States in the country to fully implement the law. Despite the serious health problems faced by children in Texas, Governor Bush actually fought to keep eligibility as narrow as possible.

In fact, the Bush campaign's defense of this unacceptable record is almost as telling as the record itself. According to the New York Times, the Bush campaign acknowledges that Governor Bush had fought to keep eligibility narrow, but that he did so because he was concerned about costs and the spillover effect on Medicaid. This so-called spillover effect is the increase in enrollment of Medicaid-eligible children that occurs when the Children's Health Insurance Program is put into effect. Vigorous outreach efforts by State governments would identify children who qualify for the new program, and many other children would also be identified who qualify for Medicaid.

In other words, Governor Bush not only opposed expanding eligibility for the new program, he was worried that uninsured children eligible for Medicaid might actually receive the coverage to which they were already entitled. It is no wonder his Texas administration was cited by a Federal judge for its failure to live up to a consent order to let families of poor children know