

were people who were lonely—often widows or men who lost wives who were kind of walking around, hanging out at diners or cafes in certain areas. They needed companionship and maybe a hot meal, and they also needed a sense of purpose where they themselves would volunteer. We use the term congregate meals. What an insipid term because what we really wanted them to do is congregate with other people, to have fun and good meals and even learn some new skills which we are going to bring in with crossing the digital divide. Those nutritional programs kept people alive. My own dear mother, when she came home from an acute care facility, temporarily used that as we pitched in with the rest of the family.

We also maintain a separate and distinct title IV program for research and demonstration because we think we have to try new ideas before we create them and institutionalize them into the legislation. Innovation has always been a unique characteristic. We also talk about a White House conference in 2005. We maintain another poor program—support for transportation services. It is absolutely crucial in our own community and into rural areas. This language also requires older American services to be directed to those who need them the most. However, we acknowledged the unmet need that can exist in rural areas, so we included provisions to improve the delivery of services to older individuals in rural areas.

I congratulate Senator DEWINE, who really ensured a sensitivity to that. I represent rural counties myself. At the same time, we recognize the need to strengthen certain programs and increase accountability. The bill gives greater flexibility to transfer of funds between those congregate and home-delivered meals to the areas of greatest need. It also includes performance measures for States and private sector grantees in the Senior Community Service Employment Program. If these standards are not met and performance is not improved, other entities will get the opportunity to competitively bid for a portion or all of the original entity's grant—whatever the word "entity" means. While I believe that overall the current grantees are performing very well, these provisions will ensure that seniors get the high-quality services they deserve. We ensure accountability for not only the taxpayers' funds but the services being delivered.

So this bill strikes a good balance between recognizing the need for additional resources to support OAA programs and protecting the most vulnerable citizens and their access to services. It also authorizes the seniors to make voluntary contributions for all OAA services. It also allows States to require cost sharing for a limited number of services, such as transportation, respite care, and personal care. A long list of services is exempt from cost sharing, such as Meals on Wheels, information and assistance, and that

very important ombudsman program. It also provides guidance to States and protections to help ensure that seniors are not discouraged from seeking services because of cost sharing.

I note the strong need for increased funding for the Older Americans Act programs. Very few OAA programs have seen increased funding in recent years. Yet there is a growing need for services. I support full funding for OAA and also for the new National Family Caregiver Support Program. Also, the core programs need increases in funding.

So I think this is good legislation. I think it is good authorization. I think it will provide immeasurable guidance to the appropriators for the next 3 years. This morning I say we have good legislation. We can be so proud of the bipartisan, bicameral support. This is what America wants us to do, really—focus on the day-to-day needs of our constituents, look ahead to an aging population, and come up with a fiscally prudent, service-effective framework, and get the job done. All too often in this institution, when all is said and done, more gets said than done. Today, let's stay late and get the job done.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. JEFFORDS. Mr. President, I renew Senator DEWINE's earlier request with respect to the Older Americans Act and amend the request to include that at the conclusion or yielding back of the debate time, the bill be set aside with the votes to occur on the amendments and the bill at 5 p.m. today. I further ask consent that the time consumed thus far be deducted from the time agreement accordingly.

Mr. REID. Mr. President, reserving the right to object, I wonder if the Senator from Vermont knows and can give us assurance that that will be the first vote of the day.

Mr. JEFFORDS. I cannot give such assurance.

Mr. REID. We won't object, however. It is quite apparent that we are interested in that being the first vote.

Mr. JEFFORDS. I understand. I have no authority to do that.

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

Mr. REID. Will the Senator yield for a question?

Mr. JEFFORDS. Yes.

Mr. REID. The general debate time is gone. The majority and minority used more than their allotted time. We have 4 hours under the control of the Senator from New Hampshire, and we would make it easier for staff and the parties here debating if we would explicitly determine that the time you are going to use will come off Senator GREGG's time. Otherwise, we don't have any time to be debating. Would the Senator from New Hampshire allow the Senator from Vermont to use part of his time?

Mr. JEFFORDS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

#### THE OLDER AMERICANS ACT AMENDMENTS OF 2000

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 782) to amend the Older Americans Act of 1965 to extend authorization of appropriations for programs under the Act, to modernize programs and services for older individuals, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, what is the regular order?

The PRESIDING OFFICER. The Senator from New Hampshire is authorized to offer two amendments to the bill with 2 hours evenly divided on each amendment.

Mr. GREGG. I yield such time as he may consume to the Senator from Vermont at this point.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. JEFFORDS. Mr. President, it gives me great pleasure that the Senate is moving to pass the Older Americans Act Amendments of 2000. This year is the 35th anniversary of the Older Americans Program. Since 1965, the act has provided a range of needed social services to our Nation's senior citizens.

It is the major vehicle for the organization and delivery of supportive and nutrition services to older persons, and it has grown and changed to meet our citizens' needs. In 1972, we created the national nutrition program; in 1978, we established a separate title for Native Americans; and in 1987, we authorized programs to prevent elder abuse and neglect.

The act has been reauthorized 12 times, most recently in 1992. Reauthorization legislation was considered in the 104th and 105th Congresses but did not pass due to controversy about a number of proposals. Now, we have the chance to pass this act and provide our elderly with desperately needed help.

The Older Americans Act programs play a vital role in all our communities. Because of the Older Americans Act, millions of nutritious meals are delivered each year to the generation that served our country in World War II. It funds the operations of senior centers and other supportive services to enhance the dignity and independence of the Nation's elders; and it provides part-time employment opportunities to tens of thousands of senior citizens.

Indeed, virtually all of our Nation's elderly are benefiting from the act. However, more could be done to help our senior citizens and their families. This is why we are here to pass the Older Americans Act Amendments of 2000. I want to commend all of the members of the Committee on Health, Education, Labor, and Pensions for their work and contributions in this effort. Senator DEWINE and Senator MIKULSKI led the way on this reauthorization effort early in this Congress. The Subcommittee on Aging held a series of seven hearings, receiving testimony from over 30 witnesses. The hearings addressed important issues, including elder abuse, supportive services, State and local views, longevity in the workplace, and long-term family caregiver programs. In March, 1999, we were very fortunate to hear testimony from Ms. Reeve Lindbergh of St. Johnsbury, Vermont. She spoke to our committee about the unacceptable problem of elder abuse which confronts some of our most fragile elders.

Then, in April, we heard from another Vermonter, Mr. John Barbour, who serves as the director of the Champlain Valley Agency on Aging, in Winooski, Vermont. He alerted the committee to changes needed in the nutritional programs outlined in title III of the act. This bill improves the Older Americans Act in several key areas. For example, it sets out specific policies objectives related to income, health, housing, long-term care, employment, retirement, and community services that will improve the lives of all older Americans. One of the most important aspects of this Act is the establishment of the Grassley-Breaux, National Family Caregiver Support Program. According to the 1994 National Long Term Care Survey, there are more than 7 million informal caregivers—including spouses, adult children, other relatives, and friends who provide day-to-day care for most of our Nation's elders.

The National Family Caregiver Program authorizes \$125 million in Federal assistance to help families care for their elderly by providing a multifaceted system of supportive services, including information, assistance, counseling, and respite services. Moreover, it will help older individuals who are caring for relative children, such as their grandchildren. This program will also extend to older folks who are caring for their adult children with mental retardation and developmental disabilities. Significant changes have been made to title V which authorizes community service employment for older Americans to provide part-time community service jobs for unemployed, low-income persons 55 years old and over.

There will be 1.4 million more low-income persons over the age of 55 in the year 2005 than there were a decade earlier, and many of them will continue working. Employment obtained through this program provides these

workers with needed economic support. It keeps them active and involved in their communities, and it provides them with the opportunity to make important contributions to their communities, learn new skills, and enhance their sense of dignity and self-esteem. The changes made in title V by the bill are a critical part of this legislation, because they strengthen and modernize the Senior Employment Program.

To begin, the program will now stress economic self-sufficiency and will increase the number of placements in public- and private-sector unsubsidized employment. The employment program is integrated with the Workforce Investment Act, including one-stop delivery systems and participant assessments and services, while the program itself and the administrative costs are codified. Also, under this title, a State Senior Employment Services Plan is established which provides Governors with greater influence and responsibility concerning the allocation of job slots. The newly established State plan ensures for the first time a planning process with broad participation by representatives from throughout the aging community.

Other sections have also been strengthened. It authorizes the Assistant Secretary for Aging to award funds for training, research, and demonstration projects in the field of aging. This act consolidates the demonstration programs from 18 to 10 categories, including sections on violence against older Americans, rural health, computer training, and transportation. Title VI, grants to Native Americans, authorizes funds for social and nutrition services to older Indians and Native Hawaiians. It also adds a provision which authorizes funds for activities that protect the rights of the vulnerable elderly. I want to take this opportunity to acknowledge the many other individuals and organizations that have contributed to this effort. Senator KENNEDY contributed his long experience to this effort. He helped us find the middle ground and solutions to many thorny issues. Senator HUTCHINSON was especially active on these efforts to address the employment and services needs of the rural elderly.

Among the groups in the network of aging organizations, special recognition must go to the National Council of Older Americans and the National Association of State Units on Aging for their insight in proposing a compromise to the employment services program. AARP, with the leadership of Horace Deets, undertook the difficult task of seeking consensus among the many aging organizations. Green thumb tirelessly educated Members of Congress about the importance of these aging populations, especially those Members representing rural constituencies. The Leadership Council of Aging Organizations, currently being chaired by the Committee to Preserve Social Security and Medicare, provided a continuous forum for many issues to

be addressed. Others contributing to this effort include the Southern Governors Association, the National Caucus on Black Aging, the National Association of Area Agencies on Aging, and Meals on Wheels. Finally, the Administration on Aging, headed by Jeanette Takamura, provided ongoing leadership and continuous expert support in strengthening these programs.

Yesterday our colleagues in the House passed the Older Americans Reauthorization Act by an overwhelming majority. In summary, S. 1536 goes a long way to improving supportive, employment, and nutritional services for the elderly. This legislation updates the Older Americans Act, making it more relevant and useful to our country's senior citizens. All of these individuals have worked hard to develop innovative strategies to strengthen and modernize the Older Americans Act, and I know that through these efforts our Nation's elders will be better served by this legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. As I understand, there are 2 hours under my control.

The PRESIDING OFFICER. Both sides have 1 hour on each of the two amendments, so the Senator does have 2 hours.

#### AMENDMENT NO. 4343

Mr. GREGG. I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. GREGG] proposes an amendment numbered 4343.

Mr. GREGG. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

Beginning on page 151, strike line 1 through line 23, page 153, and insert the following:

“(d) RESPONSIBILITY TESTS.—

“(1) IN GENERAL.—Before final selection of a grantee, the Secretary shall make an assessment of the applicant agency or State's overall responsibility to administer Federal funds.

“(2) REVIEW.—

“(A) IN GENERAL.—As part of the assessment described in paragraph (1), the Secretary shall conduct a review of the available records to assess the applicant agency or State's proven ability and history with regard to the management of other grants, including Department of Labor grants, and may consider any other information.

“(B) EXISTING GRANTEES.—As part of the assessment described in paragraph (1), any applicant agency or State who in the prior year received funds under this title shall be assessed in accordance with subparagraph (A), and particular consideration shall be given to such agency or State's proven ability to manage funds under this title.

“(C) TIME FOR REVIEW.—The Secretary shall conduct the review described in this paragraph in a timely manner to ensure that, if such agency or State is determined

to be not responsible and ineligible as a grantee, any competition of funds from such agency or State who in the prior year received funds under this title will be accomplished without disruption to any employment of older individuals provided under this title. Such competition shall be performed in accordance with paragraph (7).

“(3) FAILURE TO SATISFY TEST.—The failure to satisfy any 1 responsibility test that is listed in paragraph (4), except for those listed in subparagraphs (A), (B), and (C) of such paragraph, does not establish that the organization is not responsible unless such failure is substantial or persistent (for 2 or more consecutive years).

“(4) TEST.—The responsibility test shall include the following factors:

“(A) Efforts by the Secretary to recover debts, after 3 demand letters have been sent, that are established by final agency action and have been unsuccessful, or that there has been failure to comply with an approved repayment plan.

“(B) Established fraud or criminal activity of a significant nature within the organization.

“(C) Established misuse of funds, including the use of funds to lobby or litigate against any Federal entity or official or to provide compensation for any lobbying or litigation activity identified by the Secretary, independent Inspector General audits, or other official inquiries or investigations by the Federal Government.

“(D) Serious administrative deficiencies identified by the Secretary, such as failure to maintain a financial management system as required by Federal regulations.

“(E) Willful obstruction of the audit process.

“(F) Failure to provide services to applicants as agreed to in a current or recent grant or to meet applicable performance measures.

“(G) Failure to correct deficiencies brought to the grantee's attention in writing as a result of monitoring activities, reviews, assessments, or other activities.

“(H) Failure to return a grant closeout package or outstanding advances within 90 days of the grant expiration date or receipt of closeout package, whichever is later, unless an extension has been requested and granted.

“(I) Failure to submit required reports.

“(J) Failure to properly report and dispose of government property as instructed by the Secretary.

“(K) Failure to have maintained effective cash management or cost controls resulting in excess cash on hand.

“(L) Failure to ensure that a subrecipient complies with its Office of Management and Budget Circular A-133 audit requirements specified at section 667.200(b) of title 20, Code of Federal Regulations.

“(M) Failure to audit a subrecipient within the required period.

“(N) Final disallowed costs in excess of 2 percent of the grant or contract award if, in the judgment of the grant officer, the disallowances are egregious findings.

“(O) Failure to establish a mechanism to resolve a subrecipient's audit in a timely fashion.

“(5) DETERMINATION.—Applicants that are determined to be not responsible under paragraph (4), shall not be selected as a grantee, and shall not receive a grant, or be allowed to enter into a contract, to provide goods, services, or employment with funds made available under this title.

“(6) AUTHORITY TO BAR PROVIDERS.—If, after notice and an opportunity for a hearing, the Secretary determines that an applicant agency or State who in the prior year received funds under this title, is not respon-

sible under paragraph (4), and that funds expended under such title by a recipient of a grant, directly or indirectly, by a grant to or contract with a provider to provide employment for older individuals, have not been expended in compliance with this title or a regulation issued to carry out this title, then the Secretary shall issue an order barring such provider, for a period not to exceed 5 years as specified in such order, from receiving a grant, or entering into a contract, to provide goods, services, or employment with funds made available under this title.

“(7) COMPETITION FOR FUNDS.—

“(A) IN GENERAL.—In the case of an applicant agency or State, who has in the prior year received funds under this title, and who has been determined to be not responsible under paragraph (4), the Secretary shall establish procedures to conduct a competition for the funds to carry out such project among any and all eligible entities that meet the responsibility test under paragraph (4), except that any existing grantee that is the subject of the corrective action under subsection (e) shall not be eligible to compete for such funds.

“(B) USE OF FUNDS.—The eligible applicant or State that receives the grant through the competition shall continue service to the geographic areas formerly served by the grantee that previously received the grant.

“(8) DISALLOWED COSTS.—Interest on disallowed costs shall accrue in accordance with the Debt Collection Improvement Act of 1996.

“(9) ADDITIONAL AUDITS.—With respect to unspent funds under this title that are returned to the Department of Labor at the end of the program year, the Secretary may use such funds (not to exceed \$1,000,000 annually) to provide for additional auditing and oversight activities of grantees receiving funds under this title.”

Mr. GREGG. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. GREGG. Mr. President, first, I congratulate the Senator from Ohio and the ranking member, the Senator from Maryland, for bringing this bill forward, the chairman and ranking members of the subcommittee, and also the chairman of the full committee and ranking member of the full committee, the Senators from Vermont and Massachusetts.

The Older Americans Act is a significant piece of legislation. I had the good fortune to chair this subcommittee for a number of years and worked very hard on this piece of legislation. Regrettably, at that time we were unable to pass it all the way through the Congress. Certainly, the work of the Senator from Ohio and the Senator from Maryland in getting it to this point is significant and positive for senior citizens of America.

This is a very important piece of legislation. There is no question about that. The changes made to this bill are extremely constructive to making the plan more flexible, more vibrant, more effective for our seniors and for the States in their ability to administer this program. Again, they have done an excellent job and I look forward to voting for final passage of the full bill.

There is, however, one area where I have reservations about the mechanisms in the bill which are designed to protect the money and make sure the money flows to the benefit of senior citizens. The whole object of this piece of legislation is to benefit our seniors primarily in meals programs, employment programs, and a variety of other programs. It is extremely critical that the dollars that are spent not get tied up in bureaucracy and not get abused or misused, not be subject to fraudulent activity but, rather, actually flow through the system to the benefit of seniors; in the specific area of title V, which is the employment program of the bill, that the dollars flow for the purposes of employing seniors in jobs that can be constructive for them and give them a better lifestyle. That is the purpose of this bill.

The problem, the concern, I have with the bill is that I do not believe it is strong enough in the area of enforcing the discipline in order to assure that the dollars flow through and end up benefiting the seniors of our country.

I have suggested some changes to the bill which are part of this amendment. The bill has what is known as a responsibility test in title V which essentially lays out approximately 12 different areas where the Department must review the activities of grantees in order to determine whether or not they are delivering services correctly.

Let me step back a minute and explain that there are a series of grantees under this title V proposal. One group is funded at the State level; another group is funded at the Federal level. The group funded at the Federal level is made up of a series of named agencies, specific agencies. Some of them are extraordinarily good at what they do. For example, Green Thumb does an extremely good job. Our parks department does an extremely good job. These agencies every year get what amounts to an entitlement, a specific amount of money to specifically grant to them \$350 million in total which flows to each one of these agencies without any competition.

With most Federal grants, most Federal contracts, if you want to build a road or you want to start a program of social service somewhere, you want to help people out in a day-care center, you have to usually compete, go through a system of applying to the proper Federal agency and competing for that money to see if the program you are proposing makes more sense than the program somebody else is proposing. That is called good government, creating that atmosphere of competition so that different ideas come to the table.

In the area of these initiatives, I think nine agencies get the money independent of any competition. They get this money as an entitlement. It is simply a check written every year to them and they get it under the law. They don't have to compete for it.

They don't have to apply for it. All they have to do is go to the Department of Labor and pick up their check.

Obviously, when you have that structure, you are bypassing one of the safeguards for making sure that the money is effectively spent and that it flows to the people who deserve it. You are bypassing the safeguard of annual competition for the funds—a fairly significant decision, by the way.

When you do bypass that safeguard, you need to put into the law something that makes sense in the area of giving the Department of Labor oversight over those dollars so the Department of Labor has the authority and the capacity to look at a grantee who has an absolute right to this money and say: Well, even though you have an absolute right to this money, Mr. or Mrs. Grantee, you have to do a better job or we are going to have to question whether you should get the money. If you don't do a better job, we will have to put you through some disciplines to get you to do a better job or, alternatively—and this is where I am really concerned—if you happen to misuse this money, if you happen to use it in a way which is totally inappropriate to the purposes of assisting seniors in getting better employment, the Department of Labor should have the authority to go in and say you can't have that money any longer. I mean, that is just logical to me. This is pure logic, as far as I see; "intuitively obvious through observation," as a professor of mine once said.

If someone is abusing the money, the Department of Labor ought to have the right to go in and reduce that grant, or maybe even eliminate the grant, take the money back and redistribute it to people who are using it effectively, such as Green Thumb.

But, under the present law, that is not the case. That type of authority really does not rest with the Department of Labor. There are procedures the Department of Labor can go through, but the complication, bureaucracy, and time limit involved in executing those procedures makes them virtually useless. As a result, there is no clear-cut way for the Department of Labor to, essentially, make accountable those agencies which presently have what amounts to an entitlement from the Department of Labor and from us, the Congress, for \$350 million.

What my legislation does is try to address that issue. It tries to add to the responsibility test which is in the bill. The present responsibility test in the bill has good language, but unfortunately it does not have good enforcement and does not have the language we need in order to accomplish enforcement in any sort of reasonable timeframe. It tries to add to that language tightening elements which will make it more effective for the Department of Labor.

Let me run through it briefly. Essentially what it does is it says: First, the grantees have to have the proven abil-

ity to do what they say they are going to do. That is reasonable. You wouldn't want someone who cannot establish that. It says if they misuse the funds—including doing lobbying or litigation against the Federal Government, which is illegal, by the way; they are not allowed to do that—if they misuse the funds and the Secretary identifies that or an independent inspector general audit identifies that or there are official inquiries of the Federal Government that identify that, that misuse of funds is cause for the Department of Labor to move and take the money back from that grantee. It does not have to, but it creates a cause that allows the Department of Labor to do that. One would think they would because why would the Department of Labor want to fund somebody who had been found by, for example, the General Accounting Office or the inspector general, to have misused funds? So that only makes sense, in my opinion.

It also tightens the disallowance. Under the present proceedings, you can have a 5-percent misuse of funds and still get away with it. There is law that says basically if you want to take 5 percent of your grant and misuse it, essentially you are going to get protection. We move that down to 2 percent, which I think seems a little more reasonable. Then what it says is, if there is a grantee who has misused funds, who has been found by the Department of Labor or the IG or the GAO, some group that has the imprimatur of authority of the Federal Government—if that group determines there has been a misuse of funds and revokes the grant, then the dollars get rebid. The dollars flow back into the pool, the pot; they are not lost. They go back into title V and they get rebid.

For example, if one of the nine grantees were found to be acting inappropriately, misusing funds—inappropriateness doesn't lose your funds but misusing funds, fraudulently using funds, that grantee loses its funds—that money would go back in the pool and logically somebody such as Green Thumb or some other agency which has a respectable track record and knows what they are doing and has not been using the money for inappropriate activities and has been getting the money out to the senior citizens would have the right to compete to get those dollars. That is the theme of this amendment: good government, it is called; a good government amendment.

Why do we need it? We need it because we have an example of one of these agencies that gets an entitlement acting in a way which essentially has been a misuse of funds. Yet there has been no way to remove that agency from the list of those who get an entitlement. This agency is, today, called the National Senior Citizens Education and Research Center. It used to be known as the National Council of Senior Citizens. I think it is important to review the things this group has done with these tax dollars which have

flowed to it for the purposes of helping seniors, and have turned out to be doing a lot less than that. In fact, they have been found by innumerable Federal reviews to have actually been misusing those funds in a way that is significant.

This is not a small agency. This agency every year gets \$64 million in tax money written to it as a check, as an entitlement—\$64 million. That is a lot of money to be flowing to an agency without any competition, without any oversight in the sense it has to justify how it uses those dollars or, when it does have to justify them, actually has to produce a result, as we will see from what they have actually done as an agency. So it is not small dollars.

The IG took a number of looks at this. I think it is important to review what the IG has found. The IG found this grantee has misused over \$10 million of Federal taxes since 1992—\$10 million. In an audit in 1992–1994—and remember, the IG does not audit every year, so it could have been more. Who knows? But from an audit in 1992–1994, they questioned \$5.8 million of direct costs claimed by the National Council of Senior Citizens as not allowable under OMB regulations. These regulations are regulations the Department did not enforce: \$3.8 million for health insurance refunds that it received from insurers providing health coverage for seniors participating in the JOBS Program.

This may seem to be a worthy endeavor, purchasing health insurance for seniors. It is. But the IG found the National Council of Senior Citizens paid premiums out of its DOL account but received refunds based on favorable claim experiences and, instead of using the refunds to offset the earlier charges to the DOL grant, the National Council of Senior Citizens essentially pocketed the money. Under the Federal regulation, Circular A-122 of the OMB, the refund should have been credited directly to the costs of the program. But they were not; \$1.1 million of direct costs were questioned in 1992 and 1994 because the National Council of Senior Citizens charged its DOL grant the cost of incurring the administration for this health insurance program on which they got the refunds.

Here is a clever little scheme. They charged a fee to the insurer and claimed the fee for administering the plan was membership promotion income. The fee should have gone to reduce the DOL grant cost as required under the circular I just cited. But, instead, the money went into—where? The National Council of Senior Citizens' pockets. We will later get to what that money went to and, believe me, it was not senior citizens. It is very interesting where this money ended up. This trail leads down some very interesting roads.

Mr. President, \$580,000 of the \$850,000 total general liability insurance cost was also questioned during the 1992–1994 audit as being an arm's length

transaction because the insurance company shared the same management as the personnel of the National Council of Senior Citizens, and it was not competitively bid. In other words, the National Council of Senior Citizens was hiring its leadership to run an insurance company to insure its programs. That has a very suspicious note to it, I would think, under any program. It is a very disturbing finding by the audit.

This very disturbing finding by the audit was that the liability company, which was being run by the National Council of Senior Citizens, appeared to be related almost entirely to the National Council of Senior Citizens and its affiliated entities. Many of the insurance company board members were members of the National Council of Senior Citizens' executive management group.

This is not my information, by the way. This is information found by the IG. The IG found this liability insurance to not be an arm's length transaction, and the DOL, Department of Labor, has even concluded that all of the costs of the policy should be disallowed.

So you have what appears to be a sham contract, not an arm's length contract, for \$850,000 that was not even competed out. The Department of Labor has agreed with the bulk of these findings from the 1992-1994 audit and has issued a final determination that requires the National Council of Senior Citizens to repay millions of dollars in questionable funds. Has the agency repaid these funds? No, it has not. In fact, they have appealed the administrative law judge decision, and are currently in a discovery process.

Then there is, of course, the fact that they will probably go to Federal court, all the time keeping these funds which are so clearly being misused.

Believe me, they are not running to benefit any senior citizen who is trying to get a job under this program.

All during this process, they have been running this sham operation—that is my term; "it is not an arm's length transaction" was the IG's term—all during this process they have been receiving \$64 million a year every year, just being paid out.

There are other items about this organization that are working their way through the Department of Labor which are showing there are even more serious issues and significant problems.

An IG report reviewing the 1995 funds—remember, the ones I was talking about reviewed 1992 to 1994—finds identical violations—identical violations. In other words, after they have already been found to have violated the rules of the Department of Labor, the rules of the Office of Management and Budget, and the rules of objectivity, identical violations were committed in 1995, and it was recommended \$2.8 million be disallowed.

There are still other audits reviewing 1996 and part of 1997 that call into question approximately \$2.7 million. This

grantee has simply not, under any reasonable test, been administering these funds in a responsible way. It has been misusing these funds.

As if these types of findings are not bad enough, there is another audit from the IG dated April 24, 1998—fairly recently—which exposes a \$6.1 million slush fund at the National Council of Senior Citizens maintained for over 14 years. This fund, which they euphemistically call a contingency fund, was set up in 1984 with \$3.7 million in Federal funds to provide financial assistance to enrollees "in case the JOBS Program had been terminated by the Congress or the administration." In other words, they set up a slush fund, the purpose of which was to continue the program in case Congress, by some decision, decided the program was not any good. In other words, they were going to be an extraordinary form of government. We now do not have three branches of Government, we have a fourth over here. It is called the National Council of Senior Citizens which had decided even if Congress determined, which it has not and which it will not, that title V did not make sense, they were going to continue to run title V with tax dollars. That is a new form of government in our midst.

The program was not terminated, of course. It has continued. It will continue as far as the eye can see because it is a program which, on balance, has worked extraordinarily well for our seniors.

Has the slush fund been terminated which was set up in 1984 in case there was a contingency that this program might be terminated? Has that slush fund been terminated? No, it has not. The IG found it. After the IG discovered the fund, by then the money had been transferred to a trust fund. It recommended the money be returned to the Treasury, but the National Council of Senior Citizens filed a lawsuit in Federal court saying they should be able to keep the money.

This is unacceptable. It should be unacceptable to all of us. Anybody who is interested in good government should say, on the face of it, this is an unacceptable action by somebody who is using our Federal dollars in trust for the purposes of helping seniors get jobs.

Many of the grantees who participate in these programs, even the entitlement grantees—in fact, all the entitlement grantees—do so with the understanding that they have local and community organizations; they basically take the money from the Federal Government under this entitlement, and they funnel it out to the local community organizations which then manage the money and the people they administer. Green Thumb is a classic example of this. Urban League and ARP are other examples. This is a very legitimate, good way to do it. They have a national organization and send it out to the local organization. That is the concept behind this.

This is why we had, I presume, although I do not know, the original nine grantees. I hope nine is right. Nine grantees were picked because they were national but they had local organizations or they at least represented they would.

The National Council of Senior Citizens does not. It does not have local affiliates. Instead, they function exclusively as a middleman program. They subcontract the services and the job placement out to other nonprofit organizations in States. They do not have a unique expertise to bring to the table. They are simply an intermediary.

In their case, they are an intermediary which takes a fair amount of the money and keeps it here in Washington, as it would appear, under their insurance program to benefit an insurance company with which it is affiliated, in the sense its membership is the same membership as the National Council of Senior Citizens group, and that it creates a slush fund with the money, and that the IG in 1992, 1993, 1994, 1995, 1996, 1997, and 1998 found in violation of the rules of the Department of Labor and the Office of Management and Budget.

One has to wonder why we need such a middleman. Would it not make more sense, if we are going to have these entitlement programs, if we at least send them to people who are using the money to benefit seniors and give them jobs, such as the Urban League, ARP, or Green Thumb, and let them compete for it.

There is something equally disturbing about this organization because, as I said earlier, where did this money go? What were they doing? It is my understanding that at one point almost 90 percent of the money of this organization came from this entitlement, and even today this entitlement makes up a huge amount of their funds. So shouldn't they be basically working on senior citizens issues? You say, yes, that is right, of course.

It turns out that a lawsuit in New York City involving the Teamsters Union and the illegal use of cash in the electoral process for the president of the Teamsters Union, which some may remember involved transferring money from the Democratic National Committee to the Teamsters Union and the Teamsters Union to the Democratic National Committee—back and forth and in and out—that in that lawsuit, lo and behold, the National Council of Senior Citizens ended up being named as an unindicted co-conspirator.

According to the scheme outlined by the Federal prosecutors in the court documents, the Teamsters allegedly funneled money illegally into the National Council of Senior Citizens, which then arranged to hire direct mailing firms whose president applied a portion of the money received to the campaign for the presidency of the Teamsters Union.

Money, of course, is fungible, but one has to presume that some of the operating dollars was being used by the National Council of Senior Citizens to float this exercise with the Teamsters Union. You explain to me why funds which are supposed to be flowing to benefit seniors getting jobs are flowing to get the president of the Teamsters Union elected president of the Teamsters Union. Explain that to us and tell us that we, as a Senate, justify allowing this to happen. It is pretty hard to explain.

Is that their only illegal campaign activity? No, it is not. In yet another instance involving the same organization, the Federal Election Commission conducted an investigation of the National Council of Senior Citizens, and as part of the complaint filed relating to the 1994 Virginia Senate race, that investigation resulted in the National Council of Senior Citizens admitting that they had violated the law, and I believe they actually paid a fine as a result of violating an election campaign law.

These election violations involved paying for publications specifically endorsing candidates, making illegal corporate advances, and coordinating activities of political candidates.

This, by the way, is an organization which gets a majority of its funding or has traditionally gotten a majority of its funding, as a result of an entitlement to tax dollars, the purpose of those tax dollars being to hire senior citizens to give them work so they can have a better lifestyle.

So one would guess that maybe—this is only a guess or a projection—maybe some of that contingency fund, otherwise known as a slush fund that the IG found was used at least potentially, because money is fungible, be exchanged with the dollars which were being used, in the FEC's opinion, in violation of campaign financing, and in opinion of the U.S. attorney for the district of New York for the purposes of being an unindicted co-conspirator in the election of the president of the Teamsters Union, who later lost his election. He won the election, but it was sort of one of those elections that was thrown out because there was so much inappropriateness about it; and he was found to have violated the law in that election as did a number of other individuals.

So this organization has a pretty sour—and "poor" would be generous—track record on the management and use of the funds which flowed to it as an entitlement under title V.

Does my language specifically say this organization gets defunded? No, it does not. I would certainly hope there would be a conclusion by the Department of Labor that this sort of action was intolerable and that tax dollars should not be used in this way. They should not be used to create slush funds. They should not be used to fund liability in health insurance corporations which are closely connected to the management of the group that is

paying for them. They should not be used in a mismanaged way, as the IG has found. I would certainly hope that.

But my amendment does not specifically say the National Council of Senior Citizens, which has now been re-named—I always forget its new name, but I guess it is changing its name again anyway. It changes its name a lot. I can't, quite honestly, understand why they did that. They are going to change its name again and are going to be absorbed into the AFL-CIO, which is the original creator of the organization.

The National Senior Citizens Education and Research Center—the National Council of Senior Citizens—which will soon be an AFL arm, that the organization should lose its funding and that those funds should be made available to other agencies which are doing the job right, does my amendment say that has to happen? No, it does not.

What my amendment says is this. I will run through it. Basically, it boils down to saying we should manage these Federal resources in the way they are intended; that we should manage them for the purposes of giving senior citizens jobs, and making sure the people who are responsible for giving them jobs are responsible organizations. That is essentially what my amendment does.

Let me run through the specifics so people understand this is a reasonably benign amendment. I do not know why it has been resisted. I find the resistance, in light of what the National Council of Senior Citizens has done—in fact, we have a track record of an agency that has clearly misused funds—highly inappropriate.

But in the first part of my amendment, basically, I take the responsibility tests section of the present bill, and I add to them language which says, first, there must be proven ability of the agency which is getting these entitlement dollars from the Federal Government to do the job of delivering a senior citizen employment program. There is nothing unreasonable about that.

Second, we say the Secretary must do a timely review of each agency to determine that they have the capacity to do the job they claim they are going to do.

There is a problem here in that sometimes these—

The PRESIDING OFFICER. Will the Senator suspend?

We have an order to go to morning business until noon.

Mr. GREGG. I ask unanimous consent—

The PRESIDING OFFICER. What is the request?

Mr. GREGG. I ask unanimous consent that I be allowed to continue under this bill.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object, Mr. President, I say to my friend

from New Hampshire, we have had a number of people lined up since yesterday to speak in this period of time.

Does the Senator have an idea how long he wants to speak on his statement?

Mr. GREGG. My statement will go for about another 10 minutes.

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

Mr. GREGG. I thank the Chair, and I especially thank the Senator from Nevada for his courtesy in allowing me to proceed.

Anyway, the first section goes to requiring proven ability.

The second section requires that there be timely reviews and that there be no disruption of service. In other words, I do not want seniors losing their jobs because the agency has come in and said that somebody has been misusing their funds.

Thirdly, we make it clear that in three major areas if you are found to be in violation of the responsibility test, you lose your funding if the Department of Labor decides to do that.

The first two are already in the bill: fraud and debts after three demand letters. The third one, which I am putting in, is:

Established misuse of funds, including the use of funds to lobby or litigate against any Federal entity or official or to provide compensation for any lobbying or litigation activity identified by the Secretary, independent Inspector General audits, or other official inquiries or [audits] by the Federal Government.

In addition, as I mentioned earlier, we basically lower the hold harmless from 5 percent to 2 percent.

Lastly—and I think equally importantly—we put in a competition clause so if it is determined that one of these agencies does not qualify, is misusing funds, or has acted fraudulently, then the funds can be competed out.

We also make it clear that the Department of Labor can use some of the extra money which they retained from this program for the purposes of auditing programs to make sure they are being done correctly.

The important point here is this. I am not suggesting anything radical. I am not suggesting anything even remotely outrageous or excessive. All I am saying is, let's, under this responsibility test, have some teeth. Let's make it possible for the Department of Labor to come in, and when they find that a group has been acting inappropriately with these funds, misusing these funds, let's give them the authority they need to take action. They may not take action, but let's at least give them the authority to do that.

Under the present responsibility test, and the time constraints, and the bureaucracy, it is 3 years, at a minimum, before they could take action—3 years for the National Council of Senior Citizens; that is \$64 million a year, almost \$200 million of taxpayer money being misused.

We have already had audits which establish beyond a question that one

agency has acted inappropriately and has misused the funds. It is appropriate we give the Department of Labor the authority to act, so if they determine that, they can take action to make sure the money ends up where it is supposed to be, which is in the pockets of seniors who deserve to have jobs and need those jobs for a better lifestyle.

Mr. President, I yield the floor.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I ask my colleagues to bear with me. I have two unanimous consent requests that have been cleared on both sides.

#### CARDIAC ARREST SURVIVAL ACT OF 2000

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 572, H.R. 2498.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2498) to amend the Public Health Service Act to provide for recommendations of the Secretary of Health and Human Services regarding the placement of automatic external defibrillators in Federal buildings in order to improve survival rates of individuals who experience cardiac arrest in such buildings, and to establish protections from civil liability arising from the emergency use of the devices.

There being no objection, the Senate proceeded to consider the bill.

#### AMENDMENT NO. 4344

Mr. JEFFORDS. Mr. President, Senator FRIST has an amendment at the desk, and I ask for its consideration. It has been cleared on both sides.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. JEFFORDS], for Mr. FRIST, for himself, Mr. KENNEDY, Mr. JEFFORDS, Mr. DODD, Mr. ENZI, Mr. HARKIN, Mr. HUTCHINSON, Ms. MIKULSKI, Ms. COLLINS, Mr. WELLSTONE, Mrs. MURRAY, Mr. GORTON, and Mr. GRAHAM, proposes an amendment numbered 4344.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the amendment be agreed to.

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

The amendment (No. 4344) was agreed to.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the bill be read a third time and passed, as amended, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The bill (H.R. 2498), as amended, was read the third time and passed.

#### NEEDLESTICK SAFETY AND PREVENTION ACT

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of H.R. 5178, which is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5178) to require changes in the bloodborne pathogens standard in effect under the Occupational Safety and Health Act of 1970.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Mr. President, this is an important piece of legislation. Although we will not spend time on the floor debating it or talking about it, that does not take away from the significance of the needlestick bill.

I extend my appreciation to everyone on the majority side and the many people who have worked on our side for coming up with a bipartisan bill to alleviate a significant problem that nurses in America have had for many years.

#### NEEDLESTICK SAFETY AND PREVENTION ACT

Mr. REID. Mr. President, on October 17, 1997, 28-year-old Lisa Black, a registered nurse from Reno, Nevada, was nursing a man in the terminal stages of AIDS when a needle containing his blood punctured her skin.

Today, Lisa Black is infected with Hepatitis C and HIV.

She must take 22 pills a day to keep her HIV infection from progressing to full-blown AIDS and to delay the effects of Hepatitis C.

Karen Daley, a nurse for over 20 years and President of the Massachusetts Nurses Association, sustained a needlestick injury when she reached her gloved hand into a needle box to dispose of the needle with which she had drawn blood.

Karen Daley did everything in her power and took all the necessary precautions—including wearing gloves and following proper procedures—to reduce her risk of exposure to bloodborne pathogens. Her injury did not occur because she was careless or distracted or not paying attention to what she was doing.

Karen Daley has good reason to believe that had a safer needle and disposal system been in place at her hospital, she would not be sick today. According to the CDC, eighty percent of all needlestick injuries can be prevented through the use of safer needles.

I am pleased that today we are passing bipartisan legislation—the Needlestick Worker Safety and Prevention Act—that will help reduce the incidence of needlestick injuries and illnesses, like those sustained by Karen Daley and Lisa Black.

The Health Care Worker Safety and Prevention Act will strengthen the Oc-

cupational Safety and Health Administration's (OSHA) standard on bloodborne pathogens to encourage greater utilization of newer, safer devices in health facilities. It will require the involvement of workers who provide direct patient care in determining which safer needles and sharps to use in the workplace and a more consistent documentation of all needlestick injuries.

I would like to thank Senators KENNEDY, JEFFORDS, and ENZI as well as Representatives BALLENGER and OWENS for their commitment to this legislation. I am pleased that we were able to come together across party lines to protect the health and safety of our front-line health care workers.

Mr. KENNEDY. Mr. President, I commend Senator JEFFORDS, Senator ENZI, and Senator REID for their effective work on this important legislation. And I also commend the American Nurses Association, the American Federation of Teachers, the Service Employees International Union and the American Federation of Federal, State, County and Municipal Employees for their effective efforts in supporting it.

Needle stick protection is vitally important to health care professionals and to the many others who come in contact with them. Last year, as many as 800,000 health care professionals suffered needle stick injuries. Over 1,000 health care workers were infected with serious diseases, including HIV, Hepatitis B and Hepatitis C.

These injuries were preventable, and because of this bill, many future needle stick injuries will be prevented. The Center for Disease Prevention estimates that this bill will reduce needle stick injuries by as much as 88 percent.

But numbers alone cannot convey the human tragedy of these injuries. One of my constituents, Karen Daley of Boston, is the President of the Massachusetts Nurses Association and was a registered nurse, a job she loved and found very fulfilling. In January 1999, while on duty in an emergency room in Boston, Karen was accidentally stuck by a contaminated needle. Six months later, she tested positive for HIV and Hepatitis C. Fortunately, Karen is in reasonably good health today, although she may never again be able to practice her chosen profession of nursing.

The Needle Stick Safety and Prevention Act will help prevent tragic accidents like Karen Daley's. This bill requires employers to use, where appropriate, safety-designed needles and other sharp devices to reduce the potential transmission of disease to health care workers and patients. It is not enough to rely solely on one type of control, such as disposable needles and other equipment, when safer, appropriate medical devices are available and can be effective in reducing the risk of contaminated needle injuries.

This bill also provides that employers must establish an injury log to record the kind of devices, and the location, of all needle stick accidents.