

program resulting from the negotiation of prescription drug prices.

S. 2364

At the request of Ms. CANTWELL, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 2364, a bill to provide lasting protection for inventoried roadless areas within the National Forest System.

S. 2487

At the request of Mr. CRAIG, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 2487, a bill to ensure an abundant and affordable supply of highly nutritious fruits, vegetables, and other specialty crops for American consumers and international markets by enhancing the competitiveness of United States-grown specialty crops.

S. 2551

At the request of Mr. MENENDEZ, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2551, a bill to provide for prompt payment and interest on late payments of health care claims.

S. 2563

At the request of Mr. COCHRAN, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 2563, a bill to amend title XVIII of the Social Security Act to require prompt payment to pharmacies under part D, to restrict pharmacy co-branding on prescription drug cards issued under such part, and to provide guidelines for Medication Therapy Management Services programs offered by prescription drug plans and MA-PD plans under such part.

S. 2658

At the request of Mr. BOND, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 2658, a bill to amend title 10, United States Code, to enhance the national defense through empowerment of the Chief of the National Guard Bureau and the enhancement of the functions of the National Guard Bureau, and for other purposes.

S. 2664

At the request of Mr. BAUCUS, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 2664, a bill to amend title XVIII of the Social Security Act to improve access to pharmacies under part D.

S. 2679

At the request of Mr. TALENT, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 2679, a bill to establish an Unsolved Crimes Section in the Civil Rights Division of the Department of Justice, and an Unsolved Civil Rights Crime Investigative Office in the Civil Rights Unit of the Federal Bureau of Investigation, and for other purposes.

S. 2703

At the request of Mr. LEAHY, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor

of S. 2703, a bill to amend the Voting Rights Act of 1965.

S. 2917

At the request of Ms. SNOWE, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 2917, a bill to amend the Communications Act of 1934 to ensure net neutrality.

S. 2990

At the request of Mr. VITTER, the names of the Senator from Virginia (Mr. ALLEN) and the Senator from Pennsylvania (Mr. SANTORUM) were added as cosponsors of S. 2990, a bill to amend title XVIII of the Social Security Act to restore financial stability to Medicare anesthesiology teaching programs for resident physicians.

S. 3548

At the request of Mr. CONRAD, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 3548, a bill to authorize appropriate action if negotiations with Japan to allow the resumption of United States beef exports are not successful, and for other purposes.

S. CON. RES. 94

At the request of Mr. COCHRAN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. Con. Res. 94, a concurrent resolution expressing the sense of Congress that the needs of children and youth affected or displaced by disasters are unique and should be given special consideration in planning, responding, and recovering from such disasters in the United States.

S. RES. 224

At the request of Mr. DEWINE, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. Res. 224, a resolution to express the sense of the Senate supporting the establishment of September as Campus Fire Safety Month, and for other purposes.

AMENDMENT NO. 4271

At the request of Mr. BOND, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of amendment No. 4271 proposed to S. 2766, an original bill to authorize appropriations for fiscal year 2007 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 4390

At the request of Mr. TALENT, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of amendment No. 4390 intended to be proposed to S. 2766, an original bill to authorize appropriations for fiscal year 2007 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ENZI (for himself, Mr. KENNEDY, Mr. DEWINE, and Ms. MIKULSKI):

S. 3570. A bill to amend the Older Americans Act of 1965 to authorize appropriations for fiscal years 2007 through 2011, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. ENZI. Mr. President, I rise today to join Senator DEWINE, Senator KENNEDY and Senator MIKULSKI in introducing the Older Americans Act Amendments of 2006.

The Older Americans Act Amendments of 2006 is the primary source for the delivery of social and nutrition services for older individuals. Enacted in 1965, the act's programs include supportive services, congregate and home-delivered nutrition services, community service employment, the long-term care ombudsman program, and services to prevent the abuse, neglect and exploitation of older individuals. The act also provides grants to Native Americans and research, training, and demonstration activities.

The 2000 amendments to the act authorized the National Family Caregiver Support Program; allowed State agencies on aging to impose cost-sharing for certain supportive services for older persons; revised the State funding formulas; and required the Department of Labor to establish performance measures for the community service employment program.

Title I of the Older Americans Act set broad social policy objective to improve the lives of all older Americans. It recognized the need for an adequate income in retirement, and the importance of physical and mental health, employment in community services for older individuals and long-term care services.

Title II established the Administration on Aging, AOA, within the Department of Health and Human Services to be the primary Federal advocate for older individuals and to administer the provisions of the Older Americans Act. It also established the National Eldercare Locator Service to provide nationwide information with regard to resources for older individuals; the National Long-term Care Ombudsman Resource Center; the National Center on Elder Abuse; the National Aging Information Center; and the Pension Counseling and Information Program. The 2006 amendments will establish an Office of Elder Abuse Prevention and Services to develop a long-term plan and national response to elder abuse prevention, detection, treatment, and intervention. Further, the 2006 amendments strengthen the leadership of the Department of Health and Human Services through an interagency coordinating committee to guide policy and program development across the Federal Government with respect to aging and demographic changes.

Title III authorized grants to State and area agencies on aging to act as

advocates on behalf of older individuals. Title III services are targeted to those with the greatest economic and social need, particularly low-income minority persons and older persons residing in rural communities. It funds supportive services, congregate and home-delivered meals, transportation, home care, adult day care, information assistance, and legal assistance. The 2006 amendments will expand the Caregiver Support Program to permit the use of volunteers to enhance services and increase program authorization levels. In addition, the bill contains a new demonstration project that promises to lead to changes in our long-term care delivery system, leading to consumer driven choices.

Title IV authorized grants for training, research, and demonstration projects in the field of aging. This title supports a wide range of projects including those related to income, health, housing, retirement and long-term care, as well as career preparation and continuing education. The 2006 amendments will expand gerontology training for minority students; multigenerational activities, and civic engagement activities.

Title V authorized the community service employment program for older Americans known as the Senior Community Service Employment or SCSEP—to promote part-time opportunities in community service for unemployed, low-income persons who are 55 years or older and who have poor employment prospects. It is administered by the Department of Labor. The 2006 amendments establish 4-year grant cycles for the competitive program and permit poor performing grantees to be terminated from the program based on performance measures and establishes a 3 year limit for participating in subsidized employment with a 20-percent waiver for difficult to place individuals.

Title VI authorized funds for Supportive and nutrition services for older Native Americans. The 2006 amendments will increase the funding levels for this program.

Title VII authorized the long-term care ombudsman program and elder abuse, neglect and exploitation prevention programs. The 2006 amendments will enhance the elder abuse prevention activities by awarding grants to States and Indian tribes to enable them to strengthen long-term care and provide assistance for elder justice and elder abuse prevention programs. It will create grants for prevention, detection, assessment, treatment of, intervention in, investigation of, and response to elder abuse; safe havens demonstrations for older individuals; volunteer programs; multidisciplinary activities; elder fatality and serious injury review teams; programs for underserved populations; incentives for long-term care facilities to train and retain employees; and other collaborative and innovative approaches. Further, it will initiate a new incidence and prevalence study and a data collection process.

The proportion of the population aged 60 and over will increase dramatically over the next 30 years as more than 78 million baby boomers approach retirement. It is essential that in the coming years Congress and the Federal Government take a leadership role in assisting the states in addressing the needs of older Americans. The bill we offer today will ensure that our Nation's older Americans are healthy, fed, housed, able to get where they need to go and safe from abuse and scams. The No. 1 resolution of the 2005 White House Conference on Aging called upon Congress to reauthorize the Older Americans Act during the 109th Congress. I am pleased that the Senate and the House are well on the way to accomplishing this goal on behalf of one of our Nation's greatest resources—our older Americans.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 3570

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Older Americans Act Amendments of 2006”.

**SEC. 2. DEFINITIONS.**

Section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002) is amended—

(1) in paragraph (12)(D), to read as follows:

“(D) evidence-based health promotion programs, including programs related to the prevention and mitigation of the effects of chronic disease (including osteoporosis, hypertension, obesity, diabetes, and cardiovascular disease), alcohol and substance abuse reduction, smoking cessation, weight loss and control, stress management, falls prevention, physical activity, and improved nutrition;”;

(2) by striking paragraph (24) and inserting the following:

“(24) The term ‘exploitation’ means the fraudulent or otherwise illegal, unauthorized, or improper act or process of an individual, including a caregiver or fiduciary (as such terms are defined in section 751), that uses the resources of an older individual for monetary or personal benefit, profit, or gain, or that results in depriving an older individual of rightful access to, or use of, benefits, resources, belongings, or assets.”;

(3) in paragraph (29)(E)—

(A) in clause (i), by striking “and” at the end;

(B) in clause (ii), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(iii) older individuals at risk for institutional placement.”;

(4) in paragraph (32)(D), by inserting “, including an assisted living facility,” after “home”;

(5) by striking paragraph (34) and inserting the following:

“(5)(A) The term ‘neglect’ means—

“(i) the failure of a caregiver or fiduciary (as such terms are defined in section 751) to provide the goods or services that are necessary to maintain the health or safety of an older individual; or

“(ii) self-neglect.

“(B) The term ‘self-neglect’ means an adult’s inability, due to physical or mental

impairment or diminished capacity, to perform essential self-care tasks including—

“(i) obtaining essential food, clothing, shelter, and medical care;

“(ii) obtaining goods and services necessary to maintain physical health, mental health, or general safety; or

“(iii) managing one’s own financial affairs.”; and

(6) by adding at the end the following:

“(44) The term ‘Aging and Disability Resource Center’ means a center established by a State as part of the State’s system of long-term care, to provide a coordinated system for providing—

“(A) comprehensive information on available public and private long-term care programs, options, and resources;

“(B) personal counseling to assist individuals in assessing their existing or anticipated long-term care needs, and developing and implementing a plan for long-term care designed to meet their specific needs and circumstances; and

“(C) consumer access to the range of publicly-supported long-term care programs for which consumers may be eligible, by serving as a convenient point of entry for such programs.

“(45) The term ‘at risk for institutional placement’ means, with respect to an older individual, that such individual is unable to perform at least two activities of daily living without substantial assistance (including verbal reminding, physical cuing, or supervision), including such an older individual that is determined by the State involved to be in need of placement in a long-term care facility.

“(46) The term ‘Hispanic-serving institution’ has the meaning given the term in section 502 of the Higher Education Act of 1965 (20 U.S.C. 1101a).

“(47) The term ‘long-term care’ means any services, care, or items (including assistive devices) that are—

“(A) intended to assist individuals in coping with, and to the extent practicable compensating for, functional impairments in carrying out activities of daily living;

“(B) furnished at home, in a community care setting (including a small community care setting as defined in subsection (g)(1), and a large community care setting as defined in subsection (h)(1), of section 1929 of the Social Security Act (42 U.S.C. 1396t)), or in a long-term care facility; and

“(C) not furnished to diagnose, treat, or cure a medical disease or condition.

“(48) The term ‘self-directed care’ means an approach to providing services (including programs, benefits, supports, and technology) under this Act intended to assist an older individual with activities of daily living, in which—

“(A) such services (including the amount, duration, scope, provider, and location of such services) are planned, budgeted, and purchased under the direction and control of such individual;

“(B) such individual is provided with such information and assistance as is necessary and appropriate to enable such individual to make informed decisions about the individual’s service options;

“(C) the needs, capabilities, and preferences of such individual with respect to such services, and such individual’s ability to direct and control the individual’s receipt of such services, are assessed by the area agency on aging involved or the local provider agency;

“(D) based on the assessment made under subparagraph (C), upon request, the area agency on aging assists such individual and the individual’s family, caregiver, or legal representative in developing—

“(i) a plan of services for such individual that specifies which services such individual will be responsible for directing;

“(ii) a determination of the role of family members (and others whose participation is sought by such individual) in providing services under such plan; and

“(iii) a budget for such services; and

“(E) the area agency on aging or State agency involved provides for oversight of such individual’s self-directed receipt of services, including steps to ensure the quality of services provided and the appropriate use of funds under this Act.

“(49) The term ‘State system of long-term care’ means the Federal, State, and local programs and activities administered by a State that provide, support, or facilitate access to long-term care to individuals in such State.”.

### SEC. 3. OFFICE OF ELDER ABUSE PREVENTION AND SERVICES.

Section 201 of the Older Americans Act of 1965 (42 U.S.C. 3011) is amended by adding at the end the following:

“(e)(1) In this subsection, the terms defined in section 751 shall have the meanings given those terms in that section.

“(2) The Secretary is authorized to establish or designate within the Administration (as defined in section 102) an Office of Elder Abuse Prevention and Services.

“(3) It shall be the duty of the Assistant Secretary, acting through the head of the Office of Elder Abuse Prevention and Services to—

“(A) develop objectives, priorities, policy, and a long-term plan for—

“(i) carrying out elder justice programs and activities relating to—

“(I) elder abuse prevention, detection, treatment, and intervention, and response;

“(II) training of individuals regarding the matters described in subclause (I); and

“(III) the improvement of the elder justice system in the United States;

“(ii) annually collecting, maintaining, and disseminating data relating to the abuse, neglect, and exploitation of elders (and, in the discretion of the Secretary, vulnerable adults), including collecting, maintaining, and disseminating such data under section 753 after consultation with the Attorney General and working with experts from the Department of Justice described in section 753(b)(1);

“(iii) disseminating information concerning best practices regarding, and providing training on, carrying out activities related to abuse, neglect, and exploitation of elders (and, in the discretion of the Secretary, vulnerable adults);

“(iv) in conjunction with the necessary experts, conducting research related to abuse, neglect, and exploitation of elders (and, in the discretion of the Secretary, vulnerable adults);

“(v) providing technical assistance to States and other eligible entities that provide or fund the provision of the services described in subtitle B of title VII; and

“(vi) carrying out a study to determine the national incidence and prevalence of elder abuse, neglect, and exploitation in all settings;

“(B) implement the overall policy and a strategy to carry out the plan described in subparagraph (A); and

“(C) provide advice to the Secretary on elder justice issues and administer such programs relating to elder abuse, neglect, and exploitation as the Secretary determines to be appropriate.

“(4) The Secretary, acting through the Assistant Secretary, may issue such regulations as may be necessary to carry out this subsection and subtitle B of title VII.”.

### SEC. 4. FUNCTIONS OF THE ASSISTANT SECRETARY.

Section 202 of the Older Americans Act of 1965 (42 U.S.C. 3012) is amended—

(1) in subsection (a)—

(A) in paragraph (12)—

(i) by striking “carry on” and inserting the following:

“(B) carry on”; and

(ii) by striking “(12)” and inserting the following:

“(12)(A) consult and coordinate activities with the Administrator of the Centers for Medicare & Medicaid Services to implement and build awareness of programs providing new benefits affecting older individuals; and”;

(B) by striking paragraph (20) and inserting the following:

“(20)(A) provide technical assistance and support for outreach and benefits enrollment assistance to support efforts—

“(i) to inform older individuals with greatest economic need, who may be eligible to participate, but who are not participating, in Federal and State programs for which the individuals are eligible, about the programs; and

“(ii) to enroll the individuals in the programs;

“(B) in cooperation with related Federal agency partners administering the Federal programs, make a grant to or enter into a contract with a qualified, experienced entity to establish a National Center on Senior Benefits Outreach and Enrollment, which shall—

“(i) maintain and update web-based decision support and enrollment tools, and integrated, person-centered systems, designed to inform older individuals about the full range of benefits for which the individuals may be eligible under Federal and State programs;

“(ii) utilize cost-effective strategies to find older individuals with greatest economic need and enroll the individuals in the programs;

“(iii) create and support efforts for Aging and Disability Resource Centers, and other public and private State and community-based organizations, including faith-based organizations and coalitions, to serve as benefits enrollment centers for the programs;

“(iv) develop and maintain an information clearinghouse on best practices and the most cost-effective methods for finding and enrolling older individuals with greatest economic need in the programs; and

“(v) provide, in collaboration with related Federal agency partners administering the Federal programs, training and technical assistance on the most effective outreach, screening, enrollment, and follow-up strategies for the Federal and State programs.”;

(C) in paragraph (26)(D)—

(i) by striking “gaps in”;

(ii) by inserting “(including services that would permit such individuals to receive long-term care in home and community-based settings)” after “individuals”; and

(iii) by striking “and” at the end;

(D) in paragraph (27), by striking the period at the end and inserting “; and”; and

(E) by adding at the end the following:

“(28) make available to States information and technical assistance to support the provision of evidence-based disease prevention and health promotion services.”; and

(2) by striking subsection (b) and inserting the following:

“(b) To promote the development and implementation of comprehensive, coordinated systems at Federal, State, and local levels for providing long-term care in home and community-based settings, in a manner responsive to the needs and preferences of older individuals and their family caregivers,

the Assistant Secretary shall, consistent with the applicable provisions of this title—

“(1) collaborate, coordinate, and consult with other Federal agencies and departments (other than the Administration on Aging) responsible for formulating and implementing programs, benefits, and services related to providing long-term care, and may make grants, contracts, and cooperative agreements with funds received from those other Federal agencies and departments;

“(2) conduct research and demonstration projects to identify innovative, cost-effective strategies for modifying State systems of long-term care to—

“(A) respond to the needs and preferences of older individuals and family caregivers;

“(B) target services to individuals at risk for institutional placement, to permit such individuals to remain in home and community-based settings; and

“(C) establish criteria for and promote the implementation (through area agencies on aging, service providers, and such other entities as the Assistant Secretary determines to be appropriate) of evidence-based programs to assist older individuals and their family caregivers in learning about and making behavioral changes intended to reduce the risk of injury, disease, and disability among older individuals;

“(3) facilitate, in coordination with the Administrator of the Centers for Medicare & Medicaid Services, including the provision of such care through self-directed care models that—

“(A) provide for the assessment of the needs and preferences of an individual at risk for institutional placement to help such individual avoid unnecessary institutional placement and depletion of income and assets to qualify for benefits under the Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

“(B) respond to the needs and preferences of such individual and provide the option—

“(i) for the individual to direct and control the receipt of supportive services provided; or

“(ii) as appropriate, for a person who was appointed by the individual, or is legally acting on the individual’s behalf, in order to represent or advise the individual in financial or service coordination matters (referred to in this paragraph as a ‘representative’ of the individual), to direct and control the receipt of those services; and

“(C) assist an older individual (or, as appropriate, a representative of the individual) to develop a plan for long-term support, including selecting, budgeting for, and purchasing home and community-based long-term care and supportive services;

“(4) provide for the Administration to play a lead role with respect to issues concerning home and community-based long-term care, including—

“(A) directing (as the Secretary or the President determines to be appropriate) or otherwise participating in departmental and interdepartmental activities concerning long-term care; and

“(B) reviewing and commenting on departmental rules, regulations, and policies related to providing long-term care; and

“(C) making recommendations to the Secretary with respect to home and community-based long-term care, including recommendations based on findings made through projects conducted under paragraph (2);

“(5) promote, in coordination with other appropriate Federal agencies—

“(A) enhanced awareness by the public of the importance of planning in advance for long-term care; and

“(B) the availability of information and resources to assist in such planning;

“(6) establish, either directly or through grants or contracts, a national technical assistance program to assist State agencies, area agencies on aging, and community-based service providers funded under this Act in implementing home and community-based long-term care systems, including evidence-based programs;

“(7) develop, in collaboration with the Administrator of the Centers for Medicare & Medicaid Services, performance standards and measures for use by States to determine the extent to which their systems of long-term care fulfill the objectives described in this subsection; and

“(8) conduct such other activities as the Assistant Secretary determines to be appropriate.

“(c) The Assistant Secretary, after consultation with the Chief Executive Officer of the Corporation for National and Community Service, shall—

“(1) encourage and permit volunteer groups (including organizations carrying out national service programs and including organizations of youth in secondary or postsecondary school) that are active in supportive services and civic engagement to participate and be involved individually or through representative groups in supportive service and civic engagement programs or activities to the maximum extent feasible;

“(2) develop a comprehensive strategy for utilizing older individuals to address critical local needs of national concern; and

“(3) encourage other community capacity-building initiatives involving older individuals.”.

#### SEC. 5. FEDERAL AGENCY CONSULTATION.

Section 203 of the Older Americans Act of 1965 (42 U.S.C. 3013) is amended—

(1) in subsection (a)(3)(A)—

(A) by striking “(with particular attention to low-income minority older individuals and older individuals residing in rural areas)” and inserting “(with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas)”;

(B) by striking “section 507” and inserting “section 516”;

(2) in subsection (b), by adding at the end the following:

“(19) Sections 4 and 5 of the Assistive Technology Act of 1998 (29 U.S.C. 3003, 3004).”;

(3) by adding at the end the following:

“(c)(1) The Secretary, in collaboration with the Secretary of Housing and Urban Development and with the other Federal officials specified in paragraph (2), shall establish an interagency coordinating committee (referred to in this subsection as the ‘Committee’) focusing on the coordination of agencies with respect to aging issues, particularly issues related to demographic changes and housing needs among older individuals.

“(2) The officials referred to in paragraph (1) are the Secretary of Labor, the Secretary of Housing and Urban Development, the Attorney General, the Secretary of Transportation, the Secretary of the Treasury, the Secretary of Agriculture, the Commissioner of Social Security, the Surgeon General, the Administrator of the Centers for Medicare & Medicaid Services, the Director of the Centers for Disease Control and Prevention, the Director of the National Institutes of Health, the Assistant Secretary for Children and Families, the Administrator of the National Highway Traffic Safety Administration, and such other Federal officials as the Secretary of Health and Human Services determines to be appropriate.

“(3) The Secretary of Health and Human Services shall serve as the first chairperson of the Committee, for an initial period of 2 years. After that initial period, the Secretary of Housing and Urban Development and the Secretary of Health and Human Services shall alternate as chairpersons of the Committee, each serving as chairperson for a period of 2 years.

“(4) The Committee shall—

“(A) review all Federal programs and services that assist older individuals in finding and affording housing, health care, and other services, including those Federal programs and services that assist older individuals in accessing health care, transportation, supportive services, and assistance with daily activities, at the place or close to the place where the older individuals live;

“(B) monitor, evaluate, and recommend improvements in programs and services administered, funded, or financed by Federal, State, and local agencies to assist older individuals in meeting their housing, health care, and other service needs and make any recommendations about how the agencies can better carry out and provide the programs and services to house and serve older individuals;

“(C) recommend ways to—

“(i) facilitate aging in place of older individuals, by identifying and making available the programs and services necessary to enable older individuals to remain in their homes as the individuals age;

“(ii) reduce duplication by Federal agencies of programs and services to assist older individuals in meeting their housing, health care, and other service needs;

“(iii) ensure collaboration among and within agencies in providing and making available the programs and services so that older individuals are able to easily access needed programs and services;

“(iv) work with States to better provide housing, health care, and other services to older individuals by—

“(I) holding individual meetings with State representatives;

“(II) providing ongoing technical assistance to States about better meeting the needs of older individuals; and

“(III) working with States to designate State liaisons for the Committee;

“(v) identify model programs and services to assist older individuals in meeting their housing, health care, and other service needs, including model—

“(I) programs linking housing, health care, and other services;

“(II) financing products offered by government, quasi-government, and private sector entities; and

“(III) innovations in technology applications that give older individuals access to information on available services or that help in providing services to older individuals;

“(vi) collect and disseminate information about older individuals and the programs and services available to the individuals to ensure that the individuals can access comprehensive information; and

“(vii) work with the Federal Interagency Forum on Aging-Related Statistics, the Bureau of the Census, and member agencies—

“(I) to collect and maintain data relating to the housing, health care, and other service needs of older individuals so that all such data can be accessed in one place on a designated website; and

“(II) to identify and address unmet data needs;

“(D) make recommendations to guide policy and program development across Federal agencies with respect to demographic changes among older individuals; and

“(E) actively seek input from and consult with all appropriate and interested parties,

including public health interest and research groups and foundations about the activities described in subparagraphs (A) through (D).

“(5) Each year, the Committee shall prepare and submit to the President, the Committee on Financial Services of the House of Representatives, the Committee on Education and the Workforce of the House of Representatives, the Committee on Banking, Housing, and Urban Affairs of the Senate, the Committee on Health, Education, Labor, and Pensions of the Senate, and the Special Committee on Aging of the Senate, a report that—

“(A) describes the activities and accomplishments of the Committee in working with Federal, State, and local governments, and private organizations, in coordinating programs and services to meet the requirements of paragraph (4);

“(B) assesses the level of Federal assistance required to meet the needs described in paragraph (4);

“(C) incorporates an analysis from the head of each agency that is a member of the interagency coordinating committee established under paragraph (1) that describes the barriers and impediments, including barriers and impediments in statutory and regulatory law, to the access and use by older individuals of programs and services administered by such agency; and

“(D) makes recommendations for appropriate legislative and administrative actions to meet the needs described in paragraph (4) and for coordinating programs and services designed to meet those needs.

“(6)(A) The Secretary of Health and Human Services, after consultation with the Secretary of Housing and Urban Development, shall appoint an executive director of the Committee.

“(B) On the request of the Committee, any Federal Government employee may be detailed to the Committee without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.”.

#### SEC. 6. ADMINISTRATION.

Section 205 of the Older Americans Act of 1965 (42 U.S.C. 3016) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) in subparagraph (C), by adding “and” at the end;

(ii) in subparagraph (D), by striking “; and” at the end and inserting a period; and

(iii) by striking subparagraph (E); and

(B) in paragraph (2)—

(i) in subparagraph (A)—

(I) by amending clause (i) to read as follows:

“(i) designing, implementing, and evaluating evidence-based programs to support improved nutrition and regular physical activity for older individuals;”;

(II) by amending clause (iii) to read as follows:

“(iii) conducting outreach and disseminating evidence-based information to nutrition service providers about the benefits of healthful diets and regular physical activity, including information about the most current Dietary Guidelines for Americans published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341), the Food Guide Pyramid published by the Secretary of Agriculture, and advances in nutrition science;”;

(III) in clause (vii) by striking “and” at the end; and

(IV) by striking clause (viii) and inserting the following:

“(viii) disseminating guidance that describes strategies for improving the nutritional quality of meals provided under title III; and

“(ix) providing technical assistance to the regional offices of the Administration with respect to each duty described in clauses (i) through (viii).”; and

(ii) by amending subparagraph (C)(i) to read as follows:

“(i) have expertise in nutrition and meal planning; and”.

#### SEC. 7. EVALUATION.

Section 206(g) of the Older Americans Act of 1965 (42 U.S.C. 3017(g)) is amended by striking the first sentence and inserting the following: “From the total amount appropriated for each fiscal year to carry out title III, the Secretary may use such sums as may be necessary, but not more than ½ of 1 percent of such amount, for purposes of conducting evaluations under this section, either directly or by grant or contract.”.

#### SEC. 8. REPORTS.

Section 207(b)(2) of the Older Americans Act of 1965 (42 U.S.C. 3018(b)(2)) is amended—

(1) in subparagraph (B), by striking “Labor” and inserting “the Workforce”; and

(2) in subparagraph (C), by striking “Labor and Human Resources” and inserting “Health, Education, Labor, and Pensions”.

#### SEC. 9. CONTRACTUAL, COMMERCIAL AND PRIVATE PAY RELATIONSHIPS; APPROPRIATE USE OF ACT FUNDS.

(a) PRIVATE PAY RELATIONSHIPS; APPROPRIATE USE OF ACT FUNDS.—Section 212 of the Older Americans Act (42 U.S.C. 3020c) is amended to read as follows:

#### “SEC. 212. CONTRACTING AND GRANT AUTHORITY; PRIVATE PAY RELATIONSHIPS; APPROPRIATE USE OF FUNDS.

“(a) IN GENERAL.—Subject to subsection (b), this Act shall not be construed to prevent a recipient of a grant or a contract under this Act from entering into an agreement—

“(1) with a profitmaking organization;

“(2) under which funds provided under such grant or contract are used to pay part or all of a cost (including an administrative cost) incurred by such recipient to carry out a contract or commercial relationship for the benefit of older individuals or their family caregivers, whether such contract or relationship is carried out to implement a provision of this Act or to conduct activities inherently associated with implementing such provision; or

“(3) under which any individual, regardless of age or income (including the family caregiver of such individual), who seeks to receive 1 or more services may voluntarily pay, at their own private expense, to receive such services based on the fair market value of such services.

“(b) ENSURING APPROPRIATE USE OF FUNDS.—An agreement described in subsection (a) may not—

“(1) be made without the prior approval of the State agency (or, in the case of a grantee under title VI, without the prior recommendation of the Director of the Office for American Indian, Alaska Native, and Native Hawaiian Aging and the prior approval of the Assistant Secretary);

“(2) directly or indirectly provide for, or have the effect of, paying, reimbursing, or otherwise compensating an entity under such agreement in an amount that exceeds the fair market value of the goods or services furnished by such entity under such agreement;

“(3) result in the displacement of services otherwise available to an older individual with greatest social need, an older individual with greatest economic need, or an older individual who is at risk for institutional placement; or

“(4) in any other way compromise, undermine, or be inconsistent with the objective of serving the needs of older individuals, as determined by the Assistant Secretary.”.

#### SEC. 10. NUTRITION EDUCATION.

Section 214 of the Older Americans Act of 1965 (42 U.S.C. 3020e) is amended to read as follows:

#### “SEC. 214. NUTRITION EDUCATION.

“The Assistant Secretary, in consultation with the Secretary of Agriculture, shall conduct outreach and provide technical assistance to agencies and organizations that serve older individuals to assist such agencies and organizations to carry out integrated health promotion and disease prevention programs that—

“(1) are designed for older individuals; and

“(2) include—

“(A) nutrition education;

“(B) physical activity; and

“(C) other activities to modify behavior and to improve health literacy, including providing information on optimal nutrient intake, through education and counseling in accordance with section 339(2)(J).”.

#### SEC. 11. PENSION COUNSELING AND INFORMATION PROGRAMS.

Section 215 of the Older Americans Act of 1965 (42 U.S.C. 3020e-1) is amended—

(1) in subsection (e)(1)(J), by striking “and low income retirees” and inserting “, low-income retirees, and older individuals with limited English proficiency”; and

(2) in subsection (f), by amending paragraph (2) to read as follows:

“(2) The ability of the entity to perform effective outreach to affected populations, particularly populations with limited English proficiency and other populations that are identified as in need of special outreach.”; and

(3) in subsection (h)(2), by inserting “(including individuals with limited English proficiency)” after “individuals”.

#### SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

Section 216 of the Older Americans Act of 1965 (42 U.S.C. 3020f) is amended—

(1) in subsection (a) by striking “2001, 2002, 2003, 2004, and 2005” and inserting “2007, 2008, 2009, 2010, and 2011.”; and

(2) in subsections (b) and (c) by striking “year” and all that follows through “years”, and inserting “years 2007, 2008, 2009, 2010, and 2011”.

#### SEC. 13. PURPOSE; ADMINISTRATION.

Section 301(a)(2) of the Older Americans Act of 1965 (42 U.S.C. 3021(a)(2)) is amended—

(1) in subparagraph (D), by striking “and” at the end;

(2) in subparagraph (E), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(F) organizations with experience in providing senior volunteer services, such as Federal volunteer programs administered by the Corporation for National and Community Service and designed to provide training, placement, and stipends for volunteers in community service settings.”.

#### SEC. 14. AUTHORIZATION OF APPROPRIATIONS; USES OF FUNDS.

Section 303 of the Older Americans Act of 1965 (42 U.S.C. 3023) is amended—

(1) in subsections (a)(1), (b), and (d), by striking “year 2001” and all that follows through “years” each place it appears, and inserting “years 2007, 2008, 2009, 2010, and 2011.”; and

(2) in subsection (e)—

(A) in paragraph (1) by striking “\$125,000,000” and all that follows and inserting “\$160,000,000 for fiscal year 2007.”; and

(B) in paragraph (2), by striking “such sums” and all that follows and inserting “\$170,000,000 for fiscal year 2008, \$180,000,000 for fiscal year 2009, \$190,000,000 for fiscal year 2010, and \$200,000,000 for fiscal year 2011.”.

#### SEC. 15. ALLOTMENTS.

Section 304(d)(1)(A) of the Older Americans Act of 1965 (42 U.S.C. 3024(d)(1)(A)) is amended to read as follows:

“(A)(i) such amount as the State agency determines, but not more than 10 percent thereof, shall be available for paying such percentage as the agency determines, but not more than 75 percent, of the cost of administration of area plans; and

“(ii) in addition to that amount, for any fiscal year among fiscal years 2007 through 2011 for which the amount appropriated under subsections (a) through (d) of section 303 is not less than 110 percent of that appropriated amount for fiscal year 2006, an amount equal to 1 percent of the State’s allotment shall be used by the area agencies on aging in the State to carry out the assessment described in section 306(b).”.

#### SEC. 16. ORGANIZATION.

Section 305 of the Older Americans Act of 1965 (42 U.S.C. 3025) is amended—

(1) in subsection (a)—

(A) in paragraph (1)(E)—

(i) by striking “(with particular attention to low-income minority individuals and older individuals residing in rural areas)” each place it appears and inserting “(with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas)”;

(ii) by striking “and” at the end;

(B) in paragraph (2)—

(i) in subparagraph (E), by striking “, with particular attention to low-income minority individuals and older individuals residing in rural areas” and inserting “(with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas)”;

(ii) in subparagraph (G), by striking the period and inserting “; and”; and

(C) by adding at the end the following:

“(3) the State agency shall, consistent with this section, promote the development and implementation of a comprehensive, coordinated system in such State for providing long-term care in home and community-based settings, in a manner responsive to the needs and preferences of older individuals and their family caregivers, by—

“(A) collaborating, coordinating, and consulting with other agencies in such State responsible for formulating, implementing, and administering programs, benefits, and services related to providing long-term care;

“(B) participating in any State government activities concerning long-term care, including reviewing and commenting on any State rules, regulations, and policies related to long-term care;

“(C) conducting analyses and making recommendations with respect to strategies for modifying the State’s system of long-term care to better—

“(i) respond to the needs and preferences of older individuals and family caregivers;

“(ii) facilitate the provision, by service providers, of long-term care in home and community-based settings;

“(iii) target services to older individuals at risk for institutional placement, to permit such individuals to remain in home and community-based settings; and

“(iv) implement (through area agencies on aging, service providers, and such other entities as the State determines to be appropriate) programs to assist older individuals and their family caregivers in learning about and making behavioral changes intended to reduce the risk of injury, disease, and disability among older individuals; and

“(D) providing for the availability and distribution (through public education campaigns, Aging and Disability Resource Centers, area agencies on aging, and other appropriate means) of information relating to—

“(i) the need to plan in advance for long-term care; and

“(ii) the range of available public and private long-term care programs, options, and resources.”; and

(2) in subsection (b), by adding at the end the following:

“(6) Nothing in this section shall prevent the Commonwealth of Puerto Rico from designating, with the approval of the Assistant Secretary, a single planning and service area to cover all the older individuals in the Commonwealth.”.

#### SEC. 17. AREA PLANS.

Section 306 of the Older Americans Act of 1965 (42 U.S.C. 3026) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking “(with particular attention to low-income minority individuals and older individuals residing in rural areas)” and inserting “(with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas)”;

(ii) by striking “(with particular attention to low-income minority individuals)” and inserting “(with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas)”;

(iii) by inserting “the number of older individuals at risk for institutional placement residing in such area,” after “individuals) residing in such area.”;

(B) in paragraph (2)(A)—

(i) by inserting after “transportation,” the following: “health services (including mental health services),”; and

(ii) by inserting after “information and assistance” the following: “(which may include information and assistance to consumers on availability of services under part B and how to receive benefits under and participate in publicly supported programs for which the consumer may be eligible)”;

(C) in paragraph (4)—

(i) in subparagraph (A)—

(I) by amending clause (i) to read as follows:

“(i) provide assurances that the area agency on aging will—

“(I) set specific objectives, consistent with State policy, for providing services to older individuals with greatest economic need, older individuals with greatest social need, and older individuals at risk for institutional placement;

“(II) include specific objectives for providing services to low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas; and

“(III) include in the area plan proposed methods to achieve such objectives.”; and

(II) in clause (ii) by inserting “(including older individuals with limited English proficiency)” after “low income minority individuals” each place it appears; and

(ii) in subparagraph (B)—

(I) by moving the left margin of each of subparagraph (B), clauses (i) and (ii), and subclauses (I) through (VI) of clause (i), 2 ems to the left; and

(II) in clause (i)—

(aa) in subclause (V) by striking “with limited English-speaking ability; and” and in-

serting “with limited English proficiency.”; and

(bb) by adding at the end the following:

“(VII) older individuals at risk for institutional placement; and”;

(D) in paragraph (5), by inserting “and individuals at risk for institutional placement” after “severe disabilities”;

(E) in paragraph (6)—

(i) in subparagraph (C)—

(I) in clause (i), by striking “and” at the end;

(II) in clause (ii), by adding “and” at the end; and

(III) by inserting after clause (ii) the following:

“(iii) make use of trained volunteers in providing direct services delivered to older individuals and individuals with disabilities needing such services and, if possible, work in coordination with entities carrying out volunteer programs (including programs administered by the Corporation for National and Community Services) designed to provide training, placement, and stipends for volunteers in community service settings.”;

(ii) in subparagraph (D)—

(I) by inserting “family caregivers of such individuals,” after “Act.”; and

(II) by inserting “service providers, representatives of the business community,” after “individuals.”; and

(iii) in subparagraph (F), by inserting “(including mental health screening)” before “provided” each place it appears;

(F) in paragraph (7), to read as follows:

“(7) provide that the area agency on aging shall, consistent with this section, facilitate the area-wide development and implementation of a comprehensive, coordinated system for providing long-term care in home and community-based settings, in a manner responsive to the needs and preferences of older individuals and their family caregivers, by—

“(A) collaborating, coordinating, and consulting with other local public and private agencies and organizations responsible for administering programs, benefits, and services related to providing long-term care;

“(B) conducting analyses and making recommendations with respect to strategies for modifying the local system of long-term care to better—

“(i) respond to the needs and preferences of older individuals and family caregivers;

“(ii) facilitate the provision, by service providers, of long-term care in home and community-based settings;

“(iii) target services to older individuals at risk for institutional placement, to permit such individuals to remain in home and community-based settings; and

“(iv) implement (through the agency or service providers), evidence-based programs to assist older individuals and their family caregivers in learning about and making behavioral changes intended to reduce the risk of injury, disease, and disability among older individuals; and

“(C) providing for the availability and distribution (through public education campaigns, Aging and Disability Resource Centers, and other appropriate means) of information relating to—

“(i) the need to plan in advance for long-term care; and

“(ii) the range of available public and private long-term care programs, options, and resources.”;

(G) by striking the 2 paragraphs (15);

(H) by redesignating paragraph (16) as paragraph (15); and

(I) by adding at the end the following:

“(16) provide assurances that funds received under this title will be used—

“(A) to provide benefits and services to older individuals giving priority to older in-

dividuals identified in paragraph (4)(A)(i); and

“(B) in compliance with the assurances specified in paragraph (13) and the limitations specified in section 212(b); and

“(17) provide, to the extent feasible, for the furnishing of services under this Act, consistent with self-directed care.

“(18) include information detailing how the area agency on aging will coordinate activities, and develop long-range emergency plans, with local and State emergency response agencies, relief organizations, local and State governments, and any other institutions that have responsibility for disaster relief service delivery.”;

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (c), (d), (e), and (f); and

(3) by inserting after subsection (a) the following:

“(b)(1) In any fiscal year, an area agency on aging may include in the area plan an assessment of how prepared the area agency on aging and service providers in the planning and service area are for a change in the number of older individuals during the 10-year period following the fiscal year for which the plan is submitted. In a fiscal year described in section 304(d)(1)(A)(ii), an area agency or aging shall include the assessment in the area plan.

“(2) Such assessment may include—

“(A) the projected change in the number of older individuals in the planning and service area;

“(B) an analysis of how such change may affect such individuals, including individuals with low incomes, individuals with greatest economic need, minority older individuals, older individuals residing in rural areas, and older individuals with limited English proficiency;

“(C) an analysis of how the programs, policies, and services provided by such area agency can be improved, and how resource levels can be adjusted to meet the needs of the changing population of older individuals in the planning and service area; and

“(D) an analysis of how the change in the number of individuals age 85 and older in the planning and service area is expected to affect the need for supportive services.

“(3) An area agency on aging, in cooperation with government officials, State agencies, tribal organizations, or local entities, may make recommendations to government officials in the planning and service area and the State, on actions determined by the area agency to build the capacity in the planning and service area to meet the needs of older individuals for—

“(A) health and human services;

“(B) land use;

“(C) housing;

“(D) transportation;

“(E) public safety;

“(F) workforce and economic development;

“(G) recreation;

“(H) education;

“(I) civic engagement;

“(J) emergency preparedness; and

“(K) any other service as determined by such agency.”.

#### SEC. 18. STATE PLANS.

Section 307(a) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)) is amended—

(1) in paragraph (2)(C), by striking “section 306(b)” and inserting “section 306(c)”;

(2) in paragraph (4), by striking “, with particular attention to low-income minority individuals and older individuals residing in rural areas” and inserting “(with particular attention to low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas)”;

(3) by striking paragraph (15);

(4) by redesignating paragraph (14) as paragraph (15);

(5) by inserting after paragraph (13) the following:

“(14) The plan shall, with respect to the fiscal year preceding the fiscal year for which such plan is prepared—

“(A) identify the number of low-income minority older individuals in the State, including the number of low-income minority older individuals with limited English proficiency; and

“(B) describe the methods used to satisfy the service needs of the low-income minority older individuals described in subparagraph (A), including the plan to meet the needs of low-income minority older individuals with limited English proficiency.”;

(6) in clauses (ii) and (iii) of paragraph (16)(A) by striking “(with particular attention to low-income minority individuals and older individuals residing in rural areas)” each place it appears and inserting “(with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas)”;

(7) by adding at the end the following:

“(27) The plan shall provide assurances that area agencies on aging will provide, to the extent feasible, for the furnishing of services under this Act, consistent with self-directed care.

“(28)(A) The plan shall include, at the election of the State, an assessment of how prepared the State is, under the State’s statewide service delivery model, for a change in the number of older individuals during the 10-year period following the fiscal year for which the plan is submitted.

“(B) Such assessment may include—

“(i) the projected change in the number of older individuals in the State;

“(ii) an analysis of how such change may affect such individuals, including individuals with low incomes, individuals with great economic need, minority older individuals, older individuals residing in rural areas, and older individuals with limited English proficiency;

“(iii) an analysis of how the programs, policies, and services provided by the State can be improved, including coordinating with area agencies on aging, and how resource levels can be adjusted to meet the needs of the changing population of older individuals in the State; and

“(iv) an analysis of how the change in the number of individuals age 85 and older in the State is expected to affect the need for supportive services.

“(29) The plan shall include information detailing how the State will coordinate activities, and develop long-range emergency preparedness plans, with area agencies on aging, local emergency response agencies, relief organizations, local governments, and any other institutions that have responsibility for disaster relief service delivery.

“(30) The plan shall include information describing the involvement of the head of the State agency in the development, revision, and implementation of emergency preparedness plans, including the State Public Health Emergency Preparedness and Response Plan.

“(31) The plan shall provide that the State shall implement an Aging and Disability Resource Center—

“(A) to serve as a visible and trusted source of information on the full range of options for long-term care, including both institutional and home and community-based care, that are available in the State;

“(B) to provide personalized and consumer-friendly assistance to empower individuals

to make informed decisions about their long-term care options;

“(C) to provide coordinated and streamlined access to all publicly funded long-term care options so that consumers can obtain the care they need through a single intake, assessment, and eligibility determination process;

“(D) to help individuals to plan ahead for their long-term care needs; and

“(E) to assist, in coordination with the entity carrying out the health insurance information, counseling, and assistance program (receiving funding under section 4360 of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 1395b-4)) in the State, beneficiaries, and prospective beneficiaries, under the Medicare program established under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) in understanding and accessing prescription drug and preventative health benefits under the provisions of, and amendments made by, the Medicare Prescription Drug, Improvement, and Modernization Act of 2003.”.

#### SEC. 19. PAYMENTS.

Section 309(b)(2) of the Older Americans Act of 1965 (42 U.S.C. 3029(b)(2)) is amended by striking “the non-Federal share required prior to fiscal year 1981” and inserting “10 percent of the cost of the services specified in section 304(d)(1)(D)”.

#### SEC. 20. NUTRITION SERVICES INCENTIVE PROGRAM.

Section 311 of the Older Americans Act of 1965 (42 U.S.C. 3030a) is amended—

(1) in subsection (b), by adding at the end the following:

“(3) Each State agency and grantee under title VI shall promptly and equitably disburse amounts received under this subsection to recipients of grants and contracts.”;

(2) in subsection (c)—

(A) in paragraph (1), by inserting “, including bonus commodities,” after “agricultural commodities”;

(B) in paragraph (2), by inserting “, including bonus commodities,” after “food commodities”;

(C) in paragraph (3), by inserting “, including bonus commodities,” after “Dairy products”;

(3) in subsection (d)(4), by inserting “and grantee under title VI” after “State agency”;

(4) in subsection (e), by striking “2001” and inserting “2007”.

#### SEC. 21. CONSUMER CONTRIBUTIONS.

Section 315 of the Older Americans Act of 1965 (42 U.S.C. 3030c-2) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) by striking “provided that” and inserting “if”; and

(ii) by adding at the end the following: “Such contributions shall be encouraged for individuals whose self-declared income is at or above 200 percent of the poverty line, at contribution levels based on the actual cost of services.”;

(B) in paragraph (4)(E), by inserting “and to supplement (not supplant) funds received under this Act” after “given”;

(2) in subsection (c)(2), by striking “(with particular attention to low-income minority individuals and older individuals residing in rural areas)” and inserting “(with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas)”;

(3) in subsection (d), by striking “with particular attention to low-income and minority older individuals and older individuals residing in rural areas” and inserting “(with

particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas)”.

#### SEC. 22. SUPPORTIVE SERVICES AND SENIOR CENTERS.

Section 321(a) of the Older Americans Act of 1965 (42 U.S.C. 3030d(a)) is amended—

(1) in paragraph (8), by inserting “(including mental health screening)” after “screening”;

(2) in paragraph (11) by striking “services” and inserting “provision of devices and services (including provision of assistive technology devices and assistive technology services)”;

(3) in paragraph (14)(B) by inserting “(including mental health)” after “health”;

(4) in paragraph (22) by striking the period at the end and inserting a semicolon;

(5) by redesignating paragraph (23) as paragraph (24); and

(6) by inserting after paragraph (22) the following:

“(23) services designed to support States, area agencies on aging, and local service providers in carrying out and coordinating activities for older individuals with respect to mental health services, including outreach for, education concerning, and screening for such services, and referral to such services for treatment; and”.

#### SEC. 23. NUTRITION SERVICES.

After the part heading of part C of title III of the Older Americans Act of 1965 (42 U.S.C. 3030e et seq.), insert the following:

##### “SEC. 330. PURPOSE.

“It is the purpose of this part to promote socialization and the health and well-being of older individuals by assisting such individuals to gain access to nutrition services to delay the onset of adverse health conditions.”.

##### SEC. 24. CONGREGATE NUTRITION PROGRAM.

Section 331 of the Older Americans Act of 1965 (42 U.S.C. 3030e) is amended—

(1) by striking “projects—” and inserting “projects that—”;

(2) in paragraph (1) by striking “which” the first place it appears;

(3) in paragraph (2), by striking “which”; and

(4) by striking paragraph (3) and inserting the following:

“(3) provide nutrition education, nutrition counseling, and other nutrition services, as appropriate, based on the needs of meal participants.”.

##### SEC. 25. HOME DELIVERED NUTRITION SERVICES.

Section 336 of the Older Americans Act of 1965 (42 U.S.C. 3030f) is amended to read as follows:

##### “SEC. 336. PROGRAM AUTHORIZED.

“The Assistant Secretary shall establish and carry out a program to make grants to States under State plans approved under section 307 for the establishment and operation of nutrition projects for older individuals that provide—

“(1) on 5 or more days a week (except in a rural area where such frequency is not feasible (as defined by the Assistant Secretary by rule) and a lesser frequency is approved by the State agency) at least 1 home delivered meal per day, which may consist of hot, cold, frozen, dried, canned, fresh, or supplemental foods and any additional meals that the recipient of a grant or contract under this subpart elects to provide; and

“(2) nutrition education, nutrition counseling, and other nutrition services as appropriate, based on the needs of meal recipients.”.

**SEC. 26. CRITERIA.**

Section 337 of the Older Americans Act of 1965 (42 U.S.C. 3030g) is amended to read as follows:

**“SEC. 337. CRITERIA.**

“The Assistant Secretary, in consultation with recognized experts in the fields of nutrition science, dietetics, meal planning and food service management, and aging, shall develop minimum criteria of efficiency and quality for the furnishing of home delivered meal services for projects described in section 336.”

**SEC. 27. NUTRITION.**

Section 339 of the Older Americans Act of 1965 (42 U.S.C. 3030g–21) is amended—

(1) in paragraph (1), to read as follows:

“(1) solicit the advice and expertise of a dietitian or other individual with education and training in nutrition science or, if such an individual is not available, an individual with comparable expertise in the planning of nutritional services, and”;

(2) in paragraph (2)—

(A) in subparagraph (A)(i), to read as follows:

“(i) comply with the most recent Dietary Guidelines for Americans, published by the Secretary and the Secretary of Agriculture, and”;

(B) in subparagraph (D), by inserting “joint” after “encourages”;

(C) in subparagraph (G), to read as follows: “(G) ensures that meal providers solicit the advice and expertise of—

“(i) a dietitian or other individual described in paragraph (1),

“(ii) meal participants, and

“(iii) other individuals knowledgeable with regard to the needs of older individuals.”;

(D) in subparagraph (I), by striking “and” at the end; and

(E) in subparagraph (J), to read as follows:

“(J) provides for nutrition screening and nutrition education, and nutrition assessment and counseling if appropriate; and

“(K) encourages individuals who distribute nutrition services under subpart 2 to provide, to homebound older individuals, available medical information approved by health care professionals, such as informational brochures and information on how to get vaccines, including vaccines for influenza, pneumonia, and shingles, in the individuals’ communities.”

**SEC. 28. STUDY OF NUTRITION PROJECTS.**

(a) STUDY.—

(1) IN GENERAL.—The Assistant Secretary for Aging shall use funds allocated in section 206(g) of the Older Americans Act of 1965 (42 U.S.C. 3017(g)) to enter into a contract with the Food and Nutrition Board of the Institute of Medicine of the National Academy of Sciences, for the purpose of establishing an independent panel of experts that will conduct an evidence-based study of the nutrition projects authorized under such Act.

(2) STUDY.—Such study shall, to the extent data are available, include—

(A) an evaluation of the effect of the nutrition projects authorized by such Act on—

(i) improvement of the health status, including nutritional status, of participants in the projects;

(ii) prevention of hunger and food insecurity of the participants; and

(iii) continuation of the ability of the participants to live independently;

(B) a cost-benefit analysis of nutrition projects authorized by such Act, including the potential to affect costs of the Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.); and

(C) an analysis of how nutrition projects authorized by such Act may be modified to improve the outcomes described in subpara-

graph (A), including by improving the nutritional quality of the meals provided through the projects and undertaking other potential strategies to improve the nutritional status of the participants.

(b) REPORTS.—

(1) REPORT TO THE ASSISTANT SECRETARY.—The panel described in subsection (a) shall submit to the Assistant Secretary a report containing the results of the evidence-based study described in subsection (a), including any recommendations resulting from the analysis described in subsection (a)(2)(C).

(2) REPORT TO CONGRESS.—The Assistant Secretary shall submit a report containing the results described in paragraph (1) to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate.

(c) TIMING.—The Food and Nutrition Board shall establish the independent panel of experts described in subsection (a) not later than 90 days after the date of the enactment of this Act. The panel shall submit the report described in subsection (b)(1) to the Assistant Secretary not later than 24 months after the date of the enactment of this Act.

**SEC. 29. IMPROVING INDOOR AIR QUALITY IN BUILDINGS WHERE OLDER INDIVIDUALS CONGREGATE.**

Section 361 of the Older Americans Act of 1965 (42 U.S.C. 3030m) is amended by adding at the end the following:

“(c) The Assistant Secretary shall work in consultation with qualified experts to provide information on methods of improving indoor air quality in buildings where older individuals congregate.”

**SEC. 30. CAREGIVER SUPPORT PROGRAM DEFINITIONS.**

Section 372 of the Older Americans Act of 1965 (42 U.S.C. 3030s) is amended—

(1) in paragraph (1), by inserting “or an adult child with mental retardation or a related developmental disability” after “age”;

(2) in paragraph (2), by inserting before the period the following: “or an individual with Alzheimer’s disease or a related disorder with neurological and organic brain dysfunction who is 50 years of age or older”;

(3) in paragraph (3)—

(A) by striking “child” the first place it appears and inserting “child (including an adult child with mental retardation or a related developmental disability)”;

(B) by striking “a child by blood or marriage, or adoption”;

(C) by striking “60” and inserting “55”;

(4) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(5) by inserting after paragraph (1) the following:

“(2) DEVELOPMENTAL DISABILITY.—The term ‘developmental disability’ has the meaning given the term in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15002).”

**SEC. 31. CAREGIVER SUPPORT PROGRAM.**

Section 373 of the National Family Support Caregiver Act (42 U.S.C. 3030s–1) is amended—

(1) in subsection (b)(3), by striking “caregivers to assist” and all that follows through the end and inserting the following: “assist the caregivers in the areas of health, nutrition, and financial literacy, and in making decisions and solving problems relating to their caregiving roles”;

(2) in subsection (c)(2)—

(A) by striking “(as defined)” and all that follows and inserting a period; and

(B) by adding at the end the following: “In providing services for family caregivers under this subpart, the State shall give priority for services to family caregivers who provide care for older individuals.”;

(3) in subsection (d), to read as follows:

“(d) USE OF VOLUNTEERS.—In carrying out this subpart, each area agency on aging shall make use of trained volunteers to expand the provision of the available services described in subsection (b) and shall, if possible, work in coordination with entities carrying out volunteer programs (including programs administered by the Corporation for National and Community Service) designed to provide training, placement, and stipends for volunteers in community service settings.”; and

(4) in subsection (e)(3), by adding at the end the following: “The reports shall describe any mechanisms used in the State to provide to persons who are family caregivers, or grandparents or older individuals who are relative caregivers, information about and access to various services so that the persons can better carry out their care responsibilities.”; and

(5) in subsection (f)(1), by striking “2001 through 2005” and inserting “2007, 2008, 2009, 2010, and 2011”.

**SEC. 32. ACTIVITIES AND PROGRAMS OF NATIONAL SIGNIFICANCE.**

Section 376(a) of the National Family Support Caregiver Act (42 U.S.C. 3030s–12(a)) is amended—

(1) by striking the title heading and inserting the following:

“SEC. 376. ACTIVITIES AND PROGRAMS OF NATIONAL SIGNIFICANCE.”;

(2) by striking “(a) IN GENERAL.—”;

(3) by striking “shall” and inserting “may”;

(4) by striking “program” and inserting “activities that include”;

(5) by striking “research.” and inserting “research, and programs that include—

“(1) multigenerational programs, including programs that provide supports for grandparents and other older individuals who are relative caregivers (as defined in section 372) raising children (such as kinship navigator programs), and programs that sustain and replicate innovative multigenerational family support programs involving volunteers who are older individuals;

“(2) programs providing support and information to families who have a child with a disability or chronic illness, and to other families in need of family support programs;

“(3) programs addressing unique issues faced by rural caregivers;

“(4) programs focusing on the needs of older individuals with Alzheimer’s disease and related dementia and their caregivers; and

“(5) programs supporting caregivers in the roles the caregivers carry out in health promotion and disease prevention.”; and

(6) by striking subsection (b).

**SEC. 33. GRANT PROGRAMS.**

Section 411 of the Older Americans Act of 1965 (42 U.S.C. 3032) is amended—

(1) in subsection (a)—

(A) in paragraph (8), by striking “and” at the end;

(B) by redesignating paragraph (9) as paragraph (11); and

(C) by inserting after paragraph (8) the following:

“(9) planning activities to prepare communities for the aging of the population, which activities may include—

“(A) efforts to assess the aging population;

“(B) activities to coordinate the activities of State and local agencies in order to meet the needs of older individuals; and

“(C) training and technical assistance to support States, area agencies on aging, and tribal organizations receiving grants under part A of title VI, in engaging in community planning activities; and

“(10) the development, implementation, and assessment of technology-based service

models and best practices, to support the use of health monitoring and assessment technologies, communication devices, assistive technologies, and other technologies that may remotely connect family and professional caregivers to frail older individuals residing in home and community-based settings or rural areas.”

**SEC. 34. CAREER PREPARATION FOR THE FIELD OF AGING.**

Section 412(a) of the Older Americans Act of 1965 (42 U.S.C. 3032a(a)) is amended to read as follows:

“(a) GRANTS.—The Assistant Secretary shall make grants to institutions of higher education, including historically Black colleges or universities, Hispanic-serving institutions, Hispanic Centers of Excellence in Applied Gerontology, and other educational institutions that serve the needs of minority students, to provide education and training that prepare students for careers in the field of aging.”

**SEC. 35. HEALTH CARE SERVICE DEMONSTRATION PROJECTS IN RURAL AREAS.**

Section 414 of the Older Americans Act of 1965 (42 U.S.C. 3032c) is amended—

(1) in subsection (a), by inserting “mental health care,” after “adult day health care,”; and

(2) in subsection (b)(1)(B)(i), by inserting “mental health,” after “public health.”

**SEC. 36. TECHNICAL ASSISTANCE AND INNOVATION TO IMPROVE TRANSPORTATION FOR OLDER INDIVIDUALS.**

Section 416 of the Older Americans Act of 1965 (42 U.S.C. 3032e) is amended to read as follows:

**“SEC. 416. TECHNICAL ASSISTANCE AND INNOVATION TO IMPROVE TRANSPORTATION FOR OLDER INDIVIDUALS.**

“(a) IN GENERAL.—The Secretary may award grants or contracts to nonprofit organizations to improve transportation services for older individuals.

“(b) USE OF FUNDS.—

“(1) IN GENERAL.—A nonprofit organization receiving a grant or contract under subsection (a) shall use the funds received through such grant or contract to carry out a demonstration project, or to provide technical assistance to assist local transit providers, area agencies on aging, senior centers, and local senior support groups, to encourage and facilitate coordination of Federal, State, and local transportation services and resources for older individuals. The organization may use the funds to develop and carry out an innovative transportation demonstration project to create transportation services for older individuals.

“(2) SPECIFIC ACTIVITIES.—In carrying out a demonstration project or providing technical assistance under paragraph (1) the organization may carry out activities that include—

“(A) developing innovative approaches for improving access by older individuals to transportation services, including volunteer driver programs, economically sustainable transportation programs, and programs that allow older individuals to transfer their automobiles to a provider of transportation services in exchange for the services;

“(B) preparing information on transportation options and resources for older individuals and organizations serving such individuals, and disseminating the information by establishing and operating a toll-free telephone number;

“(C) developing models and best practices for providing comprehensive integrated transportation services for older individuals, including services administered by the Secretary of Transportation, by providing ongoing technical assistance to agencies providing services under title III and by assisting in coordination of public and community transportation services; and

“(D) providing special services to link seniors to transportation services not provided under title III.

“(c) ECONOMICALLY SUSTAINABLE TRANSPORTATION.—In this section, the term ‘economically sustainable transportation’ means demand responsive transportation for older individuals—

“(1) that may be provided through volunteers; and

“(2) that the provider will provide without receiving Federal or other public financial assistance, after a period of not more than 5 years of providing the services under this section.”

**SEC. 37. COMMUNITY PLANNING.**

Title IV of the Older Americans Act of 1965 is amended by inserting after section 416 (42 U.S.C. 3032e) the following:

**“SEC. 416A. COMMUNITY PLANNING FOR THE AGING POPULATION.**

“The Secretary may establish, either directly or through grants or contracts, a national technical assistance program to assist States and area agencies on aging funded under this Act in planning efforts to prepare communities for the aging of the population.”

**SEC. 38. DEMONSTRATION, SUPPORT, AND RESEARCH PROJECTS FOR MULTIGENERATIONAL ACTIVITIES AND CIVIC ENGAGEMENT ACTIVITIES.**

Section 417 of the Older Americans Act of 1965 (42 U.S.C. 3032f) is amended to read as follows:

**“SEC. 417. DEMONSTRATION, SUPPORT, AND RESEARCH PROJECTS FOR MULTIGENERATIONAL ACTIVITIES AND CIVIC ENGAGEMENT ACTIVITIES.**

“(a) GRANTS AND CONTRACTS.—The Assistant Secretary shall award grants and enter into contracts with eligible organizations to—

“(1) conduct productivity and cost-benefit research to determine the effectiveness of engaging older individuals in paid and unpaid positions with public and nonprofit organizations;

“(2) develop a national agenda and blueprint for creating paid and unpaid positions for older individuals with public and nonprofit organizations to increase the capacity of the organizations to provide needed services to communities;

“(3) carry out demonstration and support projects to provide older individuals with multigenerational activities, and civic engagement activities, designed to meet critical community needs; and

“(4) carry out demonstration projects to coordinate multigenerational activities and civic engagement activities, and facilitate development of and participation in multigenerational activities.

“(b) USE OF FUNDS.—An eligible organization shall use funds made available under a grant awarded, or a contract entered into, under subsection (a)—

“(1)(A) to conduct the research described in subsection (a)(1);

“(B) to develop the national agenda and blueprint described in subsection (a)(2); or

“(C) to carry out a demonstration or support project described in subsection (a)(3);

“(D) to carry out a demonstration project described in subsection (a)(4); and

“(2) to evaluate the project involved in accordance with subsection (f).

“(c) PREFERENCE.—In awarding grants and entering into contracts under subsection (a) to carry out a demonstration or support project described in subsection (a)(3), the Assistant Secretary shall give preference to—

“(1) eligible organizations with a demonstrated record of carrying out multigenerational activities or civic engagement activities;

“(2) eligible organizations proposing multigenerational activity service projects that will serve older individuals and communities with the greatest need (with particular attention to low-income minority older individuals, older individuals with limited English proficiency, older individuals residing in rural areas, and low-income minority communities);

“(3) eligible organizations proposing civic engagement activity service projects that will serve communities with the greatest need; and

“(4) eligible organizations with the capacity to develop meaningful roles and assignments that use the time, skills, and experience of older individuals to serve public and nonprofit organizations.

“(d) APPLICATION.—To be eligible to receive a grant or a contract under subsection (a), an organization shall submit an application to the Assistant Secretary at such time, in such manner, and accompanied by such information as the Assistant Secretary may reasonably require.

“(e) ELIGIBLE ORGANIZATIONS.—Organizations eligible to receive a grant or enter into a contract under subsection (a)—

“(1) to carry out activities described in subsection (a)(1) shall be research or academic organizations with the capacity to conduct productivity and cost-benefit research described in subsection (a)(1);

“(2) to carry out activities described in subsection (a)(2) shall be organizations with the capacity to develop the national agenda and blueprint described in subsection (a)(2);

“(3) to carry out activities described in subsection (a)(3) shall be organizations that provide paid or unpaid positions for older individuals to serve in multigenerational activities, or civic engagement activities, designed to meet critical community needs and use the full range of time, skills, and experience of older individuals; and

“(4) to carry out activities described in subsection (a)(4) shall be organizations with the capacity to facilitate and coordinate activities as described in subsection (a)(4), through the use of multigenerational coordinators.

“(f) LOCAL EVALUATION AND REPORT.—

“(1) EVALUATION.—Each organization receiving a grant or a contract under subsection (a) to carry out a demonstration or support project under subsection (a)(3) shall evaluate the multigenerational activities or civic engagement activities assisted under the project to determine the effectiveness of the activities involved, the impact of such activities on the community being served and the organization providing the activities, and the impact of such activities on older individuals involved in such project.

“(2) REPORT.—The organization shall submit a report to the Assistant Secretary containing the evaluation not later than 6 months after the expiration of the period for which the grant or contract is in effect.

“(g) REPORT TO CONGRESS.—Not later than 6 months after the Assistant Secretary receives the reports described in subsection (f)(2), the Assistant Secretary shall prepare and submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report that assesses the evaluations and includes, at a minimum—

“(1) the names or descriptive titles of the demonstration, support, and research projects funded under subsection (a);

“(2) a description of the nature and operation of the projects;

“(3) the names and addresses of organizations that conducted the projects;

“(4) in the case of demonstration and support projects carried out under subsection

(a)(3), a description of the methods and success of the projects in recruiting older individuals as employees and volunteers to participate in the projects;

“(5) in the case of demonstration and support projects carried out under subsection (a)(3), a description of the success of the projects in retaining older individuals involved in the projects as employees and as volunteers;

“(6) in the case of demonstration and support projects carried out under subsection (a)(3), the rate of turnover of older individual employees and volunteers in the projects;

“(7) a strategy for disseminating the findings resulting from the projects described in paragraph (1); and

“(8) any policy change recommendations relating to the projects.

“(h) DEFINITIONS.—As used in this section:

“(1) CIVIC ENGAGEMENT ACTIVITY.—The term ‘civic engagement activity’ includes an opportunity that uses the time, skills, and experience of older individuals, in paid or unpaid positions with a public or nonprofit organization, to help address the unmet human, educational, health care, environmental, and public safety needs and nurture and sustain active participation in community affairs.

“(2) MULTIGENERATIONAL ACTIVITY.—The term ‘multigenerational activity’ includes an opportunity that uses the time, skills, and experience of older individuals, in paid or unpaid positions with a public or nonprofit organization, to serve as a mentor or adviser in a child care program, a youth day care program, an educational assistance program, an at-risk youth intervention program, a juvenile delinquency treatment program, a before- or after-school program, or a family support program.

“(3) MULTIGENERATIONAL COORDINATOR.—The term ‘multigenerational coordinator’ means a person who—

“(A) builds the capacity of public and nonprofit organizations to develop meaningful roles and assignments, that use the time, skill, and experience of older individuals to serve those organizations; and

“(B) nurtures productive, sustainable working relationships between—

“(i) individuals from the generations with older individuals; and

“(ii) individuals in younger generations.”.

#### SEC. 39. NATIVE AMERICAN PROGRAMS.

Section 418(a)(2)(B)(i) of the Older Americans Act of 1965 (42 U.S.C. 3032g)(a)(2)(B)(i)) is amended by inserting “(including mental health)” after “health”.

#### SEC. 40. MULTIDISCIPLINARY CENTERS AND MULTIDISCIPLINARY SYSTEMS.

Section 419 of the Older Americans Act of 1965 (42 U.S.C. 3032h) is amended—

(1) by striking the title and inserting the following:

#### “SEC. 419. MULTIDISCIPLINARY CENTERS AND MULTIDISCIPLINARY SYSTEMS.”;

(2)(A) in subsection (b)(2), by redesignating subparagraphs (A) through (G) as clauses (i) through (vii), respectively;

(B) in subsection (c)(2), by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively; and

(C) by aligning the margins of the clauses described in subparagraphs (A) and (B) with the margins of clause (iv) of section 418(a)(2)(A) of such Act;

(3)(A) in subsection (b), by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(B) in subsection (c), by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(C) by aligning the margins of the subparagraphs described in subparagraphs (A) and (B) with the margins of subparagraph (D) of section 420(a)(1) of such Act;

(4) in subsection (a), by striking “(a)” and all that follows through “The” and inserting the following:

“(a) MULTIDISCIPLINARY CENTERS.—

“(1) PROGRAM AUTHORIZED.—The”;

(5) in subsection (b)—

(A) by striking the following:

“(b) USE OF FUNDS.—” and inserting the following:

“(2) USE OF FUNDS.—”; and

(B) by striking “subsection (a)” each place it appears and inserting “paragraph (1)”;

(6) in subsection (c)—

(A) by striking the following:

“(c) DATA.—” and inserting the following:

“(3) DATA.—”; and

(B) by striking “subsection (a)” and inserting “paragraph (1)”;

(C) by striking “such subsection” and inserting “such paragraph”; and

(D) by striking “paragraph (1)” and inserting “subparagraph (A)”;

(7) by adding at the end the following:

“(b) MULTIDISCIPLINARY HEALTH SERVICES IN COMMUNITIES.—

“(1) PROGRAM AUTHORIZED.—The Assistant Secretary shall make grants to States, on a competitive basis, for the development and operation of—

“(A) systems for the delivery of mental health screening and treatment services for older individuals who lack access to such services; and

“(B) programs to—

“(i) increase public awareness regarding the benefits of prevention and treatment of mental disorders in older individuals;

“(ii) reduce the stigma associated with mental disorders in older individuals and other barriers to the diagnosis and treatment of the disorders; and

“(iii) reduce age-related prejudice and discrimination regarding mental disorders in older individuals.

“(2) APPLICATION.—To be eligible to receive a grant under this subsection for a State, a State agency shall submit an application to the Assistant Secretary at such time, in such manner, and containing such information as the Assistant Secretary may require.

“(3) STATE ALLOCATION AND PRIORITIES.—A State agency that receives funds through a grant made under this subsection shall allocate the funds to area agencies on aging to carry out this subsection in planning and service areas in the State. In allocating the funds, the State agency shall give priority to planning and service areas in the State—

“(A) that are medically underserved; and

“(B) in which there are a large number of older individuals.

“(4) AREA COORDINATION OF SERVICES WITH OTHER PROVIDERS.—In carrying out this part, to more efficiently and effectively deliver services to older individuals, each area agency on aging shall—

“(A) coordinate services described in paragraph (1) with other community agencies, and voluntary organizations, providing similar or related services; and

“(B) to the greatest extent practicable, integrate outreach and educational activities with existing (as of the date of the integration) health care and social service providers serving older individuals in the planning and service area involved.

“(5) RELATIONSHIP TO OTHER FUNDING SOURCES.—Funds made available under this part shall supplement, and not supplant, any Federal, State, and local funds expended by a State or unit of general purpose local government (including an area agency on aging) to provide the services described in paragraph (1).

“(6) DEFINITION.—In this subsection, the term ‘mental health screening and treatment services’ means patient screening, diagnostic services, care planning and over-

sight, therapeutic interventions, and referrals, that are—

“(A) provided pursuant to evidence-based intervention and treatment protocols (to the extent such protocols are available) for mental disorders prevalent in older individuals; and

“(B) coordinated and integrated with the services of social service, mental health, and health care providers in an area in order to—

“(i) improve patient outcomes; and

“(ii) ensure, to the maximum extent feasible, the continuing independence of older individuals who are residing in the area.”.

#### SEC. 41. COMMUNITY INNOVATIONS FOR AGING IN PLACE.

Part A of title IV of the Older Americans Act of 1965 (42 U.S.C. 3031 et seq.) is amended by adding at the end the following:

#### “SEC. 422. COMMUNITY INNOVATIONS FOR AGING IN PLACE.

“(a) DEFINITIONS.—In this section:

“(1) ELIGIBLE ENTITY.—The term ‘eligible entity’—

“(A) means a nonprofit health or social service organization, a community-based nonprofit organization, an area agency on aging or other local government agency, a tribal organization, or another entity that—

“(i) the Assistant Secretary determines to be appropriate to carry out a project under this part; and

“(ii) demonstrates a record of, and experience in, providing or administering group and individual health and social services for older individuals; and

“(B) does not include an entity providing housing under the congregate housing services program carried out under section 802 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8011) or the multifamily service coordinator program carried out under section 202(g) of the Housing Act of 1959 (12 U.S.C. 1701q(g)).

“(2) NATURALLY OCCURRING RETIREMENT COMMUNITY.—The term ‘Naturally Occurring Retirement Community’ means a residential building, a housing complex, an area (including a rural area) of single family residences, or a neighborhood composed of age-integrated housing—

“(A) where—

“(i) 40 percent of the heads of households are older individuals; or

“(ii) a critical mass of older individuals exists, based on local factors which, taken in total, allow an organization to achieve efficiencies in the provision of health and social services to older individuals living in the community; and

“(B) that is not an institutional care or assisted living setting.

“(b) GRANTS.—

“(1) IN GENERAL.—The Assistant Secretary shall make grants to eligible entities to enable the entities to pay for developing or carrying out model aging in place projects. The projects shall permit aging in place for older individuals, including such individuals who reside in Naturally Occurring Retirement Communities, which help to sustain the independence of older individuals in communities where the individuals have established personal, family, and professional supportive networks. The entities shall provide comprehensive and coordinated health and social services through the projects.

“(2) GRANT PERIODS.—The Assistant Secretary shall make the grants for periods of 3 years.

“(c) APPLICATIONS.—

“(1) IN GENERAL.—To be eligible to receive a grant under subsection (b) for a project, an entity shall submit an application to the Assistant Secretary at such time, in such manner, and containing such information as the Assistant Secretary may require.

“(2) CONTENTS.—The application shall include—

“(A) a detailed description of the entity’s experience in providing services to older individuals in age-integrated settings;

“(B) a definition of the contiguous service area and a description of the project boundaries in which the older individuals reside or carry out activities to sustain their well-being;

“(C) a description of how the entity will cooperate and coordinate planning and services, with agencies and organizations that provide publicly supported services for older individuals within the project boundaries, including the State agency and area agencies on aging with planning and service areas within the project boundaries;

“(D) an assurance that the entity will seek to establish cooperative relationships with interested local entities, including private agencies and businesses that provide health and social services, housing entities, community development organizations, philanthropic organizations, foundations, and other non-Federal entities;

“(E) a description of the entity’s protocol for referral of residents who may require long-term care services, including coordination with local information and referral agencies and Aging and Disability Resource Centers who serve as single points of entry to public services;

“(F) a description of how the entity will offer opportunities for older individuals to be involved in the governance, oversight, and operation of the project;

“(G) an assurance that the entity will submit to the Assistant Secretary such evaluations and reports as the Assistant Secretary may require; and

“(H) a plan for long-term sustainability of the project.

“(d) USE OF FUNDS.—

“(1) IN GENERAL.—An eligible entity that receives a grant under subsection (b) shall use the funds made available through the grant to provide and coordinate, through aging in place projects described in subsection (b), services that include a comprehensive and coordinated array of community-based health and social services, which may include mental health services, for eligible older individuals.

“(2) SERVICES.—The services described in paragraph (1) shall include—

“(A) providing—

“(i) case management, case assistance, and social work services;

“(ii) health care management and health care assistance, including disease prevention and health promotion services;

“(iii) education, socialization, and recreational activities; and

“(iv) volunteer opportunities for project participants; and

“(B) coordinating the services provided under title III for eligible older individuals served by the project.

“(3) PREFERENCE.—In carrying out an aging in place project, an eligible entity shall, to the extent practicable, serve communities of low-income individuals and operate or locate projects and services in or in close proximity to locations where large concentrations of older individuals have aged in place and resided, such as Naturally Occurring Retirement Communities.

“(4) SUPPLEMENT NOT SUPPLANT.—Funds made available to an eligible entity under this section shall be used to supplement, not supplant, any Federal, State, or other funds otherwise available to the entity to provide health and social services to eligible older individuals.

“(e) COMPETITIVE GRANTS FOR TECHNICAL ASSISTANCE.—

“(1) GRANTS.—The Assistant Secretary shall (or shall make a grant, on a competitive basis, to an eligible nonprofit organization, to enable the organization to)—

“(A) provide technical assistance to recipients of grants under subsection (b); and

“(B) carry out other duties, as determined by the Assistant Secretary.

“(2) ELIGIBLE ORGANIZATION.—To be eligible to receive a grant under this subsection, an organization shall be a nonprofit organization (including a partnership of nonprofit organizations), that—

“(A) has experience and expertise in providing technical assistance to a range of entities serving older individuals and experience evaluating and reporting on programs; and

“(B) has demonstrated knowledge of and expertise in community-based health and social services.

“(3) APPLICATION.—To be eligible to receive a grant under this subsection, an organization (including a partnership of nonprofit organizations) shall submit an application to the Assistant Secretary at such time, in such manner, and containing such information as the Assistant Secretary may require, including an assurance that the organization will submit to the Assistant Secretary such evaluations and reports as the Assistant Secretary may require.

“(f) REPORT.—The Assistant Secretary shall annually prepare and submit a report to Congress that shall include—

“(1) the findings resulting from the evaluations of the model projects conducted under this section;

“(2) a description of recommended best practices regarding carrying out health and social service projects for older individuals aging in place; and

“(3) recommendations for legislative or administrative action, as the Assistant Secretary determines appropriate.”

#### SEC. 42. CHOICES FOR INDEPENDENCE DEMONSTRATION PROJECTS.

Part A of title IV of the Older Americans Act of 1965 (42 U.S.C. 3031 et seq.), as amended by section 41, is further amended by adding at the end the following:

#### “SEC. 423. CHOICES FOR INDEPENDENCE DEMONSTRATION PROJECTS.

“(a) DEFINITIONS.—In this section:

“(1) CONSUMER.—The term ‘consumer’ means an older individual, a family member of such individual, and any other person seeking information or assistance with respect to long-term care.

“(2) HIGH-RISK INDIVIDUAL.—The term ‘high-risk individual’ means an older individual who—

“(A) has a functional impairment affecting the individual’s activities of daily living;

“(B) is ineligible for the Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.); and

“(C) meets such income and functional status criteria as are determined to be appropriate by the State involved and approved by the Assistant Secretary.

“(3) QUALIFIED EXPENDITURES.—The term ‘qualified expenditures’ means reported expenditures of a State under this section that have been reviewed and approved by the Assistant Secretary.

“(4) SERVICE COORDINATION.—The term ‘service coordination’ means a coordinated approach taken on behalf of high-risk older individuals to facilitate the development and implementation of a long-term care plan and the choice and independence of the individuals in securing long-term care.

“(b) AUTHORITY.—The Assistant Secretary shall make grants on a competitive basis, in accordance with this section, to States to enable the States to pay for the Federal

share of the cost of modifying their systems of long-term care in order to promote and facilitate—

“(1) the choice and control of older individuals and their families in securing long-term care;

“(2) the coordination and cost-effectiveness of State systems of long-term care;

“(3) the provision of long-term care in home and community-based settings; and

“(4) the ability of individuals receiving long-term care to remain as independent and self-sufficient as possible.

“(c) APPLICATIONS BY STATES.—For a State to be eligible to receive a grant under this section, the Governor of such State shall submit an application to the Assistant Secretary, at such time, in such manner, and containing such information as the Assistant Secretary may specify, containing a plan for implementation of the component strategies described in subsection (d) and such other information and assurances as the Secretary determines to be appropriate.

“(d) USE OF FUNDS BY STATES.—

“(1) COMPONENT STRATEGIES.—A State that receives funds through a grant made under subsection (b) shall use the funds to carry out a demonstration project under this section (directly or by grant or contract) by integrating into the State’s system of long-term care the component strategies described in paragraphs (2) through (5).

“(2) PUBLIC EDUCATION.—In carrying out the demonstration project, the State shall conduct activities that shall include media campaigns, targeted mailings, and related activities, to help ensure that consumers are aware of—

“(A) the need to plan in advance for long-term care;

“(B) available public and private long-term care options, including private long-term care insurance; and

“(C) sources of information and resources related to long-term care, including the resource centers described in paragraph (3).

“(3) AGING AND DISABILITY RESOURCE CENTERS.—

“(A) IN GENERAL.—The State shall provide for community-level Aging and Disability Resource Centers, which, consistent with section 102(47) and subsection (f), shall provide—

“(i) comprehensive information on available public and private long-term care programs, options, and resources;

“(ii) personal counseling and service coordination to assist consumers in assessing their existing or anticipated long-term care needs and circumstances, and developing and implementing a plan for long-term care designed to meet their specific needs and circumstances;

“(iii) a convenient point of entry to the range of publicly-supported long-term care programs for which an individual may be eligible, including the Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), and to such other public benefit programs as the State determines to be appropriate;

“(iv) a single process for consumer intake, assessment, and application for benefits under the programs described in subparagraph (C), including, where appropriate and feasible, facilitating the determination of an individual’s eligibility (including facilitating that determination in compliance with the requirements of title XIX of the Social Security Act) under such programs by collaborating with the appropriate programmatic office; and

“(v) the ability—

“(I) to respond immediately to a request for assistance from an individual or a family member of the individual, in the event of a

crisis situation that could result in placement of such individual in an institutional care setting; and

“(II) to provide (or coordinate the provision of), such available short-term assistance as would be necessary and appropriate to temporarily preclude the need for such institutional placement, until a plan for home and community-based long-term care can be developed and implemented.

“(B) TRAINING.—In providing for the Centers, the State shall ensure that the staff of the Centers is appropriately trained to understand the interactions between private long-term care insurance (especially insurance through long-term care partnership policies) and eligibility for benefits under the Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

“(4) HEALTHY LIFESTYLE CHOICES.—The State shall, in accordance with standards established by the Assistant Secretary, provide for low-cost, community-level, evidence-based prevention programs and related tools to assist older individuals and their family caregivers in learning about and making behavioral changes intended to reduce the risk of injury, disease, and disability among older individuals.

“(5) COMMUNITY LIVING INCENTIVES.—

“(A) IN GENERAL.—The State shall provide funding toward and otherwise assist with the provision of home and community-based long-term care to individuals at high risk for placement in institutional care (referred to in this paragraph as ‘high-risk individuals’). The State shall ensure that individuals at greatest risk for becoming eligible for benefits under the Medicaid program receive priority for the home and community-based long-term care.

“(B) LONG-TERM CARE PLAN.—The State shall provide for assessments of the needs and preferences of high-risk individuals with respect to long-term care, and based on such assessments, shall develop with such individuals and their family members, caregivers, or legal representatives a plan for long-term care for such individuals, specifying the types of support, providers, budget, and, if the State elects, cost-sharing contributions involved.

“(C) ALLOCATION OF FUNDS BASED ON INDIVIDUAL BUDGETS.—The State shall ensure that the funding described in subparagraph (A) will be allocated among, and disbursed for, the budgets of high-risk individuals under long-term care plans developed for such individuals.

“(D) OPTION TO PROVIDE CONSUMER-DIRECTED CARE.—The State shall provide high-risk individuals with the option to receive home and community-based long-term care under this paragraph in a manner that permits such individuals to direct and control, in conjunction with a service coordinator, the selection, planning, budgeting, and purchasing of such care (including the amount, duration, scope, providers, and location of such care), to the extent determined appropriate and feasible under the long-term care plan developed under subparagraph (B). The service coordinator shall assist the high-risk individuals in purchasing a range of long-term care services or supplies, not otherwise available or eligible for payment through an entity carrying out a Federal or State program or a similar third party, from a qualified provider that are delivered in home and community-based settings and in a manner that best meets the individuals’ needs and respects the individuals’ preferences to remain in the least restrictive setting possible.

“(e) FEDERAL SHARE.—The Federal share of the cost of modifying systems of long-term systems care as described in subsection (b) shall be not more than 75 percent of such cost (calculated on an annual basis as the

State’s qualified expenditures for such modifications for such year).

“(f) SPECIAL PROVISIONS RELATING TO AGING AND DISABILITY RESOURCE CENTERS.—A State shall ensure that any Aging and Disability Resource Center shall—

“(1) fully coordinate its activities with any health insurance information, counseling, and assistance (receiving funding under section 4360 of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 1395b-4)) in the State;

“(2) be subject to such controls as the Assistant Secretary determines to be appropriate to ensure there is no conflict of interest with respect to any referrals, for information or otherwise, made by the Center for individuals receiving services through the Center; and

“(3) provide no long-term care services or supplies, with the exception of case management services provided through area agencies on aging as described in section 306(a)(8).

“(g) SPECIAL PROVISIONS RELATING TO OPTION TO PROVIDE CONSUMER-DIRECTED CARE.—Payments made for a high-risk individual under subsection (d)(5)(D) shall not be included in the gross income of the high-risk individual for purposes of the Internal Revenue Code of 1986 or be treated as income, be treated as assets or benefits, or otherwise be taken into account, for purposes of determining the individual’s eligibility for, the amount of benefits for the individual under, or the amount of cost-sharing required of the individual by, any other Federal or State program, other than the program carried out under this section.

“(h) TECHNICAL ASSISTANCE TO STATES.—The Assistant Secretary, directly or by grant or contract, shall provide for technical assistance to and oversight of States carrying out demonstration projects under this section, for purposes of administration, quality assurance, and quality improvement.

“(i) EVALUATION AND REPORT.—The Assistant Secretary, directly or by grant or contract, shall provide for an evaluation of the demonstration projects carried out under this section. The Assistant Secretary shall submit to the President a report containing the findings resulting from such evaluation not later than 6 months after the termination of the demonstration projects.”

#### SEC. 43. RESPONSIBILITIES OF ASSISTANT SECRETARY.

Section 432(c)(2)(B) of the Older Americans Act of 1965 (42 U.S.C. 3033a(c)(2)(B)) is amended by inserting before the period the following: “, including preparing an analysis of such services, projects, and programs, and of how the evaluation relates to improvements in such services, projects, and programs and in the strategic plan of the Administration”.

#### SEC. 44. OLDER AMERICAN COMMUNITY SERVICE EMPLOYMENT PROGRAM.

Section 502 of the Older Americans Act of 1965 (42 U.S.C. 3056) is amended—

(1) in subsection (a)(1), by adding at the end the following: “For purposes of this paragraph, an underemployed person shall be considered to be an unemployed person.”;

(2) in subsection (b)(1)(M), by striking “minority, limited English-speaking, and Indian eligible individuals, and eligible individuals who have the greatest economic need,” and inserting “minority and Indian eligible individuals, eligible individuals with limited English proficiency, and eligible individuals with greatest economic need.”;

(3) by adding at the end the following:

“(g)(1) Except as provided in paragraphs (2) and (3), an eligible individual may participate in projects carried out under this title for a period of not more than 36 months (whether or not consecutive) in the aggregate.

“(2) A grantee for a project may extend the period of participation for not more than 20 percent of the project participants. In selecting participants for the extended period of participation, the grantee shall give priority to—

“(A) participants who are 65 years old or older or frail older individuals; and

“(B) individuals who have more than 1 of the following barriers to employment:

“(i) A disability.

“(ii) Limited English proficiency or low literacy skills.

“(iii) A residence in a rural area.

“(iv) A residence in an area of high unemployment.

“(v) Homelessness or a situation that puts the individual at risk for homelessness.

“(vi) A failure to find employment after utilizing services under title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.).

“(3) A grantee may petition for a waiver of the 36-month limit described in paragraph (1) if the grantee serves a high concentration of individuals who are hard-to-serve individuals because they have more than 1 barrier to employment as described in paragraph (2)(B), including a grantee who operates a project in an area in which at least 60 percent of the counties are rural counties, as defined by the Economic Research Service of the Department of Agriculture.

“(h) It is the sense of the Senate that—

“(1) the older American community service employment program was created with the intent of placing older individuals in community service positions to provide job training placements; and

“(2) placing older individuals in community service positions strengthens the ability of the individuals to become self-sufficient, provides much-needed volunteer support to organizations who benefit significantly from increased civic engagement, and strengthens the communities that are served by such organizations.”

#### SEC. 45. PERFORMANCE.

Section 513 of the Older Americans Act of 1965 (42 U.S.C. 3056k) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking the paragraph designation and all that follows through “grantees” and inserting the following:

“(1) ESTABLISHMENT AND IMPLEMENTATION OF MEASURES.—The Secretary shall establish and implement, after consultation with the Assistant Secretary, grantees”; and

(ii) by adding at the end the following: “The Assistant Secretary shall provide recommendations to the Secretary on the establishment and implementation of the performance measures.”;

(B) in paragraph (2)(B), by adding at the end the following:

“(iv) Not less than 60 percent of the counties, in the areas served by the grantee, being rural counties as defined by the Economic Research Service of the Department of Agriculture.

“(v) The areas served by the grantee comprising a difficult to serve territory due to limited economies of scale.”;

(C) by adding at the end the following:

“(6) SPECIAL RULES.—

“(A) ESTABLISHMENT AND IMPLEMENTATION.—The Secretary shall establish and implement the performance measures described in this section, including all required indicators described in subsection (b), not later than 1 year after the date of enactment of the Older Americans Act Amendments of 2006.

“(B) IMPACT ON GRANT COMPETITION.—The Secretary may not publish a notice announcing a grant competition under this title, and

soliciting proposals for grants, until the day that is the later of—

“(i) the date on which the Secretary implements all required indicators described in subsection (b); and

“(ii) January 1, 2010.”; and

(2) by adding at the end the following:

“(e) EFFECT OF EXEMPTION.—In implementing a performance measure under this section, the Secretary shall not reduce a score on the performance measure of—

“(1) a grantee that receives a waiver under section 502(g)(3) on the basis that the grantee is extending the period of participation for project participants under that section; and

“(2) a grantee on the basis that the grantee is extending the period of participation for project participants under section 502(g)(2).”.

#### SEC. 46. COMPETITIVE REQUIREMENTS.

Section 514 of the Older Americans Act of 1965 (42 U.S.C. 30561) is amended—

(1) by striking subsection (a) and inserting the following:

“(a) PROGRAM AUTHORIZED.—In accordance with section 502(b), the Secretary shall award grants to eligible applicants, through a competitive process that emphasizes meeting performance measures, to carry out projects under this title for a 4-year period. The Secretary may not conduct a grant competition under this title until the day described in section 513(a)(6)(B).”;

(2) by striking subsection (b) and inserting the following:

“(b) ELIGIBLE APPLICANTS.—An applicant shall be eligible to receive a grant as described in subsection (a) if the applicant meets the requirements and criteria described in section 502(b)(1), subsections (c) and (d), and paragraphs (2) and (3) of subsection (e).”;

(3) in subsection (c)—

(A) by redesignating paragraphs (2) through (7) as paragraphs (4) through (9), respectively;

(B) by inserting after paragraph (1) the following:

“(2) The applicant’s performance on the required indicators described in section 513(b), in the case of an applicant that has previously received a grant under this title, and the applicant’s ability to meet the required indicators, in the case of any other applicant.

“(3) The applicant’s ability to administer a program that provides community service.”; and

(C) by striking paragraph (9) and inserting the following:

“(9) The applicant’s ability to minimize disruption in services for project participants and the entities employing the participants.

“(10) Any additional criteria that the Secretary may determine to be appropriate.”;

(4) in subsection (e)—

(A) in paragraph (2), by striking subparagraphs (C) and (D); and

(B) in paragraph (3)—

(i) by striking “(3)” and all that follows through “In” and inserting the following:

“(3) COMPETITION REQUIREMENTS FOR PUBLIC AND PRIVATE NONPROFIT AGENCIES AND ORGANIZATIONS IN A STATE.—In”;

(ii) by striking subparagraphs (B) through (D); and

(iii) by striking “take corrective action” and inserting “provide technical assistance”;

(C) in paragraph (4), by striking “paragraph (3)(A)” and inserting “paragraph (3)”;

(5) in subsection (f), by striking paragraph (4);

(6) by adding at the end the following:

“(g) GRANTEEES SERVING INDIVIDUALS WITH BARRIERS TO EMPLOYMENT.—

“(1) DEFINITION.—In this subsection, the term ‘individuals with barriers to employ-

ment’ means minority and Indian individuals, individuals with limited English proficiency, and individuals with greatest economic need.

“(2) SPECIAL CONSIDERATION.—In areas where a substantial population of individuals with barriers to employment exists, a grantee that receives a national grant under this section shall, in selecting subgrantees, give special consideration to organizations (including former recipients of such national grants) with demonstrated expertise in serving individuals with barriers to employment.

“(h) MINORITY-SERVING GRANTEEES.—The Secretary may not promulgate rules or regulations, affecting grantees in areas where a substantial population of minority individuals exists, that would significantly compromise the ability of the grantees to serve their targeted population of minority older individuals.”.

#### SEC. 47. DEFINITIONS.

Section 516(2) of the Older Americans Act of 1965 (42 U.S.C. 3056n(2)) is amended—

(1) in the header, by striking “INDIVIDUALS” and inserting “INDIVIDUAL”;

(2) by inserting before “The term” the following:

“(A) IN GENERAL.—”;

(3) by striking “individuals” and inserting “individual”;

(4) by adding at the end the following:

“(B) DETERMINATION OF LOW INCOME.—For purposes of determining income eligibility under subparagraph (A), the Secretary shall not include as income—

“(i) unemployment compensation;

“(ii) benefits received under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.);

“(iii) payments made to or on behalf of veterans or former members of the Armed Forces under the laws administered by the Secretary of Veterans Affairs; or

“(iv) 25 percent of the old-age and survivors insurance benefits received under title II of the Social Security Act (42 U.S.C. 401 et seq.).”.

#### SEC. 48. CLARIFICATION OF MAINTENANCE REQUIREMENT.

(a) IN GENERAL.—Section 614A of the Older Americans Act of 1965 (42 U.S.C. 3057e-1) is amended by adding at the end the following:

“(c) CLARIFICATION.—

“(1) DEFINITION.—In this subsection, the term ‘covered year’ means fiscal year 2006 or a subsequent fiscal year.

“(2) CONSORTIA OF TRIBAL ORGANIZATIONS.—If a tribal organization received a grant under this part for fiscal year 1991 as part of a consortium, the Assistant Secretary shall consider the tribal organization to have received a grant under this part for fiscal year 1991 for purposes of subsections (a) and (b), and shall apply the provisions of subsections (a) and (b)(1) (under the conditions described in subsection (b)) to the tribal organization for each covered year for which the tribal organization submits an application under this part, even if the tribal organization submits—

“(A) a separate application from the remaining members of the consortium; or

“(B) an application as 1 of the remaining members of the consortium.”.

(b) EFFECTIVE DATE.—Subsection (a) takes effect on October 1, 2005.

#### SEC. 49. NATIVE AMERICANS CAREGIVER SUPPORT PROGRAM.

Section 643 of the Older Americans Act of 1965 (42 U.S.C. 3057n) is amended—

(1) in paragraph (1), by striking “2001” and inserting “2007”; and

(2) in paragraph (2), by striking “\$5,000,000” and all that follows and inserting “\$6,500,000 for fiscal year 2007, \$7,000,000 for fiscal year 2008, \$7,500,000 for fiscal year 2009, \$8,000,000

for fiscal year 2010, and \$8,500,000 for fiscal year 2011.”.

#### SEC. 50. VULNERABLE ELDER RIGHTS PROTECTION ACTIVITIES.

Section 702 of the Older Americans Act of 1965 (42 U.S.C. 3058a) is amended by striking “2001” each place it appears and inserting “2007”.

#### SEC. 51. ELDER ABUSE, NEGLECT, AND EXPLOITATION PREVENTION AMENDMENT.

Section 721 of the Older Americans Act of 1965 (42 U.S.C. 3058i) is amended—

(1) in subsection (b)—

(A) by redesignating paragraphs (2) through (8) as paragraphs (3) through (9), respectively; and

(B) by inserting after paragraph (1) the following new paragraph:

“(2) providing for public education and outreach to promote financial literacy and prevent identity theft and financial exploitation of older individuals.”; and

(2) in subsection (e)(2)—

(A) by striking “subsection (b)(8)(B)(i)” and inserting “subsection (b)(9)(B)(i)”;

(B) by striking “subsection (b)(8)(B)(ii)” and inserting “subsection (b)(9)(B)(ii)”.

#### SEC. 52. NATIVE AMERICAN ORGANIZATION PROVISIONS.

Section 751(d) of the Older Americans Act of 1965 (42 U.S.C. 3058aa(d)) is amended by striking “2001” and inserting “2007”.

#### SEC. 53. ELDER JUSTICE PROGRAMS.

(a) PURPOSES.—The purposes of this section are as follows:

(1) To assist States and Indian tribes in developing a comprehensive multi-disciplinary approach to elder justice.

(2) To promote research and data collection that will fill gaps in knowledge about elder abuse, neglect, and exploitation.

(3) To support innovative and effective activities of service providers and programs that are designed to address issues relating to elder abuse, neglect, and exploitation.

(4) To assist States, Indian tribes, and local service providers in the development of short- and long-term strategic plans for the development and coordination of elder justice research, programs, studies, training, and other efforts.

(5) To promote collaborative efforts and diminish overlap and gaps in efforts in developing the important field of elder justice.

(b) ELDER JUSTICE.—Title VII of the Older Americans Act of 1965 (42 U.S.C. 3058 et seq.) is amended—

(1) by redesignating subtitles B and C as subtitles C and D, respectively;

(2) by redesignating sections 751, and 761 through 764, as sections 761, and 771 through 774, respectively; and

(3) by inserting after subtitle A the following:

#### “Subtitle B—Elder Justice Programs

##### “SEC. 751. DEFINITIONS.

“In this subtitle:

“(1) CAREGIVER.—The term ‘caregiver’ means an individual who has the responsibility for the care of an elder, either voluntarily, by contract, by receipt of payment for care, or as a result of the operation of law and means a family member or other individual who provides (on behalf of such individual or of a public or private agency, organization, or institution) compensated or uncompensated care to an elder.

“(2) DIRECT CARE.—The term ‘direct care’ means care by an employee or contractor who provides assistance or long-term care services to a recipient.

“(3) ELDER.—The term ‘elder’ means an older individual, as defined in section 102.

“(4) ELDER JUSTICE.—The term ‘elder justice’ means—

“(A) efforts to prevent, detect, treat, intervene in, and respond to elder abuse, neglect,

and exploitation and to protect elders with diminished capacity while maximizing their autonomy; and

“(B) from an individual perspective, the recognition of an elder’s rights, including the right to be free of abuse, neglect, and exploitation.

“(5) ELIGIBLE ENTITY.—The term ‘eligible entity’ means a State or local government agency, Indian tribe, or any other public or private entity, that is engaged in and has expertise in issues relating to elder justice.

“(6) FIDUCIARY.—The term ‘fiduciary’—  
“(A) means a person or entity with the legal responsibility—

“(i) to make decisions on behalf of and for the benefit of another person; and

“(ii) to act in good faith and with fairness; and

“(B) includes a trustee, a guardian, a conservator, an executor, an agent under a financial power of attorney or health care power of attorney, or a representative payee.

“(7) GRANT.—The term ‘grant’ includes a contract, cooperative agreement, or other mechanism for providing financial assistance.

“(8) LAW ENFORCEMENT.—The term ‘law enforcement’ means the full range of potential responders to elder abuse, neglect, and exploitation including—

“(A) police, sheriffs, detectives, public safety officers, and corrections personnel;

“(B) prosecutors;

“(C) medical examiners;

“(D) investigators; and

“(E) coroners.

“(9) LONG-TERM CARE.—

“(A) IN GENERAL.—The term ‘long-term care’ means supportive and health services specified by the Secretary for individuals who need assistance because the individuals have a loss of capacity for self-care due to illness, disability, or vulnerability.

“(B) LOSS OF CAPACITY FOR SELF-CARE.—For purposes of subparagraph (A), the term ‘loss of capacity for self-care’ means an inability to engage effectively in activities of daily living, including eating, dressing, bathing, and management of one’s financial affairs.

“(10) LONG-TERM CARE FACILITY.—The term ‘long-term care facility’ means a residential care provider that arranges for, or directly provides, long-term care.

“(11) NURSING FACILITY.—The term ‘nursing facility’ has the meaning given such term under section 1919(a) of the Social Security Act (42 U.S.C. 1396(a)).

“(12) STATE LEGAL ASSISTANCE DEVELOPER.—The term ‘State legal assistance developer’ means an individual described in section 731.

“(13) STATE LONG-TERM CARE OMBUDSMAN.—The term ‘State Long-Term Care Ombudsman’ means the State Long-Term Care Ombudsman described in section 712(a)(2).

**“SEC. 752. STATE AND TRIBAL GRANTS TO STRENGTHEN LONG-TERM CARE AND PROVIDE ASSISTANCE FOR ELDER JUSTICE PROGRAMS.**

“(a) GRANTS.—The Assistant Secretary may award grants to States and Indian tribes to enable the States and tribes to strengthen long-term care and provide assistance for elder justice programs.

“(b) APPLICATION.—To be eligible to receive a grant under this subtitle, a State or Indian tribe shall submit an application to the Assistant Secretary at such time, in such manner, and containing such information as the Assistant Secretary may require.

“(c) USE OF FUNDS.—A State or Indian tribe that receives a grant under this subtitle may use the funds made available through the grant to award grants—

“(1) to eligible entities for the prevention, detection, assessment, and treatment of,

intervention in, investigation of, and response to elder abuse, neglect, and exploitation;

“(2) to eligible entities to examine various types of elder shelters (in this paragraph referred to as ‘safe havens’), and to test various safe haven models for establishing safe havens (at home or elsewhere), that—

“(A) recognize autonomy and self-determination, and fully protect the due process rights of elders; and

“(B)(i) provide a comprehensive, culturally sensitive, and multidisciplinary team response to allegations of elder abuse, neglect, or exploitation;

“(ii) provide a dedicated, elder-friendly setting;

“(iii) have the capacity to meet the needs of elders for care; and

“(iv) provide various services including—

“(I) nursing and forensic evaluation;

“(II) therapeutic intervention;

“(III) victim support and advocacy; and

“(IV) case review and assistance to make the elders safer at home or to find appropriate placement in safer environments, including shelters, and, in some circumstances long-term care facilities, other residential care facilities, and hospitals;

“(3) to eligible entities to establish or continue volunteer programs that focus on the issues of elder abuse, neglect, and exploitation, or to provide related services;

“(4) to eligible entities to support multidisciplinary elder justice activities, such as—

“(A) supporting and studying team approaches for bringing a coordinated multidisciplinary or interdisciplinary response to elder abuse, neglect, and exploitation, including a response from individuals in social service, health care, public safety, and legal disciplines;

“(B) establishing a State or tribal coordinating council, which shall identify the individual State’s or Indian tribe’s needs and provide the Secretary with information and recommendations relating to efforts by the State or Indian tribe to combat elder abuse, neglect, and exploitation;

“(C) providing training, technical assistance, and other methods of support to groups carrying out multidisciplinary efforts at the State or Indian tribe level (referred to in some States as ‘State Working Groups’);

“(D) broadening and studying various models for elder fatality and serious injury review teams, to make recommendations about their composition, protocols, functions, timing, roles, and responsibilities, with a goal of producing models and information that will allow for replication based on the needs of other States, Indian tribes, and communities; or

“(E) carrying out such other interdisciplinary or multidisciplinary efforts as the Assistant Secretary determines to be appropriate;

“(5) to eligible entities to provide training for individuals with respect to issues of elder abuse, neglect, and exploitation, consisting of—

“(A) training within a discipline; or

“(B) cross-training activities that permit individuals in multiple disciplines to train together, fostering communication, coordinating efforts, and ensuring collaboration;

“(6) to eligible entities to address underserved populations of elders, such as—

“(A) elders living in rural locations;

“(B) elders in minority populations; or

“(C) low-income elders;

“(7) to eligible entities to provide incentives for individuals to train for, seek, and maintain employment providing direct care in a long-term care facility, such as—

“(A) to eligible entities to provide incentives to participants in programs carried out

under part A of title IV, and section 403(a)(5), of the Social Security Act (42 U.S.C. 601 et seq., 603(a)(5)) to train for and seek employment providing direct care in a long-term care facility;

“(B) to long-term care facilities to carry out programs through which the facilities—

“(i) offer, to employees who provide direct care to residents of a long-term care facility, continuing training and varying levels of professional certification, based on observed clinical care practices and the amount of time the employees spend providing direct care; and

“(ii) provide, or make arrangements with employers to provide, bonuses or other increased compensation or benefits to employees who achieve professional certification under such a program; or

“(C) to long-term care facilities to enable the facilities to provide training and technical assistance to eligible employees regarding management practices using methods that are demonstrated to promote retention of employees of the facilities, such as—

“(i) the establishment of basic human resource policies that reward high performance, including policies that provide for improved wages and benefits on the basis of job reviews; or

“(ii) the establishment of other programs that promote the provision of high quality care, such as a continuing education program that provides additional hours of training, including on-the-job training, for employees who are certified nurse aides;

“(8) to encourage the establishment of eligible partnerships to develop collaborative and innovative approaches to improve the quality of, including preventing abuse, neglect, and exploitation in, long-term care; or

“(9) to eligible entities to establish multidisciplinary panels to address and develop best practices concerning methods of—

“(A) improving the quality of long-term care; and

“(B) addressing abuse, including resident-to-resident abuse, in long-term care.

“(d) ADMINISTRATIVE EXPENSES.—A State or Indian tribe that receives a grant under this section shall not use more than 5 percent of the funds made available through the grant to pay for administrative expenses.

“(e) SUPPLEMENT NOT SUPPLANT.—Funds made available pursuant to this section shall be used to supplement and not supplant other Federal, State, and local (including tribal) funds expended to provide activities described in subsection (c).

“(f) MAINTENANCE OF EFFORT.—The State or Indian tribe, in using the proceeds of a grant received under this section, shall maintain the expenditures of the State or tribe for activities described in subsection (c) at a level equal to not less than the level of such expenditures maintained by the State or tribe for the fiscal year preceding the fiscal year for which the grant is received.

“(g) ACCOUNTABILITY MEASURES.—The Assistant Secretary shall develop accountability measures to ensure the effectiveness of the activities conducted using funds made available under this section, including accountability measures to ensure that the activities described in subsection (c)(7) benefit eligible employees and increase the stability of the long-term care workforce.

“(h) EVALUATING PROGRAMS.—The Assistant Secretary shall evaluate the activities conducted using funds made available under this section and shall use the results of such evaluation to determine the activities for which funds made available under this section may be used.

“(i) COMPLIANCE WITH APPLICABLE LAWS.—In order to receive funds under this section, an entity shall comply with all applicable laws, regulations, and guidelines.

“(j) ELIGIBLE PARTNERSHIPS.—In subsection (c)(8), the term ‘eligible partnership’ means a multidisciplinary community partnership consisting of eligible entities or appropriate individuals, such as a partnership consisting of representatives in a community of nursing facility providers, State legal assistance developers, advocates for residents of long-term care facilities, State Long-Term Care Ombudsmen, surveyors, the State agency with responsibility for adult protective services, the State agency with responsibility for licensing long-term care facilities, law enforcement agencies, courts, family councils, residents, certified nurse aides, registered nurses, physicians, and other eligible entities and appropriate individuals.

“(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2005 through 2008.

**“SEC. 753. COLLECTION OF UNIFORM NATIONAL DATA ON ELDER ABUSE, NEGLECT, AND EXPLOITATION.**

“(a) PURPOSE.—The purpose of this section is to improve, streamline, and promote uniform collection, maintenance, and dissemination of national data relating to the various types of elder abuse, neglect, and exploitation.

“(b) PHASE I.—

“(1) IN GENERAL.—Not later than the date that is 1 year after the date of enactment of the Older Americans Act Amendments of 2006, the Assistant Secretary, acting through the head of the Office of Elder Abuse Prevention and Services, after consultation with the Attorney General and working with experts in relevant disciplines from the Bureau of Justice Statistics of the Office of Justice Programs of the Department of Justice, shall—

“(A) develop a method for collecting national data regarding elder abuse, neglect, and exploitation; and

“(B) develop uniform national data reporting forms adapted to each relevant entity or discipline (such as health, public safety, social and protective services, and law enforcement) reflecting—

“(i) the distinct manner in which each entity or discipline receives and maintains information; and

“(ii) the sequence and history of reports to or involvement of different entities or disciplines, independently, or the sequence and history of reports from 1 entity or discipline to another over time.

“(2) FORMS.—

“(A) IN GENERAL.—Subject to subparagraph (B), the national data reporting forms described in paragraph (1)(B) shall incorporate the definitions of section 751, for use in determining whether an event is reportable.

“(B) PROTECTION OF PRIVACY.—In pursuing activities under this paragraph, the Secretary shall ensure the protection of individual health privacy consistent with the regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 and State and local privacy regulations (as applicable).

“(c) PHASE II.—

“(1) IN GENERAL.—Not later than the date that is 1 year after the date on which the activities described in subsection (b)(1) are completed, the Secretary (or the Secretary’s designee) shall ensure that the national data reporting forms and data collection methods developed in accordance with such subsection are pilot tested in 6 States selected by the Secretary.

“(2) ADJUSTMENTS TO THE FORM AND METHODS.—The Secretary, after considering the results of the pilot testing described in paragraph (1) and consultation with the Attorney General and relevant experts, shall adjust

the national data reporting forms and data collection methods as necessary.

“(d) PHASE III.—

“(1) DISTRIBUTION OF NATIONAL DATA REPORTING FORMS.—After completion of the adjustment to the national data reporting forms under subsection (c)(2), the Secretary shall submit the national data reporting forms along with instructions to—

“(A) the heads of the relevant components of the Department of Health and Human Services, the Department of Justice, and the Department of the Treasury, and such other Federal entities as may be appropriate; and

“(B) the Governor’s office of each State for collection from all relevant State entities of data, including health care, social services, and law enforcement data.

“(2) DATA COLLECTION GRANTS.—

“(A) AUTHORIZATION.—The Secretary is authorized to award grants to States to improve data collection activities relating to elder abuse, neglect, and exploitation.

“(B) APPLICATION.—To be eligible to receive a grant under this paragraph, a State shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

“(C) REQUIREMENTS.—Each State receiving a grant under this paragraph for a fiscal year shall report data for the calendar year that begins during that fiscal year, using the national data reporting forms described in paragraph (1).

“(D) FUNDING.—

“(i) FIRST YEAR.—For the first fiscal year for which a State receives grant funds under this subsection the Secretary shall initially distribute 50 percent of such funds. The Secretary shall distribute the remaining funds at the end of the calendar year that begins during that fiscal year, if the Secretary determines that the State has properly reported data required under this subsection for the calendar year.

“(ii) SUBSEQUENT YEARS.—Except as provided in clause (i), the Secretary shall distribute grant funds to a State under this subsection for a fiscal year if the Secretary determines that the State properly reported data required under this subsection for the calendar year that ends during that fiscal year.

“(3) REQUIRED INFORMATION.—Each report submitted under this subsection shall—

“(A) indicate the State and year in which each event occurred; and

“(B) identify the total number of events that occurred in each State during the year and the type of each event.

“(e) REPORT.—Not later than 1 year after the date of enactment of the Older Americans Act Amendments of 2006 and annually thereafter, the Secretary shall prepare and submit to the appropriate committees of Congress, including to the Committee on Health Education, Labor, and Pensions and the Special Committee on Aging of the Senate, a report regarding activities conducted under this section.

“(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2007, 2008, 2009, 2010, and 2011.”.

**SEC. 54. RULE OF CONSTRUCTION.**

Subtitle C of title VII of the Older Americans Act of 1965 (42 U.S.C. 3058 et seq.) is amended by adding at the end the following:

**“SEC. 765. RULE OF CONSTRUCTION.**

“Nothing in this title shall be construed to interfere with or abridge the right of an older individual to practice the individual’s religion through reliance on prayer alone for healing, in a case in which a decision to so practice the religion—

“(1) is contemporaneously expressed by the older individual—

“(A) either orally or in writing;

“(B) with respect to a specific illness or injury that the older individual has at the time of the decision; and

“(C) when the older individual is competent to make the decision;

“(2) is set forth prior to the occurrence of the illness or injury in a living will, health care proxy, or other advance directive document that is validly executed and applied under State law; or

“(3) may be unambiguously deduced from the older individual’s life history.”.

Mr. KENNEDY. Mr. President, the Older Americans Act has been a lifeline for senior citizens across the country for 40 years, and all of us want it to continue to fulfill its important role in the years ahead.

Like Social Security, Medicare and Medicaid, the Older Americans Act is part of our commitment to care for the nation’s seniors in their golden years.

This year, the first of the members of the baby boom generation will be eligible for the act’s services. One in nine Americans are over age 65 today. By the year 2030, the number will be one in five.

It is clear we need to get our priorities right in this reauthorization. That means starting now to put the infrastructure in place to provide services to baby boomers who retire. This bill takes some of the necessary steps. It requires State and local agencies to acknowledge the changing demographics and to plan ahead. I hope Congress will continue to build on these efforts in the coming years and provide increased funds for the important programs in this act.

Our bill also encourages civic activities by seniors. Numerous examples exist of successful volunteer programs involving seniors, such as Senior Corps, Experience Corps, and Family Friends, and we need to build on these successes.

The members of the new generation of older Americans obviously want to be engaged in their communities after they retire, and it is essential to draw on their experience and knowledge in constructive ways.

The bill is also intended to encourage good nutrition, healthy living and disease prevention among seniors. The Meals on Wheels program, enacted in the 1970s, is one of its greatest successes, and Massachusetts has been in the forefront of the effort to provide community-based nutrition services to the elderly. Our State program coordinates 28 nutrition projects throughout the State to deal with poor nutrition and social isolation of seniors. Our bill will expand the ability of programs such as Meals on Wheels to reach all older individuals who need better nutrition.

According to the Census Bureau, 6.7 million persons aged 55 or older will be living in poverty by 2008, a 22 percent increase since 2000. By 2015, the number will increase to 9 million if the current trend continues.

The Older Americans Act also provides essential opportunities for employment of older Americans through the Senior Community Service Employment Program, which offers job training for seniors and involves them in the communities which they love, and which also love them. Last year, the program supported 61,000 jobs and served 92,000 people.

Congress created this program to provide older adults with community service opportunities. We recognized that senior citizens are especially valuable assets to the communities in which they live. Through community service, older adults are also provided with the job training they need to become self-sufficient in the workforce.

Unfortunately, in recent years the focus on community service has blurred, and many of us are concerned about the administration's lack of interest in maintaining this important aspect of the program.

Older Americans today provide 45 million hours of valuable service to their communities, particularly in senior centers, public libraries, and nutrition programs.

Overall, our bill maintains the emphasis on community service and enables the program to continue to serve older Americans efficiently and well. As this bill moves forward, it is essential that community service remain paramount and that any attempts to weaken this program be defeated.

This is a good bipartisan bill and I support its passage.

Mr. DEWINE. Mr. President, I rise today with my colleagues on the Health, Education, Labor, and Pensions Committee—Chairman ENZI, Ranking Member KENNEDY, and Senator MIKULSKI—as we join in the introduction of the Older Americans Act Amendments of 2006. Senator MIKULSKI and I worked to draft and pass the Older Americans Act Amendments of 2000, and I am proud to have worked with her again to improve and update these important programs.

I also thank Senators ENZI and KENNEDY for making this reauthorization a priority for the HELP Committee. Over the months we have negotiated this bipartisan bill, I have greatly appreciated their thoughtful and steady work to get the Older Americans Act to this point. They understand well, as I do, that the quick passage of this reauthorization is the No. 1 recommendation that came out of the White House Conference on Aging. As I have mentioned in the hearings I have chaired of the Subcommittee on Retirement Security and Aging, the passage of the Older Americans Act reauthorization is the top priority for the subcommittee. Today's bill introduction is an important step forward in that process.

As you know, older Americans are a vital and rapidly growing segment of our population. Over 36 million people living in the United States are over the age of 65, accounting for about 12 percent of the population. The Census Bu-

reau projects that 45 years from now, people 65 and older will number nearly 90 million in the United States and comprise 21 percent of the population.

The Older Americans Act is an important service provider for these Americans. I strongly believe this reauthorization updates and strengthens the act in many ways. Changes to this bill include plans and means to prepare for changes to the aging demographics. This bill creates a Federal interagency council responsible for ensuring appropriate planning for baby boomer-related needs and population shifts across agencies. Additionally, it will provide for grants and technical assistance for local aging service providers to plan for the baby boomer population.

Our bill will also increase the authorization levels of the National Family Caregiver Support Program by 25 percent over current appropriated levels over the next 5 years. This program is also expanded to allow for those caring for loved ones with Alzheimer's—between the ages of 50 and 60—to become eligible for support services. Furthermore, it will clarify that this program will serve elderly caregivers who are caring for their adult children with developmental disabilities. Lastly, it clarifies that grandparents caring for adopted grandchildren are covered under this program, and it lowers the age threshold for grandparents to 55 years old. These are important changes to this program and will affect the quality of life for so many individuals who are struggling with the pressures of caring for loved ones.

This bill also encourages the voluntary contributions related to title III services from those individuals with a self-declared income at or above 200 percent of the poverty level and based on actual cost of service. This will help programs such as Meals-on-Wheels to expand their services and enable them to more effectively take contributions from those older Americans willing to pay for services. As the number of seniors increases, we need to modify our programs to ensure their economic sustainability.

Our amendments will also allow the Department of Health and Human Services to award grants related to the improvement of assistive technology for older Americans. The goal of this provision is to enable older Americans to have the necessary technology to monitor their health and help them remain in their homes as they age. We know most Americans want to remain independent and in their homes as they age, and these grants will help them do just that.

This bill also creates a new grant program which provides grants to create innovative models that allow individuals to remain in community-based settings. The need for this grant program was discussed at length in a hearing I held on models for aging in place—specifically naturally occurring retirement communities. As I stated

before, Americans want to stay in their communities as they age, and this bill will help them do just that.

Further, this bill creates a new grant program, based on recommendations in the President's fiscal year '07 budget, to provide grants to States to enable consumer-driven choices with respect to long-term care. Grants can be used to encourage the planning for long-term care for older Americans. It will also facilitate access to long-term care choices and opportunities and advice on choices for care.

Our bill also updates the title V Senior Community Service Employment Program, SCSEP, to allow for a mandatory 4-year competitive grant cycle. It provides a sense of the Senate supporting the community service aspect of the program. Additionally, it limits the time on the program for participants to 3 years, with a 20-percent exemption for certain hard-to-serve populations.

This provision balances the need for limiting the time a person spends in this employment program with the recognition that certain populations have special needs.

Of great importance to me, this bill also amends the act to focus attention on the mental health needs of older Americans. These changes will establish grants for mental health screening of older Americans and increased awareness of its effects on the elderly population. Too often the mental health needs of older Americans are overlooked; however, they can be as serious and life-threatening as any other illness. The mental health needs of our seniors must be taken more seriously and dealt with more aggressively. I believe this provision significantly moves us forward in this struggle.

Finally, this bill includes the language of the Elder Justice bill reported unanimously from the HELP Committee in the 108th Congress to create an office of elder abuse prevention in the administration on Aging; create grants to the States and tribes to prevent elder abuse, neglect, and exploitation; and collect data from States and other entities on elder abuse. These are important provisions to improve the safety and protect the well-being of our parents, grandparents, and other elderly loved ones.

Again, I thank Senator ENZI, Senator KENNEDY, and Senator MIKULSKI for their dedication to the needs of older Americans. I look forward to our continuing work together on this bill as we work to bring it to the Senate floor and the President's desk.

Ms. MIKULSKI. Mr. President, I rise today to support older Americans. Seniors today are living longer, healthier lives. We must do what we can to help them be as independent and active as possible.

We have worked together on both sides of the aisle and with aging organizations, including the organizations that make up the Leadership Council on Aging, to introduce S.3570, the Older

Americans Act Amendments of 2006, which I believe is a strong bipartisan bill. I would like to thank Chairman ENZI, Ranking Member KENNEDY, and Senator DEWINE for their work. I have worked closely with Senator DEWINE in the past, and this is the second Older Americans Act that we have reauthorized together. This bill honors and maintains the commitment we made to the nation's seniors through the Older Americans Act.

The Older Americans Act is one of our most important responsibilities. The 1,200 delegates to the December 2005 White House Conference on Aging voted reauthorization of the act this year as their top priority. I am pleased that we were able to produce this bipartisan bill, but we still have work to do before the Older Americans Act is reauthorized.

We need to continue to work on the Community Service Employment Program for Older Americans, in title V. Much of our bill is quite similar to what the House passed last week, but title V is not. Our bill has maintained the strong community service employment aspect of the program, which has been an integral component since the beginning. The House bill has elements that will minimize and chip away at this community service employment element. The Community Service Employment Program for Older Americans helps seniors obtain employment at Meals on Wheels programs, senior centers, local area agencies on aging, public libraries, and many other public organizations that rely heavily on these seniors. Through community service employment, community organizations receive valuable support while participants receive valuable skill training. I am strongly opposed to losing the community service aspect of this program, and I am pleased our bill strengthens it. I expect that we will continue to protect this as we move to work with the House.

There are several principles that I believe must guide reauthorization. First, we must continue and improve the core services of this act to meet the vital needs of America's seniors. Secondly, we must modernize the act to meet the changing needs of America's senior population, including the growing number of seniors over 85, the impending senior boom, and the growing number of seniors in minority groups. Next, we must look for ways to help seniors live more independent and active lives. Finally, we must give national, State, and local programs the resources they need to carry out these vital responsibilities.

I believe the 2006 reauthorization bill strengthens current Older Americans Act programs and offers innovative ideas that will address the needs of our country's aging population. The reauthorization bill strengthens information and referral services that are the backbone of OAA programs, providing seniors and their family members information about supportive services

and information needed to prepare for long-term care. Our bill also strengthens elder abuse programs.

The reauthorization bill also improves the core services of the Older Americans Act. Seniors have come to depend on the information and referral services, congregate and home-delivered meals, transportation, home care, and other OAA programs to meet their daily needs. Whether it is pension counseling or the long-term care ombudsman program—these are vital to helping seniors navigate the complex financial and health care systems. Not all seniors have family and friends that can assist them with complicated decisions, like choosing a long-term care insurance plan or a nursing home. These programs put information in terms seniors can understand. These programs are a safety net for many.

I am especially pleased that this bill authorizes programs to encourage community innovation to support and enhance the ability of seniors to age in place. Seniors will be able to remain in their homes and communities, close to family and friends by providing them necessary supporting services such as transportation, social work services, and health programs to help seniors remain independent and in their communities. Grant program will encourage innovation and build on the success of naturally occurring retirement communities, NORC, programs. NORC programs have been developed at the local level and have a proven record of success. We heard from successful programs in Maryland, Ohio, and New York at the Subcommittee on Aging hearing on NORCs last month. I thank them again for their work and leadership. I always say that the best ideas come from the people, and this is one of the best I have seen in a long time.

This bill also improves the National Family Caregiver Support Program. With the reauthorization of OAA in 2000, we worked hard to create the National Family Caregiver Support Program. In 2003, this program provided assistance to nearly 600,000 caregivers. Services include respite care, caregiver counseling and training, information about available resources, and assistance in locating services. These services are invaluable to seniors and their families. We have worked with the aging community to expand these services. Upon the advice of the Alzheimer's Association our bill lowers the age eligibility for the program for individuals with Alzheimer's from 60 to 50, allowing more individuals with Alzheimer's to qualify for services. Our bill also lowers the age of eligible grandparents to 55. This allows the program to target services to those who need it most.

Our bill also seeks to improve emergency preparedness for seniors. During Hurricanes Katrina and Rita, who was left behind? The elderly, the sick, the disabled. We must plan for their needs and use the senior network that exists in our country to make sure that they

are not forgotten. Our bill requires States and Area Agencies on Aging to coordinate to develop plans and establish guidelines for addressing the senior population during a disaster/emergency.

I believe that this bipartisan reauthorization bill honors and maintains the commitment Congress made to our Nation's seniors through the Older Americans Act when it was first created in 1965. Reauthorization of this program for America's seniors and their families is one of our most important responsibilities. I look forward to continuing to work to get a bill passed this year. It is an important responsibility that we have to our Nation's seniors.

By Mr. KOHL (for himself, Mr. LEAHY, Mr. GRASSLEY, and Mr. SCHUMER):

S. 3852. A bill to prohibit brand name drug companies from compensating generic drug companies to delay the entry of a generic drug into the market; to the Committee on Commerce, Science, and Transportation.

Mr. KOHL. Mr. President, yesterday, the Supreme Court refused to consider an appeal by the Federal Trade Commission to reinstate antitrust charges against a brand-name drugmaker. This decision leaves the FTC powerless to stop one of the more egregious tactics used by brand name drug companies to keep generic competitors off the market, leaving consumers with unnecessary high drug prices.

The way it is done is simple—a drug company that holds a patent on a blockbuster brand-name drug, pays a generic drug maker off to delay the sale of a competing generic product that might dip into their profits. The brand name company profits so much by delaying competition that it can easily afford to pay off the generic company, leaving consumers the big losers who continue to pay unnecessarily high drug prices.

Since the appeals court decision, there has been a sharp rise in the number of settlements in which brand-name companies payoff generic competitors to keep their cheaper drugs off the market. In a report issued earlier this year, the FTC found that more than two-thirds of the 10 settlement agreements made in 2006 included a pay-off from the brand in exchange for a promise by the generic company to delay entry into the market.

Yesterday's decision by the Supreme court is a blow to consumers who save billions of dollars on generics every year. Today I am joined by Senators LEAHY, GRASSLEY, and SCHUMER, to introduce the Preserve Access to Affordable Generics Act. This legislation will prohibit these pay-off settlement agreements that only serve the drug companies involved while denying consumers access to cost-saving generic drugs.

According to the Congressional Budget Office, generic drugs save consumers

an estimated \$8 to \$10 billion every year. And, a recent study released earlier this year by Pharmaceutical Care Management Association, showed that health plans and consumers could save \$26.4 billion over the next 5 years by using the generic versions of 14 popular drugs that are scheduled to lose their patent protections before 2010.

Just last week, I was successful in including an additional \$10 million in the fiscal year 2007 Agriculture Appropriations bill for the Food and Drug Administration's Office of Generic Drugs, an effort to help reduce the growing backlog of generic drug applications. The FDA Office of Generic Drugs has reported a backlog of more than 800 generic drug applications and more applications for new generics were received in December 2005 than ever before and this trend continues to grow.

But even approval by the FDA doesn't always guarantee that consumers will have access to these affordable drugs. Of the six approved first generics for popular brand-name drugs taken by seniors over the last year, only two have actually reached the market, while the others are being kept off of the shelves by patent disputes.

Mr. President, it is time to stop these drug company payoffs that only serve the companies involved and deny consumers to affordable generic drugs. I urge my colleagues to join me in this effort. I ask unanimous consent that the text of the bill be printed into the RECORD.

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

S. 3582

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Preserve Access to Affordable Generics Act".

#### SEC. 2. UNFAIR COMPETITION.

Section 5 of the Federal Trade Commission Act (15 U.S.C. 45) is amended by adding at the end the following:

"(o)(1) It shall be considered an unfair method of competition affecting commerce under subsection (a)(1) for a person, in connection with the sale of a drug product, to directly or indirectly be a party to any agreement resolving or settling a patent infringement claim in which—

"(A) an ANDA filer receives anything of value; and

"(B) the ANDA filer agrees not to research, develop, manufacture, market, or sell the ANDA product for any period of time.

"(2) CONSTRUCTION.—Nothing in this subsection shall prohibit a resolution or settlement of patent infringement claim in which the value paid by the NDA holder to the ANDA filer as a part of the resolution or settlement of the patent infringement claim includes no more than the right to market the ANDA product prior to the expiration of the patent that is the basis for the patent infringement claim.

"(3) In this subsection:

"(A) The term 'ANDA' means an abbreviated new drug application, as defined under section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)).

"(B) The term 'ANDA filer' means a party who has filed an ANDA with the Federal Drug Administration.

"(C) The term 'ANDA product' means the product to be manufactured under the ANDA that is the subject of the patent infringement claim.

"(D) The term 'drug product' means a finished dosage form (e.g., tablet, capsule, or solution) that contains a drug substance, generally, but not necessarily, in association with 1 or more other ingredients, as defined in section 314.3(b) of title 21, Code of Federal Regulations.

"(E) The term 'NDA' means a new drug application, as defined under section 505(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)).

"(F) The term 'NDA holder' means—

"(i) the party that received FDA approval to market a drug product pursuant to an NDA;

"(ii) a party owning or controlling enforcement of the patent listed in the Approved Drug Products With Therapeutic Equivalence Evaluations (commonly known as the 'FDA Orange Book') in connection with the NDA; or

"(iii) the predecessors, subsidiaries, divisions, groups, and affiliates controlled by, controlling, or under common control with any of the entities described in subclauses (i) and (ii) (such control to be presumed by direct or indirect share ownership of 50 percent or greater), as well as the licensees, licensors, successors, and assigns of each of the entities.

"(G) The term 'patent infringement' means infringement of any patent or of any filed patent application, extension, reissue, renewal, division, continuation, continuation in part, reexamination, patent term restoration, patents of addition and extensions thereof.

"(H) The term 'patent infringement claim' means any allegation made to an ANDA filer, whether or not included in a complaint filed with a court of law, that its ANDA or ANDA product may infringe any patent held by, or exclusively licensed to, the NDA holder of the drug product."

Mr. LEAHY. Mr. President, I am pleased to introduce, with Senators KOHL, GRASSLEY, and SCHUMER, the Preserve Access to Affordable Generics Act of 2006, S. 3582. It is no secret that prescription drug prices are rapidly increasing and are a source of considerable concern to many Americans, especially senior citizens and families. In a marketplace free of manipulation, generic drug prices can be as much as 80 percent lower than the comparable brand-name version. Unfortunately, there are still some companies that may be keeping low-cost, life-saving generic drugs off the marketplace, off pharmacy shelves, and out of the hands of consumers by carefully crafted anti-competitive agreements between drug manufacturers. This bipartisan bill will improve the timely and effective introduction of generic pharmaceuticals into the marketplace.

In 2001, and last Congress, I introduced a related bill, the Drug Competition Act. That bill, which is now law, is small in terms of length but large in terms of impact. It ensured that law enforcement agencies could take quick and decisive action against companies seeking to cheat consumers by delaying availability of generic medicines. It

gave the Federal Trade Commission and the Justice Department access to information about secret deals between drug companies that keep generic drugs out of the market—a practice that not only hurts American families, particularly senior citizens, by denying them access to low-cost generic drugs but also contributes to rising medical costs.

The Drug Competition Act, which was incorporated in the Medicare Modernization Act, was a bipartisan effort to protect consumers in need of patented medicines who were being forced to pay considerably higher costs because of collusive secret deals. It is regrettable that we must come to the floor again today and take additional action to prevent drug companies from continuing to find and exploit loopholes.

I had faith that we were on the right track. However, two appellate court decisions from 2005 overturned the FTC's longstanding role of "policing" these activities and making case-by-case determinations on the appropriateness of proposed settlements, especially those that involved "reverse" payments. That refers to payments from a brand-name company to a generic company as opposed to payments from a generic company to the brand-name company for a license to make a particular patented drug.

The FTC rightfully sought U.S. Supreme Court review of the Schering-Plough v. FTC Eleventh Circuit decision. Unfortunately, the Supreme Court refused to hear that case, leaving in doubt the continuing role of the FTC in policing settlements between brand-name drug companies and potential generic competitors. Moreover, in an unprecedented move, the U.S. Solicitor General opposed the request by the FTC for the Supreme Court to hear this case. The inaction of the courts and the choice of the administration to side with large drug companies over seniors and families has provoked us to take action and introduce this important bill.

This matter arises at the intersection of patent law and antitrust law. The drug companies naturally deny that their agreements violate the antitrust laws, presenting them as private preliminary settlements between companies engaged in patent disputes. The problem is that the whole point of the Drug Competition Act is to have an independent body, the FTC, review these deals and to advise the companies if terms or conditions in the deal need to be changed to comply with existing antitrust laws.

Agreements to delay the production and sale of generic medicines in exchange for cash from the brand-name companies need to be carefully reviewed by the FTC under standards that give the FTC authority to act where necessary to enforce antitrust laws. Companies holding patents on medicines should not be permitted to

pay millions of dollars to potential generic competitors for the purpose of delaying the research, development, and sale of competing generic versions of medications when those generic companies believe they have the legal right to sell such products.

I remain hopeful that during the process of working on this bill, a way can be found to give the FTC some discretion, on a case-by case basis, to continue to evaluate these deals. Under this approach, only the deals that are consistent with the intent of that law will be allowed to stand. There will be some deals that involve the payment of money which, on balance, could be good for the companies involved and for consumers. The original intent of the Drug Competition Act was to provide the FTC and DOJ with an opportunity to provide the companies with useful and timely information so the drug companies could conform their deals to the law through confidential advice from the law enforcement agencies. I want that process to be continued.

Senators GRASSLEY, KOHL, SCHUMER, and I are not the only ones who share the goal of ensuring effective and timely access to generic pharmaceuticals that can lower the cost of prescription drugs for seniors, for families, and for all Americans. I sincerely thank my colleagues on both sides of the aisle who are working together on that goal. We have devoted considerable attention to this matter in recent years, and I look forward to passing this important bill.

In closing, I praise the FTC for spending so much time and energy on protecting competition in the pharmaceutical sector. This represents a massive workload for the FTC on top of all its other important responsibilities to protect consumers and the American enterprise system.

Years ago, the FTC dealt with latter-day robber barons destroying smaller companies; now the FTC has to try to restrain corporate drug giants from robbing the elderly when these seniors buy prescription medicines. I also appreciate the work of the FTC on the authorized generics issue and look forward to the report they are preparing for the Congress on that matter.

By Mr. AKAKA:

S. 3584. A bill to amend chapter 41 of title 5, United States Code, to provide for the establishment and authorization of funding for certain training programs for supervisors of Federal employees; to the Committee on Homeland Security and Governmental Affairs.

Mr. AKAKA. Mr. Mr. President, I rise today to introduce the Federal Supervisor Training Act, FSTA, which addresses the inconsistencies and lack of adequate training for Federal managers and supervisors, especially for new supervisors. The effectiveness and efficiency of government programs and services depend on well-trained man-

agers. It is critical that federal managers receive the support and resources needed to do their jobs.

As new personnel reforms are sought by the administration for Federal workers, which in my view are similar to those I opposed for the Departments of Defense and Homeland Security, I see a general erosion of employee morale. Low employee morale impacts agency performance and undermines the public's trust in government. Therefore, we must consider the needs of supervisors and employees alike. Enhancing supervisory training improves communication, which leads to greater understanding of performance expectations and fewer performance problems. A trained supervisor is the foundation for the success of any personnel system.

The bill I offer today follows recommendations made by the Partnership for Public Service and the newly formed Government Managers Coalition, GMC, which represents over 200,000 Federal managers and executives who are members of the Senior Executives Association, the Federal Managers Association, the Professional Managers Association, the Federal Aviation Administration Managers Association, and the National Council of Social Security Management Associations.

FSTA will require new supervisory training for all new supervisors within a year of being appointed and mandatory retraining every 3 years. Current managers would have 3 years in which to receive initial training. The legislation also requires training on how to mentor employees, a key focus of S. 3476, the Homeland Security Professional Development Act, which I introduced earlier this month. A third provision requires training every three years on the laws governing and the procedures for enforcing whistleblower rights and protections against race, gender, age, and disability discrimination.

Under FSTA, agencies would be required to set standards—based in part on guidelines developed by the Office of Personnel Management, OPM—that supervisors should meet in order to manage employees effectively, assess a manager's ability to meet these standards, and provide training to improve areas identified in personnel assessments.

Supervisors want meaningful training. In my view, such training should not be a discretionary option for agencies. Government managers and employees work on a broad and complex range of issues that are both national and global in scope. From the skilled workers at the Pearl Harbor Naval Shipyard performing nuclear submarine battery change outs to Internal Revenue Service employees collecting back taxes, these Federal workers demonstrate commitment and dedication daily. They understand that trained managers empower them, which in turn improves programs and saves taxpayers money.

Mandatory supervisory training is needed to ensure that agencies provide this support to their managers. OPM once proposed 40 to 80 hours of training for new supervisors, but, over the years, this function has migrated to agencies, which, as the GMC notes, has resulted in inconsistencies in training among Federal agencies, leaving a problem in search of a solution.

As the ranking member of the Senate Federal Workforce Subcommittee, a primary goal of mine is to make the Federal Government an employer of choice and to ensure the American people are served by a skilled workforce. I see FSTA as a means to reach that goal because mandatory supervisory training develops good managers who foster positive work environments that produce an efficient, effective, and responsive government. The Nation's Federal workforce and the American taxpayer deserve no less.

Mr. President, as I stated earlier, supervisors and employees alike benefit from well-trained managers. I want to thank the Government Managers Coalition; the American Federation of Government Employees; the National Treasury Employees Union; the International Federation of Professional and Technical Engineers; the AFL-CIO, Metal Trades Department; as well as the Partnership for Public Service for their support of FSTA and I urge my colleagues to support the federal workforce by cosponsoring my bill. I ask unanimous consent that the text of the bill be printed in the RECORD

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows.

S. 3584

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Federal Supervisor Training Act of 2006".

**SEC. 2. MANDATORY TRAINING PROGRAMS FOR SUPERVISORS.**

(a) IN GENERAL.—Section 4121 of title 5, United States Code, is amended—

(1) by inserting before "In consultation with" the following:

"(a) In this section, the term 'supervisor' means—

"(1) a supervisor as defined under section 7103(a)(10);

"(2) a management official as defined under section 7103(a)(11); and

"(3) any other employee as the Office of Personnel Management may by regulation prescribe.";

(2) by striking "In consultation with" and inserting "(b) Under operating standards promulgated by, and in consultation with,"; and

(3) by striking paragraph (2) (of the matter redesignated as subsection (b) as a result of the amendment under paragraph (2) of this subsection) and inserting the following:

"(2)(A) a program to provide interactive instructor-based training to supervisors on actions, options, and strategies a supervisor may use in—

"(i) developing and discussing relevant goals and objectives together with the employee, communicating and discussing progress relative to performance goals and

objectives and conducting performance appraisals;

“(ii) mentoring and motivating employees and improving employee performance and productivity;

“(iii) effectively managing employees with unacceptable performance; and

“(iv) otherwise carrying out the duties or responsibilities of a supervisor;

“(B) a program to provide interactive instructor-based training to supervisors on the prohibited personnel practices under section 2302 (particularly with respect to such practices described under subsection (b) (1) and (8) of that section) and the procedures and processes used to enforce employee rights; and

“(C) a program under which experienced supervisors mentor new supervisors by—

“(i) transferring knowledge in areas such as communication, critical thinking, responsibility, flexibility, motivating employees, and teamwork; and

“(ii) pointing out strengths and areas for development.

“(c)(1) Not later than 1 year after the date on which an individual is appointed to the position of supervisor, that individual shall be required to have completed each program established under subsection (b)(2).

“(2) After completion of a program under subsection (b)(2) (A) and (B), each supervisor shall be required to complete a program under subsection (b)(2) (A) and (B) at least once during each 3-year period.

“(3) Each program established under subsection (b)(2) shall include provisions under which credit shall be given for periods of similar training previously completed.

“(d) Notwithstanding section 4118(c), the Office of Personnel Management shall prescribe regulations to carry out this section, including the monitoring of agency compliance with this section.”

(b) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Office of Personnel Management shall prescribe regulations in accordance with subsection (d) of section 4121 of title 5, United States Code, as added by subsection (a) of this section.

(c) EFFECTIVE DATE AND APPLICATION.—

(1) IN GENERAL.—The amendments made by this section shall take effect 180 days after the date of enactment of this Act and apply to—

(A) each individual appointed to the position of a supervisor, as defined under section 4121(a) of title 5, United States Code, (as added by subsection (a) of this section) on or after that effective date; and

(B) each individual who is employed in the position of a supervisor on that effective date as provided under paragraph (2).

(2) SUPERVISORS ON EFFECTIVE DATE.—Each individual who is employed in the position of a supervisor on the effective date of this section shall be required to—

(A) complete each program established under section 4121(b)(2) of title 5, United States Code (as added by subsection (a) of this section), not later than 3 years after the effective date of this section; and

(B) complete programs every 3 years thereafter in accordance with section 4121(c) (2) and (3) of such title.

### SEC. 3. MANAGEMENT COMPETENCY STANDARDS.

(a) IN GENERAL.—Chapter 43 of title 5, United States Code, is amended—

(1) by redesignating section 4305 as section 4306; and

(2) inserting after section 4304 the following:

#### “§ 4305. Management competency standards

“(a) In this section, the term ‘supervisor’ means—

“(1) a supervisor as defined under section 7103(a)(10);

“(2) a management official as defined under section 7103(a)(11); and

“(3) any other employee as the Office of Personnel Management may by regulation prescribe.

“(b) The Office of Personnel Management shall issue guidance to agencies on standards supervisors are expected to meet in order to effectively manage, and be accountable for managing, the performance of employees.

“(c) Each agency shall—

“(1) develop standards to assess the performance of each supervisor and in developing such standards shall consider the guidance developed by the Office of Personnel Management under subsection (b) and any other qualifications or factors determined by the agency;

“(2) assess the overall capacity of the supervisors in the agency to meet the guidance developed by the Office of Personnel Management issued under subsection (b); and

“(3) develop and implement a supervisor training program to strengthen issues identified during such assessment.

“(d) Every year, or on any basis requested by the Director of the Office of Personnel Management, each agency shall submit a report to the Office on the progress of the agency in implementing this section.”

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) TABLE OF SECTIONS.—The table of sections for chapter 43 of title 5, United States Code, is amended by striking the item relating to section 4305 and inserting the following:

“4305. Management competency standards.

“4306. Regulations.”

(2) REFERENCE.—Section 4304(b)(3) of title 5, United States Code, is amended by striking “section 4305” and inserting “section 4306”.

By Mr. HATCH:

S. 3585. A bill to amend the Internal Revenue Code of 1986 to improve and expand the availability of health savings accounts, and for other purposes; to the Committee on Finance.

Mr. HATCH. Mr. President, I rise today to introduce the Health Savings Accounts Improvement and Expansion Act of 2006. This bill will make it easier for businesses to provide the option of an HSA to their employees and for Americans to elect these plans.

In short, this bill will make it more likely that Americans will have an HSA plan available when they are making their health care choices. This would be a good development for the individual consumer and the for nation's health care system as a whole.

There is one thing on which we can all agree: our current health care system is broken. Health care expenses are far outpacing inflation. These escalating costs are pricing more and more Americans and small businesses out of the health insurance market. Unless we act, our health care costs are on pace to bankrupt the Federal Treasury.

We need to do something.

The American people want us to do something.

Some favor an option that would give the Federal Government more control of the health care system. In my opinion, that doesn't really fix the problem, it only makes the problem worse—leading to higher costs, higher taxes, and decreased quality and availability.

I believe the answer lies in bringing down costs by helping Americans to take control of their health care.

Recognizing that a federally controlled universal system is a non-starter, the House of Representatives has aggressively pursued the expansion and development of Health Savings Accounts. In particular, Congressmen ERIC CANTOR and BILL SHUSTER have taken laudable steps toward making these plans more readily available for American workers.

Congressman BILL THOMAS, chairman of the Ways and Means Committee, is demonstrating his and the House's commitment to these plans by holding a hearing tomorrow to discuss the development of health savings accounts.

I am also proud to see that several of our Senate colleagues have introduced legislation that would expand consumer driven health care. Senators SANTORUM, ALLEN, DEMINT, ENSIGN, and COBURN have introduced legislation to fuel the growth of health savings accounts.

My bill complements these plans by encouraging employers to offer HSA accounts and by making it easier for workers to use them.

Since Congress established HSAs in 2004, American workers have turned to them as an affordable health care alternative. Already, more than three million people have enrolled in HSAs. Without any changes to the law, it is estimated that by 2008 there will be six million HSA owners with almost \$5 billion in assets.

HSAs are popular. And they are popular because they work.

HSAs are a different type of health insurance. They are more like car insurance than traditional health insurance: You pay for the dents and dings yourself, and your insurance only kicks in for major events. This makes sense. Think of how expensive your car insurance would be if every scratch on every bumper had to be paid for by insurance companies with no owner contribution.

Yet critics allege that promoting this type of insurance unfairly burdens older Americans and the chronically ill—those with the most health care needs. I would note that the premise of this argument is off the mark. For many Americans and businesses, the cost of health insurance premiums are rising so astronomically that the choice is not between traditional first-dollar coverage or an HSA plan, but between an HSA plan and no insurance at all.

As the Galen Institute—a research institute that has done excellent work reviewing the development of consumer-driven health care—has shown, HSAs are not only for the young and the healthy, but also for all health consumers along the age and income spectrum. In a survey by eHealthInsurance—an on-line health insurance broker representing more than 140 major health insurance companies—40 percent of HSA-eligible plan

purchasers made less than \$50,000. Forty-five percent of purchasers are over age 40 and 19 percent are 50 or older.

Some argue that the healthy will migrate from traditional plans, leaving only the chronically ill in full coverage plans and driving up costs by shrinking the insurance pool. This argument ignores a critical fact. Younger workers aged 25–34 are currently the largest segment of the uninsured, in large part because insurance coverage is so expensive. They represent 23 percent of the total uninsured population. By bringing them into HSA plans, they will only bring premium costs down further for the chronically ill who establish an HSA.

According to America's health insurance plans, AHIP, 37 percent of those purchasing plans were previously uninsured. Twenty-seven percent of policies sold in the small group market were sold to employers who did not previously offer coverage. According to Assurant Health, the leading health insurer for individuals and small groups, 40 percent of those purchasing HSAs were previously uninsured.

Finally, it seems that American workers, and the chronically ill, are responding to the incentives provided by these consumer-driven plans. McKinsey & Company conducted an extensive survey of these plans. They held focus groups, performed one-on-one interviews, and produced an in-depth study of more than 2,500 Americans regarding their health insurance arrangements. They concluded that these plans have a lot of potential. In fact, some of their conclusions were remarkable. Fifty percent were more likely to ask about costs and three times more likely to choose a less extensive and expensive treatment option. HSA owners are also more likely to visit an urgent care center for treatment rather than a hospital emergency room.

In addition, HSA consumers were more likely to be attentive to their health. Twenty-five percent were more likely to engage in healthy behavior and 30 percent were more likely to get an annual physical. These educated consumers understand that prevention will save them money in the long run. They were more likely to identify treatment options and they were 20 percent more likely to comply with treatment for chronic conditions.

It is no surprise that people are enjoying their HSA plans. According to a survey by eHealthInsurance, premiums for HSA-eligible insurance actually dropped between the introduction of these plans in 2004 and the first half of 2005. Nearly two-thirds of HSA purchasers paid \$100 a month or less for their plans. And these plans are comprehensive. Most cover 100 percent of the costs of hospitalization, lab tests, emergency room visits, prescription drugs and doctors' visits after the deductible is met.

The continued expansion of HSAs will have a twofold effect. For those

with insurance, the high deductible encourages more responsible, and less wasteful, health care decisions. For those without insurance, the wider availability and lower premiums makes it more affordable for individuals to purchase these plans in the nongroup market and for companies to provide insurance for their employees. The bottom line is that the expansion of these plans will create downward pressure on escalating health care costs.

My proposal aims to make HSAs more attractive to employees, more attractive to employers, and more attractive to older workers. And the bill provides innovative ways for younger workers to contribute seed money to fund an account for their family.

For employees, the primary benefits are increased contribution limits, and the ability to pay their health insurance premiums from the HSA—with pre-tax dollars. Presently, the portion of premiums paid out-of-pocket is paid with after-tax dollars. This feature will make HSAs affordable for more low and moderate income individuals.

For employers, the bill provides incentives to move into low-cost premium arrangements. The health care costs of self-employed individuals and small employers who purchase plans in the non-group market should go down for those who avail themselves of these improved HSAs.

For older Americans, this bill will permit contributions to an HSA as long as they continue to work. Today, more and more Americans are working past the age of 65. This is a trend we should encourage, because the labor force of the future will need more of these experienced workers. Senior citizens contribute a great deal to the workplace and our economy. I know that they are in Utah. Yet I hear from many of our older workers that because they are eligible for Medicare, they are ineligible for HSAs. Expanding contributions to a population that generally has more medical expenses makes sense.

The cornerstone of my bill is a provision that allows HSAs to be funded with tax-free transfers of balances from other health or retirement plans. Participation in certain employer-sponsored health plans makes it impossible for employees to contribute to an HSA. For example, health reimbursement arrangements—HRAs—are plans that allow employers to reimburse substantiated employee medical expenses up to a maximum amount. Under current law, participation in an HRA disqualifies an individual from contributing to an HSA and remaining balances are subject to forfeiture.

I believe that employers that have adopted HRAs would be more likely to offer HSAs if they are allowed a one-time opportunity to transfer individual HRA balances into HSAs. Allowing a one-time conversion opportunity would be very valuable for employees because the balances currently in HRAs would become employee-owned. Not only will

this encourage responsible spending on health care, but it will also help to make health insurance more portable, a goal that discourages job lock and creates more freedom and opportunity for American workers.

The bill provides for a tax-free transfer of IRA funds, originally allocated for retirement, to an HSA, with the money reallocated for health care expenses. This will be particularly helpful for those in need of initial seed money to open an HSA and for those who anticipate high medical expenses for which they are currently unable to tap IRA funds without penalty.

My proposal will make it easier for veterans to participate in an HSA. According to Treasury Department guidance, a veteran may not contribute to an HSA if he or she has actually received medical benefits from the VA at any time during the previous 3 months. This bill would allow a veteran who receives VA medical benefits for a service-connected disability to be eligible for an HSA.

I am pleased to tell my colleagues that the changes proposed by the Health Savings Accounts Improvement and Expansion Act of 2006 have been endorsed by a broad cross-section of major health care organizations. I am proud that the National Association of Health Underwriters, the American Benefits Council, the Council of Insurance Agents and Brokers, Assurant Health, the Chamber of Commerce, the National Business Group on Health, the Business Roundtable, and the Financial Services Roundtable have all endorsed my attempt to expand the availability of Health Savings Accounts. These groups know how important HSAs are in giving employees and employers the flexibility to meet their health care needs.

Mr. President, I expect the popularity of HSAs will one day elevate the acronym to the level of IRAs, where no further clarification is required. Today, I ask my colleagues to join me in a bipartisan effort to accelerate that process by enacting this important legislation.

I ask unanimous consent that a section-by-section description of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows.

S. 3585

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.**

(a) SHORT TITLE.—This Act may be cited as the “HSA Improvement and Expansion Act of 2006”.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

**SEC. 2. FINDINGS.**

The Congress finds the following:

(1) The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173) authorizes health savings accounts (referred to in this section as “HSAs”) into which individuals may make annual contributions of not more than \$2,700, and families may make annual contributions of not more than \$5,450, to permit spending by individuals for their health care needs.

(2) Federal law provides for obtaining health insurance coverage through a low premium health plan offered with a tax-favored HSA that typically costs substantially less than traditional health insurance.

(3) Giving individuals more direct control over their health care spending will encourage more prudent use of health care services, help make the health care system more responsive to the needs of consumers, and improve access to health coverage for the uninsured.

(4) A broad range of improvements to the Federal laws governing HSAs are necessary to make them more attractive to consumers and employers.

(5) The number of people covered in January 2006 by products combining an HSA with a low premium health plan was 3,168,000, more than triple the 1,031,000 reported in March 2005.

(6) HSAs have become an important option for consumers and employers who have struggled to afford health insurance coverage.

(7) According to a January 2006 census, 31 percent of new enrollees in HSAs and low premium health plans in the individual market were previously uninsured.

(8) HSAs combined with low premium health plans can provide an affordable and accessible health insurance option for individuals of all ages.

(9) 50 percent of all people covered by HSAs and low premium health plans in the individual market, including dependents covered under family plans, are 40 years of age or older.

(10) Many States currently have in effect laws and regulations that require insurers to provide specific benefit coverage in the health insurance plans they offer, preventing individuals and small business from enrolling in low premium health plans and making them ineligible for HSAs.

### SEC. 3. ACCELERATED FUNDING FOR HSAS THROUGH DISTRIBUTIONS FROM BALANCES IN HEALTH REIMBURSEMENT AND FLEXIBLE SPENDING ARRANGEMENTS AND FROM INDIVIDUAL RETIREMENT PLANS.

(a) ONE-TIME FSA AND HRA ROLLOVERS TO HSAS.—

(1) IN GENERAL.—A plan shall not fail to be treated as a flexible spending arrangement or health reimbursement arrangement under section 105 or 106 of the Internal Revenue Code of 1986 merely because—

(A) such plan provides for a contribution to the health savings account (as defined in section 223 of such Code) of the employee which meets the requirements of paragraph (2), and

(B) such plan thereafter terminates with respect to such employee.

(2) REQUIREMENTS.—A contribution meets the requirements of this paragraph if—

(A) in the case of a flexible spending arrangement (as defined in section 106(c)(2) of such Code) in existence on June 1, 2006, such contribution is the remaining balance in such arrangement as of the last day of the plan year ending in or before the taxable year in which such contribution is made,

(B) in the case of a health reimbursement arrangement in existence on June 1, 2006, such contribution is the remaining balance of the amount to be received in reimbursements under such arrangement as of the last day of the plan year ending in or before the

taxable year in which such contribution is made, and

(C) such contribution is made by the employer directly to the health savings account of the employee not later than 60 days after the end of the plan year of such flexible spending arrangement or health reimbursement arrangement.

(3) TREATMENT AS ROLLOVER CONTRIBUTION.—For purposes of sections 223 and 4973 of such Code, a contribution which meets the requirements of paragraph (2) shall be treated as a rollover contribution described in section 223(f)(5) of such Code.

(4) TAX TREATMENT RELATING TO CONTRIBUTIONS.—For purposes of this title—

(A) INCOME TAX.—Gross income shall not include the amount of any contribution under this subsection.

(B) EMPLOYMENT TAXES.—Amounts contributed to a health savings account under this subsection shall be treated as a payment described in section 106(d) of such Code.

(C) COMPARABILITY EXCISE TAX.—Section 4980G of such Code shall not apply to contributions made under this subsection.

(5) TERMINATION.—This paragraph shall not apply to any taxable year beginning after December 31, 2011.

(b) ONE-TIME DISTRIBUTION FROM INDIVIDUAL RETIREMENT PLANS TO FUND HSAS.—

(1) IN GENERAL.—Section 402 (relating to taxability of beneficiary of employees' trust) is amended by adding at the end the following new subsection:

“(1) HEALTH SAVINGS ACCOUNT FUNDING DISTRIBUTION FROM INDIVIDUAL RETIREMENT PLANS.—

“(1) IN GENERAL.—In the case of an employee who is an eligible individual and who elects the application of this subsection for a taxable year, gross income of the employee for the taxable year does not include a qualified HSA funding distribution to the extent such distribution is otherwise includible in gross income (determined after the application of paragraph (4)).

“(2) QUALIFIED HSA FUNDING DISTRIBUTION.—For purposes of this subsection, the term ‘qualified HSA funding distribution’ means a distribution from an individual retirement plan of the employee to the extent that such distribution is contributed to the health savings account of the employee not later than the 60th day after the day on which the employee receives such distribution or in a direct trustee-to-trustee transfer.

“(3) LIMITATIONS.—

“(A) MAXIMUM DOLLAR LIMITATIONS BASED ON OUT-OF-POCKET LIMITS IN EFFECT AT TIME OF CONTRIBUTION.—The amount excluded from gross income by paragraph (1) shall not exceed—

“(i) in the case of an individual who has self-only coverage under a high deductible health plan as of the first day of the month in which the qualified HSA funding distribution is contributed to the health savings account of the employee, the amount in effect for the taxable year under subclause (I) of section 223(c)(2)(A)(ii), and

“(ii) in the case of an individual who has family coverage under a high deductible health plan as of the first day of the month in which the qualified HSA funding distribution is contributed to the health savings account of the employee, the amount in effect for the taxable year under subclause (II) of section 223(c)(2)(A)(ii).

“(B) ONE-TIME TRANSFER.—

“(i) IN GENERAL.—Except as provided in clause (ii), an individual may make an election under paragraph (1) only for one qualified HSA funding distribution during the lifetime of the individual. Such an election, once made, shall be irrevocable.

“(ii) CONVERSION FROM SELF-ONLY TO FAMILY COVERAGE.—If a qualified HSA funding distribution is made during a month during which an individual has self-only coverage under a high deductible health plan as of the first day of the month, the individual may elect to make an additional qualified HSA funding distribution during a subsequent month during which the individual has family coverage under a high deductible health plan as of the first day of the subsequent month, except that the limitation otherwise applicable under subparagraph (A)(i) to the distribution during such subsequent month shall be reduced by the amount of the earlier qualified HSA funding distribution.

“(4) APPLICATION OF SECTION 72.—Notwithstanding section 72, in determining the extent to which an amount is treated as includible in gross income for purposes of paragraph (1), the aggregate amount distributed from an eligible retirement plan in a taxable year shall be treated as includible in gross income to the extent that such amount does not exceed the aggregate amount which would have been so includible if all amounts distributed from all eligible retirement plans were treated as 1 contract for purposes of determining the inclusion of such distribution under section 72. Proper adjustments shall be made in applying section 72 to other distributions in such taxable year and subsequent taxable years.

“(5) DEFINITIONS.—For purposes of this subsection—

“(A) ELIGIBLE RETIREMENT PLAN.—The term ‘eligible retirement plan’ means an individual retirement plan (as defined in section 7701(a)(37)), including an individual retirement plan which is designated as a Roth IRA.

“(B) ELIGIBLE INDIVIDUAL.—The term ‘eligible individual’ has the meaning given such term by section 223(c)(1).

“(6) RELATED PLANS TREATED AS 1.—For purposes of this subsection, all eligible retirement plans of an employer shall be treated as a single plan.”

(2) COORDINATION WITH LIMITATION ON CONTRIBUTIONS TO HSAS.—Section 223(b)(4) (relating to coordination with other contributions) is amended by striking “and” at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting “, and”, and by inserting after subparagraph (B) the following new subparagraph:

“(C) the aggregate amount contributed to health savings accounts of such individual for such taxable year under section 402(1) (and such amount shall not be allowed as a deduction under subsection (a)).”

(3) 10-PERCENT PENALTY ON EARLY DISTRIBUTIONS NOT TO APPLY.—Section 72(t)(2)(A) of such Code (relating to subsection not to apply to certain distributions) is amended by striking “or” at the end of clause (vi), by striking the period at the end of clause (vii) and inserting “, or”, and by inserting after clause (vii) the following new clause:

“(viii) a qualified HSA funding distribution (as defined by section 402(1)).”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.

### SEC. 4. PROVISIONS RELATING TO ELIGIBILITY TO CONTRIBUTE TO HSAS.

(a) INDIVIDUALS ELIGIBLE FOR REIMBURSEMENT UNDER SPOUSE'S FLEXIBLE SPENDING ARRANGEMENT.—Section 223(c)(1) (defining eligible individual) is amended by adding at the end the following new subparagraph:

“(C) SPECIAL RULE FOR CERTAIN FLEXIBLE SPENDING ARRANGEMENTS.—For purposes of subparagraph (A)(ii), an individual shall not be treated as covered under a health plan described in such subparagraph merely because the individual is covered under a flexible

spending arrangement (within the meaning of section 106(c)(2)) which is maintained by an employer of the spouse of the individual, but only if—

“(i) the employer is not also the employer of the individual, and

“(ii) the individual certifies to the employer and to the Secretary (in such form and manner as the Secretary may prescribe) that the individual and the individual's spouse will not accept reimbursement under the arrangement for any expenses for medical care provided to the individual.”

(b) INDIVIDUALS OVER AGE 65 AUTOMATICALLY ENROLLED IN MEDICARE PART A.—Section 223(b)(7) (relating to contribution limitation on medicare eligible individuals) is amended by adding at the end the following new sentence: “This paragraph shall not apply to any individual during any period the individual's only entitlement to such benefits is an entitlement to hospital insurance benefits under part A of title XVIII of such Act pursuant to an automatic enrollment for such hospital insurance benefits under the regulations under section 226(a)(1) of such Act.”

(c) INDIVIDUALS ELIGIBLE FOR CERTAIN VETERANS BENEFITS.—Section 223(c)(1) (defining eligible individual), as amended by subsection (a), is amended by adding at the end the following new subparagraph:

“(D) SPECIAL RULE FOR INDIVIDUALS ELIGIBLE FOR CERTAIN VETERANS BENEFITS.—For purposes of subparagraph (A)(ii), an individual shall not be treated as covered under a health plan described in such subparagraph merely because the individual receives periodic hospital care or medical services for a service-connected disability under any law administered by the Secretary of Veterans Affairs but only if the individual is not eligible to receive such care or services for any condition other than a service-connected disability.”

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.

#### SEC. 5. PROVISIONS RELATING TO CONTRIBUTION AND LOW PREMIUM HEALTH PLAN LIMITS.

(a) INCREASE IN CONTRIBUTION LIMITS FOR HSAs.—

(1) INCREASE IN MONTHLY LIMIT.—

(A) IN GENERAL.—Paragraph (2) of section 223(b) (relating to monthly limitation) is amended to read as follows:

“(2) MONTHLY LIMITATION.—In the case of an eligible individual who has coverage under a high deductible health plan, the monthly limitation for any month of such coverage is  $\frac{1}{2}$  of—

“(A) in the case of an eligible individual who has self-only coverage under a high deductible health plan as of the first day of such month, \$2,700, and

“(B) in the case of an eligible individual who has family coverage under a high deductible health plan as of the first day of such month, \$5,450.”

(B) CONFORMING AMENDMENTS.—

(i) Section 223(d)(1)(A)(ii)(I) is amended by striking “subsection (b)(2)(B)(ii)” and inserting “subsection (b)(2)(B)”.

(ii) Section 223(c)(2)(D) is amended to read as follows:

“(D) SPECIAL RULE FOR NETWORK PLANS.—In the case of a plan using a network of providers, such plan shall not fail to be treated as a high deductible health plan by reason of having an out-of-pocket limitation for services provided outside of such network which exceeds the applicable limitation under subparagraph (A)(ii).”

(2) INCREASE IN LIMIT FOR INDIVIDUALS BECOMING ELIGIBLE INDIVIDUALS AFTER THE BEGINNING OF THE YEAR.—Section 223(b) (relating to limitations) is amended by adding at the end the following new paragraph:

“(8) INCREASE IN LIMIT FOR INDIVIDUALS BECOMING ELIGIBLE INDIVIDUALS AFTER THE BEGINNING OF THE YEAR.—An individual who first becomes an eligible individual during a calendar year in a month after January of the calendar year shall, for purposes of computing the limitation under paragraph (1) for any taxable year, be treated as having been an eligible individual during each of the months in such calendar year preceding such first month (and as having been enrolled in each of those months in the same high deductible health plan the individual was enrolled in for such first month).”

(3) APPLICATION OF SPECIAL RULES FOR MARRIED INDIVIDUALS.—Paragraph (5) of section 223(b) (relating to special rule for married individuals) is amended to read as follows:

“(5) SPECIAL RULES FOR MARRIED INDIVIDUALS.—

“(A) IN GENERAL.—In the case of individuals who are married to each other and who are both eligible individuals, the limitation under paragraph (1) for each spouse shall be equal to the spouse's applicable share of the excess (if any) of—

“(i) the dollar amount in effect under paragraph (2)(B) (without regard to any additional contribution amounts under paragraph (3)), over

“(ii) the aggregate amount paid to Archer MSAs of such spouses for the taxable year.

“(B) APPLICABLE SHARE.—For purposes of subparagraph (A), a spouse's applicable share is one-half of the limitation under subparagraph (A) unless both spouses agree on a different division.”

(4) SELF-ONLY COVERAGE.—Section 223(c)(4) (defining family coverage) is amended to read as follows:

“(4) COVERAGE.—

“(A) FAMILY COVERAGE.—The term ‘family coverage’ means any coverage other than self-only coverage.

“(B) SELF-ONLY COVERAGE.—If more than 1 individual is covered by a high deductible health plan but only 1 of the individuals is an eligible individual, the coverage shall be treated as self-only coverage.”

(b) FAMILY PLAN MAY HAVE INDIVIDUAL ANNUAL DEDUCTIBLE LIMIT.—Section 223(c)(2) (defining high deductible health plan) is amended by adding at the end the following new subparagraph:

“(E) SPECIAL RULE FOR FAMILY COVERAGE.—A health plan providing family coverage shall not fail to meet the requirements of subparagraph (A)(i)(II) merely because the plan elects to provide both—

“(i) an aggregate annual deductible limit for all individuals covered by the plan which is not less than the amount in effect under subparagraph (A)(i)(II), and

“(ii) an annual deductible limit for each individual covered by the plan which is not less than the amount in effect under subparagraph (A)(i)(I).”

(c) COST-OF-LIVING ADJUSTMENTS COMPUTED EARLIER IN THE CALENDAR YEAR.—Paragraph (1) of section 223(g) (relating to cost-of-living adjustment) is amended by adding at the end the following new flush sentence:

“In the case of any taxable year beginning after 2006, section 1(f)(4) shall be applied for purposes of this paragraph by substituting ‘March 31’ for ‘August 31’ and the Secretary shall publish the adjusted amounts under subsections (b)(2) and (c)(2)(A) for taxable years beginning in any calendar year no later than June 1 of the preceding calendar year.”

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.

#### SEC. 6. DEFINITION OF QUALIFIED MEDICAL EXPENSES.

(a) PREMIUMS FOR LOW PREMIUM HEALTH PLANS TREATED AS QUALIFIED MEDICAL EXPENSES.—Subparagraph (C) of section 223(d)(2) is amended by striking “or” at the end of clause (iii), by striking the period at the end of clause (iv) and inserting “, or”, and by adding at the end the following new clause:

“(v) a high deductible health plan, but only if the expenses are for coverage for a month with respect to which the account beneficiary is an eligible individual by reason of the coverage under the plan.”

(b) SPECIAL RULE FOR CERTAIN MEDICAL EXPENSES INCURRED BEFORE ESTABLISHMENT OF ACCOUNT.—Paragraph (2) of section 223(d) is amended by adding at the end the following new subparagraph:

“(D) CERTAIN MEDICAL EXPENSES INCURRED BEFORE ESTABLISHMENT OF ACCOUNT TREATED AS QUALIFIED.—An expense shall not fail to be treated as a qualified medical expense solely because such expense was incurred before the establishment of the health savings account if such expense was incurred—

“(i) during either—

“(I) the taxable year in which the health savings account was established, or

“(II) the preceding taxable year in the case of a health savings account established after the taxable year in which such expense was incurred but before the time prescribed by law for filing the return for such taxable year (not including extensions thereof), and

“(ii) for medical care of an individual during a period that such individual was an eligible individual.

For purposes of clause (ii), an individual shall be treated as an eligible individual for any portion of a month the individual is described in subsection (c)(1), determined without regard to whether the individual is covered under a high deductible health plan on the 1st day of such month.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.

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

#### THE HEALTH SAVINGS ACCOUNTS IMPROVEMENT AND EXPANSION ACT OF 2006 SECTION-BY-SECTION

##### I. Distributions to HSAs from existing health and retirement accounts

HRA/FSA Rollover—Section 3(a): Health Reimbursement Arrangements (HRAs) are employer-sponsored plans which allow employers to reimburse substantiated employee medical expenses up to a maximum amount. Flexible Spending Arrangements (FSAs) are employer-sponsored plans that are usually funded through voluntary salary reduction agreements with an employee. Participation in these plans disqualifies individuals from contributing to Health Savings Accounts (HSAs) except in limited situations. The disqualification from HSA contributions applies regardless of whether the coverage is provided by the employer of the individual or spouse of the individual.

Employers with existing FSAs or HSAs might be more likely to offer health savings accounts if they were allowed a one-time opportunity to transfer individual balances into HSAs. FSA balances are subject to forfeiture when an individual leaves employment and HRA balances generally revert to the employer. Allowing a one-time conversion opportunity would be very valuable for employees because the balances currently in their employer-sponsored accounts would become employee-owned funds to which they could also contribute in the future and could keep as they change employment.

Seeding an HSA Through an IRA Roll-over—Section 3(b): HSAs work in combination with High Deductible Health Plans (HDHPs). Because the maximum deductible with an HDHP can be as high as \$5,250 for a family plan, with maximum out-of-pocket expenses as high as \$10,500, these plans can be intimidating for young families or the chronically ill who anticipate substantial medical expenses. To alleviate these concerns and to allow an individual to “seed” an HSA with a substantial amount of money, the Act would authorize a one-time distribution from an IRA to an HSA, up to the amount of the statutory out-of-pocket maximum. To accommodate a person who elects this distribution while covered by an individual plan, but who later has family coverage, the measure would allow a one-time catch-up contribution of the difference between the original contribution and the statutory limit on out-of-pocket expenses for a family plan. These distributions would not be subject to the ordinary 10% penalty for early IRA distributions.

#### II. Eligibility to contribute to HSAs

Employee Who Has a Spouse with an FSA—Section 4(a): Under current law, an individual may not contribute to an HSA if his spouse has an FSA, even if the individual never seeks to be reimbursed for any medical expenses from the spouse's FSA. The proposal would allow contributions to an HSA provided that the individual certifies that he will not receive reimbursement for any health expenses from his spouse's FSA.

Older Employees—Section 4(b): Active employees over age 65 are permitted to contribute to an HSA so long as the individual is not enrolled in Medicare. However, individuals are automatically enrolled in Medicare Part A (which covers hospital expenses) upon reaching age 65 even though their plan through their employer will typically continue to cover their medical expenses until they retire. The Act would allow older workers who participate in HSAs to be allowed to continue to contribute to their accounts until they retire despite the fact they were automatically enrolled in Medicare Part A at age 65.

Veterans—Section 4(c): Under current law, a combat wounded veteran who is eligible for medical benefits through the Department of Veterans Affairs (VA) is also HSA eligible. According to Treasury Department guidance, however, the veteran may not contribute to an HSA, if he or she has actually received medical benefits from the VA at any time during the previous three months. The Act would also allow a veteran who actually receives VA medical benefits for a service-connected disability to be eligible for an HSA.

#### III. Increasing value in HSAs

Increasing Contribution Limits—Section 5(a): Under current law HSA contributions are limited to the lesser of the actual deductible or the statutory contribution limit (\$2,700 individual/\$5,450 family for 2006). The President has proposed raising the contribution limit to the statutory out-of-pocket maximum for HSAs (\$5,250 individual/\$10,500 family). The proposal would permit mid-year enrollment and allow individuals and families to contribute up to the contribution limit, regardless of the actual deductible of the plan.

Permitting Individual Family Members to Satisfy Individual Rather than Family Deductible—Section 5(b): Most employer-sponsored health plans begin providing coverage as soon as a family member meets the individual deductible for the plan rather than the full family deductible. Current HSA guidance only allows this practice if the individual deductible is at least the minimum deductible for family coverage (\$2,000). Al-

lowing coverage to begin after a family member satisfies the individual deductible amount would help to encourage more employees to elect HSAs for themselves and their families.

Earlier Indexing of Cost of Living Adjustments—Section 5(c): The HSA statute directs Treasury to index deductible amounts, out-of-pocket expense limits, and limits on contributions to HSAs. Treasury is required to use third quarter economic data when making these annual updates, which means the new figures are typically issued in December, too late for many employers who need to make these updates much sooner in the year. Directing Treasury to complete the indexing of these amounts by June 1, using first quarter economic data, will give employers the information they need in enough time to modify their plan offerings that take effect the following January.

#### IV. Expanding the definition of qualified medical expenses

Premiums—Section 6(a): A large part of a family's annual medical expenses is the cost of premiums for health insurance. Under current law, high deductible health plan premiums cannot be paid from an HSA. As a result, individuals must pay their premiums with after-tax dollars. Employees must use after-tax dollars to pay their share of premiums for employer-sponsored coverage, unless their employer provides a premium conversion plan under Section 125 of the Internal Revenue Code. The proposal would allow high deductible health plan premiums to be paid with pre-tax dollars from an HSA. This provision will primarily help self-employed individuals and others who purchase plans in the non-group market. Further, it would provide an incentive for employers not currently offering health insurance to make available a low-cost high-deductible plan.

Medical Expenses Incurred Before Establishment of Account—Section 6(b): Under current law, only qualified expenses that are incurred after an HSA is established can be distributed tax-free from the account. The Act would allow certain medical expenses incurred before establishment of the HSA to qualify as well. Generally, expenses incurred during the taxable year in which the HSA was established or during the preceding taxable year could be paid from the account without penalty.

By Mr. HATCH:

S. 3586. A bill to amend the Internal Revenue Code of 1986 to repeal the dollar limitation on contributions to funeral trusts; to the Committee on Finance.

Mr. HATCH. Mr. President, I rise today to introduce a bill that will eliminate the current limit on the amount individuals can place into a trust to provide for funeral expenses. Given the rising costs of funeral expenses, this change would have a positive impact on the lives of older Americans and on their families. In addition, according to the Joint Committee on Taxation, it would have a slight, but positive, impact on the Federal Treasury.

Current law limits a funeral trust to \$8,500, but this is generally no longer sufficient to cover a family's funeral expenses. In Utah, the average cost of a full funeral and burial is \$12,685. I am sure that in many other States it is even higher. Because of this contribution limit, even those who preplan their own funerals too often leave their

heirs with substantial expenses. Even those who attempt to cover the entire expense may not have enough to cover all costs after administrative fees and taxes are deducted.

This proposal would make qualified funeral trusts more effective. The principal reason individuals set up qualified funeral trust plans is to lift a financial burden from their children.

I recall the case of one constituent who wrote to me about this 3 years ago. He was suffering from Parkinson's disease began preplanning his own funeral so these decisions and this burden would be lifted from his children. Because of the “QFT Cap” which at the time was \$7,800, this Utahn was not able to preplan completely the funeral services he desired. It became necessary to have one of his sons complete this preplanning for him by opening up his own trust that would help to cover all expenses. It seems silly to make families go to these extra steps when they are attempting to make responsible decisions, well in advance of need, for themselves and their families.

For older Americans, the primary benefits of this legislation are the ability to have all the money they have saved in the trust to be applied to final expenses, instead of taxes, and the incentive to increase the amount of their contribution. Sixty percent of pre-funded funerals were funded by trusts and elimination of the cap should raise this percentage. For funeral directors, this change would eliminate the burden and expense of issuing information documents to report income earned from the trust.

I think we can all agree that we should make it easier for those who are willing to provide for these necessary expenses in advance. Today, I ask my colleagues to join me in an effort to enact this important measure.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 3586

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. REPEAL OF DOLLAR LIMITATION ON CONTRIBUTIONS TO FUNERAL TRUSTS.

(a) IN GENERAL.—Subsection (c) of section 685 of the Internal Revenue Code of 1986 (relating to treatment of funeral trusts) is repealed.

(b) CONFORMING AMENDMENT.—Subsections (d), (e), and (f) of such section are redesignated as subsections (c), (d), and (e), respectively.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.