At the request of Mr. McCain, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of amendment No. 1978 proposed to H.R. 2863, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

At the request of Mr. Kennedy, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of amendment No. 1991 proposed to H.R. 2863, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

At the request of Mr. Byrd, the name of the Senator from Wisconsin (Mr. Feingold) was added as a cosponsor of amendment No. 1990 proposed to H.R. 2863, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

At the request of Mr. Graham, the name of the Senator from Massachusetts (Mr. Kerry) was added as a cosponsor of amendment No. 2003 intended to be proposed to H.R. 2863, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

At the request of Ms. Landrieu, her name was added as a cosponsor of amendment No. 2022 intended to be proposed to H.R. 2863, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

At the request of Mr. Salazar, his name was added as a cosponsor of amendment No. 2023 intended to be proposed to H.R. 2863, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

At the request of Mr. Kerry, the names of the Senator from Vermont (Mr. Leahy), the Senator from Minnesota (Mr. Dayton), the Senator from Michigan (Ms. Stabenow), the Senator from New Mexico (Mr. Bingaman), the Senator from Maine (Ms. Snowe), the Senator from Connecticut (Mr. Dodd), the Senator from Michigan (Mr. Levin), the Senator from New Mexico (Ms. Bennett), the Senator from Minnesota (Mr. Coleman), the Senator from Maine (Ms. Snowe), the Senator from Vermont (Mr. Sanders), the Senator from Colorado (Mr. Salazar) were added as cosponsors of amendment No. 2053 proposed to H.R. 2863, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.
quantities. We barely have enough antiviral medication for 2 percent of our population. Our health care infrastructure is not prepared to handle a pandemic. And the medical community, businesses, and general public need to heed the warnings and take action immediately.

Last week, the Senate unanimously approved an amendment offered by Senators HARKIN, OBAMA, KENNEDY, DURBIN and me that will begin to provide the resources necessary to protect Americans against this looming threat.

Today, I am proud to introduce, along with Senators OBAMA, BAYH, KENNEDY, HARKIN and DURBIN, the Pandemic Preparedness and Response Act of 2005. This legislation builds on our commitment to protecting Americans by preparing for the possibility of a pandemic.

Specifically, the Pandemic Preparedness and Response Act will ensure that we have a national plan to address a flu pandemic. Our bill, a national plan to address a flu pandemic, builds on our commitment to protecting Americans by preparing for the possibility of a pandemic.

Our bill will improve surveillance and international partnerships so we may detect the emergence of a flu strain with pandemic potential immediately. Specifically, our bill establishes and implements a comprehensive diplomatic strategy targeted at nations most at risk for an epidemic of avian influenza. It also provides assistance for international surveillance and medical care, and creates an International Health and Operations Center to support pre-pandemic influenza control and relief activities in countries affected by avian influenza.

Domestic surveillance efforts will also be bolstered by our legislation. Our bill improves surveillance capacity, and expands efforts by the Department of Agriculture to prevent pandemic avian influenza.

The Pandemic Preparedness and Response Act will improve our capacity to develop, produce and distribute an effective vaccine that will be effective against a pandemic flu. It will expand research at the National Institutes of Health so we may develop more efficient methods of producing vaccines. Our bill would enhance our vaccine production capacity by creating a guaranteed market for seasonal flu vaccine through a federal buyback program for a portion of unsold doses. And among other provisions, our bill will improve access to vaccinations during a pandemic by enhancing annual flu vaccination coverage for uninsured and underinsured adults and children.

Our legislation will ensure that we have enough antivirals, vaccines and other essential medications and supplies in the Strategic National Stockpile. Specifically, our bill requires that we procure enough antiviral medication to cover a minimum of 50 percent of the population for the Strategic National Stockpile. This legislation will protect Americans from the price-gouging of medications during a pandemic, and establishes a mass tracking and distribution system for vaccines and antiviral medications so we can direct medications and vaccines to where they are most needed.

The Pandemic Preparedness and Response Act will also improve our surge capacity so that the American people can be assured there will be an adequate supply of health care providers and institutions to care for them in the event of a pandemic. Our bill will also ensure that public education and awareness campaigns targeted to businesses, health care providers and the American public to pandemic preparedness are conducted.

And finally, the Pandemic Preparedness and Response Act will ensure that adequate resources are available to address this looming threat.

I hope that my colleagues will join me in supporting this legislation so we may ensure that we do everything possible to prepare and protect Americans from the threat of a global flu pandemic.

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

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

SEC. 1. SHORT TITLE.

This Act may be cited as the "Pandemic Pre paredness and Response Act".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The Department of Health and Human Services reports that an influenza pandemic has a greater potential to cause rapid increases in death and illness than virtually any other natural health threat.

(2) Three pandemics occurred during the 20th century: the Spanish flu pandemic in 1918, the Asian flu pandemic in 1957, and the Hong Kong flu pandemic in 1968. The Spanish flu pandemic was the most severe, causing over 500,000 deaths in the United States and more than 20,000,000 deaths worldwide.

(3) The Centers for Disease Control and Prevention has estimated conservatively that up to 207,000 Americans would die, and up to 734,000 would be hospitalized, during the next pandemic. The costs of the pandemic, including the total direct costs associated with medical care and indirect costs due to productivity and lost earnings estimated at between $71,000,000,000 and $166,500,000,000. These costs do not include the economic effects of pandemic on commerce and society.

(4) Vaccination studies show that influenza strains, which are endemic in wild birds and poultry populations in some countries, are becoming increasingly capable of causing severe disease in humans and are likely to cause the next pandemic flu.

(5) In 2004, 8 nations—Thailand, Vietnam, Indonesia, Japan, Laos, China, Cambodia, and the Philippines—reported outbreaks of avian flu (H5N1) among poultry flocks. Cases of human infections were confirmed in Thailand, Cambodia, Indonesia, and Vietnam (including a possible human-to-human infection in Thailand).

(6) As of September 29, 2005, 116 confirmed human cases of avian influenza (H5N1) have been reported, 60 of which resulted in death. Of these cases, 91 were in Vietnam, 17 in Thailand, 4 in Cambodia, and 4 in Indonesia.

(7) On February 21, 2005, Dr. Julie Gerberding, Director of the Centers for Disease Control and Prevention, stated that “this is a very ominous situation for the globe ... the most important threat we are facing right now.”

(8) On February 23, 2005, Dr. Shigeru Omi, Asia regional director of the World Health Organization (WHO), stated with respect to the avian flu, “We at WHO believe that the world is now in the gravest possible danger of a pandemic.”

(9) The best defense against influenza pandemics is a heightened global surveillance system. In many of the nations where avian flu (H5N1) has become endemic the early detection capabilities are severely lacking, as is the transparency in the health systems.

(10) In addition to surveillance, pandemic preparedness requires domestic and international coordination and cooperation to ensure an adequate medical response, including communication and information networks, public health measures to prevent spread, use of vaccination and antivirals, provision of health outpatient and inpatient services, and maintenance of core public functions.

SEC. 3. AMENDMENTS TO THE PUBLIC HEALTH SERVING ACT.

Title XXI of the Public Health Service Act (42 U.S.C. 300aa-1 et seq.) is amended by adding at the end the following:

"Subtitle 3—Pandemic Influenza Preparedness

SEC. 2141. DEFINITION.

For purposes of this subtitle, the term "Pandemic" shall have the meaning given such term in section 2(f) and shall include Indian tribes and tribal organizations (as defined in section 4(b) and 4(c) of the Indian Self-Determination and Education Assistance Act).

SEC. 2142. NATIONAL DIRECTOR OF PANDEMIC PREPAREDNESS AND RESPONSE.

(a) Appointment.—The President shall appoint an individual to serve as the National Director of Pandemic Preparedness and Response (referred to in this section as the "Director") within the Executive Office of the President.

(b) Responsibilities.—The Director shall—

(1) serve as the chairperson of the Pandemic Influenza Preparedness Policy Coordinating Committee (as described in section 2143);

(2) coordinate the Federal interagency preparedness for a pandemic;

(3) coordinate the Federal interagency response to a pandemic;
“(4) oversee approval of State pandemic plans to ensure nationwide preparedness standards and regional coordination as provided for under section 2144(b)(3);

“(5) develop measures among the governmental and non-governmental economic and finance infrastructure as it relates to pandemic preparedness and response;

“(6) work to improve and finalize a National Pandemic Influenza Preparedness Plan that describes programs and activities to decrease the burden of disease, minimize social disruption, and reduce economic impact from an influenza pandemic;

“(7) implement the National Pandemic Influenza Preparedness Plan;

“(8) establish National Pandemic Influenza Preparedness Plan available to Congress, and the public as appropriate;

“(9) submit to Congress an annual budget request related to the National Pandemic Influenza Preparedness Plan;

“(10) report to Congress on a biannual basis progress regarding the implementation of the National Pandemic Influenza Preparedness Plan;

“(11) address any deficiencies in the National Pandemic Influenza Preparedness Plan as determined by the Government Accountability Office report under subsection (c);

“(12) coordinate the provision of technical assistance related to pandemic preparedness across Federal agencies, States, and local governments;

“(13) ensure outreach and education campaigns are conducted related to preparedness for businesses, health care providers, and the public;

“(14) address supply chain issues related to a pandemic;

“(15) ensure that the National Pandemic Influenza Preparedness Plan includes a specific focus on traditionally underserved populations, including low-income, racial and ethnic minorities, immigrants, and uninsured populations; and

“(16) hire staff, request information, assistance, or details from other Federal agencies, and carry out other activities related to staffing and administration.

“(c) GAO REPORT.—

“(1) IN GENERAL.—Not later than 60 days after the Director has finalized the National Pandemic Influenza Preparedness Plan under subsection (b)(5), the Government Accountability Office shall submit to the Director and Congress a report concerning the National Pandemic Influenza Preparedness Plan.

“(2) REQUIREMENTS.—At a minimum, the report under paragraph (1) shall evaluate the ability of the National Pandemic Influenza Preparedness Plan to—

“(A) address the organizational structure and chain of command, both in the Federal government and at the State level;

“(B) ensure adequate laboratory surveillance to track and isolate and subtype influenza viruses year round;

“(C) improve vaccine research, development, and production;

“(D) procure adequate doses of antivirals for treatment;

“(E) develop systems for tracking and distributing antiviral medication and vaccines;

“(F) prioritize who would receive antivirals and vaccines based on limited supplies;

“(G) stockpile medical and safety equipment for health care workers and first responders;

“(H) assure surge capacity capabilities for health care facilities and institutions;

“(I) secure a backup health care workforce in the event of a pandemic;

“(J) ensure the availability of food, water, and other essential items during a pandemic;

“(K) provide guidance on needed State and local authority to implement public health measures such as isolation or quarantine;

“(L) maintain core public functions, including public utilities, refuse disposal, mortuary services, transportation, police and firefighter services, and other critical services;

“(M) establish networks that provide alerts and other information for health care providers;

“(N) communicate with the public with respect to prevention and obtaining care during a pandemic;

“(O) provide security for first responders and other medical personnel and volunteers, hospitals, treatment centers, isolation and quarantine areas, transportation and delivery of resources.

“SEC. 2143. POLICY COORDINATING COMMITTEE ON PANDEMIC INFLUENZA PREPAREDNESS.

“(a) IN GENERAL.—There is established the Pandemic Influenza Preparedness Policy Coordinating Committee (referred to in this section as the ‘Committee’).

“(b) MEMBERSHIP.—

“(1) IN GENERAL.—The Committee shall be composed of—

“(A) the Secretary; 

“(B) the Secretary of Homeland Security;

“(C) the Secretary of Agriculture;

“(D) the Secretary of State;

“(E) the Secretary of Defense;

“(F) the Secretary of Commerce;

“(G) the Administrator of the Environmental Protection Agency;

“(H) the Secretaries of Transportation;

“(I) the Secretary of Veterans Affairs; and

“(J) other representatives as determined appropriate by the Committee.

“(2) CHAIR.—The Director of Pandemic Preparedness and Response shall serve as the Chair of the Committee.

“(3) TERM.—The members of the Committee shall serve for the life of the Committee.

“(c) MEETINGS.—

“(1) IN GENERAL.—The Committee shall meet not less often than 2 times per year at the call of the Chair or as determined necessary by the President.

“(2) REPRESENTATION.—A member of the Committee under subsection (b) may designate a representative to participate in Committee meetings, but such representative shall hold the position of at least an assistant secretary or equivalent position.

“(d) DUTIES OF THE COMMITTEE.—

“(1) PREPAREDNESS PLANS.—Each member of the Committee shall submit to the Committee a pandemic influenza preparedness plan for the agency involved that describes—

“(A) the planned activities and proposed activities by each member to address pandemic influenza (including avian influenza) preparedness; and

“(B) any activities and coordination with international and other partners related to such initiatives and proposals.

“(2) INTERAGENCY PLAN AND RECOMMENDATIONS.—

“(A) IN GENERAL.—Based on the preparedness plans described under paragraph (1), and not later than 90 days after the date of enactment of this title, the Committee shall develop an Interagency Pandemic Preparedness Plan that integrates and coordinates such preparedness plans.

“(B) CONTENT.—The Interagency Pandemic Preparedness Plan under clause (1) shall include a description of—

“(i) departmental or agency responsibility and accountability for each component of such plan;

“(ii) funding requirements and sources; and

“(iii) international collaboration and coordination efforts; and

“(iv) recommendations and a timeline for implementation of such plan.

“(2) REPORT.—

“(a) IN GENERAL.—The Committee shall submit to the President and Congress, and make available to the public as appropriate, a report that includes the Interagency Preparedness Plan.

“(b) UPDATED REPORT.—The Committee shall submit to the President and Congress, and make available to the public as appropriate, a report that includes the Interagency Preparedness Plan.

“(c) CONSULTATION WITH INTERNATIONAL ENTITIES.—In developing the preparedness plans described under subparagraph (A) and the report under subparagraph (B), the Committee should consult with representatives from the World Health Organization, the World Organization for Animal Health, and other international bodies, as appropriate.

“(d) APPLICATION OF FACA.—Notwithstanding the Federal Advisory Committee Act, non-governmental individuals and entities may participate in the activities of the Committee.

“SEC. 2144. DOMESTIC PANDEMIC INFLUENZA PREPAREDNESS ACTIVITIES.

“(a) PANDEMIC PREPAREDNESS ACTIVITIES.—

“The Director of Pandemic Preparedness and Response shall strengthen, expand, and coordinate domestic pandemic influenza preparedness activities.

“(b) STATE PREPAREDNESS PLAN.—

“(1) IN GENERAL.—As a condition of receiving funds from the Centers for Disease Control and Prevention or the Health Resources and Services Administration related to bioterrorism, a State shall—

“(A) designate an official or office as responsible for pandemic influenza preparedness;

“(B) submit to the Director of the Centers for Disease Control and Prevention a Pandemic Influenza Preparedness Plan described under paragraph (2) and a report under paragraph (5); and

“(C) have such Preparedness Plan approved in accordance with this subsection.

“(2) PREPAREDNESS PLAN.—

“(A) IN GENERAL.—The Pandemic Influenza Preparedness Plan required under paragraph (1) shall address—

“(i) human and animal surveillance activities, including capacity for epidemiological analysis, isolation and subtyping of influenza viruses year-round, including for avian influenza among domestic poultry, and related information across human and veterinary sectors;

“(ii) methods to ensure surge capacity in hospitals, laboratories, outpatient providers, public health offices, medical suppliers, and communication networks;

“(iii) providing training for healthcare providers and organizations at the National, State, and regional level;

“(iv) coordination with the public with respect to prevention and obtaining care during pandemic influenza;
(vii) maintenance of core public functions, including public utilities, refuse disposal, mortuary services, transportation, police and firefighter services, and other critical services;

(viii) provision of security for—

(I) first responders and other medical personnel and volunteers;

(II) community health centers, and isolation and quarantine areas;

(III) transport and delivery of resources, including vaccines, medications and other supplies;

(IV) other persons or functions as determined appropriate by the Secretary;

(ix) the acquisition of necessary legal authorities and activities;

(x) integration with existing national, State, and regional bioterrorism preparedness activities or infrastructure;

(xi) coordination among public and private health sectors with respect to healthcare delivery, including mass vaccination and treatment systems, during pandemic influenza; and

(xii) coordination with Federal pandemic influenza preparedness activities.

(3) Undersecretary for preparedness and response, in collaboration with the Pandemic Influenza Preparedness Policy Coordinating Committee, shall cooperate to rate State Pandemic Influenza Preparedness Plans required under paragraph (1) and determine the minimum rating needed for approval.

(4) Timing of approval.—Not later than 90 days after a State submits a State Pandemic Influenza Preparedness Plan as required under paragraph (1), the Director of the Centers for Disease Control and Prevention in coordination with the Secretary of Agriculture under subsection (b) shall have the authority to reimburse State and local health departments for expenditures related to influenza vaccine purchase and administration during a public health emergency under section 319(a).

(5) Any other information the Secretary, in consultation with the Secretary of Agriculture, considers necessary or appropriate to carry out this section, including data on the estimated human morbidity and mortality from pandemic influenza, and take immediate steps to procure this minimum number of doses for the Strategic National Stockpile described under section 319.

(g) Procurement of Essential Medications.—The Secretary shall, as soon as is practicable, take action to procure for the Strategic National Stockpile essential medications and other supplies that may be needed in the event of a pandemic.

(b) National Tracking and Distribution System for Vaccines and Antivirals.—

(1) IN GENERAL.—The system developed under paragraph (1) shall—

(a) allow for the electronic tracking of all domestically available antiviral medication and vaccines for pandemic influenza;

(b) anticipate shortages, and alert officials if shortages are expected in such medications and vaccines;

(c) target distribution to high-risk groups, including health professionals and the elderly and other persons determined to be most susceptible to disease or death from pandemic flu;

(d) ensure equitable distribution, particularly across low-income and other underserved groups;

(e) integrate with existing State and local systems as appropriate;

(f) reimburse States for the cost of emergency assistance as needed to carry out this subsection;

(g) develop and implement surveillance protocols for patients in outpatient and hospital settings;

(h) establish a communication alert plan for patients for reportable signs and symptoms that may suggest influenza;

(i) plan for the vaccination of populations and, if appropriate, dissemination of antiviral drugs;

(j) purchase necessary equipment and supplies;

(k) increase laboratory testing and networking capacity;

(l) conduct epidemiological and other analyses; and

(m) report and disseminate data.

(2) CONTENT OF PROPOSAL.—The proposal submitted under subsection (a) shall describe, with respect to the Pandemic Fund—

(A) funding sources;

(B) administration;

(C) application process by which a country may apply to receive assistance from such Fund;

(D) factors used to make a determination regarding a submitted application, which may include—

(A) the gross domestic product of the applicant country;

(B) the burden of need, as determined by estimated human morbidity and mortality and economic impact related to pandemic influenza and the existing capacity and resources of the applicant country to control the spread of the disease; and

(C) the willingness of the country to cooperate with other countries with respect to preventing and controlling the spread of pandemic influenza;

(2) Any other information the Secretary determines necessary.
"(c) USE OF FUNDS.—Funds from any Pandemic Fund established as provided for in this section shall be used to complement and augment ongoing bilateral programs and activities of the United States and other donor nations, or establish new programs as needed.

SEC. 2146. INTERNATIONAL DIPLOMATIC AND DEVELOPMENT STRATEGY.

"(a) POLICY.—It is the policy of the United States to develop and implement a comprehensive strategy targeted at (but not limited to) nations in Southeast and East Asia that are most at risk for an outbreak of the avian influenza, including Cambodia, Laos, Thailand, Indonesia, and Vietnam, in order to strengthen international public health structures to detect, prevent, and effectively respond to an outbreak of the avian flu.

"(b) STRATEGY.—The strategy developed and implemented under subsection (a) shall include—

"(1) supporting information sharing and strengthening surveillance, and rapid response capacities in key nations, including the development of pandemic preparedness and response plans;

"(2) issuing demarches to key nations in the region urging additional cooperation and coordination with United States, regional governments, and international organizations;

"(3) provide for regular visits by cabinet-level officials of the United States Government, including the Secretary of State, Secretary of Health and Human Services, Secretary of Agriculture, Secretary of Homeland Security, and Secretary of Defense, to key nations in Southeast and East Asia in order to enhance cooperation;

"(4) expanding ongoing technical assistance and training programs, including training of personnel, procuring laboratory equipment, logistics support, bio-safety procedures, quality control, and case detection investigation techniques;

"(5) exchanges of scientists and medical personnel engaged in significant work on issues related to avian flu;

"(6) encouraging regional governments to develop viable compensation schemes to encourage reporting by poultry farmers of cases of avian influenza in commercial flocks;

"(7) forward deployment of additional United States Government science and medical personnel to embassies and consulates in the region;

"(8) public awareness campaigns in the region, including increased involvement of the Broadcasting Board of Governors and Voice of America, to ensure timely and accurate dissemination of information;

"(9) using the voice and vote of the United States at meeting of appropriate international organizations to support the aforementioned efforts; and

"(10) integrating the private sector, especially those entities with a strong presence in the region, into this effort.

SEC. 2147. INTERNATIONAL PANDEMIC INFLUENZA ASSISTANCE.

"(a) IN GENERAL.—The Secretary shall assist other countries in preparation for, and response to, pandemic influenza, including possible pandemic avian influenza.

"(b) INTERNATIONAL SURVEILLANCE.—

"(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, and in collaboration with the Secretary of Agriculture, in consultation with the World Health Organization and the World Organization for Animal Health, shall establish minimum standard capacity for all countries with respect to viral strains with pandemic potential, including avian influenza.

"(2) ASSISTANCE.—The Secretary and the Secretary of Agriculture shall assist other countries to meet the standards established in paragraph (1) through—

"(A) training of personnel to foreign countries for the provision of technical assistance or training;

"(B) laboratory testing, including testing of specimens for viral isolation or subtype analysis;

"(C) epidemiological analysis and investigation of novel strains;

"(D) provision of equipment or supplies;

"(E) coordination of surveillance activities within and among countries;

"(F) the establishment and maintenance of an Internet-based, accessible to health officials domestically and internationally, for the purpose of reporting new cases or clusters of influenza and other information that may help avert the pandemic spread of influenza; and

"(G) other activities as determined necessary by the Secretary.

"(c) INCREASED INTERNATIONAL MEDICAL CAPACITY DURING PANDEMIC INFLUENZA.—Notwithstanding any other provision of law, the Secretary, in consultation with the Secretary of Agriculture, may provide vaccines, antiviral medications, and supplies to foreign countries from the Strategic National Stockpile described under section 319F of the Public Health Service Act for the purpose of preparing or caring for domestic populations; and

"(A) IN GENERAL.—The Director of the Centers for Disease Control and Prevention, in consultation with the Secretary of Health and Human Services, in consultation with the United States Agency for International Development, the World Health Organization, the World Organization for Animal Health, and foreign countries, shall develop an outreach campaign with respect to public education and awareness of influenza and influenza preparedness.

"(B) DETAILS OF CAMPAIGN.—The campaign established under this subsection shall—

"(1) be culturally and linguistically appropriate for domestic populations;

"(2) be adaptable for use in foreign countries;

"(3) target high-risk populations (those most likely to contract, transmit, and die from influenza);

"(4) promote personal influenza precautionary measures and knowledge, and the need for general vaccination, as appropriate; and

"(5) describe precautions at the State and local level that could be implemented during pandemic influenza, including quarantine and other measures.

SEC. 2148. PUBLIC EDUCATION AND AWARENESS CAMPAIGN.

"(A) IN GENERAL.—The Director of the Centers for Disease Control and Prevention, in consultation with the Secretary of Health and Human Services, in consultation with the United States Agency for International Development, the World Health Organization, the World Organization for Animal Health, and foreign countries, shall develop and implement an outreach campaign with respect to public education and awareness of influenza and influenza preparedness.

"(B) DETAILS OF CAMPAIGN.—The campaign established under subsection (A) shall—

"(1) be culturally and linguistically appropriate for domestic populations;

"(2) be adaptable for use in foreign countries;

"(3) target high-risk populations (those most likely to contract, transmit, and die from influenza);

"(4) promote personal influenza precautionary measures and knowledge, and the need for general vaccination, as appropriate; and

"(5) describe precautions at the State and local level that could be implemented during pandemic influenza, including quarantine and other measures.

SEC. 2149. HEALTH PROFESSIONAL TRAINING.

"(A) IN GENERAL.—The Secretary, directly or through contract, and in consultation with professional health and medical societies, shall develop and disseminate pandemic influenza training curricula—

"(1) to educate and train health professionals, including physicians, nurses, public health practitioners, virologists and epidemiologists, veterinarians, mental health providers, allied health professionals, and paramedics and other first responders;

"(2) to educate and train volunteer, non-medical personnel whose assistance may be required during a pandemic influenza outbreak; and

"(3) that address prevention, including use of quarantine and other isolation precautions, pandemic influenza diagnosis, medical guidelines for use of antivirals and vaccines, and professional requirements and responsibilities, as appropriate.

SEC. 2150. RESEARCH AT THE NATIONAL INSTITUTES OF HEALTH.

"The Director of the National Institutes of Health (referred to in this section as the ‘Director of NIH’), in collaboration with the Director of the Centers for Disease Control and Prevention, and other relevant agencies, shall expand and intensify human and animal research, with respect to influenza, on—

"(1) vaccine development and manufacture, including strategies to increase immunological response;

"(2) effectiveness of new products and therapies, including strategies to increase immunological response;

"(3) development and implementation of vaccines and antivirals in subpopulations;

"(4) alternative routes of delivery of vaccines and antivirals, and other medications as appropriate;

"(5) more efficient methods for testing and determining virus subtype;

"(6) protective measures, including strategies to increase immunological response;

"(7) modes of influenza transmission;

"(8) effectiveness of masks, hand-washing, and other non-pharmaceutical measures in preventing transmission;

"(9) improved diagnostic tools for influenza; and

"(10) other areas determined appropriate by the Director of NIH.

SEC. 2151. RESEARCH AT THE CENTERS FOR DISEASE CONTROL AND PREVENTION.

"(A) IN GENERAL.—The Director of the Centers for Disease Control and Prevention, in collaboration with other relevant agencies, shall expand and intensify research, with respect to influenza, on—

"(1) historical research on prior pandemics to better understand pandemic epidemiology, transmission, protective measures, high-risk groups, and other lessons that may be applicable to future pandemic;

"(2) communication strategies for the public during pandemic influenza, taking into consideration age, racial and ethnic background, health literacy, and risk status;

"(3) changing and stable human behavior as it relates to vaccination;

"(4) development and implementation of a public, non-commercial and non-competitive broadcast system and person-to-person networks;

"(5) population-based surveillance methods to estimate influenza infection rates and rates of outpatient illness;

"(6) vaccine effectiveness;

"(7) systems to monitor vaccination coverage levels and adverse events from vaccination; and

"(8) other areas determined appropriate by the Director of the Centers for Disease Control and Prevention.

SEC. 2152. INSTITUTE OF MEDICINE STUDY ON THE LEGAL, ETHICAL, AND SOCIAL IMPLICATIONS OF PANDEMIC INFLUENZA.

"(A) IN GENERAL.—The Secretary shall contract with the Institute of Medicine to—

"(1) study the legal, ethical, and social implications of, with respect to pandemic influenza—

"(A) animal/human interchange;

"(B) global surveillance;

"(C) case contact investigations;

"(D) vaccination and medical treatment;

"(E) community hygiene;

"(F) travel and border controls;

"(G) increased social mixing and increased social distance; and

"(H) civil confinement; and
"(1) other topics as determined appropriate by the Secretary.

"(2) not later than 1 year after the date of enactment of the Pandemic Preparedness and Response Act, the Comptroller General shall submit to the Secretary a report that describes recommendations based on the study conducted under paragraph (1).

"(b) IMPLEMENTATION OF RECOMMENDATIONS.—Not later than 90 days after the submission of the report of under subsection (a), the Secretary shall address the recommendations of the Institute of Medicine regarding the domestic and international allocation and distribution of pandemic influenza vaccines and antivirals.

"SEC. 2153. NATIONAL PANDEMIC INFLUENZA EC-

ONOMICS ADVISORY COMMITTEE.

"(a) IN GENERAL.—There is established the National Pandemic Influenza Economics Advisory Committee (referred to in this section as the ‘Committee’).

"(b) MEMBERSHIP.—

"(1) IN GENERAL.—The members of the Committee shall be appointed by the Comptroller General of the United States and shall include domestic and international experts on pandemic influenza, public health, veterinary science, commerce, economics, finance, and international diplomacy.

"(2) The Comptroller General of the United States shall select a Chair from among the members of the Committee.

"(c) The Committee shall study and make recommendations to Congress and the Secretary on the financial and economic impact of pandemic influenza and possible financial strategies to address the impact of pandemic influenza.

"(d) COMPENSATION.—

"(1) IN GENERAL.—The Secretary of Agriculture shall expand and intensify efforts to prevent pandemic influenza, including possible pandemic avian influenza.

"(2) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall submit to Congress a report that describes the anticipated impact of pandemic influenza on the United States.

"(e) ASSISTANCE.—The Secretary of Agriculture, in consultation with the Secretary of Health and Human Services, the World Health Organization, and the World Organization for Animal Health, shall provide domestic and international assistance with respect to pandemic influenza preparedness to:

"(1) support the eradication of infectious animal diseases and zoonoses;

"(2) increase transparency in animal disease states;

"(3) collect, analyze, and disseminate veterinary data;

"(4) strengthen international coordination and cooperation in the control of animal diseases; and

"(5) promote the safety of world trade in animals and animal products.

"(f) ELECTRONIC DATABASE.—The Secretary of Agriculture, in conjunction with the Secretary of Health and Human Services, shall establish an electronic disease surveillance database in order to track the incidence of avian influenza in both animals and humans in the United States.

"(g) IMPROVEMENTS IN THE NATIONAL ANI-

MAL HEALTH LABORATORY NETWORK.—The Secretary of Agriculture shall ensure that the National Animal Health Laboratory Network has the capacity to rapidly diagnose and research avian influenza outbreaks.

"(h) COMMUNICATIONS LIASONS.—

"(1) IN GENERAL.—The Secretary of Agriculture, in conjunction with the Secretary of Homeland Security, shall establish and maintain communication across Federal, State, and local agencies and the public to provide information and updates on the status of avian and pandemic influenza operations.

"(2) DETAILED INSTRUCTIONS.—The Secretary of Agriculture shall issue detailed instructions to the Chair of the Committee on the policies, procedures, and responsibilities of the Committee.

"(3) STAFF.—

"(1) IN GENERAL.—The Chair of the Committee shall provide the Committee with such personnel, clerical staff, support, information, and the services of such consultants as may be necessary to assist the Committee in carrying out the functions under this subsection.

"(2) DETAIL OF FEDERAL GOVERNMENT EMP-

LOYEES.—

"(A) IN GENERAL.—An employee of the Federal Government may be detailed to the Committee without reimbursement.

"(B) CIVIL SERVICE STATUS.—The detail of the employee without reimbursement is without interruption or loss of civil service status or privilege.

"(3) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chair of the Committee shall have the authority to contract for temporary and intermittent services in accordance with section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of that title.

"SEC. 2154. PANDEMIC INFLUENZA AND ANIMAL HE-

ALTH.

"(a) IN GENERAL.—The Secretary of Agriculture shall provide increased funding, including through the National Agricultural Research, Extension, and Education Act of 1988, and the Agricultural Research Defense Act of 2000, for research and development of vaccines for pandemic influenza and other avian influenza viruses.

"(b) STAFF.—

"(1) STAFF.—The Secretary of Agriculture shall establish a staff to carry out this section such sums as may be necessary.

"(2) MANAGEMENT.—The staff established under paragraph (1) shall be managed by the Chair of the Committee.

"(3) APPROPRIATIONS.—The appropriations made available by this Act to carry out this section shall be in addition to any other appropriations made available for such purposes.

"(c) INQUIRIES.—The Secretary of Agriculture shall establish and maintain a central point of contact for inquiries related to pandemic influenza.

"(d) INTERIM MEASURES.—The Secretary of Agriculture shall establish and maintain a central point of contact for inquiries related to pandemic influenza.

"(e) STAFF.—The Chair of the Committee shall provide the Committee with such personnel, clerical staff, and support as may be necessary to assist the Committee in carrying out the functions under this subsection.

"(f) DETAIL OF FEDERAL GOVERNMENT EMP-

LOYEES.—

"(1) IN GENERAL.—An employee of the Federal Government may be detailed to the Committee without reimbursement.

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"SEC. 2161. FINDINGS.

"(a) IN GENERAL.—

"(1) NOTICE TO SECRETARY.—A manufact-

urer of the influenza vaccine shall notify the Secretary of the discontinuance of the production of the influenza vaccine at least 12 months prior to the date of the discontinuance.

"(2) DIRECTOR OF CENTERS FOR DISEASE CON-

TROL AND PREVENTION.—Not later than 120 days after receiving a notice under paragraph (1), the Secretary shall inform the Director of the Centers for Disease Control and Prevention of the discontinuance.

"(b) RELATIONSHIP TO SEPARATE NOTICE PRO-

GRAM.—In the case of the influenza vaccine that is approved by the Secretary and is a drug described in section 506(c)(1), this section applies after the expiration of the period specified in section 506(c)(1).

"(c) REDUCTION IN NOTIFICATION PERIOD.—

The notification period required under subsection (a) for a manufacturer may be reduced if the manufacturer certifies to the Secretary that good cause exists for the reduction, such as a situation in which:

"(1) a public health problem may result from discontinuation of the manufacturing for the 12-month period;

"(2) a biologics shortage prevents the continuation of the manufacturing for the 12-month period;

"(3) the discontinuation of the manufacturing for the 12-month period may cause substantial economic hardship for the manufacturer; or

"(4) the manufacturer is bankrupt under chapter 7 or 11 of title 11, United States Code; or

"(5) the manufacturer is the exclusive producer of the influenza vaccine that is approved by the Secretary and is a drug described in section 506(c)(1), and the manufacturer is unable to produce the influenza vaccine sufficient to meet the needs of the United States.

"(d) COMMISSIONER.—Notwithstanding any other provision of law, the Secretary shall ensure that the discontinuance of production of the influenza vaccine does not occur more than 12 months prior to the date of the discontinuance.
“(5) the manufacturer can continue the distribution of the vaccine involved for 12 months.

“(c) DISTRIBUTION.—To the maximum extent practicable, the Secretary shall distribute information on the discontinuation of the manufacture of influenza vaccines to appropriate physician and patient organizations.

“SEC. 2164. SHORTAGE PREPAREDNESS AND RE-SPONSE.

“(a) EMERGENCY RESPONSE PLANS REGARDING SHOR TAGE.—

“(1) NATIONAL EMERGENCY RESPONSE PLAN.—The Secretary shall develop and maintain a national plan for the response to potential shortage of supplies of influenza vaccines that would constitute public health emergencies. The plan shall include provisions with respect to communication among relevant entities, distribution of available supplies of the influenza vaccine involved, the designation of populations to be given priority for immunizations, interactions with State and local governments, the use of the National Stockpile, and special considerations for specific vaccines. The initial plan shall be completed not later than 12 months after the date of the enactment of this section.

“(2) STATE EMERGENCY RESPONSE PLAN.—Each State that receives funds under this Act shall develop, no later than 6 months after the date on which the National Plan is issued under paragraph (1), a State Emergency Response Plan that is modeled on the National Plan.

“SEC. 2165. PROVISIONS TO INCREASE VACCINE COVERAGE RATES.

“(a) IN GENERAL.—The Secretary shall develop a plan for the distribution of seasonal flu vaccines to ensure that uninsured and underinsured adults and children have access to annual influenza vaccines and vaccines for conditions potentially exacerbated by exposure to pandemic influenza. Immunizations should be available to such populations as well as children in the VFC program through a wide variety of providers including both Federally qualified health centers and State and local health departments.

“(b) The Secretary shall—

“(1) conduct an assessment to determine the number of adults in need of vaccinations and the barriers to vaccinating adults; and

“(2) develop strategies to increase the rate of immunizations in populations in which a significant number of individuals have not received immunizations with the possibility of recommended vaccines (as defined in section 317A(g)) for the populations.

“(c) DEFINITION.—For purposes of this section, the term ‘adult’ means an individual who is not a child as defined in section 1928 of the Social Security Act.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section, such sums as may be necessary.

“SEC. 2166. OUTREACH, COMMUNICATION, EDUCATION.

“(a) EDUCATION PROGRAM REGARDING ADULT IMMUNIZATIONS.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention (in this section referred to as the ‘Director’), shall conduct a public awareness campaign and education outreach efforts each year during the time period preceding the influenza season on each of the following:

“(1) The importance of receiving the influenza vaccine.

“(2) Populations the Director recommends to receive the influenza vaccine to prevent health complications associated with influenza, including health care workers and their household contacts.

“(3) Professional medical education of physicians, nurses, pharmacists, and other health care providers and such providers’ associated organizations.

“(4) Information that emphasizes the safety and benefit of recommended vaccines for the prevention and treatment of influenza.

“(b) OUTREACH TO MEDICARE RECIPIENTS.—

“(1) PROGRAM.—

“(A) IN GENERAL.—The Director, in consultation with the Administrator of the Centers for Medicare & Medicaid Services, shall, at the earliest possible time in the influenza vaccine planning and production process, develop a coordinated outreach plan, including the exploration of improving access to influenza vaccines for individuals receiving assistance under the Medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.),

“(B) STATE AND ADULT IMMUNIZATION ACTIVITIES.—The Director shall support the development of State adult immunization programs that place emphasis on increasing access to higher risk populations and the general population, including the exploration of improving access to the influenza vaccine.

“(2) EXISTING MODES OF COMMUNICATION.

“In carrying out the public awareness campaign and education outreach efforts under paragraph (1) and (2), the Director may use existing websites or structures for communication.

“(4) AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated such sums as may be necessary for the fiscal years 2005 through 2009.

“(c) AUTHORIZATION OF APPROPRIATIONS.—

“For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2006 through 2010.”

“SEC. 4. UNFAIR OR DECEPTIVE ACTS OR PRACTICES IN COMMERCE RELATED TO TREATMENTS FOR PANDEMIC INFLUENZA.

“Section 319F-3 of the Public Health Service Act (as added by section, amended by section (a) is further amended by adding at the end the following:

“(1) UNFAIR OR DECEPTIVE ACTS OR PRACTICES IN COMMERCE RELATED TO TREATMENTS FOR PANDEMIC INFLUENZA.—

“(A) SELLING TO CONSUMERS AT UNCONSCIONABLE PRICE.—

“(A) IN GENERAL.—During any public health emergency declared by the Secretary under section 307(b) of the Pandemic Influenza, it shall be unlawful for any person to sell any drug (including an anti-viral drug), device, or biologic for the prevention or treatment of influenza and the price at which the drug, device, or biologic is offered, in a competitive and freely functioning market and whether the price at which the drug, device, or biologic for the prevention or treatment of influenza was sold reasonably reflects additional costs, not within the control of the seller, that were paid or incurred by the seller.

“(B) FACTORS TO BE CONSIDERED.—In determining whether a violation of subparagraph (A) has occurred, the court shall also take into account, among other factors, the price that a person reasonably could have paid in a competitive and freely functioning market and whether the price at which the drug, device, or biologic for the prevention or treatment of influenza was sold reasonably reflects additional costs, not within the control of the seller, that were paid or incurred by the seller.

“(B) THE INFORMATION WAS REQUIRED BY LAW TO BE REPORTED AND

“(C) A PERSON INTENDED THE FALSE OR MISLEADING INFORMATION TO INCREASE THE RATE OF IMMUNIZATION AMONG MEDICARE RECIPIENTS.—The Director shall work with the Administrator of the Centers for Medicare & Medicaid Services to publish the rates of influenza immunization among individuals receiving assistance under the Medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.),

“(A) IN GENERAL.—The Director shall support the development of State adult immunization programs that place emphasis on improving access to higher risk populations and the general population, including the exploration of improving access to the influenza vaccine.

“(1) EXISTING MODES OF COMMUNICATION.

“In carrying out the public awareness campaign and education outreach efforts under paragraph (1) and (2), the Director may use existing websites or structures for communication.

“(4) AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated such sums as may be necessary to carry out this subsection $10,000,000 for each of fiscal years 2005 through 2009.

“(c) AUTHORIZATION OF APPROPRIATIONS.—

“For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2006 through 2010.”

“SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated such sums as may be necessary to carry out this Act (and the amendments made by this Act) for each of the fiscal years 2006 through 2010.

“Mr. OBAMA. Mr. President, I rise today to talk about a critical issue—the possibility of an avian influenza pandemic.

“When I started talking about this 7 months ago, not too many folks paid attention. Perhaps because the shorthand for this looming crisis is the ‘bird flu,’ people assume it is just going to get birds and animals sick.

“In reality, however, what is at stake here is the potential of a pandemic that we have not seen in the United States since 1918. As I have been stated, our top scientists and medical personnel, including the heads of the NIH, CDC, and the Department of Health and Human Services, all agree that it is almost inevitable that an avian flu pandemic will occur.

“The key question is the extent of the damage, especially in terms of lives lost. The answer to this question will, in large measure, depend on our level of preparedness and the extent of resources we are willing to immediately commit to deal with this looming crisis.
After Katrina, I hope we all learned a lesson about the critical value of preparedness.

I rise today to introduce, along with Senators REID, BAYH, and KENNEDY, S. 1821, legislation that dramatically enhances the capability of the United States and international community to prevent and respond to an avian flu pandemic.

The bill we are introducing today—the Pandemic Preparedness and Response Act or PPRA—incorporates much of my AVIAN Act, and has a number of new and important provisions, that will protect Americans from pandemic flu.

The PPRA establishes leadership at the very top level by requiring the President to name a national director for Pandemic Preparedness and Response, who will sit in the executive office. This director will be in charge of all preparedness and response activities at the national level, including coordinating State plans and programs of each Federal agency.

It is not enough for the Department of Health and Human Services and Department of Homeland Security to be ready; we must have a commerce plan, a transportation plan, a diplomatic plan aimed at our foreign partners, and a plan for our military personnel and veterans.

We have asked this director to procure enough antivirals to cover 70 percent of the population, and sufficient vaccines and other supplies we need for the Strategic National Stockpile. The director will also create a national tracking and distribution system to ensure the fair and equitable allocation of drugs and vaccines when the pandemic strikes.

On the State level, we have asked the Director of the CDC and HRSA to work with States and give them the help they need to make sure they are ready to respond as well. Our success in preventing or containing an outbreak of avian flu will depend on the preparedness of our State and local partners.

Understanding that international collaboration and cooperation is key to surveillance and quick response, we have created an international pandemic fund, and requested the Secretary of State develop and implement a diplomatic policy aimed at the Southeast and East Asian countries. Senator LUGAR and I have been hard at work on this last point for months.

Finally, we recognize that this Nation will never have enough vaccines, or the ability to produce sufficient vaccines, if we don’t create the incentives for more drug manufacturers to get into the vaccine business. We just have three domestic flu vaccine manufacturers, and that is unacceptable. This bill authorizes the Secretary to enhance vaccine production capacity by creating a guaranteed market for seasonal flu vaccines, and a Federal back-up program for unsold doses of seasonal flu vaccine. It also increases public education and outreach activities for Americans, to stimulate demand for the seasonal flu vaccine.

An outbreak of the avian flu could occur in a year, 5 years, 10 years, or if we were incredibly lucky not happen at all. But the one good thing about investing in measures to deal with this looming crisis is—and I will end on this point—if we spend the money now, it will pay dividends, even if this particular strain of the avian flu outbreak does not occur.

Why is this the case? This is not—no pun intended—a case of Chicken Little.

The risk of some sort of pandemic, and the mutations of flu for which we have no immunity, is almost inevitable. The H5N1 strain may not be the strain that leads to a full blown pandemic. But, another strain could easily come along and cause serious damage in the future.

My point is this: undertaking these measures is going to be a wise investment that will help protect the lives of millions of people here in the United States and across the globe. This legislation gets at the heart of this issue.

By Mrs. MURRAY (for herself and Ms. CANTWELL):

S. 1822. A bill to amend titles XVIII and XIX of the Security Act to make improvements to the implementation of the Medicare prescription drug benefit; to the Committee on Finance.

Mrs. MURRAY. Mr. President, today I am introducing legislation to protect low-income Medicare beneficiaries from being penalized under the new Medicare Modernization Act. My legislation also gives all seniors and the disabled more time to make the right choice in selecting a drug plan.

My bill is called the Medicare HEALS Act, which stands for Help for Every beneficiary and Low Income Seniors. I am pleased to be joined today by Senator CANTWELL in introducing this new bill.

My goal is to protect very low-income seniors who today are covered by both Medicare and Medicaid. The new drug law will impose new co-payments and premiums on these vulnerable patients, while—at the same time—covering fewer prescription drugs.

Worst of all, the law prohibits States from providing additional coverage, known as wrap-around coverage, to seniors, the disabled and low-income beneficiaries. I believe seniors deserve better; I believe low-income working families deserve better, and that’s why I’ve written this bill.

The new drug law will force painful changes on low income patients, and my bill will help protect our most vulnerable from the negative impacts of the drug law.

Let’s start by looking at how low-income beneficiaries are covered today versus how they will be covered under the new law. Today, very low income seniors who are dual eligibles under both state Medicaid programs and the Federal Medicare program, so they are often referred to as “dual eligibles.”

Today, their prescription drugs are covered by State Medicaid programs, and they are a good deal. For many seniors and the disabled, State Medicaid drug coverage involves limited co-payments, no premiums, and coverage for a broad range of medically-necessary drugs.

Once the new Medicare drug program is implemented, these vulnerable patients will lose their State Medicaid coverage. They will be shifted into the Federal Medicare program, which will impose higher co-payments, no premiums and fewer covered drugs. It’s a bad deal for low-income seniors and to make matters worse, it’s incredibly complicated to figure out which private drug plan meets their needs.

I am concerned that these individuals will be unable to afford co-payments or tiered co-payments that will be part of many MMA plans.

I am concerned that these individuals will also be denied the most medically-necessary treatments due to restrictions imposed by the plans or additional financial burdens that plans will use to drive down drug utilization costs.

In addition, I am not convinced that what we have done enough to fully educate and prepare beneficiaries to the choices and implications of these choices that they face today.

Another problem with the Medicare drug law is that it will penalize anyone who chooses to enroll in a Medicare drug plan. It will also make it extremely difficult to make a decision about which plan to choose or whether or not to join the program. For a new system that is as complex as this new drug law, it’s unfair to force people to make a decision quickly and to penalize those who need extra time to make the right choice.

To solve these problems and to protect our most vulnerable, my legislation would repeal the prohibition included in MMA on the use of Medicaid funds to provide wrap around coverage for dually eligible.

While I still believe that additional delay is warranted in switching this population to private plans under Medicare, I do believe we need to ensure that States facing a huge backlash from this population can respond accordingly.

I have joined in support of legislation aimed at providing a 6-month transition period for dual eligibles to give the beneficiaries time to make a decision about which plan to choose or whether or not to join the program. For a new system that is as complex as this new drug law, it’s unfair to force people to make a decision quickly and to penalize those who need extra time to make the right choice.

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To solve these problems and to protect our most vulnerable, my legislation would repeal the prohibition included in MMA on the use of Medicaid funds to provide wrap around coverage for dually eligible.

While I still believe that additional delay is warranted in switching this population to private plans under Medicare, I do believe we need to ensure that States facing a huge backlash from this population can respond accordingly.
not think it is fair to penalize States for trying to do the right thing. Finally, my legislation would delay the late penalty enrollment from May 15, 2006 until January 1, 2008, for all beneficiaries. This will give all Medicare beneficiaries the time they will need in order to evaluate the plans. The extension will provide beneficiaries with one full benefit year and the open enrollment period to determine if these plans offer them a good value or provide the kind of security we all expect from Medicare.

This extension is of particular importance to those seniors who may be eligible for assistance but have not yet applied. We know that full dual eligibles will be automatically enrolled in a plan if they fail to select one. However, those with incomes from 135 percent to 150 percent of the Federal poverty level could also qualify for assistance but will not be automatically enrolled. Early estimates from the Social Security Administration and the Centers for Medicare and Medicaid Services (CMS) indicate that a number of seniors have failed to even apply for eligibility determination. I have been told from CMS that 18 to 19 million beneficiaries are dual eligibles and an additional 22,869 are covered in Washington State will be automatically enrolled into 1 of 12 drug plans. Within these plans, as Medicare Advantage or Prescription Drug Plans (PDPs), there are often several different benefit options. The column should show yes if the plan covers the regional benchmark and the plan's premium is equal to or less than the benchmark. The only column that should say no is if the plan's pre

packages. Premiums range from $0 to $120; deductibles can range from $0 to $250; and many will have tiered copayment structures. None of these plans will cover all top 100 drugs used by seniors. Some plans provide only 77 of the top 100 drugs. While claiming that Medicare may offer far better benefits than many receive today, it will be difficult to make this determination. The range of choices; the restrictions; the variations in out-of-pocket and the belief by many that this is a complex process, will likely lead many seniors to simply walk away.

But, even if seniors decide to sit down and do the calculation and evaluate each plan or option, they face challenges in the reliability of the information. CMS has partnered with a number of outstanding groups in Washington State who are working hard to get information and help to seniors so they can make informed choices. But, the task is made much more difficult when CMS announces that materials already mailed to beneficiaries are incorrect.

My office received notice this week from CMS that the area specific 2006 version of the “Medicare and You Handbook” already mailed to beneficiaries contains a rather large error. The error occurs in the comparison charts listing the Medicare Prescription Drug Plans (PDPs). In the last column of the comparison table entitled “If I Qualify for Extra Help, will my full premium be covered?”

For each plan listed, the column should say yes if the plan’s premium is at or below the regional benchmark, and a beneficiary who qualifies for the low income subsidy would pay no premium for this plan.

The column should show no if the plan’s premium is above the regional benchmark and a beneficiary who qualifies for the low income subsidy would pay the difference between the regional benchmark and the plan’s premium.

Due to an error, this column lists yes for every plan. Even if one could figure out what the regional benchmark is and the difference in the premium, they are still getting bad information. How can anyone determine the value of a plan or benefit when the initial information is wrong?

There are other examples of information being provided by CMS that is incorrect or inconsistent. I think this has happened in part because this administration is in a race against time to enroll, enroll, enroll. This kind of pressure will only lead to more confusion and distrust.

As we saw with the temporary discount drug card, seniors simply refused to participate. Even those who would have qualified for $600 did not bother to enroll. The largest enrollment was among States and private plans for those who qualified for the subsidy, but far more simply did not bother. The choices were too complex, there were too many rules or restrictions, and there was no way for beneficiaries to measure the value of these cards.

My legislation does not address every problem and every coverage gap, but it is a small step to protect the most vulnerable. I urge my colleagues to join me in making these necessary corrections today before beneficiaries lose their coverage and lose access to affordable life saving drugs.

I know that this administration has resisted any effort to fix this program. Our law said the President would veto any legislation that delays implementation or changes the structure of the benefit. But, I am convinced we will be back making changes to this program over the next 2 years because seniors will demand action.

Maybe before all confidence in this program is gone and seniors are calling for repeal, the administration would look at small, humane fixes today, and that is the Medicare HEALS Act offers.

By Mrs. HUTCHISON. S. 1823. A bill to empower States and local governments to prosecute illegal aliens and to authorize the Secretary of Homeland Security to establish a pilot Volunteer Border Marshal Program; to the Committee on the Judiciary.

Mrs. HUTCHISON. Mr. President, I rise today to address a serious threat to our National Security. Despite successful efforts by me and other Members to increase border patrol forces, add new detention facilities, and improve border monitoring, the problem of individuals entering our country illegally continues to impact communities across the country. Just last year, the number of immigrants entering our country illegally outnumbered those entering through legal means. While legal immigration contributes to the diversity and uniqueness of our society, illegal immigration undermines the system and weakens the legitimate process by which people can enter our country. With the Census Bureau estimating that 10 to 11 million people reside in our country illegally, clearly our strategy in confronting this issue must change.

Immigration and naturalization are constitutionally defined powers granted to the Federal Government. As such, many view the issue of immigration as strictly a Federal burden, to be ad-

ress by Federal legislation, policies, and payment. While immigration pol

icy is certainly initiated at the Federal level, one cannot ignore the inherent truth that the impact of illegal immi-
nigration is predominantly manifested in our State and local communities, often in the form of overwhelmed emergency rooms, overcrowded school systems, and overcrowded prisons. Our local communities often find themselves with little recourse or ability to ad-

dress the provocative and crippling effects of a broken immigration system. These effects, of course, are not con-

fined to our southern border regions,
but rather they reverberate across the country.

The country’s immigration system is long overdue for a comprehensive overhaul, and I commend the efforts being made by a number of my colleagues to generate discussion on the need for comprehensive immigration reform. Ideas are being proposed to improve avenues for legal immigration, enhance enforcement capabilities, and address the growing presence of illegal immigrants with nationalities other than Mexican. While I applaud these proposals and eagerly await our opportunity to discuss them, I believe it is essential that we recognize the role our State and local communities can have in addressing illegal immigration, particularly when it comes to the area of enforcement. As such, I am introducing legislation this year to solidify the right and opportunity of our State and local governments to enforce the law—immigration law.

Historically, the authority for State and local immigration officers to enforce immigration law has been limited to the criminal provisions of the Immigration and Nationality Act; these include actions such as physically crossing the border illegally. By contrast, the enforcement of the act’s civil provisions, which include apprehension and removal of deportable aliens already in the country, has been strictly a Federal responsibility, with States playing an incidental supporting role. This view was recently reinforced when a community in New Hampshire attempted to prosecute illegal immigrants for criminal trespass but was thwarted when a judge ruled it was constitutionally impermissible, stating that Congress has exclusive jurisdiction on civil immigration issues.

Enforcing the laws of our country should not be confined to Federal authorities when the illegal behavior specifies violations by the State and local communities. Just as State and local officials can arrest, detain, and prosecute for illicit drug violations, so they should be able to for illegal immigration violations. The legislation I propose today would enable State and local officials to arrest, detain, and prosecute illegal immigrants for all Federal immigration violations, both civil and criminal, and would authorize States to create immigration enforcement units in accordance with State and local Federal immigration law. My proposal preserves the Federal Government’s constitutionally delegated authority to determine immigration status, a determination to which the States would defer. Allowing communities to take enforcement actions based on their own needs, while working within limits set under Federal law, is sound, appropriate policy.

Further, in order to strengthen border security and the work that is already being done by local and Federal border officials, my bill allows the Secretary of Homeland Security to create a Volunteer Border Marshal Program. The program will assist the Department in securing our borders by using trained, State-licensed peace officers in a volunteer capacity. These volunteers would be assigned to the Border Patrol on temporary missions to identify and control illegal immigration, as well as human and drug trafficking.

In order to properly tackle the problem of illegal immigration, Federal, State, and local authorities must work as partners. Our communities must have the tools necessary to fight it effectively. This legislation will empower States and communities with a new weapon to combat illegal immigration, and thereby reinforce our legal naturalization process. I encourage my colleagues to support this sensible approach to addressing this serious problem. I ask unanimous consent that the text of my bill be printed in the Record.

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

S. 1823
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 “Illegal Immigration Enforcement and Empowerment Act”.

SEC. 2. STATE ENFORCEMENT AND EMPowerMent.
(a) IN GENERAL.—A State or unit of local government may investigate, identify, apprehend, arrest, detain, prosecute, and impose criminal or civil penalties upon any individual who violates—
(1) a Federal immigration law; or
(2) a State law that is based, in part, upon the violation of Federal immigration law.
(b) LIMITATION.—Criminal penalties imposed under subsection (a) may not exceed the penalties authorized under section 275(a) of the Immigration and Nationality Act (8 U.S.C. 1325(a)).
(c) FEDERAL DETERMINATION OF IMMIGRATION STATUS.—No penalty may be imposed upon an individual under this section unless the individual is identified by the Federal Government as having violated a Federal immigration law.

SEC. 3. VOLUNTEER BORDER MARSHAL PROGRAM.
(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this Act, the Secretary of Homeland Security may establish a Volunteer Border Marshal Program (referred to in this section as the “Program”).

(b) PURPOSE.—The purpose of the Program is to assist the Secretary of Homeland Security in securing the borders of the United States in a safe and orderly manner by using volunteer, State-licensed peace officers, who are already working under State or local law enforcement authority.

(c) ASSIGNMENTS.—Upon deployment, the volunteer peace officers shall be sworn in as Special United States Border Marshals and shall be assigned to the Office of Border Patrol, which shall be act as the lead agency of the Program.

(d) ROTATIONS.—The volunteer peace officers shall rotate every 4 years along the international borders of the United States to assist the Office of Border Patrol in identifying and controlling illegal immigration and drug trafficking.

(e) DEFINITION.—In this section, the term “peace officer” means any law enforcement agent, whether currently employed or retired, who is licensed by a State authority to enforce State or local penal offenses.

By Mr. KERRY (for himself and Mr. SCHUMER):
S. 1824. A bill to amend the Internal Revenue Code of 1986 to strengthen the earned income tax credit; to reauthorize the Economic Opportunity Act of 1964; and for other purposes.

Mr. KERRY. Mr. President, today I am introducing the Strengthen the Earned Income Tax Credit Act of 2005. Since 1975, the EITC has been an important credit to help low-income working families. President Reagan referred to the EITC as “the best antipoverty, the best pro-family, the best job creation measure to come out of Congress.” According to the Center on Budget and Policy Priorities, the EITC lifts more children out of poverty than any other government program.

It is time for us to reexamine the EITC and determine where we can strengthen it. Census data released in August and the events of Hurricane Katrina reiterated the fact that there is a group of Americans that are not benefiting from the economic recovery. The new data show the number of people who work, but live in poverty increased by 563,000. Four million more people were poor in 2004 than in 2001, when the economy hit bottom. The poverty rate in 2004 remains higher than the rate in 2001, the year of the recession.

Hurricane Katrina affected many individuals who were already faced with difficult economic situations. Mississippi, Louisiana, and Alabama are the first, second, and eighth poorest States in the Nation. The income of the typical household in these three States is well below the national average. In the hardest hit counties, 18.6 percent of the population is poor and the national average is 12.4 percent.

Time after time, the Republican controlled Congress has passed tax cuts which are skewed towards those with the highest incomes. These individuals do not have to worry about how they will have to pay for a roof over their heads or enough gas to fill the tank. We should not be focused on tax cuts which help those who do not have to worry about living paycheck to paycheck.

We need to help the low-income workers who struggle day after day trying to make ends meet. They have been left behind in the economic policies of the last 4 years. We need to begin a discussion on how to help those that have been left behind. The Earned Income Tax Credit is the perfect place to start.

I am introducing the Strengthen the Earned Income Tax Credit Act of 2005 strengthens the EITC by making the following four changes: Reduce marriage penalty; increase the credit for families with
three or more children; slow down the phase-out for individuals with no children; and permanently extend the provision which allows members of the armed forces to include combat pay as income for EITC computations. By making these changes, more individuals and families would benefit from the EITC.

First, the legislation increases marriage penalty relief and makes it permanent. In the way that the EITC is currently structured, many single individuals and married individuals faced with a reduction in their EITC once they are married. The tax code should not penalize individuals who marry.

Second, the legislation increases the credit for families with three or more children. This proposal would make the credit more generous for families with 3 or more children. Increasing the credit rate results in an increase in the phase-out range. More families would be able to benefit from the EITC. The poverty level for an adult living with three children is $25,403. Under current law, an adult living with three children and eligible for the maximum EITC with income equivalent to the phase-out income level would still have income below the poverty level. This provision would lift this family above the poverty level. Some 36 percent of all children live in families with at least three children and more than half of poor children live in such families.

Third, the legislation would slow down the phase-out rate for individuals without children. It would result in more individuals without children eligible for the credit. For 2005, an individual with earnings above $11,750 would not be eligible for the EITC. Under the proposal, an individual with earnings above $16,950 would not be eligible for the EITC. The EITC for individuals with no children only offsets a portion of federal taxes. Giving more individuals the EITC would help provide an incentive to work.

Fourth, the Working Families Tax Relief Act of 2004 included a provision which would treat combat pay as earned income for purposes of computing the child credit. This provision expires at the end of the year. This legislation makes this provision permanent. There is no reason why a member of the armed forces should lose their EITC when they are mobilized and serving their country.

This legislation will help those who most need our help. It will put more money in their pay check. We need to invest in our families and help individuals who want to make a living by working. We are all aware of our fiscal situation and we should legislate in a responsible manner. It is a time for shared sacrifice. We do not need to extend these cuts to allow tax cuts, too far forward that only benefit those earning over $200,000. We cannot keep adding to the deficit.

Thank you for your consideration.

SUBMITTED RESOLUTIONS


Mr. FEINGOLD submitted the following resolution; which was referred to the Committee on Agriculture, Nutrition, and Forestry:

S. Res. 265

Whereas the Crop Science Society of America was founded in 1955, with Gerald O. Mott as its first President; and

Whereas the Crop Science Society of America is one of the premier scientific societies in the world, as shown by its world-class journals, international and regional meetings, and development of a broad range of educational opportunities; and

Whereas the science and scholarship of the Crop Science Society of America are mission-directed, with the goal of addressing agricultural challenges facing humanity; and

Whereas the Crop Science Society of America significantly contributes to the scientific and technical knowledge necessary to protect and maintain natural resources in the United States; and

Whereas the Crop Science Society plays a key role internationally in developing sustainable agricultural management and biodiversity conservation for the protection and sound management of the crop resources of the world; and

Whereas the mission of the Crop Science Society of America continues to expand, from the development of sustainable production of food and forage, to the production of renewable energy and novel industrial products; and

Whereas, in industry, extension, and basic research, the Crop Science Society of America has fostered a dedicated professional and scientific community that, in 2005, includes more than 3,000 members; and

Whereas the American Society of Agronomy was the parent society that led to the formation of both the Crop Science Society of America and the Soil Science Society of America and fostered the development of the common overview that is the foundation of the 3 sister societies; Now, therefore, be it

Resolved, That the Senate—

(1) recognizes 2005 as the 50th Anniversary year of the Crop Science Society of America; and

(2) commends the Crop Science Society of America for 50 years of dedicated service to advance the science and practice of crop science; and

(3) acknowledges the promise of the Crop Science Society of America to continue to enrich the lives of all citizens, by improving the stewardship of the environment and combating world hunger, and enhancing the quality of life for the next 50 years and beyond.

Mr. HATCH submitted the following resolution; which was considered and agreed to:

S. Res. 266

Whereas it is the family, striving for a future of opportunity and hope, that reflects our Nation’s belief in community, stability, and love; and

Whereas the family remains an institution of promise, reliance, and encouragement;

Whereas we look to the family as an unwavering symbol of constancy that will help us discover a future of prosperity, promise, and potential;

Whereas within our Nation’s libraries and archives lie the treasured records that detail the history of our Nation, our States, our communities, and our citizens; and

Whereas individuals across our Nation and across the world have embarked on a genealogical journey by discovering who their ancestors were and how various forces shaped their past; and

Whereas an ever-growing number of people in our Nation, and in other nations, are collecting, preserving, and sharing genealogies, family histories, and documents, that detail the life and times of families around the world; and

Whereas 54,000,000 individuals belong to a family where someone in the family has used the Internet to research their family history; and

Whereas from across our Nation, and across the world, continue to research their family heritage and its impact upon the history of our Nation and the world; and

Whereas approximately 60 percent of Americans have expressed an interest in tracing their family history; and

Whereas the study of family history gives individuals a sense of their heritage and a sense of responsibility or owing a legacy that their ancestors began; and

Whereas as individuals learn about their ancestors who worked so hard and sacrificed so much, their commitment to honor the memory of their ancestors by doing good is increased; and

Whereas interest in our personal family history transcends all cultural and religious affiliations; and

Whereas to encourage family history research, education, and the sharing of knowledge is to renew the connection to the concept of home and family; and

Whereas the involvement of national, State, and local officials in promoting genealogy and in facilitating access to family history records in archives and libraries are important factors in the successful perception of nationwide camaraderie, support, and participation; Now, therefore, be it

Resolved, That the Senate—

(1) designates the month of October 2005, as ‘Family History Month’; and

(2) calls upon the people of the United States to observe the month with appropriate ceremonies and activities.

SENATE RESOLUTION 267—TO AUTHORIZ TESTIMONY, DOCUMENT PRODUCTION, AND LEGAL REPRESENTATION IN STATE OF NEW HAMPSHIRE V. ANNE MILLER, JESSICA ELLIS, LYNN CHONG, DONALD BOOTH, EILEEN REARDON

Mr. FRIST (for himself and Mr. Reid) submitted the following resolution; which was considered and agreed to:

Whereas, in the cases of State of New Hampshire v. Anne Miller, Mary Lee Sar- gente, Jessica Ellis, Lynn Chong, Donald Booth, Eileen Reardon, pending in Concord District Court, New Hampshire, testimony and documents have been requested from Carol Carpenter, an employee in the office of Senator Judd Gregg; and

Whereas, pursuant to sections 708(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 208(a) and 209(a)(2), the Senate may direct its counsel to represent an employee of the Senate with respect to story.