

estate tax reform is possible and necessary. We must work to find an exemption level coupled with a tax rate that will provide significant relief, while not adding nearly a trillion dollars to the next generation's tab.

PANDEMIC FLU

The PRESIDING OFFICER. Under the previous order, there will be 25 minutes for debate, equally divided between the Senator from Kansas, Mr. ROBERTS, and the Senator from New York, Mrs. CLINTON.

The Senator from Kansas.

Mr. ROBERTS. Mr. President, I rise today with my colleague, Senator CLINTON, to talk about an issue that demands our attention and action: the potential for a pandemic flu outbreak and, more importantly, what we can do about it.

Behind me I have a picture of a crowded emergency hospital at Fort Riley, KS, during the 1918 Spanish flu pandemic. That flu eventually took the lives of more than 600,000 Americans and 50 million people worldwide. However, my colleagues may not be aware that the first human cases of the Spanish flu in the United States were discovered in my home State of Kansas at Camp Funston in Fort Riley, KS.

On the morning of March 11th, 1918, a company cook reported to the camp infirmary complaining about a bad cold. By noon, over 100 sick soldiers suffering the same bad cold also reported to the infirmary. These complaints of bad colds turned out to be the first cases of Spanish flu in America.

Within weeks, that influenza had spread to places as far away as Camps Hancock, Lewis, Sherman, and even to several hundred prisoners at San Quentin. By the summer, the flu reached around the globe, killing tens of thousands of people.

This flu was so severe and damaging that attack plans during World War I had to be altered or postponed because there were shortages of healthy men to battle. The Spanish flu continued to spread all throughout 1919. It reached its death toll of nearly 50 million people worldwide.

I yield to my distinguished colleague.

Mrs. CLINTON. Mr. President, I thank my colleague. Senator ROBERTS has outlined the impact the 1918 flu outbreak had on Kansas, our Nation, and the world. It is almost unimaginable that starting with that one company cook, 50 million people worldwide died.

I will tell a different story about a public health success. In March of 1947, the City of New York faced an outbreak of smallpox when three cases appeared at a local hospital. On April 4, New York City began a mass vaccination campaign to prevent further cases from occurring.

Behind me is a photograph of Red Cross volunteers waiting to receive a vaccination against this deadly disease. Over the next month, more than

6 million people were inoculated against smallpox, the largest mass vaccination in United States history. Even President Truman, who was scheduled to visit New York during this time, received a vaccination.

Through the cooperative efforts of local government employees, public health workers and an army of volunteers, an outbreak was averted. Vaccinations took place at hospitals, schools, and police stations. Frequent press bulletins helped to ensure that people knew what was happening and where they could go to have themselves and their families vaccinated. Our national public health system was able to respond both quickly and efficiently to contain this disease.

As the New York City Health Commissioner reported in the American Journal of Public Health later that year, never before had so many people in one city been vaccinated in such a short time and on such short notice. Thanks are due to the press and radio for giving so generously of their space and time to bring necessary information to the public. Had it not been for them and the intelligent cooperation of the public, the generosity of private physicians and volunteer workers, notably from the American Red Cross, the American Women's Voluntary Services and former Air Raid Warden groups from World War II, it would have been impossible to have achieved this remarkable record.

Senator ROBERTS and I are here today because we believe, half a century later, we face a similar public health issue. The looming threat of pandemic influenza has caused our Federal Government to begin mobilizing for when—not if—avian flu hits our shores. We are investing in research for a vaccine, stockpiling medications, and trying to develop plans for mass vaccinations.

If recent history is any indication, we may not be able to muster the same response as we did in 1947 when Americans were still on a war footing or had a mentality of working together. What is worrisome to me when I think about our country's preparedness is the fact we are not even prepared to deal with the seasonal influenza we face every single year.

Since 2000, we have had four shortages of seasonal influenza vaccine. We have seen senior citizens line up for hours to get flu shots. Unfortunately, we have seen some unscrupulous distributors trying to sell the flu vaccine to the highest bidder. Millions of Americans have chosen not to get vaccinated, despite the clear preventive effects of the vaccine.

This is something we want to stress and that Senator ROBERTS and I have been working on together to try to come up with some practical solutions. This is a matter of preparedness, not a partisan issue. This is a matter of planning. It is a matter of ensuring that our health care system can respond both to the annual flu outbreak and to

the threat of a pandemic flu. We believe we have a lot of work to do.

Mr. ROBERTS. As Senator CLINTON has highlighted, the need to be prepared for both seasonal flu and a potential avian flu pandemic is absolutely critical. Some believe the potential avian flu outbreak could be as lethal as the 1918 Spanish flu. One cannot watch or read the news without a report on the concern of flu reaching our shores.

In reality, human cases of avian flu have been discovered in 10 countries. Three years ago there were only three confirmed cases of avian flu in humans. Today these numbers have grown to over 224 human cases, 127 deaths.

In February, I took part in an avian flu exercise at the National Defense University. That exercise was called Global Tempest—aptly named. The exercise simulated a worst-case scenario flu pandemic, and participants from several Federal agencies, and Members of Congress, took part in the event. We all served as advisers to the President.

The exercise showed firsthand how quickly our public health system and real critical infrastructure services can be simply overwhelmed, how communication can easily break down and how panic can take hold amongst the public. We were forced with the difficult decision of having to determine where limited medical supplies and personnel should be targeted, how the Federal Government can sustain the private sector and try to mitigate the real economic effects of the pandemic, and if and when the Department of Defense should be called in to assist with the civilian efforts.

This Global Tempest exercise and experience, along with understanding the strength and the force of the Spanish flu in recent natural disasters such as Hurricane Katrina, have taught us a valuable lesson. We must be prepared at all levels to deal with the large-scale public health emergency such as the pandemic flu. This system must be able to respond in any type of crisis. But, more importantly, this system must be ready to respond before the crisis begins.

As chairman of the Senate Committee on Intelligence and a member of the Senate Agriculture and Health, Education, Labor, and Pensions Committees, I take the threat of a flu pandemic seriously and view it not only as a public health concern but a concern in regard to our national security.

Senator CLINTON is a fellow member of the HELP Committee. She shares these concerns. However, we do not want to stand before our colleagues and our constituents, those watching today, and cause panic or alarm. There have been no cases of the avian flu virus in the United States, nor has there been a human transmission of the disease in a form that could fuel a pandemic. Instead, we stand together before all of our colleagues hoping to motivate them to take the necessary steps to make sure we are adequately prepared, should avian flu take hold in

the United States. We believe there are some weaknesses in our system that we must strengthen so we can respond to a crisis.

Last week, I hosted a pandemic flu planning conference in Kansas with Senator BROWNBACK and Governor Sebelius. The conference included other Federal, State, and local officials, the business community, university, health providers, hospitals, school administrators, many other stakeholders who came together to make sure that Kansas is prepared in the event of an influenza pandemic. We identified the steps that must be taken at the State and local level to plan for and respond to a flu pandemic.

At the Federal level, Senator CLINTON and I took the lead last October and introduced legislation to help strengthen our Nation's flu vaccine system. The Influenza Vaccine Security Act takes a comprehensive approach and includes several provisions to improve our vaccine market and delivery system for the seasonal flu. It also provides the framework that is absolutely critical during a pandemic flu.

Mrs. CLINTON. Senator ROBERTS is absolutely right. We believe it is critical to ensure that our basic seasonal flu vaccine production and distribution system is capable of delivering vaccines to all who need them, especially with the threat of an avian flu pandemic moving over us. Thousands of people die in our country every year from seasonal flu. It makes sense to us that we need to get that system absolutely as efficient as it needs to be so that then we could handle a rapid vaccine production, mobilization, and delivery challenge in the event of pandemic flu. Because we don't have a system through which to track vaccines, we cannot ensure that supplies reach the highest priority populations—including seniors and the chronically ill, those who should get vaccinated as early as possible in any given flu season. Many physicians and other providers have contacted us to express frustration at their continuing inability to accurately predict at which point they may be able to provide needed supplies of influenza vaccine to their patients. We do this in other parts of our economy. We routinely use tracking devices to trace deliveries of other goods in the private market. But yet we still cannot predict when a vaccine order placed in the summer might actually be provided to a doctor's office or a hospital or another place where the flu vaccine can be administered.

Our legislation, the Influenza Vaccine Security Act, would establish a tracking system through which we could better trace the distribution of vaccine from the factory to the provider, and we could identify counties with high numbers of priority populations. Then with that system in place, we could easily determine, in times of shortage, where the vaccine was most needed and facilitate dis-

tribution to those areas. All of this could take place in a matter of hours, rather than days or weeks, as it does now.

The tracking system in our legislation builds upon the current private system of distribution. It has received support from vaccine manufacturers and public health groups. Linking information through a national database can be done in a manner that does not jeopardize free-market competition but actually assists it.

It simply makes sense to establish a tracking system for vaccine distribution that can be used in both seasonal and pandemic events, to have that system already operational rather than to rely on untried mechanisms in emergency situations when we would already be facing all the multiple challenges of delivering health care.

We recognize that many entities in our States as well as around the country may not have the technology or infrastructure in place for a vaccine tracking system. That is why our bill also creates a demonstration program that authorizes the Centers for Disease Control, working together with State and local health departments, to provide demonstration grants to health care institutions to assist them in information technology upgrades to allow these institutions to improve their ability to report and track flu vaccine dissemination.

Mr. ROBERTS. Senator CLINTON and I also recognize the very critical need for domestic-based vaccine manufacturers and an increased production capacity in the event of a flu vaccine shortage or some kind of a public health emergency that would require a mass need for vaccines or any other countermeasure. That is why our bill improves the ability of the current manufacturers to remain in the U.S. market and encourages more companies to enter the market with domestic-based production facilities. We provide grants to manufacturers for technical assistance from the Food and Drug Administration and grants for capital improvements in technology or production capacity.

Our bill also addresses the need to quickly find the medical professionals in the event of an emergency. We require the Centers for Disease Control and Prevention to work with our State and local health departments to develop a registry, if you will, of medical personnel who can provide services during a public health emergency. Such a system was required under the Bioterrorism Act passed by Congress 4 years ago. But there is still no working system in place. This is unacceptable. We must have a system that can easily identify doctors and other health professionals who can assist during a public health emergency—that is common sense—especially during an emergency that affects many areas across State lines. This will allow our Federal, State, and local officials to move quickly and efficiently to provide Medicare to those in need.

During Hurricane Katrina and its aftermath, I heard from many doctors and other health professionals across Kansas—I am sure the Senator from New York did as well—who wanted to volunteer their time in the gulf coast area. However, their desire to help those in need was hampered by the inability of Government officials to easily identify a doctor who was credentialed or other health providers from other States who could provide care. This is why Senator CLINTON and I now stand before our colleagues to stress that we can no longer wait for the development of such a registry of medical personnel. We are working and will continue to work with the HELP Committee to make sure this is a priority in the bioterrorism reauthorization.

Mrs. CLINTON. Senator ROBERTS and I also believe that reforming the flu vaccine system requires increasing demand for vaccinations. This bill increases the funding for CDC's educational initiatives and sets up grants through State and local health departments, in collaboration with health care institutions, insurance companies, and patient groups, to increase vaccination rates among Americans but particularly among priority populations—the elderly, the chronically ill, and those for whom the seasonal flu is a particular risk. We have made progress. Between 1989 and 1990, flu vaccination rates among senior citizens doubled from 33 percent to 66 percent of the population. But we need to get those numbers up even higher to try to meet the Healthy People 2010 goal of having 90 percent of our seniors receive an annual flu vaccine. We have to get more information out to people about why this is important.

This is especially critical if we are confronted with pandemic flu. Many people last year wanted to get a seasonal flu vaccine, because they thought it would protect them against pandemic flu. The information was not clear. It wasn't getting out in the right ways. We need to do more to help find reliable sources of information in communities.

I want to add another point about the funding for research that we are advocating. We think we should have new vaccine-based technologies, such as cell-based technology. We rely on production methods that haven't kept pace with the advances in medical science. In order to make a vaccine today, strains of influenza virus are cultivated in chicken eggs. That is a nonsterile environment. Many of the contamination problems we have seen over the last several years have resulted because of this cultivation process. Although we still have to rely on this technology, Senator ROBERTS and I would like to expedite the efforts to increase research into safer, faster, more reliable methods of vaccine production.

I have to emphasize again, however, it is not research alone that will help

us. We can't do great research in the laboratory but then not know where the vaccine is, how to track it and to get it where it needs to be, how to have good information sources. Senator ROBERTS discussed the war game he participated in. There was a lot of confusion. We are trying to cut through that to couple research efforts with the development of a system to track and distribute both seasonal and pandemic influenza vaccine.

Mr. ROBERTS. Over the last several months, the distinguished Senator from New York and myself have worked with our colleagues in the HELP Committee to include the provisions of the bill we discuss today in the Public Health Security and Bioterrorism Preparedness and Response Act—the reauthorization of that bill—or the BioShield II bill to be considered by the committee and the full Senate.

I thank especially Senators BURR, ENZI, and KENNEDY, and their staffs for their willingness to work with us. Senator CLINTON and I strongly believe that the provisions of the bill we discuss today are absolutely relevant and critical to these discussions.

We hope—it is not hope; we are going to insist—that these provisions will be included in any legislation approved by the committee and Senate. As a matter of fact, were it parliamentarily correct, I would ask unanimous consent that the bill be read three times and passed now. We are thankful for all the attention and focus on planning for a pandemic flu, but we also believe a few more steps need to be taken to make sure we are ready. This is why we are urging our colleagues to consider our legislation, the Influenza Vaccine Security Act, and support our efforts on the bioterrorism and BioShield II bills.

I thank Senator CLINTON for her hard work, dedication, and leadership on this issue. I urge my colleagues to think about this and to support this legislation.

I yield the floor.

Mrs. CLINTON. Mr. President, I thank Senator ROBERTS. He brings to this issue the concern that he faces every day on the Intelligence Committee. I agree with him absolutely. This is a national and homeland security issue, as well as a health and economic one. I hope, working with our colleagues on both sides of the aisle in the HELP Committee, we can ensure that the provisions from our legislation will be included within the reauthorization of the bioterrorism and public health emergency legislation. We believe an ounce of prevention is truly worth a pound of cure. We stand ready to work to move this as quickly as possible so we can get a system in place that we can then work on during seasonal influenza time and be prepared for a pandemic flu.

I thank Senator ROBERTS and yield the floor.

NATIVE HAWAIIAN GOVERNMENT REORGANIZATION ACT OF 2005—MOTION TO PROCEED

The PRESIDING OFFICER (Mr. ALEXANDER). Under the previous order, the Senate will resume consideration of the motion to proceed to S. 147, which the clerk will report.

The bill clerk read as follows:

Motion to proceed to S. 147, a bill to express the policy of the United States regarding the United States relationship with Native Hawaiians and to provide a process for the recognition by the United States of the Native Hawaiian governing entity.

The PRESIDING OFFICER. Under the previous order, the time until 12:45 p.m. will be equally divided between the two leaders or their designees.

The Republican whip.

Mr. MCCONNELL. Mr. President, the history of America has been one of racial inequity, followed by a long but sure path to reconciliation. At the time of this country's founding, a person's race could determine whether he lived in freedom or in slavery.

Fifty years ago, race could still determine where a person could live, what water fountain he could drink from, or what kind of life he could lead.

Today, thankfully, that is no longer true. We have recognized that nearly every time our Government has taken race into account when dealing with its citizens, the effects have been detrimental, if not devastating; and for that reason, as President Kennedy once said, "Race has no place in American life or law."

Unfortunately, today, the Senate is considering a bill that would wreck the progress we have made toward a color-blind society.

S. 147, the Native Hawaiian Government Reorganization Act, would not only direct the Government to establish a government based solely on race, it would also seek to confer preferences based on race. It violates the letter and the spirit of the U.S. Constitution, and it must be opposed.

When I say the bill violates the U.S. Constitution, I am referring specifically to the 14th amendment, which was ratified in 1868, after the Civil War, to address unequal treatment based on race.

The 14th amendment reads:

All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States . . . nor deny to any person within its jurisdiction the equal protection of the laws.

The 14th amendment was quite clear. The way this bill tries to maneuver around its unconstitutionality is by classifying Native Hawaiians via the Federal Indian law system, and creating a new "tribe" of Native Hawaiians.

But this new "tribe" is a shell game. Native Hawaiians have never been viewed as an Indian tribe, including

when Hawaiians overwhelmingly voted for statehood in 1959.

As recently as 1998, the State of Hawaii itself acknowledged that the tribal concept has no historical basis in Hawaii. Specifically, in Rice v. Cayetano, the State of Hawaii wrote the following in a brief to the U.S. Supreme Court. This is what the State of Hawaii had to say at that time:

For the Indians the formerly independent sovereign entity that governed them was the tribe, but for Native Hawaiians, their formerly independent sovereign nation was the kingdom of Hawaii, not any particular tribe or equivalent political entity. . . . The tribal concept simply has no place in the context of Hawaiian history.

That was in the brief of the State of Hawaii itself in a case in 1998.

Mr. President, the Senate should be an institution that brings America together. Let's not tear apart our common identity as Americans. We should not use this fiction of Indian tribe status for Native Hawaiians to divide our country.

By the way, have I mentioned that not even the people of Hawaii support this bill? According to a poll conducted by the Grassroot Institute of Hawaii, 67 percent of Hawaiians oppose it—two-thirds of the State. Hawaiians overwhelmingly oppose this bill, based upon those survey results.

The U.S. Commission on Civil Rights conducted public hearings on S. 147. They oppose it and recommend against its passage. They oppose it because they believe it is racially discriminatory and divisive. This is what the Commission on Civil Rights had to say about this measure:

The Commission recommends against the passage of the Native Hawaiians Government Reorganization Act . . . or any other legislation that would discriminate on the basis of race or national origin and further subdivide the American people into discrete subgroups accorded varying degrees of privilege.

And it should be pointed out that it seems that private interests who commented on the bill opposed it, with only institutional interests submitting comments in support of the bill. Only institutional interests have advocated for it. But the people, it seems, do not want it.

That includes even some Native Hawaiians. One person who testified before the commission was a Hawaiian named Kaleihanamau Johnson. She told them:

I am of Hawaiian, Caucasian and Chinese descent . . . and do not support the Akaka bill.

Ms. Johnson went on to say that if this bill passes:

I will be forced to choose on which side of the fence to stand. I will choose the Anglo-American tradition of the right to life, liberty, property and the pursuit of happiness. This will prevent me from recognizing all that is Hawaiian in me. I consider the Akaka bill to be a proposal to violate my rights.

Let me share some of the testimony of advocates of Hawaiian statehood from half a century ago. These comments show that Hawaiians entered the