

Government of Romania's ban on inter-country adoptions and the welfare of orphaned or abandoned children in Romania.

## AMENDMENT NO. 2697

At the request of Mr. NELSON of Florida, the names of the Senator from South Dakota (Mr. JOHNSON), the Senator from Ohio (Mr. DEWINE) and the Senator from New Jersey (Mr. MENENDEZ) were added as cosponsors of amendment No. 2697 intended to be proposed to H.R. 4297, a bill to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006.

## AMENDMENT NO. 2698

At the request of Mr. BINGAMAN, the names of the Senator from South Dakota (Mr. JOHNSON), the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Colorado (Mr. SALAZAR) were added as cosponsors of amendment No. 2698 intended to be proposed to H.R. 4297, a bill to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006.

## AMENDMENT NO. 2699

At the request of Mr. LAUTENBERG, the names of the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. DAYTON) and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of amendment No. 2699 intended to be proposed to H.R. 4297, a bill to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

by Mr. LEVIN (for himself and Ms. STABENOW):

S. 2240. A bill to amend title XVIII to reform the Medicare prescription drug program; to the Committee on Finance.

Mr. LEVIN. Mr. President, today I am introducing "The Medicare Part D Reform Act of 2006." This bill is necessary to address some of the major problems in the Medicare prescription drug benefit that took effect on January 1 of this year. As we all know, the reaction of our seniors has been widespread disappointment, mass confusion and downright anger.

Let me describe some of the problems that I am hearing from people in Michigan about this new Medicare prescription drug benefit.

First, many drug companies have previously issued discount cards and are currently providing drugs to low-income people and seniors at a nominal or no cost. These are individuals usually at 200 percent of the Federal poverty level, which is \$19,600 for a single person or \$26,400 for a couple, while to qualify for the Medicare low-income subsidy, their income must be \$14,700 for a single person or \$19,800 for a couple. Many of these programs are being discontinued, and seniors are losing a

vital method of obtaining low cost prescription drugs.

Second, prescription drug plans can drop a drug from its list of covered drugs with 60 days notice at any time during the calendar year. This is particularly egregious for a senior who relied on a particular medication being available and covered when the senior chose that particular plan.

Third, the situation of so-called "dual eligibles" is clearly worse now than before enactment of the prescription drug benefit. These are former Medicaid beneficiaries who are being forced into Medicare prescription drug coverage, often putting them in plans with more restrictive formularies and higher co-payments, in other words leaving them worse off.

Fourth, many Michigan residents are retirees from good paying jobs and currently have a good prescription drug plan. This has changed for the worse with the creation of the new Medicare prescription drug benefit because many companies have decided to scale back or eliminate that retiree coverage. As a result, many of those retirees are worse off than they were before the bill became law.

Fifth, Medicare is specifically barred from negotiating lower drug prices for all of its beneficiaries.

Finally, the coverage gap from \$2,250–\$3,600 in prescription drug expenses per year, commonly referred to as the "doughnut hole," is unconscionable. Many seniors do not yet understand that this huge coverage gap is looming in their future and that during this gap, they are still expected to pay their monthly premiums, although they are getting no prescription drug coverage assistance.

To address many of these concerns I, along with my colleague Senator STABENOW, today am introducing the Medicare Part D Reform Act of 2006, and I hope the Senate will immediately consider these positive reforms. My legislation has four goals and I will briefly outline them.

First, this legislation would prohibit prescription drug plans from removing drugs from the plan's list of covered drugs until January 1 of the following year. This will give seniors the opportunity to make an informed decision during open enrollment at the end of each year if one plan decides to remove a particular drug from the plan.

Second, my legislation clearly states that the discount cards that pharmaceutical companies are providing to our lower income seniors are permissible and that seniors should be allowed to participate in these programs. There has been some confusion as to whether companies can legally continue these programs and, if companies do continue their assistance, questions have arisen as to whether that assistance will count towards the "true-out-of-pocket" costs for that beneficiary, which plunges them into the "doughnut hole" when they reach \$2,250. My legislation mandates that there will be

no negative consequences for pharmaceutical companies continuing to provide discount cards to our low-income seniors.

Third, my legislation would allow former Medicaid beneficiaries now receiving their medications under Medicare to continue to receive their prescription drugs even if they cannot meet the worsened co-payment requirements.

Lastly, the legislation would specifically give the Federal Government the authority to negotiate lower prescription drug prices for our seniors. Current Medicare law prohibits the Department of Health and Human Services from negotiating lower prices, as we do for veterans in our VA health programs. As a result, Medicare beneficiaries do not have the benefit of the bargaining power of Medicare.

All of us are hearing from our constituents that we need to improve Medicare Part D. Congress needs to fulfill the promise it made that Medicare Part D would lower prescription drug prices, not increase them. This bill will help us begin to keep that promise.

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

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

S. 2240

*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 "Medicare Part D Reform Act of 2006".

## SEC. 2. REMOVAL OF COVERED PART D DRUGS FROM THE PRESCRIPTION DRUG PLAN FORMULARY.

Section 1860D-4(b)(3)(E) of the Social Security Act (42 U.S.C. 1395w-104(b)(3)(E)) is amended to read as follows:

"(E) REMOVING DRUG FROM FORMULARY OR CHANGING PREFERRED OR TIER STATUS OF DRUG.—

"(i) LIMITATION ON REMOVAL OR CHANGE.—Beginning with 2006, the PDP sponsor of a prescription drug plan may not remove a covered part D drug from the plan formulary or change the preferred or tiered cost-sharing status of such a drug other than during the period beginning on September 1 and ending on October 31. Subject to clause (ii), such removal or change shall only be effective beginning on January 1 of the immediately succeeding calendar year.

"(ii) NOTICE.—Any removal or change under this subparagraph shall not take effect unless appropriate notice is made available (such as under subsection (a)(3)) to the Secretary, affected enrollees, physicians, pharmacies, and pharmacists. Such notice shall ensure that such information is made available prior to the annual, coordinated open election period described in section 1851(e)(3)(B)(iii), as applied under section 1860D-1(b)(1)(B)(iii)."

## SEC. 3. PHARMACEUTICAL PATIENT ASSISTANCE PROGRAMS.

(a) PROVIDING A SAFE HARBOR FOR PHARMACEUTICAL PATIENT ASSISTANCE PROGRAMS.—Section 1128B(b)(3) of the Social Security Act (42 U.S.C. 1320a-7b(b)(3)) is amended—

(1) in subparagraph (G)—

(A) by inserting "or under a patient assistance program (including a pharmaceutical

manufacturer patient assistance program)" after "Indian organizations"); and

(B) by striking "and" at the end;

(2) in subparagraph (H), as added by section 237(d) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173; 117 Stat. 2213)—

(A) by moving such subparagraph 2 ems to the left; and

(B) by striking the period at the end and inserting "; and"; and

(3) by redesignating subparagraph (H), as added by section 431(a) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173; 117 Stat. 2287), as subparagraph (I) and moving such subparagraph 2 ems to the left.

(b) EXCLUSION OF EXPENDITURES UNDER CERTAIN PHARMACY ASSISTANCE PROGRAMS FROM TROOP.—Section 1860D-2(b)(4)(C)(ii) of such Act (42 U.S.C. 1395w-102(b)(4)(C)(ii)) is amended by inserting "under a pharmaceutical manufacturer patient assistance program," after "a group health plan,".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.

#### SEC. 4. PROTECTION AGAINST COST-SHARING FOR FULL-BENEFIT DUAL ELIGIBLE INDIVIDUALS.

(a) IN GENERAL.—Section 1860D-14(a)(1)(D)(ii) of the Social Security Act (42 U.S.C. 1395w-114(a)(1)(D)(ii)) is amended—

(1) in the heading, by striking "LOWEST INCOME";

(2) by striking "and whose income does not exceed 100 percent of the poverty line applicable to a family of the size involved"; and

(3) by adding at the end the following new sentence: "In the case of an individual who is unable to pay the copayment applicable under the preceding sentence, such copayment shall be waived."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to drugs dispensed on or after the date of enactment of this Act.

#### SEC. 5. NEGOTIATING FAIR PRICES FOR MEDICARE PRESCRIPTION DRUGS.

(a) IN GENERAL.—Section 1860D-11 of the Social Security Act (42 U.S.C. 1395w-111) is amended by striking subsection (i) (relating to noninterference) and by inserting the following new subsection:

"(i) AUTHORITY TO NEGOTIATE PRICES WITH MANUFACTURERS.—In order to ensure that beneficiaries enrolled under prescription drug plans and MA-PD plans pay the lowest possible price, the Secretary shall have authority similar to that of other Federal entities that purchase prescription drugs in bulk to negotiate contracts with manufacturers of covered part D drugs, consistent with the requirements and in furtherance of the goals of providing quality care and containing costs under this part."

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of enactment of this Act.

By Mrs. FEINSTEIN:

S. 2241. A bill for the relief of Carmen Shahrzad Kulcsar; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I offer today private relief legislation to provide lawful permanent residence status to Carmen Shahrzad Kulcsar, a 15-year-old Australian national currently living with her aunt and uncle in San Marcos, CA.

I have decided to offer private relief legislation on Carmen's behalf because I believe that removal from the United States would not only be tragically unfair to her, but also to her aunt and

uncle who have taken Carmen into their home and treated her like a daughter after the tragic events that brought her to America. Furthermore, Carmen's removal could put her aunt's, her uncle's, and her own life in grave danger.

Carmen's parents separated due to physical abuse, alcohol abuse, and allegations of affairs. In 1992, at the young age of two, Carmen witnessed her father shoot her mother point blank range in the head.

Her father—David Kulcsar—was convicted of murder and sentenced to 12 to 16 years in prison. Fortunately for Carmen, her American aunt Manieh Varner was granted sole guardianship and custody of her niece by an Australian court.

Carmen entered the United States on a temporary Visitor's Visa and has resided here for the past 13 years with her aunt and uncle.

Carmen is a model student at her high school. She takes honor classes and has worked hard to earn a cumulative grade point average of 3.5. Her report card has multiple comments regarding her outstanding citizenship and as being a pleasure to have in class.

Carmen is a member of the competitive Academic Decathlon Team. Her future can be a bright one and it is unlikely that she will become a burden on the State or Federal Government.

Carmen's aunt has always wanted to adopt her niece and begin the path to legal residency. However, there has always been one problem. Carmen's father never wanted Carmen to go with her aunt and made repeated threats for revenge against Mrs. Varner. Adopting Carmen requires notifying Mr. Kulcsar about the adoption and Mrs. Varner believed always, as she does now, that doing so would put her and Carmen's life in risk.

Mrs. Varner cannot pursue adoption now because time constraints prevent the process from being completed before Carmen's 16th birthday; thus, adoption would have no bearing for immigration purposes.

Mr. and Mrs. Varner have done their best to try and create a life for Carmen that would otherwise have been impossible for her in Australia.

Both U.S. citizens, Mr. Varner is a high school teacher while Mrs. Varner is employed by the State of California's Department of Transportation. Along with a daughter of their own, they have made the best possible situation of a horrible tragedy.

Unfortunately, if this private relief bill is not approved, the choices available to Carmen are grim. Clearly it would be impossible for her to go back to Australia.

The only memory she has of that country is the memory of her mother's murder at the hands of her father. The only family in Australia is that of her unstable, recently released from prison father. She would be forced to live illegally in the United States through no

fault of her own. America is the only land she has ever known. It is her home.

Given these extraordinary and unique facts, I offer this private relief bill on behalf of Carmen Shahrzad Kulcsar. We have the opportunity to make a just and fitting solution for this wonderful family. Therefore, I ask my colleagues to support this private relief bill.

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

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

S. 2241

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

#### SECTION 1. PERMANENT RESIDENCE.

Notwithstanding any other provision of law or any order, for purposes of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), Carmen Shahrzad Kulcsar shall be deemed to have been lawfully admitted to the United States for permanent residence as of the date of enactment of this Act upon the payment of the required visa fees.

#### SEC. 2. REDUCTION OF NUMBER OF AVAILABLE VISAS.

Upon the granting of permanent residence to Carmen Shahrzad Kulcsar under section 1, the Secretary of State shall instruct the proper officer to reduce by 1 the total number of immigrant visas available during the current fiscal year to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)).

By Mr. MENENDEZ:

S. 2243. A bill to make college more affordable by expanding and enhancing financial aid options for students and their families and providing loan forgiveness opportunities for public service employees, and for other purposes; to the Committee on Finance.

By Mr. MENENDEZ (for himself, Mr. LAUTENBERG, and Mr. DURBIN):

S. 2244. A bill to provide funding and incentives for caregiver support and long-term care assistance; to the Committee on Finance.

Mr. MENENDEZ. Mr. President, I rise today to introduce The Caregiver Assistance and Relief Effort, CARE, Act and the College Access and Affordability Act because far too many families today are squeezed by the demands of caring for aging loved ones while working to give their children what all parents want for their kids—the opportunity to go to college and be successful. As a son helping to care for a mother with Alzheimer's disease and the proud parent of two college-age kids, I know personally the intergenerational demands families are facing and the sacrifices they are making to care for their loved ones. That's exactly why my first legislative initiatives in the United States Senate are to make higher education and long-term care more affordable and more accessible for New Jersey families and families across the country.

The CARE Act would provide tax credits to those caring for ailing family members and loved ones, and encourage individuals to plan and invest in their own long-term care by offering a tax deduction for long-term care insurance. In addition, it would double the funding for the existing National Family Caregiver Support Program, which supports a wide range of important services for older persons.

There are an estimated 44.4 million caregivers in the U.S., which is 21 percent of the adult population. My home State of New Jersey has over 830,000 caregivers, ranking it 9th in the country.

Caregiving families face unique strains. They are challenged with additional costs, and often caregivers must sacrifice their job or cut back on their hours at work. Almost 6 in 10 caregivers either work or have worked while providing care, and 62 percent of caregivers report having had to make work-related adjustments ranging from going in late and leaving early to having to give up work entirely. Caregivers are also a valuable asset to keeping health care costs down. They are providing \$257 billion in care annually, more than double the annual spending on home care and nursing home care combined. Their compassion, dedication, and selflessness come at a price to their families and are a benefit to the greater good of our State and Nation. This legislation is aimed at addressing their hard work, sacrifice, and contributions to society.

The other bill I'm introducing today, the College Access and Affordability Act, will help open the doors to higher education for more young people by making financial assistance more flexible for students and by expanding and enhancing existing financial aid options.

I know the difference a college education can have on a young person's life. As the first in my family to go to college, and later law school, I had opportunities that would not have been available to me had I not been able to go to college. But financing a higher education was not an easy thing for my family. Federal financial aid helped ensure that I could go to college and that I could pursue my dreams. I know firsthand the important benefits of receiving Federal aid—not only did it help me finance my dreams of college, but it also gave me the extra confidence that I needed to succeed.

So, I am committed to ensuring that other promising young people get the same chance that I did and that we, as a Nation, will be there to help everyone in this country achieve their dreams of college, regardless of background, race, language, or income level. One of the great foundations of this country is that the doors of opportunity are open to anyone who works hard. We must follow through on that promise by providing a path for young people to have access to and attend college. If we do not lead the way to ensure that our

colleges are full of the brightest minds and fullest potential, we are failing to prepare our future generations and we are jeopardizing the future of our Nation.

The College Access and Affordability Act will make financial aid more flexible and accessible to more students, such as extending Pell Grant eligibility to students who attend school year-round. It will also make substantial changes to the Hope Scholarship Tax Credit, a useful tool in helping cover the costs of a higher education. Since the Credit was enacted in 1997, the maximum credit has not increased to reflect the rising cost of tuition. This bill would raise the award by \$1,000 and allow the credit to be claimed for all 4 years of college, instead of the current 2 years. It will also make more families eligible for the credit by expanding the eligibility limits.

Finally, in recognizing that many of our communities are in need of qualified individuals to serve in essential public service positions, this bill would help attract dedicated college graduates who serve low-income communities in positions such as science, math, bilingual, or special education teachers; nurses; first responders; and child welfare workers.

Too many students do not pursue a college education because they think it is out of their reach. We must commit to providing sensible tools and adequate resources so that financing a college education is not more of a burden on families, and achieving the dreams of a higher education is not beyond the reach of our Nation's young people.

On any given day, families across New Jersey, and indeed, across this country, face the daunting challenges of making ends meet—putting food on the table, clothing their children, and putting a roof over their head. If that weren't enough, add the challenge of trying to pay for college or care for an aging parent, or in many cases, both, and you have what many times is an insurmountable challenge. But that's exactly what's happening to more and more people everyday. And the intergenerational demands will only increase as the baby boom generation grows older and our life expectancy increases. We need to work now to address the challenges on both fronts—from providing affordable long-term care and encouraging future retirees to plan for their own long-term care, to ensuring that anyone who is willing to work hard has the opportunity to go to college and succeed. That's what this country is all about, and that's why I've made these initiatives my first priorities in the U.S. Senate. I'm hopeful that we will be able to work in a bipartisan fashion to address these important challenges facing American families.

## SUBMITTED RESOLUTIONS

### SENATE RESOLUTION 365—TO PROVIDE A 60 VOTE POINT OF ORDER AGAINST OUT OF SCOPE MATERIAL IN CONFERENCE REPORTS AND OPEN THE PROCESS OF EARMARKS IN THE SENATE

Mr. LOTT (for himself and Mrs. FEINSTEIN) submitted the following resolution; which was referred to the Committee on Rules and Administration

S. RES. 365

*Resolved,*

#### SECTION 1. OUT OF SCOPE MATTERS IN CONFERENCE REPORTS.

(a) IN GENERAL.—It shall not be in order in the Senate to consider a conference report that includes any matter not committed to the conferees by either House. A point of order shall be made and voted on separately for each item in violation of this section.

(b) DISPOSITION.—If the point of order against a conference report under subsection (a) is sustained, then—

(1) the matter in such conference report shall be deemed to have been struck;

(2) when all other points of order under this section have been disposed of—

(A) the Senate shall proceed to consider the question of whether the Senate should recede from its amendment to the House bill, or its disagreement to the amendment of the House, and concur with a further amendment, which further amendment shall consist of only that portion of the conference report not deemed to have been struck;

(B) the question shall be debatable; and

(C) no further amendment shall be in order; and

(3) if the Senate agrees to the amendment, then the bill and the Senate amendment thereto shall be returned to the House for its concurrence in the amendment of the Senate.

(c) SUPERMAJORITY WAIVER AND APPEAL.—This section may be waived or suspended in the Senate only by an affirmative vote of  $\frac{2}{3}$  of the Members, duly chosen and sworn. An affirmative vote of  $\frac{2}{3}$  of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

#### SEC. 2. EARMARKS.

(a) HONESTY IN EARMARKS.—Rule XVI of the Standing Rules of the Senate is amended by adding at the end the following:

“10.(a) In this paragraph, the term ‘earmark’ means a provision that specifies the identity of an entity to receive assistance and the amount of the assistance.

“(b) It shall not be in order to consider any bill or amendment between the Houses or conference report on such a bill unless a list of—

“(1) all earmarks in such measure;

“(2) an identification of the member who proposed the earmark; and

“(3) an explanation of the essential governmental purpose for the earmark; are available to all Members and made available to the general public by means of the Internet for at least 24 hours before its consideration.”.

(b) MEMBER REQUESTS.—Prior to the consideration of a bill in the Senate, any Member who requests an earmark in the bill shall file a copy of the request with the Secretary of the Senate and the request shall be printed in the Congressional Record.

#### SEC. 3. AVAILABILITY OF CONFERENCE REPORTS ON THE INTERNET.

Rule XXVIII of all the Standing Rules of the Senate is amended by adding at the end the following: