

The government of Hamid Karzai in Afghanistan is increasingly unstable. There are serious questions and concerns about security throughout Afghanistan. The warlords are restless and asserting power, and previously dissipated Taliban elements are returning to Afghanistan. The situation remains volatile.

The stabilization of Afghanistan, its successful transition to a democratic government, and its restoration of its war-torn economy should remain a top priority for all of us. I believe it would be a tragic mistake if the United States turns its attention and effort from Afghanistan before the new Afghan Government is stabilized and security in the country is improved.

I, for one, strongly believe that Iraq should promptly agree to the return of the United Nations weapons inspectors it expelled in 1998. If the government of Saddam Hussein has nothing to hide, something it continues to claim, then now is the time to prove it to the entire world.

Iraq's refusal to cooperate is tacit admission of deception and of the pursuit and stockpiling of chemical, biological, and, yes, admission that the rumors of his pressing ahead to develop nuclear warheads are, in fact, true.

Last week, at a meeting in Vienna, United Nations Secretary General Kofi Annan told an Iraqi delegation in no uncertain terms that the Iraqi Government must allow U.N. inspectors back in or there was no point to continue discussions and negotiations.

There was no response from the Iraqi delegation, who simply left Vienna and returned to Baghdad. I understand that Saddam Hussein is a brutal dictator who during a 34-year reign of terror has systematically eliminated all internal opposition, even including members of his own family. He has ruthlessly persecuted Iraq's Kurdish minority. He has used chemical weapons against the Kurds and his own people. He has initiated a decade-long war against Iran, at the cost of nearly 2 million casualties. He has financially supported Palestinian terrorists and he has invaded Kuwait, prompting the United States to launch Operation Desert Storm.

In the history of our Nation, we have never attacked another country, except in response to an attack on our own shores, our people or our national interests. Until and unless the administration is prepared to come forward to offer its rationale, to submit its evidence to the American people, and to allow Congress to vote to authorize the use of force, an attack on Iraq, I believe, is both unwise and ill timed.

Unwise because it would certainly encourage an unprecedented response by Saddam Hussein, most likely targeted against Israel. Unwise because until the administration has thought through the who, the what, and the how of the regime that will take power in Iraq after Saddam Hussein is disposed of, any military action may well have unintended and undesirable consequences.

One cannot overemphasize how important the nature of the next Iraqi regime is to the future of the Middle East. It will require that the United States engage in nation building, something this administration has been reluctant to do. Call it what you will, but in the wake of toppling Saddam Hussein our commitment to Iraq must not be brief or perfunctory. This, I believe, is ill timed because of the unfinished business in Afghanistan, the continuing threat of al-Qaida, and the fact that at least two-thirds of the al-Qaida leadership, including Osama bin Laden, remain at large.

The war against terror has not yet been won. We should stay the course. So before rushing precipitously forward in an attack on Iraq, I urge the Bush administration to work with allies and the United Nations to develop a multi-lateral approach to compel Iraq to live up to its obligations under Security Council Resolution 687.

Should Iraq be unwilling to live up to its obligations and the President determines that there is just cause for military action against Iraq, I urge him to come before this Congress, to come before the American people, to make his case and let us in turn discharge our constitutional duty to debate and vote on the authorization of the use of force. The many thousands of our sons and daughters who will bear the brunt of such an operation, some of whom will surely pay the highest price, deserve no less.

I ask unanimous consent that the concurrent resolution be printed in the RECORD.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4327. Mr. WELLSTONE submitted an amendment intended to be proposed by him to the bill S. 812, to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals; which was ordered to lie on the table.

SA 4328. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 812, supra; which was ordered to lie on the table.

SA 4329. Mr. DURBIN (for himself, Mr. DEWINE, Mr. DORGAN, Mr. LEVIN, and Mr. JOHNSON) submitted an amendment intended to be proposed by him to the bill S. 812, supra; which was ordered to lie on the table.

SA 4330. Mr. ENZI submitted an amendment intended to be proposed by him to the bill S. 812, supra; which was ordered to lie on the table.

SA 4331. Mr. ENZI submitted an amendment intended to be proposed by him to the bill S. 812, supra; which was ordered to lie on the table.

SA 4332. Mr. ENZI submitted an amendment intended to be proposed by him to the bill S. 812, supra; which was ordered to lie on the table.

SA 4333. Mr. ENZI submitted an amendment intended to be proposed by him to the bill S. 812, supra; which was ordered to lie on the table.

SA 4334. Mr. NICKLES submitted an amendment intended to be proposed by him to the bill S. 812, supra; which was ordered to lie on the table.

SA 4335. Mr. NICKLES submitted an amendment intended to be proposed to

amendment SA 4299 proposed by Mr. REID (for Mr. DORGAN (for himself, Mr. WELLSTONE, Mr. JEFFORDS, Ms. STABENOW, Ms. COLLINS, Mr. LEVIN, Mr. JOHNSON, Mr. MILLER, Mr. DURBIN, Mr. FEINGOLD, and Mr. HARKIN)) to the bill (S. 812) supra; which was ordered to lie on the table.

SA 4336. Mr. NICKLES submitted an amendment intended to be proposed by him to the bill S. 812, supra; which was ordered to lie on the table.

SA 4337. Mr. NICKLES submitted an amendment intended to be proposed to amendment SA 4299 proposed by Mr. REID (for Mr. DORGAN (for himself, Mr. WELLSTONE, Mr. JEFFORDS, Ms. STABENOW, Ms. COLLINS, Mr. LEVIN, Mr. JOHNSON, Mr. MILLER, Mr. DURBIN, Mr. FEINGOLD, and Mr. HARKIN)) to the bill (S. 812) supra; which was ordered to lie on the table.

SA 4338. Mr. NICKLES submitted an amendment intended to be proposed by him to the bill S. 812, supra; which was ordered to lie on the table.

SA 4339. Mr. NICKLES submitted an amendment intended to be proposed to amendment SA 4299 proposed by Mr. REID (for Mr. DORGAN (for himself, Mr. WELLSTONE, Mr. JEFFORDS, Ms. STABENOW, Ms. COLLINS, Mr. LEVIN, Mr. JOHNSON, Mr. MILLER, Mr. DURBIN, Mr. FEINGOLD, and Mr. HARKIN)) to the bill (S. 812) supra; which was ordered to lie on the table.

SA 4340. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 812, supra; which was ordered to lie on the table.

SA 4341. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 812, supra; which was ordered to lie on the table.

SA 4342. Mr. FRIST submitted an amendment intended to be proposed by him to the bill S. 812, supra; which was ordered to lie on the table.

SA 4343. Mr. FRIST submitted an amendment intended to be proposed by him to the bill S. 812, supra; which was ordered to lie on the table.

SA 4344. Mr. FRIST submitted an amendment intended to be proposed to amendment SA 4299 proposed by Mr. REID (for Mr. DORGAN (for himself, Mr. WELLSTONE, Mr. JEFFORDS, Ms. STABENOW, Ms. COLLINS, Mr. LEVIN, Mr. JOHNSON, Mr. MILLER, Mr. DURBIN, Mr. FEINGOLD, and Mr. HARKIN)) to the bill (S. 812) supra; which was ordered to lie on the table.

SA 4345. Mr. GRAHAM (for himself, Mr. SMITH of Oregon, Mr. MILLER, Mrs. LINCOLN, Mr. BINGAMAN, Mr. KENNEDY, and Ms. STABENOW) proposed an amendment to amendment SA 4299 proposed by Mr. REID (for Mr. DORGAN (for himself, Mr. WELLSTONE, Mr. JEFFORDS, Ms. STABENOW, Ms. COLLINS, Mr. LEVIN, Mr. JOHNSON, Mr. MILLER, Mr. DURBIN, Mr. FEINGOLD, and Mr. HARKIN)) to the bill (S. 812) supra.

SA 4346. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 5010, making appropriations for the Department of Defense for the fiscal year ending September 30, 2003, and for other purposes; which was ordered to lie on the table.

SA 4347. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 5010, supra; which was ordered to lie on the table.

SA 4348. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 5010, supra; which was ordered to lie on the table.

SA 4349. Mr. HUTCHINSON submitted an amendment intended to be proposed to amendment SA 4345 proposed by Mr. GRAHAM (for himself, Mr. SMITH of Oregon, Mr. MILLER, Mrs. LINCOLN, Mr. BINGAMAN, Mr. KENNEDY, and Ms. STABENOW) to the amendment

SA 4299 proposed by Mr. REID (for Mr. DORGAN (for himself, Mr. WELLSTONE, Mr. JEFFORDS, Ms. STABENOW, Ms. COLLINS, Mr. LEVIN, Mr. JOHNSON, Mr. MILLER, Mr. DURBIN, Mr. FEINGOLD, and Mr. HARKIN)) to the bill (S. 812) to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 4327. Mr. WELLSTONE submitted an amendment intended to be proposed by him to the bill S. 812, to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ STATE PRESCRIPTION DRUG DISCOUNT.

(a) FINDINGS.—Congress makes the following findings:

(1) More than 70,000,000 Americans, including more than 18,000,000 Medicare beneficiaries, are uninsured or underinsured for prescription drug coverage.

(2) High prescription drug prices are denying uninsured and underinsured Americans access to medically necessary care, thereby threatening their health and safety. Many of these Americans require repeated doctor or medical clinic appointments, becoming sicker because they cannot afford to take the drugs prescribed for them. Many are admitted to or treated at hospitals because they cannot afford the drugs prescribed for them that could have prevented the need for hospitalization. Many enter expensive institutional care settings because they cannot afford the prescription drugs that could have supported them outside of an institution. In each of these circumstances, uninsured and underinsured residents too often become Medicaid recipients because of their inability to afford prescription drugs.

(3) Pursuant to the Social Security Act, State Medicaid programs receive discounts in the form of rebates for outpatient prescription drugs. On average, these rebates provide discounts of more than 40 percent off retail prices.

(4) In 49 States, individual Americans do not have access to Medicaid rebates. But in 1 State, since June 1, 2001, over 100,000 Americans have received discounts from those rebates through the "Healthy Maine" program. This program, established as a demonstration project pursuant to a waiver from the Secretary of Health and Human Services has proven to work. Americans need that program replicated in every State, immediately.

(5) The Federal and State governments are the only agents that, as a practical matter, can play an effective role as a market participant on behalf of Americans who are uninsured or underinsured.

(b) STATE PRESCRIPTION DISCOUNT PROGRAM.—

(1) IN GENERAL.—Section 1927(a) of the Social Security Act (42 U.S.C. 1396r-8(a)) is amended by adding at the end the following:

"(7) REQUIREMENTS RELATING TO AGREEMENTS FOR DRUGS PROCURED BY INDIVIDUALS THROUGH STATE PRESCRIPTION DRUG DISCOUNT PROGRAMS.—

"(A) IN GENERAL.—A manufacturer meets the requirements of this paragraph if the manufacturer enters into an agreement with the State to make rebate payments for drugs covered by a State prescription drug discount program in the same amounts as are paid by the manufacturer to the State for

such drugs under a rebate agreement described in subsection (b).

"(B) STATE PRESCRIPTION DRUG DISCOUNT PROGRAM DEFINED.—

"(1) IN GENERAL.—In this paragraph, the term 'State prescription drug discount program' means a State program under which, with respect to a rebate period, not less than the amount equal to 95 percent of all the rebates paid to the State under agreements entered into under subparagraph (A) during such period is provided to eligible State residents in the form of discounted prices for the purchase of outpatient prescription drugs.

"(ii) ELIGIBLE STATE RESIDENT.—For purposes of clause (i), the term 'eligible State resident' means an individual who is a State resident and—

"(I) who is eligible for benefits under title XVIII; or

"(II) whose income does not exceed 300 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

"(iii) ADDITIONAL SUBSIDIES.—Nothing in this subparagraph shall be construed as—

"(I) requiring a State to expend State funds to carry out a State prescription drug discount program; or

"(II) prohibiting a State from electing to contribute State funds to a State prescription drug discount program to provide greater subsidies to eligible State residents for outpatient prescription drugs covered under the program.

"(C) NO OFFSET AGAINST MEDICAL ASSISTANCE.—Amounts received by a State under an agreement entered into under subparagraph (A) in any quarter shall not be considered to be a reduction in the amount expended under the State plan in the quarter for medical assistance for purposes of section 1903(a)(1)."

(2) CONFORMING AMENDMENT.—The first sentence of section 1927(a)(1) of the Social Security Act (42 U.S.C. 1396r-8(a)(1)) is amended, by striking "and paragraph (6)" and inserting ", paragraph (6), and paragraph (7)".

(c) ENHANCED REBATES FOR STATE MEDICAID PROGRAMS.—Section 1927(b)(1)(B) of the Social Security Act (42 U.S.C. 1396r-8(b)(1)(B)) is amended—

(1) by striking "Amounts" and inserting the following:

"(i) IN GENERAL.—Except as provided in clause (ii) and subsection (a)(7)(C), amounts"; and

(2) by adding at the end the following:

"(ii) ENHANCED REBATE.—In the case of a State that has a State prescription drug discount program described in subsection (a)(7) and that has entered into a rebate agreement described in paragraph (1) or (4) of subsection

(a) that provides a greater rebate for a covered outpatient drug than the rebate that would be paid for the covered outpatient drug under subsection (c), then, notwithstanding clause (i), only the amount equal to ½ of the difference between the amount received by the State in any quarter under such a rebate agreement and the amount of the rebate that would be paid under subsection (c) for such covered outpatient drug shall be considered to be a reduction in the amount expended under the State plan in the quarter for medical assistance for purposes of section 1903(a)(1)."

(d) EFFECTIVE DATE.—The amendments made by this section take effect on January 1, 2004.

SA 4328. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 812, to amend the

Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. ____ CLARIFICATION OF INCLUSION OF INPATIENT DRUG PRICES CHARGED TO CERTAIN PUBLIC HOSPITALS IN THE BEST PRICE EXEMPTIONS ESTABLISHED FOR PURPOSES OF THE MEDICAID DRUG REBATE PROGRAM.

Section 1927(c)(1)(C)(ii) of the Social Security Act (42 U.S.C. 1396r-8(c)(1)(C)(ii)) is amended—

(1) in subclause (II), by striking "and" at the end;

(2) in subclause (III), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(IV) with respect to a covered entity described in section 340B(a)(4)(L) of the Public Health Service Act, shall, in addition to any prices excluded under clause (i)(I), exclude any price charged on or after the date of enactment of this subparagraph, for any drug, biological product, or insulin provided as part of, or as incident to and in the same setting as, inpatient hospital services (and for which payment may be made under this title as part of payment for and not as direct reimbursement for the drug)."

SA 4329. Mr. DURBIN (for himself, Mr. DEWINE, Mr. DORGAN, Mr. LEVIN, and Mr. JOHNSON) submitted an amendment intended to be proposed by him to the bill S. 812, to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. ____ COMPREHENSIVE COVERAGE OF IMMUNOSUPPRESSIVE DRUGS UNDER THE MEDICARE PROGRAM.

(a) IN GENERAL.—Section 1861(s)(2)(J) of the Social Security Act (42 U.S.C. 1395x(s)(2)(J)), as amended by section 113(a) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A-473), as enacted into law by section 1(a)(6) of Public Law 106-554, is amended by striking ", to an individual who receives" and all that follows before the semicolon at the end and inserting "to an individual who has received an organ transplant".

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

SEC. ____ PROVISION OF APPROPRIATE COVERAGE OF IMMUNOSUPPRESSIVE DRUGS UNDER THE MEDICARE PROGRAM FOR ORGAN TRANSPLANT RECIPIENTS.

(a) CONTINUED ENTITLEMENT TO IMMUNOSUPPRESSIVE DRUGS.—

(1) KIDNEY TRANSPLANT RECIPIENTS.—Section 226A(b)(2) of the Social Security Act (42 U.S.C. 426-1(b)(2)) is amended by inserting "(except for coverage of immunosuppressive drugs under section 1861(s)(2)(J))" after "shall end".

(2) OTHER TRANSPLANT RECIPIENTS.—The flush matter following paragraph (2)(C)(ii)(II) of section 226(b) of the Social Security Act (42 U.S.C. 426(b)) is amended by striking "of this subsection" and inserting "of this subsection and except for coverage of immunosuppressive drugs under section 1861(s)(2)(J)".

(3) APPLICATION.—Section 1836 of the Social Security Act (42 U.S.C. 1395o) is amended—

(A) by striking "Every individual who" and inserting "(a) IN GENERAL.—Every individual who"; and