WARNER) was added as a cosponsor of S. Res. 242, a resolution designating August 16, 2002, as ''National Airborne Day''.

S. RES. 266

At the request of Mr. FRIST, his name was added as a cosponsor of S. Res. 266, a resolution designating October 10, 2002, as ''Put the Brakes on Fatalities Day''.

S. RES. 293

At the request of Mr. BIDEN, the name of the Senator from Missouri (Mrs. CARNAHAN) was added as a cosponsor of S. Res. 293, a resolution designating the week of November 10 through November 16, 2002, as ''National Veterans Awareness Week'' to emphasize the need to develop educational programs regarding the contributions of veterans to the country.

AMENDMENT NO. 4305

At the request of Ms. STABENOW, the names of the Senator from North Dakota (Mr. DORGAN), the Senator from New York (Mr. SCHUMER), the Senator from Wisconsin (Mr. FEINGOLD), the Senator from New Jersey (Mr. TORRICELLI), the Senator from Missouri (Mrs. CARNAHAN), the Senator from Michigan (Mr. LEVIN), the Senator from South Dakota (Mr. JOHNSON), the Senator from Maine (Ms. SNOWE), the Senator from Vermont (Mr. JEFFORDS), the Senator from Illinois (Mr. DURBIN), the Senator from New York (Mrs. CLINTON) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of amendment No. 4305 proposed to S. 812, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CRAPO (for himself and Mr. CONRAD):

S. 2750. A bill to improve the provision of telehealth services under the Medicare program, to provide grants for the development of telehealth networks, and for other purposes; to the Committee on Finance.

Mr. CRAPO. Mr. President, I am pleased to rise today to introduce, along with Senator CONRAD of North Dakota, legislation that would greatly enhance the use of telehealth technology to bring badly-needed health care services to rural and underserved areas throughout the country.

This bill would allow for greater reimbursement for telehealth services under Medicare and calls for a valuable investment in the development of new and more advanced telehealth networks in underserved areas. Telehealth is the future of rural health care. Access to quality health care in rural areas is at a critical stage. Today, many ill and disabled people must drive hundreds of miles, often in bad weather on dangerous roads, just to receive the most basic of health care. Access to specialists is even more prohibitive. However, by using much of the same technologies that we use to communicate with our constituents from here in Washington, we can bring quality health care, and specialty care, to their local health care provider.

I would like to thank Senator CONRAD, who has been a longtime supporter of telehealth services, for joining me in introducing this important legislation. Our bill would allow a wide variety of health care practitioners to provide telehealth services under Medicare. One of the biggest challenges for rural practitioners is obtaining the resources and infrastructure to provide technologically advanced telehealth services. Our bill would also provide valuable resources for the development of new telehealth networks in rural and underserved areas.

Technology in America is booming. We must embrace this technology as a cost-effective way to improve health care in rural and underserved areas. This legislation takes a large step in providing a modest investment toward the improvement of rural health care.

By Mr. JEFFORDS (for himself, Mr. FRIST, Mr. GREGG, Mr. BREAUX, and Mr. FEINGOLD):

S. 2752. A bill to amend title XVIII of the Social Security Act to provide for the establishment of medicare demonstration programs to improve health care quality; to the Committee on Finance.

Mr. JEFFORDS. Mr. President, I appreciate the opportunity to speak today on an issue that has been and will continue to be important and vital to the health of all Medicare beneficiaries. Medicare's origins date back to 1965; since that time little has changed in the relationship between incentives to provide care and quality of care received. The current system does not reward or provide incentives for providing quality health care. Instead, what has evolved over the last years is a perplexing data base of well documented facts concerning quality and utilization. This information is very difficult to explain but hard to ignore. Why is it that the utilization of some surgical procedures varies tremendously from one part of the country to the next? Why is it that the cost of care per beneficiary varies from location to location without clear differences in outcomes, survival, or quality? Today, after much work with numerous health systems, patient advocacy organizations, and medical quality researchers, my colleagues Senators FRIST, GREGG, BREAUX and FEINGOLD and I are pleased to announce the introduction of legislation to create Medicare demonstration projects to address these issues.

The incentives, both financial and non-financial, to provide best healthcare to Medicare beneficiaries are complex and poorly understood. These incentives have historically been rooted in the longstanding Medicare fee-for-service payment model. In an effort to better align the incentives to provide care with best practice guidelines, appropriate utilization, adherence to best medical information, and best outcomes we have written legislation to address these issues through a Medicare demonstration project. This project will implement continuous quality improvement mechanisms that are aimed at integrating primary care, referral care, support care, and outpatient services. The bill will encourage patient participation in care decisions; strive to achieve the proper allocation of health care resources; identify the appropriate use of culturally and ethnically sensitive services in health care delivery; and document the financial effects of these decisions on the medical marketplace.

As we enter an era of rapidly increasing numbers of Medicare beneficiaries, it will be increasingly important that we re-evaluate the Medicare program to insure that the quality of care received is uniformly exceptional in its delivery and quality. It is appropriate that we continue to find better ways to insure that the norms of quality health care are established and followed. It is my sincere hope that my colleges will join me in this endeavor.

Mr. FRIST. Mr. President, I rise today to introduce the Medicare Quality Improvement Act—a bill to help revitalize the Medicare Program by providing for the alignment of payment and other incentives. I want to thank Senators JEFFORDS, GREGG, and BREAUX for their work in helping craft this crucial legislation.

To meet the needs of the 21st century health care system, it is critical that payment policies be aligned to encourage and support quality improvement efforts. Even among health professionals motivated to provide the best care possible, the structure of payment and other incentives may not facilitate the actions needed to systematically improve the quality of care, and may even prevent such actions. For example, redesigning care processes to improve follow-up for chronically ill patients through electronic communication may reduce office visits and decrease revenues for a medical group under some payment schemes.

Current payment practices are complex and contradictory; and although incremental improvements are possible, more fundamental reform will be needed. In this report, ''Crossing the Quality Chasm,'' the Institute of Medicine encouraged the Centers for Medicare and Medicaid Services and the Agency for Healthcare Research and Quality to develop a research agenda to identify, test, and evaluate options for better aligning payment methods with quality improvement goals. The demonstration project authorized by this legislation is part of that larger research agenda—to help us understand the appropriate alight of payment and other incentives and improve the quality of health care in a way that will not increase the overall costs of Medicare.

We already have identified appropriate ways to align provider incentives. Research supported by the Robert Wood Johnson Foundation has noted at least 11 different incentive models—models that can be implemented by a wide variety of organizations and applied to a range of medical groups, providers, and health plans. In many circumstances, key components of these models have been implemented in several health care markets, and the research has shown that both financial and nonfinancial incentives, such as technical assistance, are important in motiving appropriate care. However, we do not know how these incentives might apply to Medicare, and that is why this demonstration is so vital.

It has been an honor and a pleasure to work closely with my distinguished colleagues on this bill, and I look forward to continuing to work with them and others as we move forward on the debate about how to more appropriately reform Medicare.

By Mr. KERRY (for himself, Mr. BOND, Mr. CLELAND, Ms. CANTWELL, Mr. BINGAMAN, and Mrs. CARNAHAN:

S. 2753. A bill to provide for a Small and Disadvantaged Business Ombudsman for Procurement in the Small Business Administration, and for other purposes; to the Committee on Small Business and Entrepreneurship.

Mr. KERRY. Mr. President, I am pleased today to introduce a critical piece of legislation intended to help small businesses receive their fair share of the Federal procurement pie and to ensure that they are being treated fairly within the Federal procurement system. I would like to thank my cosponsors, Senators BOND, CLELAND, CANTWELL, BINGAMAN and CARNAHAN for working with me and small business groups to craft this legislation, as well as Congressman ALBERT WYNN, for his partnership on this legislation. Congressman WYNN will soon be introducing companion legislation in the House.

In my time as Chairman of the Committee on Small Business and Entrepreneurship and previously as Ranking Member, two facts regarding small business procurement have made themselves very clear, small businesses are not getting their fair share of Federal procurement and there is no one in the entire Federal Government with the sole responsibility of advocating for small businesses, governmentwide, in the procurement process and ensuring that Federal agencies and large business prime contractors treat small businesses fairly. Some individuals are responsible for portions of this job, but no one performs this role as their primary job function or has the authority to do so solely.

I felt this was a glaring oversight and looked to the current make-up of the SBA to see if it could be rectified. My solution is a new position modeled along the Small Business Administration's, SBA, regulatory ombudsman, which could focus solely on procurement matters. A new ombudsman for small business procurement, or the Small and Disadvantaged Business Ombudsman, is needed to fill this role for procurement matters, just as the SBA's National Ombudsman does for regulatory issues. By creating a parallel position, each ombudsman can focus on his or her key mission, without detracting from either regulatory or procurement issues important to the small business community.

While no legislation alone can ever solve the complex problems faced by small businesses in today's Federal procurement environment, I believe the creation of a Small and Disadvantaged Business Ombudsman at the SBA will put us firmly on the right track and address several procurement issues raised through program oversight and communication with small business owners.

For example, small businesses frequently contact my office to report problems they are having with a prime contractor or a contracting agency. Too often, these businesses are afraid to come forward and make an official complaint for fear of being blackballed and denied future contracting opportunities. The SDB Ombudsman will provide one solution for these small businesses who fear being blacklisted by allowing them to submit confidential complaints. The SDB Ombudsman will have the responsibility of tracking these complaints and trying to rectify them.

The SDB Ombudsman will also work to change the culture at Federal procuring agencies by tracking and reporting on the training of procurement personnel and working to ensure that this training not only includes the ''How to's'' of small business participation, but also includes training on why small business participation is crucial to agency success and the national economy.

Until the Federal Government, at all levels, realizes the importance of doing business with small business, small business participation in Federal procurement will continue to decline, our Nation will lose its access to a wide range of small business suppliers, and small businesses across the country will continue to lose billions of dollars in procurement opportunities year after year. Of critical importance in the legislation is the first statutory consequence of an agency failing to meet its small business goals. Under the legislation, if an agency fails to meet any small business goal, the agency would be required to submit a report and an action plan to the SDB Ombudsman detailing why the agency failed to meet its small business goal or goals, and what the agency intends to do to remedy the situation.

The SDB Ombudsman will also be responsible for tracking compliance with Section (k) of the Small Business Act, which stipulates, in part, that the Director of the Office of Small and Disadvantaged Business Utilization at each Federal agency shall report to the head or deputy head of the agency. Late last year, with the support of Ranking Member BOND, I sent a letter to 21 Federal agencies to gauge compliance with this provision. Using a very lenient standard of compliance, I have concluded that at least nine of the Federal agencies surveyed are in violation of Section (k) of the Small Business Act. This is unacceptable.

On June 19, 2002, the Committee on Small Business and Entrepreneurship help a roundtable to discuss Federal procurement policies. The roundtable, title ''Are Government Purchasing Policies Hurting Small Business?'' was attended by a wide range of small business advocates, small business owners and government officials. One of the topics discussed during the roundtable was my draft proposal, the SDB Ombudsman Act, to create a new position at the SBA to monitor Federal agency compliance with certain provisions of the Small Business Act and serve as a focal point to assist small businesses that were treated unfairly in the Federal procurement process.

During the Roundtable, I asked the participants for their recommendations on how to improve the legislation to ensure that the SDB Ombudsman serves as the most effective advocate possible for small business. The Committee record was also kept open for two weeks so that participants could submit further comments.

I have now reviewed the Committee record and further submissions and am pleased to say that the responses were very positive. Several important suggestions were made to strengthen the Office of Small and Disadvantaged Business Utilization at each Federal agency as an important corollary to the creation of the SDB Ombudsman, since the SDB Ombudsman would be relying on each OSDBU to fulfill his or her statutory responsibilities.

Many other small businesses have come to the Committee on Small Business and Entrepreneurship and requested that we strengthen the OSDBUs at each agency as well. This legislation fulfills that request by including six new provisions.

First, the legislation clarifies that OSDBU Directors shall report to the highest level at each agency. In the study I mentioned previously, too often, an agency cited a bifurcated reporting system whereby the OSDBU Director reports to the head or deputy head on small business matters, but to other, lower-ranking personnel for budgetary or personnel matters. The Small Business Act does not envision such a system. Therefore, I felt it necessary to clarify, in no uncertain terms, that the OSDBU Director must report to the head or deputy head of his or her agency only, for all matters.

Second, the legislation requires that all OSDBU Directors now be career personnel. The Director's position is one

of advocacy, which often entails challenging co-workers and political personnel, including superiors. Under current law, OSDBU Directors may be political appointees. While this has worked in some instances, I believe the small business community would be better served by career personnel with job protections.

Third, the legislation requires the OSDBU Director to be well-qualified in assisting small businesses with procurement matters. No one disputes the expertise of Federal procurement officials; however, procurement expertise does not always translate to small business procurement expertise. This provision will help ensure that small businesses are being served by those who understand their particular procurement needs.

Fourth, the legislation requires that, at major Federal agencies, the OSDBU Director have no job responsibilities outside the scope of the authorizing legislation. This provision was included because far too many agencies assign the OSDBU Director title to their procurement chief or another official with similar responsibilities, while the actual OSDBU program is run by someone else. This provision will stop this abuse.

Fifth, the legislation requires that a procurement chief not serve as the Director of the OSDBU program at a Federal agency. I firmly believe that the OSDBU Director's goal is fundamentally different from, and at times even opposed to, that of a chief procurement official who must be fair to all Federal contractors. An OSDBU Director's role is one of advocacy. He or she must take the side of small business, and no procurement chief can do this and perform both jobs fairly and effectively. While OSDBU Directors at major Federal agencies are barred from having additional responsibilities under this legislation, non-major Federal agency OSDBU Directors may. This provision will help ensure that at our non-major Federal agencies, the OSDBU Director can act fairly on behalf of small businesses.

Sixth, the legislation provides statutory authority for the OSDBU Council. Under the legislation, each OSDBU Director will have membership on the Council, which will meet at least once every two months. The Council's role is to discuss issues of importance to the OSDBUs and the small business community they serve. OSDBU Directors serving at major Federal agencies have as a part of their responsibilities an obligation, under this legislation, to attend Council meetings. This provision was included to once again prevent Federal agencies from circumventing the Small Business Act. Attendance at Council meetings will help ensure that Federal agencies are complying with the law and that OSDBU Directors are small business advocates, not simply procurement personnel with two hats.

One final note on the legislation is that the inclusion of a provision to increase the governmentwide small business prime contracting procurement goal from 23 percent to 30 percent has been retained, although it will now be phased in over three years: 26 percent in FY 2004, 28 percent in FY 2005 and 30 percent in FY 2006 and thereafter.

When I first made the suggestion that the small business procurement goal should be increased seven percentage points, my office received numerous calls, both in support of the increase and in opposition. Some even suggested raising the goal to a level of 40 percent. But, by and large, those in opposition pointed to one fact: The Federal Government has never achieved such a level of small business procurement participation. And while that is true, no one said that it was impossible. Given the disappointing achievement of the Federal Government on the current small business goal of 23 percent, I believe it is time to raise the bar.

When Congress enacted goals as part of the Small Business act, the goals were intended to be a minimum standard of achievement. For too long, the goals have been treated as a target for attainment, not a minimum level of acceptable small business participation. This too must change. Almost every year the Federal Government comes very close to hitting the small business prime contracting goal of 23 percent right on the head. Some years it does slightly better, and some years, unfortunately, it does slightly worse. However, this trend demonstrates one important principle, the government is firmly shooting for 23 percent, no more—no less.

By raising the statutory goal, it is my hope that the Federal Government will shoot for the higher target and succeed. But I ask my colleagues to look at this critically in that the goal for small business isn't so much being raised as the 77 percent of Federal procurement that now goes to large businesses, which represent only a tiny portion of all Federal contractors, is being reduced to 70 percent. So if the small business goal should increase to 30 percent, 70 percent of all Federal procurement will still be awarded to a relatively small number of all Federal contractors. Is this fair to small business? No. But it is an improvement.

I am pleased to say that my legislation is supported by groups representing primarily small businesses or small business contractors, such as the National Small Business United, NSBU, Women Impacting Public Policy, WIPP, and the Association of Small and Disadvantaged Business, as well as advocacy groups such as the Latin American Management Association, LAMA, the Minority Business Enterprise Legal Defense and Education Fund, MBELDEF, and the Veterans of Foreign Wars, VFW.

I thank them as well as the cosponsors of this legislation, Senators BOND, CLELAND, CANTWELL, BINGAMAN and CARNAHAN for their assistance, input and support, and I look forward to continuing to work with them on this and other important issues.

I ask unanimous consent that the text of the Small and Disadvantaged Business Ombudsman Act be printed in the RECORD.

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

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 ''Small and Disadvantaged Business Ombudsman Act''.

SEC. 2. SBA SMALL AND DISADVANTAGED BUSINESS OMBUDSMAN FOR PROCUREMENT.

Section 30 of the Small Business Act (15 U.S.C. 657) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''and'';

(B) in paragraph (2), by striking the period and adding a semicolon; and

(C) by adding at the end the following:

''(3) 'SDB Ombudsman' means the Small and Disadvantaged Business Ombudsman for Procurement, designated under subsection (e); and

''(4) 'Major Federal agency' means an agency of the United States Government that, in the previous fiscal year, entered into contracts with non-Federal entities to provide the agency with a total of not less than $200,000,000 in goods or services.''; and

(2) by adding at the end the following:

''(e) SBA SMALL AND DISADVANTAGED BUSINESS OMBUDSMAN FOR PROCUREMENT.—

''(1) APPOINTMENT.—

''(A) IN GENERAL.—Not later than 180 days after the date of enactment of the Small and Disadvantaged Business Ombudsman Act, the Administrator shall designate a Small and Disadvantaged Business Ombudsman for Procurement (referred to in this section as the 'SDB Ombudsman').

''(B) QUALIFICATIONS.—The SDB Ombudsman shall be—

''(i) highly qualified, with experience assisting small business concerns with Federal procurement; and

''(ii) designated from among employees of the Federal Government, to the extent practicable.

''(C) LINE OF AUTHORITY.—The SDB Ombudsman shall report directly to the Administrator.

''(D) SENIOR EXECUTIVE SERVICE.—The SDB Ombudsman shall be paid at an annual rate not less than the minimum rate, nor more than the maximum rate, for the Senior Executive Service under chapter 53 of title 5, United States Code.

''(2) DUTIES.—The SDB Ombudsman shall—

''(A) work with each Federal agency with procurement authority to ensure that small business concerns are treated fairly in the procurement process;

''(B) establish a procedure for receiving comments from small business concerns and personnel of the Office of Small and Disadvantaged Business Utilization of each Federal agency regarding the activities of agencies and prime contractors that are not small business concerns on Federal procurement contracts; and

''(C) establish a procedure for addressing the concerns received under subparagraph (B).

''(3) ANNUAL REPORT.—

''(A) IN GENERAL.—No later than 1 year after the date of enactment of this subsection, and annually thereafter, the SDB Ombudsman shall provide a report to the Committee on Small Business of the House

of Representatives and the Committee on Small Business and Entrepreneurship of the Senate.

''(B) CONTENTS.—The report required under subparagraph (A) shall contain—

''(i) information from the Federal Procurement Data System pertaining to contracting and subcontracting goals of the Federal Government and each Federal agency with procurement authority;

''(ii) a copy of the report submitted to the SDB Ombudsman by each major Federal agency and an evaluation of the goal attainment plans submitted to the SDB Ombudsman pursuant to paragraph (5);

''(iii) an evaluation of the success or failure of each major Federal agency in attaining its small business procurement goals, including a ranking by agency on the attainment of such goals;

''(iv) a summary of the efforts of each major Federal agency to promote contracting opportunities for small business concerns by—

''(I) educating and training procurement officers on the importance of small business concerns to the economy and to Federal contracting; and

''(II) conducting outreach initiatives to promote prime and subcontracting opportunities for small business concerns;

''(v) an assessment of the knowledge of the procurement staff of each major Federal agency concerning programs that promote small business contracting;

''(vi) substantiated comments received from small business concerns and personnel of the Office of Small and Disadvantaged Business Utilization of each Federal agency regarding the treatment of small business concerns by Federal agencies on Federal procurement contracts;

''(vii) an analysis of the responsiveness of each Federal agency to small business concerns with respect to Federal contracting and subcontracting;

''(viii) an assessment of the compliance of each Federal agency with section 15(k) of the Small Business Act (15 U.S.C. 644(k); and

''(ix) a description of any discrimination faced by small business concerns based on their status as small business concerns or the gender or the social or economic status of their owners.

''(C) NOTICE AND COMMENT.—

''(i) IN GENERAL.—The SDB Ombudsman shall provide notice to each Federal agency identified in the report prepared under subparagraph (A) that such agency has 60 days to submit comments on the draft report to the SDB Ombudsman before the final report is submitted to Congress under subparagraph (A).

''(ii) INCLUSION OF OUTSIDE COMMENTS.—

''(I) IN GENERAL.—The final report prepared under this paragraph shall contain a section in which Federal agencies are given an opportunity to respond to the report contents with which they disagree.

''(II) NO RESPONSE.—If no response is received during the 60-day comment period from a particular agency identified in the report, the final report under this paragraph shall indicate that the agency was afforded an opportunity to comment.

''(D) CONFIDENTIALITY.—In preparing the report under this paragraph, the SDB Ombudsman shall keep confidential all information that may expose a small business concern or an employee of an Office of Small and Disadvantaged Business Utilization to possible retaliation from the agency or prime contractor identified by the small business concern, unless the small business concern or employee of the Office of Small and Disadvantaged Business Utilization consents in writing to the release of such information.

''(4) INTERAGENCY COORDINATION.—Each Federal agency, through its Office of Small and Disadvantaged Business Utilization, shall assist the SDB Ombudsman to ensure compliance with—

''(A) the Federal procurement goals established pursuant to section 15(g);

''(B) the procurement policy outlined in section 8(d), which states that small business concerns should be given the maximum practicable opportunity to participate in Federal contracts;

''(C) Federal prime contractors small business subcontracting plans negotiated under section 8(d)(4)(B);

''(D) the responsibilities outlined under section 15(k); and

''(E) any other provision of this Act.

''(5) GOAL ATTAINMENT PLAN.—If a major Federal agency fails to meet any small business procurement goal under this Act in any fiscal year, such agency shall submit a goal attainment plan to the SDB Ombudsman not later than 90 days after the end of the fiscal year in which the goal was not met, containing—

''(A) a description of the circumstances that contributed to the failure of the agency to reach its small business procurement goals; and

''(B) a detailed plan for meeting the small business procurement goals in the fiscal year immediately following the fiscal year in which the goal was not met.

''(6) EFFECT ON OTHER OFFICES.—Nothing in this section is intended to replace or diminish the activities of the Office of Small and Disadvantaged Business Utilization or any similar office in any Federal agency.

''(7) ADMINISTRATIVE RESOURCES.—To enable the SDB Ombudsman to carry out the duties required by this subsection, the Administrator shall provide the SDB Ombudsman with sufficient—

''(A) personnel;

''(B) office space; and

''(C) dedicated financial resources, which are specifically identified in the annual budget request of the Administration.''.

SEC. 3. OFFICE OF SMALL AND DISADVANTAGED BUSINESS UTILIZATION.

(a) DIRECTOR.—Section 15(k) of the Small Business Act (15 U.S.C. 644(k)) is amended—

(1) in the first sentence, by inserting ''(except for the Administration)'' after ''Federal agency'';

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

''(2) be well qualified, with experience assisting small business concerns with Federal procurement, and receive basic pay at a rate not to exceed the rate of pay for grade 15 of the General Schedule, under section 5332 of title 5, United States Code;'';

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

''(3) be appointed by the head of such agency, be responsible to, and report only to, the head or deputy head of such agency for policy matters, personnel matters, budgetary matters, and all other matters;'';

(4) in paragraph (9), by striking '', and'' and inserting a semicolon;

(5) in paragraph (10)—

(A) by striking ''or section 8(a) of this Act or section 2323 of title 10, United States Code. Such recommendations'' and inserting ''section 8(a), or section 2323 of title 10, United States Code, which recommendations''; and

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

(6) by striking the undesignated matter after paragraph (10) and inserting the following:

''(11) not concurrently serve as the chief procurement officer for such agency; and

''(12) if the officer is employed by a major Federal agency (as defined in section 30)—

''(A) have no other job duties beyond those described under this subsection;

''(B) receive basic pay at a rate equal to the rate of pay for grade 15 of the General Schedule, under section 5332 of title 5, United States Code; and

''(C) attend the meetings of the Office of Small and Disadvantaged Business Utilization Council.''.

(b) OFFICE OF SMALL AND DISADVANTAGED BUSINESS UTILIZATION COUNCIL.—

(1) ESTABLISHMENT.—There is established an interagency council to be known as the ''Office of Small and Disadvantaged Business Utilization Council'' (in this subsection referred to as the ''Council'').

(2) MEMBERSHIP.—The Council shall be composed of—

(A) the Director of Small and Disadvantaged Business Utilization from each Federal agency;

(B) the Small and Disadvantaged Business Ombudsman for Procurement, as an ex officio member; and

(C) other individuals, as ex officio members, as the Council considers necessary.

(3) LEADERSHIP.—

(A) CHAIRPERSON.—The members of the Council shall elect a chairperson, who shall serve for a 1-year, renewable term.

(B) OTHER POSITIONS.—The members of the Council may elect other leadership positions, as necessary, from among its members.

(C) VOTING.—Each member of the Council, except for ex officio members, shall have voting rights on the Council.

(4) MEETINGS.—

(A) FREQUENCY.—The Council shall meet not less frequently than once every 2 months.

(B) ISSUES.—At the meetings under subparagraph (A), the Council shall discuss issues faced by each Office of Small and Disadvantaged Business Utilization, including—

(i) personnel matters;

(ii) barriers to small business participation in Federal procurement;

(iii) agency compliance with section 15(k) of the Small Business Act (15 U.S.C. 644(k)), as amended by this Act; and

(iv) any other matter that the Council considers necessary to further the mission of each Office of Small and Disadvantaged Business Utilization.

(5) FUNDING LIMITATION.—The Small Business Administration shall not provide the Council with financial assistance to carry out the provisions of this section.

SEC. 4. GOVERNMENTWIDE SMALL BUSINESS GOAL.

Section 15(g)(1) of the Small Business Act (15 U.S.C. 644(g)(1)) is amended in the second sentence, by striking ''23 percent of the total value of all prime contract awards for each fiscal year.'' and inserting ''26 percent of the total value of all prime contract awards for fiscal year 2004, not less than 28 percent of the total value of all prime contract awards for fiscal year 2005, and not less than 30 percent of the total value of all prime contract awards for fiscal year 2006 and each fiscal year thereafter.''.

By Ms. COLLINS:

S. 2754. A bill to establish a Presidential Commission on the United States Postal Service; to the Committee on Governmental Affairs.

Ms. COLLINS. Mr. President, I rise today to introduce the ''United States Postal Service Commission Act of 2002.'' This legislation will establish a Commission to examine the challenges facing the Postal Service and develop

solutions to ensure its long term viability and increased efficiency.

The Postal Service's problems have reached a near crisis level. In 2000, the Postal Service lost nearly $200 million, while in 2001, this loss ballooned to $1.68 billion. Losses are projected to be $1.35 billion this year, despite the $675 million in appropriations from Congress to cover the unanticipated costs associated with the September 11 attacks and the anthrax incidents. The Postal Service is mandated by law to break even on its operating expenses and its capital needs, both of which continue to grow.

The Postal Service is also fast approaching its $15 billion statutory borrowing limit. Given its recent history of increasing rather than paying down its debt, increasing the Postal Service's debt ceiling is not the answer. In addition, the Postal Service's long term liabilities are enormous, to the tune of nearly $6 billion for Workers Compensation claims, a staggering $32 billion in retirement costs and perhaps as much as $45 billion to cover retiree health care costs. Meanwhile, on June 30, consumers experienced a third postal rate increase in just 18 months.

How could the Postal Service have landed in such dire straits? The Postal Service's problems stem from many causes. For example, the overall growth rate of mail has been declining since 1997, and first class mail volumes actually have declined over the past four years. This is particularly significant, as first class mail accounts for 48 percent of total mail volume. In addition, revenues from first class mail cover more than two-thirds of institutional costs, such as post offices. Shortfalls must be made up by decreasing costs, increasing volumes in other categories of mail or by increasing postal rates.

Some of this declining volume can be attributed to the increasing forms of electronic communication, particularly the Internet, which has revolutionized the way we communicate and transact business. For example, while financial statements, bills and bill payments constitute about half of first class mail revenue, or about $17 billion annually, electronic bill payment is quickly becoming a major means of doing business. It is estimated that 75 percent of banks will provide online banking services by 2003. This is in addition to other competing methods of communication such as faxes and telephones. In addition, filing tax returns, receiving Social Security payments, and many other transactions are also available electronically.

The Postal Service also faces significant labor-related costs. Indeed nearly 80 percent of its expenses are related to compensation and benefits. By comparison, 56 percent of FedEx's expenses and 42 percent of UPS's expenses are related to compensation and benefits.

The need to preserve a viable Postal Service is clear. Americans rely on affordable, reliable and universal mail delivery as their primary means of communication. The Postal Service delivers more than 200 billion pieces of mail each year to nearly 140 million addresses, which accounts for more than 40 percent of the world's mail. Moreover, 1.7 million new delivery points are added each year—roughly the equivalent of adding the number of addresses in Chicago. More than seven million Americans visit post offices each day.

In States with large rural areas, such as Maine, it is vital that postal services remain in place. If the Postal Service were no longer obligated to provide universal service and deliver mail to every customer, six days a week, the affordable communication link upon which many Americans rely would be jeopardized. Most commercial enterprises would find it uneconomical, if not impossible, to deliver mail and packages to these areas at rates that the Postal Service has been offering.

In addition to providing a critical service to consumers, the Postal Service is the eleventh largest enterprise in the Nation with $66 billion in annual revenues. This is more than Microsoft, McDonald's and Coca Cola combined. While the Postal Service itself employs more than 700,000 career employees, it is also the linchpin of a $900 billion mailing industry that employs nine million Americans in fields as diverse as direct mailing, printing and paper production.

Affordable postal rates are vital to the economic health of many companies, especially magazines, catalog houses and the service providers they use. The June 2002 rate hike alone represents a ten percent increase for periodicals, and a nine percent increase for catalogs. It is estimated that the combined effect of the past three rate increases, totaling 22 percent over just 18 months, have cost the magazine industry about $400 million.

In May I met with a group of about twenty Maine businessmen and women involved in the mailing industry, who described for me the impact that rising postal rates have on their businesses. One magazine publisher told me that postage represents ten percent of her costs. I was amazed to hear that one of the catalog busineses pays more for postage a year than it pays to any one of the companies that supply the raw materials for its products. It was also startling to hear from one printer that his postage costs have doubled over the last ten years.

Most of the people I met with are small business owners, and there are millions more across the country, all grappling with the same effects of rapidly rising postage costs.

At the request of the Senate Governmental Affairs Committee and House Committee on Government Reform, the Postal Service produced a comprehensive Transformation Plan, which it presented to Congress in April. The Plan addresses general measures that the Postal Service believes it needs to take to ensure its survival, but it fails to lay out specific steps the Postal Service will take and a timeline for action. It is also unclear whether these measures will result in the cost savings necessary to ensure the long-term survival of the Postal Service.

Many attempts have been made to reform the Postal Service over the years. My colleagues in the House of Representatives have tried for nearly eight years to pass postal reform legislation, but to no avail. Stakeholders have widely diverging views on what shape postal reform should take, if any. This lack of consensus on how or whether to deal with divisive issues has led only to stalemates in Congress.

To take a fresh look at these difficult issues, I rise today to introduce legislation establishing a Presidential Postal Commission charged with examining the problems that the Postal Service faces, and developing specific recommendations and legislative proposals that Congress and the Postal Service can implement. Precedent exists for such a commission. In the late 1960s, the Kappel Commission was formed to resolve the crisis situation that the former Postal Department then found itself in, train cars of undelivered mail, strikes, and a host of other problems. The Kappel Commission's efforts laid the groundwork for the Postal Service we have today, which has functioned admirably for many years but is now in serious trouble.

Mindful of the body of work that has been done in this area by my colleagues in the House and Senate, by the General Accounting Office, by the Postal Service itself and by others, I intend that this commission have a short life of one year, during which it will carry out its study and produce legislative proposals for consideration by the Administration and the Congress.

Finally, I intend that the commission consider all relevant aspects of the Postal Service. Everything should be put on the table and evaluated. We need to ensure that the Postal Service will stand up to the challenges it is facing today and will face tomorrow.

These and many more issues must be examined in depth, if we are to preserve this vital service upon which so many Americans rely for communication and for their livelihood. The Postal Service has successfully overcome numerous difficulties over its 226-year history, and has continued to deliver the mail faithfully. Yet it has reached a critical juncture and once again, it is time for a thorough evaluation of the Postal Service's operations and requirements.

By Mr. SANTORUM (for himself and Mr. SPECTER):

S. 2755. A bill to require the Secretary of the Treasury to mint coins in commemoration of the opening of the National Constitution Center in Philadelphia, Pennsylvania scheduled for

July 4, 2003; to the Committee on Banking, Housing, and Urban Affairs.

Mr. SANTORUM. Mr. President I am pleased to introduce legislation along with my colleague Senator SPECTER to establish a one dollar silver coin that will benefit the National Constitution Center in Philadelphia, PA.

As the first national center of its kind in the country, the National Constitution Center will promote understanding of the United States Constitution and its values. The events of the past year in our nation as well as recent judicial rulings have brought increased attention to those principles and values that define and bind us as Americans. All would agree that the United States Constitution is central to defining our country, who we are, and how we live as Americans. Even as we often debate in the halls of Congress and the Supreme Court those policies and laws that best reflect the values and intent of the Constitution, we all recognize the freedoms and opportunity that this remarkable document secures for us.

The National Constitution Center has been an important project in Philadelphia with which Senator Specter and I have been involved. Construction began on September 17, 2000. When the Constitution Center is completed as expected on July 4, 2003, it will be a key feature of a revitalized Independence Mall where it will join Independence Hall and the Liberty Bell. The issuance of this coin would coincide with the opening of the Center.

I encourage all of my colleagues to support the National Constitution Center by cosponsoring this bill.

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:

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 ''National Constitution Center Commemorative Coin Act of 2002''.

SEC. 2. FINDINGS.

Congress finds that—

(1) a Constitutional Convention was convened in the summer of 1787 in Philadelphia, Pennsylvania for the purposes of replacing the failed Articles of Confederation as a framework for governing the 13 American colonies newly independent from Great Britain;

(2) the United States Constitution produced by the Convention would set the United States of America on a unique course of experiment in self-government that would profoundly impact the United States and the world;

(3) in its deliberations and promotion through such literary works as The Federalist Papers, the United States Constitution drew upon the successes and failures of nations and peoples dating as far back as the city-state republics of ancient Greece in forming representative governments;

(4) the first 10 amendments to the Constitution, known as the Bill of Rights, comprise the best written set of legal protections of the rights and dignity of the individual in the history of human civilization and continue to be the benchmark for nations' adherence to human rights standards;

(5) the principles of the United States Constitution have been enacted into the governing laws of numerous free countries around the globe, and are reflected in the founding documents of the United Nations;

(6) the United States Constitution created the framework for what is now the oldest representative democracy in the world;

(7) in its wisdom, the Constitutional Convention created a mechanism through which the United States Constitution can be perfected, as it has been 27 times to date, to better reflect its founding ideals, as well as to accommodate changing circumstances;

(8) the rights and freedoms secured to Americans by the United States Constitution have and continue to draw millions from around the globe to the shores of this Nation;

(9) all Americans should gain an understanding of and appreciation for the United States Constitution and the role this remarkable document plays in the freedoms and quality of life they enjoy;

(10) the National Constitution Center was established by the Constitution Heritage Act of 1988 (16 U.S.C. 407aa et seq.), which was signed into law by President Ronald Reagan on September 16, 1988, to provide for continuing interpretation of the Constitution and to establish a national center for the United States Constitution; and

(11) the National Constitution Center, located at the site of the birth of the Constitution, only steps away from the Liberty Bell and Independence Hall in the Independence National Historic Park in Philadelphia, Pennsylvania, is the only center in the world solely dedicated to promoting understanding of the Constitution and its values and ideals.

SEC. 3. COIN SPECIFICATIONS.

(a) $1 SILVER COINS.—The Secretary of the Treasury (in this Act referred to as the ''Secretary'') shall mint and issue not more than 500,000 $1 coins, which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) contain 90 percent silver and 10 percent copper.

(b) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

SEC. 4. SOURCES OF BULLION.

The Secretary may obtain silver for minting coins under this Act from stockpiles established under the Strategic and Critical Materials Stock Piling Act, to the extent available, and from other available sources, if necessary.

SEC. 5. DESIGN OF COINS.

(a) DESIGN REQUIREMENTS.—

(1) IN GENERAL.—The design of the coins minted under this Act shall be emblematic of the National Constitution Center in Philadelphia, Pennsylvania.

(2) DESIGNATION AND INSCRIPTIONS.—On each coin minted under this Act, there shall be—

(A) a designation of the value of the coin;

(B) an inscription of the year ''2003''; and

(C) inscriptions of the words ''Liberty'', ''In God We Trust'', ''United States of America'', and ''E Pluribus Unum''.

(b) DESIGN SELECTION.—The design for the coins minted under this Act shall be—

(1) selected by the Secretary, after consultation with the Constitution Center Coin Advisory Committee; and

(2) reviewed by the Citizens Commemorative Coin Advisory Committee.

SEC. 6. ISSUANCE OF COINS.

(a) QUALITY OF COINS.—Coins minted under this Act shall be issued in uncirculated and proof qualities.

(b) MINT FACILITY.—Only 1 facility of the United States Mint may be used to mint coins under this Act.

(c) PERIOD FOR ISSUANCE.—The Secretary may issue coins minted under this Act beginning on January 1, 2003, and ending when the quantity of coins issued under this Act reaches the limit under section 3(a).

SEC. 7. SALE OF COINS.

(a) SALE PRICE.—The coins minted under this Act shall be sold by the Secretary at a price equal to the sum of—

(1) the face value of the coins;

(2) the surcharge provided in subsection (d) with respect to such coins; and

(3) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) BULK SALES.—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.

(c) PREPAID ORDERS.—

(1) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) DISCOUNT.—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.

(d) SURCHARGES.—All sales of coins issued under this Act shall include a surcharge established by the Secretary, in an amount equal to not more than $10 per coin.

SEC. 8. DISTRIBUTION OF SURCHARGES.

(a) IN GENERAL.—Subject to section 5134(f) of title 31, United States Code, the proceeds from the surcharges received by the Secretary from the sale of coins minted under this Act shall be paid promptly by the Secretary to the National Constitution Center.

(b) USE OF PROCEEDS.—The proceeds received by the National Constitution Center under subsection (a) shall be used by the Center to promote a greater understanding of the Constitution and its values and ideals.

(c) AUDITS.—The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the National Constitution Center as may be related to the expenditures of amounts paid under subsection (a).

SEC. 8. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this Act will not result in any net cost to the United States Government.

(b) PAYMENT FOR COINS.—A coin shall not be issued under this Act, unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution, the deposits of which are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration.

By Mr. JEFFORDS (for himself, Mr. LEAHY, Mr. SCHUMER, and Mrs. CLINTON):

S. 2756. A bill to establish the Champlain Valley National Heritage Partnership in the States of Vermont and New York, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. JEFFORDS. Mr. President, I am very pleased to introduce the Champlain Valley National Heritage Act of 2002. I am joined by Senator LEAHY and

Senators SCHUMER and CLINTON of New York. This bill will establish a National Heritage Partnership within the Champlain Valley. Passage of this bill will culminate a process to enhance the incredible cultural resources of the Champlain Valley.

The Champlain Valley of Vermont and New York has one of the richest and most intact collections of historic resources in the United States. Fort Ticonderoga still stands where it has for centuries, at the scene of numerous battles critical to the birth of our Nation. Revolutionary gunboats have recently been found fully intact on the bottom of Lake Champlain. Our cemeteries are the permanent resting place for great explorers, soldiers and sailors. The United States and Canada would not exist today but for events that occurred in this region.

We in Vermont and New York take great pride in our history. We preserve it, honor it and show it off to visitors from around the world. These visitors are also very important to our economy. Tourism is among the most important industries in this region and has much potential for growth.

The Champlain Valley Heritage Partnership will bring together more than one hundred local groups working to preserve and promote our heritage. Up to $2 million a year will be made available from the National Park Service though the Lake Champlain Basin Program to support local efforts to preserve and interpret our heritage and present it to the world. Most of the funding will be given to small communities to help preserve their heritage and develop economic opportunities.

This project has taken many years for me to bring to the point of introducing legislation. This has been time well spent working at the grass-roots level to develop a framework to direct federal resources to where it will do the most good. I am confident that we have found the best model. This will be a true partnership that supports each member but does not impose any new Federal requirements.

The Champlain Valley National Heritage Partnership will preserve our historic resources, interpret and teach about the events that shaped our Nation and will be an engine for economic growth. I am hopeful that this bill soon become law.

Mr. LEAHY. Mr. President, I am very pleased to join with my Senate colleagues from Vermont and New York as we introduce the Lake Champlain Heritage Act of 2002. With this legislation, we will take an important step in recognizing the importance of the Lake Champlain Valley in the history of America.

I want to thank Senator JEFFORDS and his staff for all the work they have put into this effort. I know that many hours have gone into the research, discussion and editing to get where we are today. I also want to thank Senators CLINTON and SCHUMER who are our valuable New York partners in all things related to Lake Champlain.

Over the July 4th recess, I was able to participate in the Lake Champlain Maritime Museum's opening of a new exhibit featuring artifacts recovered from the 1776 Revolutionary War Battle of Valcour. It was just 1 year ago that Senator CLINTON and I were at the site of the Battle to take part in the recovery and beginning of the conservation process of those artifacts.

The Valcour Bay Research Project followed the 1997 discovery of the missing American gunboat from the Battle. I bring this up because our purpose today as we introduce this legislation underscores to the rest of our Nation a message we Vermonters and New Yorkers have long proclaimed: the role of Lake Champlain in the cause of American independence cannot be overlooked.

The evidence of the struggle for this strategic waterway from the days of Native American excursions, through the colonial rivalry between Britain and France, our War of Independence, until the end of the War of 1812, constantly surrounds those of us who make our homes in this Valley.

This act is intended to advance the cultural heritage goals of ''Opportunities for Action,'' the comprehensive plan developed under the Lake Champlain Special Designation Act by the Lake Champlain Basin Program with broad public input and support as well as with the involvement of local, State and Federal Governments.

We envision activities such as locally planned and managed heritage networks and programs, a management strategy for the Lake's underwater cultural resources and strengthening the links between cultural resources and economic development. This legislation will also help provide assistance as the 400th anniversary of Samuel De Champlain's arrival in the Valley is commemorated in 2009.

Today, we are taking a significant step in helping all Americans better appreciate the full history of the Lake Champlain Valley which holds such an extensive collection of historic sites and artifacts.

As Vermonters and New Yorkers the stewards of Lake Champlain, we have a serious responsibility to conserve this evidence for future generations. We believe that what we do here, how we manage the cultural heritage of the Valley, can contribute to the growing debate on how present generations can live and prosper on the same ground that we conserve as our natural and cultural heritage.

Our Vermont and New York Champlain Valley communities share this heritage and have helped us develop a vision to enhance the conservation, interpretation and enjoyment of our shared history and to make it more readily available to residents and visitors alike. We can help revitalize local economies and promote heritage tourism as we improve the stewardship of the Valley's cultural legacy by making additional resources available to communities and organizations through the Lake Champlain Basin Program.

I think it is most fitting that we have come here together to introduce this long-awaited bill, reasserting our partnership for Lake Champlain: Vermont and New York engaged in a cooperative effort to conserve, interpret, and honor our common heritage.

By Mr. BIDEN:

S. 2757. A bill to amend title XVIII of the Social Security Act to provide coverage of outpatient prescription drugs under the medicare program; to the Committee on Finance.

Mr. BIDEN. Mr. President, today I am introducing a bill to add outpatient prescription drug coverage as a new and integral benefit under Part B of Medicare. Under this bill, like the rest of the services under Part B, Medicare will pick up 80 percent of the cost of prescription drugs. This would be the case until a beneficiary hits a $4000 annual out-of-pocket limit, at which point the government picks up 100 percent of drug costs. Moreover, beneficiaries will not have to pay increased monthly premiums or annual deductibles as a result of this new drug benefit.

Now, we have been discussing prescription drug coverage for seniors in this chamber for many years, and there have been numerous proposals brought forward. Some might ask, why do you feel the need to propose your own prescription drug plan; what is wrong with the many previous proposals.

Well, to my way of thinking, we have lost our focus on this issue. In developing a drug plan, we have concentrated too much on such things as budget allotments, philosophy of government, desires of committee chairs, election politics, and other related issues, while ignoring the one thing that really counts: what do the citizens of this country, the ones who are supposed to use this plan, really want? All of these prescription drug plans will be voluntary, and yet unless a plan is attractive enough to ensure the participation of close to 100 percent of those eligible, it probably won't work from an economic point of view. Those of us who were around in 1988 for the debates about catastrophic health care remember with great clarity the consequences of passing a health-related bill that the citizens don't want.

Frankly, I have some doubts about whether any of the prescription drug proposals to date provide what the citizens in Delaware or elsewhere really want. And I think I have a pretty good idea of what people want in a prescription drug plan, at least people in my home state of Delaware. I live in Delaware, and I commute back and forth on AMTRAK every day between Delaware and Washington DC. I have been a Senator for 30 years and people in Delaware know me well. They have no reluctance about walking up to me at the local diner, on the train, or at the drugstore, to give me a piece of their

minds. And here is what Delawareans want in a prescription drug bill.

They want something simple and easily understandable. They don't want a plan with a lot of fine print, exclusions, complicated payment formulas, gaps in coverage, lengthy paragraphs filled with whereases and wherefores. They don't want to be in a state of constant anxiety because they really don't know what they have signed up for and what they are covered for. They don't want to have to spend hours on the phone listening to music while waiting for an insurance company clerk to answer the phone and try to explain what the benefits are. They don't want to spend a whole day filling out paperwork to try to get reimbursed for their expenses when they could just as well be playing with their grandchildren. They don't want to be caught in the middle of a fight between their drug insurance plan and their Medicare over who is going to pay for what.

They want a plan that provides meaningful and substantial financial help towards the cost of their medications. For most people I talk to, a cut in prescription drug costs from $5000 per year down to $4700 per year is not very helpful; they are still faced with choosing between paying for medications and paying for rent. With the increasing costs of prescription drugs these days, this is a criterion that is just as important to the middle class as it is to those with low incomes.

They want a plan that is stable, reliable, and predictable. They don't want to sign up with an insurance company and then have the company pull out of the state the following year. They don't want the specifics of their benefits to be changing every year. They want to know what they are getting.

They want a guarantee that a plan will be available to them. They don't want a guarantee that a plan will be available only if an insurance company decides it will offer a plan or if an insurance company decides they are a good risk.

They want a plan that is uniform, not one whose benefits change drastically if they happen to move a few miles. Delaware is a small state, and people who live or work in Delaware move back and forth across state lines with great frequency.

My prescription drug bill is focused on what consumers want, and it fulfills all of these requirements. People are already very familiar with Medicare Part B, so the addition of a prescription drug benefit will not add any confusion. People know that Medicare is stable, reliable, predictable, and the same all over the country. People know that Medicare Part B covers a substantial 80 percent of their medical expense. We know that people like Medicare Part B, since 94 percent of those eligible have voluntarily signed up for it. The addition of a new prescription drug benefit to Part B, without any change in monthly premiums or deductibles, is almost certain to increase the voluntary participation rate close to 100 percent.

Can we afford such a bill? Absolutely. It's just a matter of priorities and choices. And these choices simply reflect our values. My values tell me that providing life-saving prescription drugs to the seniors and disabled is a higher priority than, say, making permanent a tax cut for the well-to-do that they probably don't need and have not really requested.

Many of my colleagues in the Senate, and a large number of their staff, have been working enormously hard to develop a Medicare prescription drug bill that satisfies everybody's concerns. However, I am reminded of the statement by the noted British engineer Sir Alec Issigonis, who commented that ''A camel is a horse designed by committee''. If the public is expecting a horse, we better not end up with a camel.

Our current situation here in Congress brings to mind a story related by a local TV weatherman here in Washington, DC. This weatherman works in a very high tech underground office with fancy color radars, computers, split-second communications devices, and state of the art graphics. Yet before each broadcast, the weatherman goes upstairs and looks out the window to make sure it is not raining. I would ask my colleagues, as they work through their cost estimates, economic projections, and so forth in developing a prescription drug plan, to walk upstairs and look out the window. Policy makers must not work in protective isolation, in a vacuum; they need a strong dose of reality to inform their deliberations.

I believe that my bill provides the kind of prescription drug plan that Medicare beneficiaries in Delaware, and around the country, really want. I encourage my colleagues to keep the wants of their constituents foremost as they move to craft a vitally-needed prescription drug bill for Medicare beneficiaries.

By Mr. DODD (for himself, Ms. SNOWE, Mr. JEFFORDS, Mr. REED, Mr. BINGAMAN, Mrs. CLINTON, Mrs. MURRAY, and Mr. EDWARDS):

S. 2758. A bill entitled ''The Child Care and Development Block Grant Amendments Act''; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I am pleased to join with my colleagues Senator SNOWE, Senator JEFFORDS, Senator REED, Senator BINGAMAN, Senator CLINTON, Senator MURRAY, and Senator EDWARDS today in introducing the new Access to High Quality Child Care Act.

On April 11, I introduced, S. 2117, which represented a bipartisan partnership with the Senate Finance Committee and Senate Health, Education, Labor, and Pensions, HELP, Committee to both improve the quality of child care and expand the availability of child care. The bill that we are introducing today further strengthens and improves that legislation.

Compared to S. 2117, the new legislation we are introducing today: further strengthens the coordination among agencies and outreach about the availability of child care assistance, so that the child care agency and TANF agency coordinate in providing information to eligible parents about the availability of child care assistance; includes a new section to improve parent access to the process of obtaining child care subsidies; strengthens accountability for the use of quality funds by requiring States to set State child care quality goals, set quantifiable measures for each goal; and requires States to describe their progress in meeting each goal in an annual report; strengthens provisions to improve the quality and availability of child care for infants and toddlers, child care for disabled children, and child care for children who need care during nontraditional hours; allows States to operate an At Home Infant Care program to improve the quality of care for infants, currently successful in Montana and Minnesota; consolidates the general quality setaside and the child care workforce development setaside under S. 2117 into one 10 percent quality setaside to be used by States to improve the quality of care that children receive, regardless of setting; consolidates data collection under current law to make data collection and reporting requirements easier for States while retaining useful information for policymakers; deletes the section on school readiness incentive grants under S. 2117, instead, replacing these grants with the text of S. 2566, the Early Care and Education Act authorized separately under Title III of this new legislation; shifts the text of the Child Care Centers in Federal Facilities Act and the Technical and Financial Assistance Grants Act under S. 2117 to Title II of the new bill as separate authorizations; adds the text of the Book Stamps Act to Title II as a separate authorization; and, authorizes $1 billion in FY2003 and such sums as necessary in the out years 2004–2007.

In short, the Access to High Quality Child Care Act is about putting ''Development'' back into the Child Care and Development Block Grant.

The fact is that 78 percent of school-age parents are working today; 65 percent of parents with children under 6 are working today; and, over half of mothers with infants are in the workforce today.

That means about 14 million children, including 6 million infants and toddlers, under the age of 5 are in some type of child care arrangement. Many of them are in child care every week for many hours.

While their parents work, children are being cared for in a variety of settings. Some of them are very good, but sadly, some of them are not. What we know is that 46 percent of kindergarten

teachers report that half or more of their students enter kindergarten not ready to learn.

This new legislation that we are introducing today further strengthens our efforts to improve the quality of care to promote school readiness while expanding child care assistance to more working poor families.

We filed this legislation yesterday in the HELP Committee and will proceed to markup next Wednesday, July 24th. I urge my colleagues to join us in supporting this legislation that so many working families with children need.

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

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

THE 2002 ACCESS ACT—THE ACCESS TO HIGH QUALITY CHILD CARE ACT BRIEF SUMMARY

Background: The Access to High Quality Child Care is about putting ''Development'' back into the Child Care and Development Block Grant. About 14 million children, including 6 million infants and toddlers, under the age of 5 are in some type of child care arrangement. Many of them are in child care every week for many hours. The fact is that 78% of school-age parents are working today; 65% of parents with children under 6 are working today; and, over half of mothers with infants are in the workforce today. While these parents work, their children are being cared for in a variety of settings—some of which are very good, but sadly, some of them are not. What we know is that 46% of kindergarten teachers report that half or more of their students enter kindergarten not ready to learn. This reauthorization bill is geared toward improving the quality of care to promote school readiness while expanding child care assistance to more working poor families.

Key Provisions: The Child Care and Development Block Grant is designed to give parents maximum choice among child care providers. The bill retains parental choice, but provides states with a number of ways to help child care providers improve the quality of care that they provide. The 2002 Access Act will: Strengthen the coordination among agencies and outreach about the availability of child care assistance; Promote greater coordination among federal, state, and local care and early childhood development programs, including the transition from early care programs to elementary school; Set aside 10% of CCDBG funds to improve the quality of child care for any of the following activities—initiatives to improve recruitment, education, and retention of child care staff; initiatives to improve the quality and availability of care for infants and toddlers, children with disabilities, or care during nontraditional hours; resource and referral services; training and technical assistance; grants or loans to improve provider compliance with state or local law; support for states to monitor compliance or other activities deemed by the state to improve the quality of care, including the provision of emergency child care.

Improve the accountability of the use of quality funds by requiring states to set quality improvement goals that are measurable to ensure that states are making progress in improving the quality of child care. Set aside 5% of CCDBG funds to help states increase the reimbursement rate for child care providers to ensure that parents have real choices among quality providers. Under current law, CCDBG payment rates are supposed to be sufficient ''to ensure equal access for eligible children to comparable child care services in the state or substate area that are provided to children whose parents are not eligible to receive assistance''. But, current low state reimbursement rates do not offer parents comparable care for their children.

Allow states to operate an at-home infant care program to promote the quality of care for infants.

The children of working parents need quality child care if they are to enter school ready to learn. Yet, 30 states require no training in early childhood development before a teacher walks into a child care classroom. 42 states require no training in early childhood development before a family day care provider opens its home to unrelated children. The 2002 Access Act will: Require states to set training standards, just as they are required to do now for health and safety under current law. Such training would go beyond CPR and first aid to include training in the social, emotional, physical, and cognitive development of children.

Exempt relatives from the training requirements, but through the quality funding in CCDBG states could partner with colleges and R&Rs to provide training to relatives and informal caregivers on a voluntary basis. Initial evaluations in Connecticut of such efforts show that relatives and informal caregivers are voluntarily participating and are feeling better about themselves and their interactions with the children have improved.

Reduce administrative barriers and improve coordination among agencies so that low income working parents can more easily access the process for obtaining and retaining child care assistance.

SEPARATE AUTHORIZATIONS FOR QUALITY CHILD CARE INITIATIVES

Separate authorizations include the following measures: the Child Care Centers in Federal Facilities Act, the Technical and Financial Assistance Grants Act, the Book Stamps Act, and the Early Care & Education Act.

By Mr. HOLLINGS (for himself, Mr. LOTT, and Mr. BREAUX):

S. 2759. A bill to protect the health and safety of American consumers under the Federal Food, Drug, and Cosmetic Act from seafood contaminated by certain substances; to the Committee on Health, Education, Labor, and Pensions.

Mr. HOLLINGS. Mr. President, I rise today as Chairman of the Commerce, Science and Transportation Committee to introduce the Seafood Safety Enforcement Act of 2002. I am pleased to be joined by the Republican minority leader, Senator TRENT LOTT, and by Senator JOHN BREAUX, both distinguished members of the Commerce Committee. This Act would ensure that imports of seafood into the United States are meeting the same food safety standards imposed on seafood that originates from the United States.

Shrimp and other seafood harvested and processed in the United States is some of the best quality seafood in the world. I know how hard the shrimpers in my State of South Carolina work to bring good, wholesome products to our tables. To preserve the quality of seafood, the United States has established rigorous food standards to protect the health and well-being of American consumers. As part of that approach, we have banned the use of certain harmful substances in food-producing animals due to the extreme hazards they pose to human health. While these standards also apply to imported foods that cross our borders, these protections cannot be enforced without adequate inspection and testing.

Unfortunately, not all countries are applying the same rigorous standards that the United States demands for our consumers. In the last few months, one of the banned substances, namely the antibiotic chloramphenicol, was detected in shrimp and other food product imported from several countries to the United States, the European Union and Canada. Shockingly these substances have not been detected by the inspectors for the federal Food and Drug Administration, FDA, the agency responsible for protecting U.S. consumers from adulterated food imports. Rather, these substances were detected in the United States by independent testing done by State authorities in Louisiana.

While these products are prohibited by law, FDA testing has never detected such substances in food imports. We were alarmed to discover that FDA currently tests only 1 to 2 percent of all food imports for compliance with food safety standards. This failure to detect such substances may be due not only to inadequate frequency of testing, but also may be attributed to inadequate testing methods employed by the FDA. While the testing protocol used in Europe and Canada can detect such substances to 0.3 parts per billion ppb, FDA until very recently used a technique that only measures up to 3 ppb, and now is using a test that only detects to 1 ppb.

It is vital that we close this inspection gap at our borders and ensure the safety of our food supply, while not placing unreasonable burdens on the men and women who are tasked with this huge inspection job. This bill would ensure that U.S. consumers are protected from serious health risks associated with harmful substances, while allowing the continued flow of imports that are shown to be free of these harmful substances. It would require FDA to ensure that imports suspected of containing such substances are demonstrated to meet food safety standards. Such demonstration would be made by the importer or exporter, and subject to FDA approval.

Due to the health threats posed by such substances in our food supply, and the national interest of having a uniform inspection and testing standard, federal action is appropriate. This bill provides the safety and security we seek, while not placing unreasonable burdens on our federal food safety inspection system.

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:

S. 2759

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 ''Seafood Safety Enforcement Act''.

SEC. 2. FINDINGS.

(1) Chloramphenicol, a potent antibiotic, can cause severe toxic effects in humans, including hypo-aplastic anemia, which is usually irreversible and fatal. The drug is administered to humans only in life-threatening situations when less toxic drugs are not effective.

(2) Because of these human health impacts, chloramphenicol and similar drugs are not approved for use in food-producing animals in the United States. However, other countries have been found to use these drugs in the aquaculture of shrimp and other seafood, including Thailand, Vietnam, and China.

(3) The majority of shrimp consumed by the United States is imported. The nation imports 400,000 metric tons of shrimp annually, and the percentage of shrimp imports rises each year. Thailand and Vietnam are the top two exporters of shrimp to the United States, and China is the fifth largest exporter of shrimp to the United States.

(4) Upon detection of chloramphenicol in certain shipments of seafood from China and other nations, in 2002 the European Union and Canada severely restricted imports of shrimp and other food from these nations.

(5) The United States Food and Drug Administration inspects only 2 percent of all seafood imports into the United States and utilizes a testing procedure that cannot detect the presence of chloramphenicol below 1 part per billion. The European Union and Canada use testing protocols that can detect such substances to 0.3 parts per billion.

(6) While Food and Drug Administration import testing did not detect chloramphenicol in shrimp imported from these nations in 2002, independent testing performed by the state of Louisiana detected chloramphenicol at a level of over 2 parts per billion in crawfish imported from China.

(7) Imports of seafood from nations that utilize substances banned in the United States pose potential threats to United States consumers. Denial of entry to contaminated shrimp and other products to the European Union and Canada will likely redirect imports to the United States of contaminated products turned away from these countries.

(8) Immediate and focused actions must be taken by the Federal government to improve enforcement of food import restrictions of seafood imports in order to protect United States consumers and ensure safety of the food supply.

SEC. 3. CONTAMINATED SEAFOOD.

Section 801 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381) is amended by—

(1) striking all of the text in the third sentence of subsection (a) after ''section 505,'' and inserting ''or (4) such article is seafood that appears to bear or contain one or more substances listed in section 530.41(a) of title 21, Code of Federal Regulations, or (5) such article is seafood originating from an exporter or country that the Secretary has identified in guidance as a likely source of articles subject to refusal of admission under clause (4) of this sentence, then such article shall be refused admission, except as provided in subsection (c) of this section and, with respect to articles subject to clause (5) of this sentence, except as provided in subsection (b) of this section.'';

(2) redesignating subsections (b) through (n) as subsections (c) through (o), respectively; and

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

''(b)(1) Notwithstanding clause (5) of the third sentence in subsection (a) of this section, the Secretary may permit individual shipments of seafood originating in a country or from an exporter listed in guidance to be admitted into the United States if evidence acceptable to the Secretary is presented that the seafood in that shipment does not bear or contain a substance listed in section 530.41(a) of title 21, Code of Federal Regulations.

''(2) The Secretary may remove a country or exporter listed in guidance under clause (5) of the third sentence of subsection (a) of this section only if the country or exporter has shown to the satisfaction of the Secretary that each substance at issue is no longer sold for use in, being used in, or being used in a manner that could contaminate food-producing animals in the country at issue.''.

SEC. 4. GUIDANCE FOR REFUSING ENTRY OF SEAFOOD FROM A COUNTRY OR EXPORTER.

(a) ISSUANCE OF GUIDANCE.—Upon a determination by the Secretary of Health and Human Services that, based on information acceptable to the Secretary, an exporter or country appears to be a source of articles subject to refusal under section 801(a)(4) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381(a)(4)), the Secretary shall issue guidance described in section 801(a)(5) of that Act.

(b) DETERMINATION CRITERIA.—In making the determination described in subsection (a), or any determination under section 801(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381(a)), the Secretary may consider—

(A) the detection of substances described in section 801(a)(4) of that Act by the Secretary;

(B) the detection of such substances by a person commissioned to carry out examinations and investigations under section 702(a) of that Act;

(C) findings from an inspection under section 704 of that Act;

(D) the detection by other importing countries of such substances in shipments of seafood that originate from such country or exporter; and

(E) other evidence or information as determined by the Secretary.

(c) ANNUAL REPORT.—The Secretary shall provide a report within 30 days after the end of each fiscal year to the Senate Committee on Health, Education, Labor, and Pensions and the House of Representatives Committee on Energy and Commerce setting forth the names of all countries and exporters for which the guidance described in subsection (a) was issued during that fiscal year.

(d) RULE OF CONSTRUCTION.—Nothing in this Act, and no amendment made by this Act, shall be construed to limit the existing authority of the Secretary of Health and Human Services or the Secretary of the Treasury to consider any information or to refuse admission of any article under section 801(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381(a)).

SEC. 5. ISSUANCE OF TOLERANCES.

If, after the date of enactment of this Act, the Secretary of Health and Human Services intends to issue a tolerance under section 512(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(b)) for any of the substances listed in section 530.41(a) of title 21, Code of Federal Regulations, then the Secretary shall notify the Senate Committee on Health, Education, Labor, and Pensions and the House of Representatives Committee on Energy and Commerce before issuing that tolerance. The Secretary shall include in the notification a draft of any changes in Federal statute law that may be necessary.

SEC. 6. CONFORMING AMENDMENTS.

Section 801 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381), as amended by subsection (a), is amended by—

(1) striking ''subsection (b)'' in subsection (d), as redesignated by section 2(2) of this Act, and inserting ''subsection (c)'';

(2) striking ''subsection (e)'' in paragraph (1) of subsection (g), as redesignated by section 2(2) of this Act, and inserting ''subsection (f)'';

(3) striking ''section 801(a)'' in paragraph (1)(A)(i) of subsection (h), as redesignated by section 2(2) of this Act, and inserting ''subsection (a) of this section'';

(4) striking ''section 801(a)'' in paragraph (1)(A)(ii) of subsection (h), as redesignated by section 2(2) of this Act, and inserting ''subsection (a) of this section'';

(5) striking ''section 801(d)(1);'' in paragraph (1)(A)(iii) of subsection (h), as redesignated by section 2(2) of this Act, and inserting ''subsection (e)(1) of this section;'';

(6) striking ''Subsection (b)'' in paragraph (2) of subsection (k), as redesignated by section 2(2) of this Act, and inserting ''Subsection (c)'';

(7) striking ''Subsection (b)'' in paragraph (1) of subsection (l), as redesignated by section 2(2) of this Act, and inserting ''Subsection (c)'';

(8) striking ''Subsection (b)'' in subsection (m), as redesignated by section 2(2) of this Act, and inserting ''Subsection (c)''; and

(9) striking ''Subsection (b)'' in paragraph (2)(B)(i) of subsection (n), as redesignated by section 2(2) of this Act, and inserting ''Subsection (c)''.

By Mr. SPECTER (for himself and Mr. HARKIN):

S.J. Res. 41. A joint resolution calling for Congress to consider and vote on a resolution for the use of force by the United States Armed Forces against Iraq before such force is deployed; to the Committee on Foreign Relations.

Mr. SPECTER. Mr. President, I sought recognition to introduce a joint resolution on behalf of Senator HARKIN and myself calling upon the Congress to consider, vote on, and enact a joint resolution authorizing the use of force by the U.S. Armed Forces against Iraq before such force is used.

This resolution takes no position as to whether the use of force should be authorized or it should not be authorized, but goes to the essential authority of the Congress under the Constitution to declare war.

The President's powers as Commander in Chief are reserved for an emergency where Congress does not have an opportunity to deliberate and decide. It is obvious that concerning the current situation with Iraq, there is ample time for a resolution of the issue by the Congress.

There have been repeated statements by the administration relating to military action against Saddam Hussein. It is known that Saddam has weapons of mass destruction, such as chemicals which he used against the Kurds, and there exists evidence of biological

weapons that he possesses. The best thinking is Saddam does not now have nuclear bombs but is trying to acquire them.

The President of the United States, in his State of the Union speech, identified Iraq, along with Iran and North Korea, as the ''axis of evil.'' Secretary of State Powell in congressional testimony then testified that the United States was not going to go to war against either Iran or North Korea, raising the inference that war against Iraq by negative implication was a distinct possibility.

There have been repeated requests for regime change by the administration. In lieu of the limited time, I will not enumerate them, although they are set forth in some detail in my prepared statement.

On February 13, 2002, I spoke on the floor calling for hearings by the Senate Foreign Relations Committee and/or the Senate Armed Services Committee, and by letters dated February 14, 2002, and March 12, 2002, wrote to the respective chairmen of those committees. I am glad to note that Senator BIDEN, chairman of the Foreign Relations Committee, has called for a September hearing on the Iraq issue.

The power of the Congress on the declaration of war has been eroded very materially, with the President taking unilateral action in Korea, Vietnam, Grenada, Lebanon, Panama, Somalia, and Kosovo. But in a situation where there is ample time for the Congress to deliberate and decide, the Congress should assert its constitutional authority.

Among the many issues regarding the separation of powers, none is more important than this basic power to declare war and the separate power which the President has as Commander in Chief which sometimes conflict, but not in the situation such as the one at hand where we have time to deliberate and decide.

Earlier this month, I conducted some 19 town meetings across my State of Pennsylvania and found a great deal of citizen concern. People are unaware of the details and would like to know more.

In my February 13, 2002 floor speech, I enumerated a number of issues which are worth repeating. First, hearings would identify with greater precision what Saddam has by way of weapons of mass destruction.

Secondly, we would get into the details as to what Saddam and Iraq have done by way of thwarting the United Nations from conducting inspections. Earlier this year, I met with Secretary General Kofi Annan to get a firsthand briefing and to press the U.N. to do everything it could to get those inspections.

Another issue which I think needs to be subjected to analysis and hearings and national debate is what the cost would be of toppling Saddam, including the cost in casualties.

Fourth, what will happen after a regime change? What will happen if, as and when Saddam goes?

There is also the critical issue as to what we may expect from Saddam by way of reprisal or by way of anticipatory action. We know that Saddam Hussein is ruthless. We have seen him use chemicals against his own people, the Kurds. We have his statement just yesterday on the 24th anniversary of the July revolution when Saddam came into power. It is a belligerent, bellicose statement.

I had an opportunity to meet with Saddam Hussein in January of 1990 at a meeting with Senator RICHARD SHELBY. There is no doubt in my mind, from that contact—a meeting of about an hour and a quarter—that we are dealing with someone who has a mindset and a determination, having invaded Kuwait, having acted against the Kurds, that should give us every reason to be concerned about what he may do in light of the administration's repeated statements about a regime change; a concern if there is action by the United States against Iraq that there may be retaliation against Israel or others in the Mideast.

Consideration by the Congress also would be very helpful in addressing the concerns which the international community has expressed on the unilateralism of President Bush and President Bush's administration. We have had instances of that: the International Criminal Court, Kyoto, the U.N.-Bosnia peacekeeping force, and others which I have enumerated in greater detail in the written statement which I will include at the conclusion of these remarks.

If there are Members of the Senate and House who come forward and support the President—people in this body with extensive experience in the field over many years, respected international reputations—I think that would give credence to a position that the President may wish to take and would allay some of the concerns internationally on unilateralism, and perhaps persuade some of our allies that this is the right course of conduct.

In considering what to do about Saddam, we have the example fresh in our mind of al-Qaeda and Osama bin Laden. We have learned that 20/20 hindsight always being very good that we should have acted against bin Laden before September 11. We had ample warning and ample cause to do so. Bin Laden was under indictment for killing Americans in Mogadishu in 1993. Bin Laden was under indictment for the East Africa Embassy bombings in 1998. We knew he was involved in the U.S.S. *Cole* terrorism. He had made pronouncements about a worldwide jihad. The United States and the United Nations made demands on the Taliban to turn over bin Laden, which were refused. So we had a right under international law to proceed against bin Laden.

There is obviously great concern about Saddam Hussein or what the future may hold if he goes unchecked. But these are all complicated issues. There ought to be full hearings. The American people ought to be informed. We have learned from the bitter experience of Vietnam what happens when there is military action where the American people are not supportive and the Congress is not supportive.

Obviously, in a representative democracy, the matter first comes to the Congress. There is the precedent of President George H.W. Bush in 1991, when the Congress authorized a resolution for the use of force. I know the Presiding Officer remembers it well, as do I. It was a historic debate, and has been so characterized by the media and other commentators. President Bush, in 1990, had originally said he did not need congressional authorization. Then Senator HARKIN took the floor on January 3, 1991, during a swearing-in ceremony, and procedurally the course that then followed, without going into great detail now, was that we had the debate on January 10, 11, and 12 and voted 52 to 47 in this body authorizing the use of force to repel Iraq from Kuwait. So that precedent is with us.

There is no doubt that Congress is reluctant to step into the breach and to take a position. I urged in 1998 that the Congress authorize the use of force before President Clinton moved in with the missile attacks against Iraq in December of 1998. My written statement goes into detail as to what I have done on this issue going back to 1983, when I conducted a debate with Senator Charles Percy on the question of Korea and Vietnam being a war, and the questioning of Justice Souter in 1990 on whether Korea was a war. There has been a reluctance on the part of Congress to step forward. If we do nothing and it all works out, everything is fine, the Congress is happy. If the President acts unilaterally and is wrong, he gets the blame and we do not get the blame.

I believe we have a responsibility to step forward. We have a responsibility institutionally under the Constitution to declare war, and we have a responsibility to acquaint the American people as to what is involved, and I think a responsibility to have this debate, to tell our European allies what our reasons are for what we may do.

If there is to be military action against Saddam and Iraq, there is no doubt it would be much stronger with a congressional resolution, which implicitly carries the support of the American people. I think the hearings which I have called for and the debate on the resolution will do a great deal to inform the American people and the people of the world as to what we are up to, and whatever justification it is we have.

I understand that my distinguished colleague, Senator HARKIN, will be a cosponsor of this resolution.

Repeated statements from the administration carry the strong suggestion that President Bush intends to take military action to change the regime of Saddam Hussein in Iraq. There

are good reasons to be concerned about Saddam Hussein's developing weapons of mass destruction. Iraq's exclusion of UN inspectors raises the inference he has something to hide.

On February 13, 2002, in a Senate floor statement, I urged that the Senate Armed Services and/or Senate Foreign Relations Committee hold hearings as much as possible in public with some necessarily in closed sessions, to determine:

(1) The specifics on Iraq's weapons of mass destruction;

(2) Precisely what happened on the United Nations efforts to conduct inspections in Iraq and Iraq's refusals;

(3) What type of a military action would be necessary to topple Saddam, including estimates of U.S. casualties;

(4) What is anticipated in a change in regime in Iraq including Saddam's prospective replacement.

CONGRESSIONAL RECORD, S730–731, February 13, 2002.

On April 4, 2002, I met with United Nations Secretary General Kofi Annan urging the UN to press Iraq to submit to wide-open, including surprise inspections, to determine the facts on Iraq's possession and efforts to create weapons of mass destruction. Meetings between UN officials and Iraqi representatives on May 1 and 3, 2002 produced no results. Subsequent meetings between UN officials and Iraqi representatives in early July produced no results.

A ranking U.S. intelligence official advised that wide-open and surprise inspections in Iraq could provide reasonable assurances as to what Iraq has by way of possessing and/or developing weapons of mass destruction.

Presidents have acted unilaterally in the past half century in initiating military actions in Korea, Vietnam, Grenada, Lebanon, Panama, Somalia and Kosovo. In some of those situations where there was not time for the Congress to deliberate and decide on a declaration of war or an authorization for the use of force, it was appropriate for the President to utilize his authority as Commander-in-Chief in an emergency. There is now ample time for the Congress to hold hearings, deliberate and take whatever action Congress deems appropriate regarding Iraq.

There is a need for the American public to understand the issues involved in the use of military force against Iraq. There has been some public discussion, but relatively little. Congressional hearings would stimulate a national dialogue on the nation's op-ed pages, radio and television talk shows and in town halls across the country. I am glad to see that Senator JOSEPH R. BIDEN, Chairman of the Foreign Relations Committee, has announced his committee will hold hearings on Iraq in September.

In 19 town meetings, which I conducted across the Commonwealth of Pennsylvania this month, I heard considerable public concern and confusion over the President's intentions as to Iraq. Public support, reflected through the elected members of the House and Senate, is indispensable to successfully carry out an extensive military action. The United States learned a better lesson in Vietnam that a war cannot be successfully fought without public and congressional support.

Consideration by the Congress on these key issues would provide a basis for international understanding of our position and perhaps even support in some quarters. There is a world view that President Bush too often acts unilaterally on critical international issues such as the International Criminal Court, the UN/Bosnia peacekeeping force, the Kyoto Protocol, ABM Treaty withdrawal, and the Biological Weapons Convention. If congressional consideration was followed by the authorization for the use of force supported by thoughtful and experienced members of the House and Senate, the international community might well be reassured that the U.S. military action was not the decision of just one man, even though he is the President of the United States.

There is solid precedent for President George W. Bush to request congressional authority for the use of force against Iraq, just as President George H.W. Bush did in January, 1991. On December 21, 1990, and as late as January 9, 1991, President Bush was quoted as saying a congressional authorization was not necessary. See Weekly Compilation of Presidential Documents, January 14, 1991. Vol. 27, No. 2, pp. 24–25. Many Senators, including Claiborne Pell of Rhode Island, RICHARD LUGAR of Indiana, TOM HARKIN of Iowa, EDWARD M. KENNEDY of Massachusetts, JOSEPH R. BIDEN, Jr. of Delaware, Brock Adams of Washington and I sought to force debate on a resolution that would require congressional authorization for the use of force against Iraq. CONGRESSIONAL RECORD, S 48, January 4, 1991; CONGRESSIONAL RECORD, S119–120, January 10, 1991; see also New York Times, October 18, 1990, page A1, ''Senators Demand Role in Approving Any Move on Iraq;'' Washington Post, January 4, 1991, page A19, ''Canceling Recess, Lawmakers Prepare to Debate War Powers.''

On January 3, 1991, the date that Senators who were elected and re-elected the previous November took the oath of office, Senator Harkin successfully sought Senate debate and a vote on a use-of-force resolution. Senate Majority Leader George Mitchell scheduled Senate floor action for consideration of a resolution for the use of force on January 10, 1991. Following a Senate debate which was characterized as ''historical'' by the Washington Post, the Senate authorized the use of force against Iraq by a vote of 52 to 47. CONGRESSIONAL RECORD, S1018–1019, January 12, 1991. Similarly, the House of Representatives passed such a resolution by a vote of 250 to 183. CONGRESSIONAL RECORD, H1139–1140, January 12, 1991.

With the repeated public commentary on the President's plans to use force against Iraq, there has been public concern about what Saddam Hussein might do in anticipation or retaliation. Saddam is well known for his ruthlessness and his disdain for life by use of chemicals against his own people, the Kurds. Saddam is widely reported to have stockpiles of biological weapons. In a struggle for his own survival, why should we expect Saddam Hussein to refrain from using every weapon at his disposal against an announced attacker? A lengthy article in the New York Times on July 6, 2002 concerning U.S. plans for widespread inoculation for smallpox carried the implicit suggestion of a concern for a bioterrorism attack.

Consideration by Congress on a resolution for the use of force against Saddam would not impact on any potential element of surprise because there is no element of surprise left. The news media has been full of notice to Saddam of potential U.S. plans such as: The New York Times February 16, 2002, edition which quoted Vice President CHENEY as saying, ''The President is determined to press on and stop Iraq . . . from continuing to develop weapons of mass destruction'' and intends to use ''the means at our disposal—including military, diplomatic and intelligence to address these concerns'';

The Los Angeles Times on May 5, 2002, reported that the defense Intelligence Agency has produced an operational support study on Iraq including maps and data on geography, roads, refineries, communication facilities, security organizations and military deployments;

The Washington Post reported on May 24, 2002, General Tommy R. Franks, Commander of the U.S. Central Command, has briefed the President concerning troop levels necessary to invade Iraq and oust Saddam Hussein;

The New York Times on July 5, 2002, reported on an American military document calling for air, land and sea based forces to attack Iraq and topple Saddam Hussein;

The New York Times on July 9, 2002, quoted President Bush as saying on Iraq: ''It's the stated policy of this government to have regime change and it hasn't changed. And we'll use all tools at our disposal to do so.''

In considering a pre-emptive strike against Iraq, we should consider—not that it is determinative—the consequences of not acting against al-Qaeda and Osama bin Laden before September 11, 2001. We had reason in that situation to anticipate a terrorist attack and we had rights under international law to move against bin Laden and al-Qaeda in a pre-emptive strike before September 11, 2001.

Prior to September 11, Osama bin Laden was under U.S. indictment for killing Americans in Mogadishu in 1993. He was further under U.S. indictment for the attacks against American embassies in 1998. He was known to have been involved in the terrorist attack of the USS *Cole*. Osama bin Laden

had spoken repeatedly and publicly about his intention to carry out a worldwide Jihad against the United States.

When the Taliban in control in Afghanistan refused to turn over bin Laden to the United States after demands by the United States and the United Nations, the United States had rights under international law to use military force against al-Qaeda and bin Laden.

With congressional hearings as a start, the American people should be informed about Iraq's threat and all our efforts to deal with this threat short of use of military force. We should do our utmost to organize an international coalition against Iraq, which President George Bush did in 1991, specifying as much of the evidence as possible in public congressional hearings in order to create American and worldwide public support for appropriate action. Such public hearings would be supplemented by classified information given to the leaders of the prospective coalition.

Article I, Section 8 of the United States Constitution provides that ''Congress has the authority to declare war.'' Article 2 Section 2 of the United States Constitution provides that the President ''shall be commander in chief of the army and navy of the United States. . . .''

In the past half century, there has been a consistent and considerable erosion of Congress' constitutional authority to declare war with a concomitant expansion of the President's powers as Commander-in-Chief. My concerns about the erosion of congressional authority to declare war first arose in 1951 when I was called to active duty in the United States Air Force after having received in R.O.T.C. commission as a second lieutenant upon graduation from the University of Pennsylvania. I was glad to serve state-side from July 29, 1951 to July 31, 1953 as a special agent in the Office of Special Investigations, noting that President Truman had acted on his authority as Commander-in-Chief to order a ''police action'' without congressional authorization.

Early in my Senate career, I participated extensively in floor debate on the War Powers Resolution concerning U.S. military action in Lebanon. On September 27, 1983, I questioned Senator Charles H. Percy, Chairman of the Foreign Relations Committee, as to whether Korea and Vietnam were wars. Senator Percy stated that both Korea and Vietnam were wars even though undeclared. CONGRESSIONAL RECORD, S. 12995, September 27, 1983.

In 1983, I prepared a legal document for a declaratory judgment action to take to the Supreme Court of the United States on the issue of the constitutionality of the War Powers Act and seeking a judicial determination of the respective authority of the President as Commander-in-Chief and the Congress to declare war. It was my thought that if the Congress and the President asked the Court to take jurisdiction and decide this issue, the Court might do so although even with such a joint request, the Supreme Court might be unwilling to be involved in the so-called ''political thicket''. The Reagan Administration was unwilling to join in such a request and congressional leaders were reluctant to do so although no final determination was made since the issue was rendered moot by the Reagan Administration's declination. Understandably, the parties preferred to leave the issue ambiguous with a resolution on a case-by-case basis in the political process without a finite judicial determination.

I pursued my inquiries by questioning Supreme Court nominees as to whether Korea was a war. In confirmation hearings for Justice David Souter on September 14, 1990, I questioned him as to whether Korea was a war, whether the Presidents exceeded their constitutional authority in military action in Korea and Vietnam and whether the War Powers Act was unconstitutional in violating presidential powers as Commander-in-Chief. Justice Souter declined to express an opinion stating, in effect, that there was no law to guide him in answering these questions. See Hearings Before the Committee on the Judiciary, United States Senate, 101st Cong., 2nd Sess., on the Nomination of David H. Souter to be Associate of the Supreme Court of the United States.

In the Fall of 1990 and in early January 1991, I joined other senators in successfully taking the position that the President needed congressional authorization for the use of military force against Iraq and the enforcement of UN Security Council Resolution 678. CONGRESSIONAL RECORD, S. 405–490, January 10, 1991.

I took up this question again on September 13, 1994, taking the position that the President did not have the constitutional authority to order an invasion of Haiti without prior congressional authorization. CONGRESSIONAL RECORD, S. 12760, September 13, 1994.

On June 5, 1995, I introduced S. Res. 128, which stated it was the sense of the Senate that no U.S. military personnel should be introduced into combat or potential combat situations in Bosnia without clearly defined objectives and sufficient resources to achieve those objectives. CONGRESSIONAL RECORD, S. 7703, June 5, 1995. That resolution noted that there was ample time for Congress to deliberate and decide that matter, stating that such a decision was a matter for the Congress and that there should be no further erosion of that authority by the Executive Branch.

On November 1, 1995, noting the military action in Somalia without congressional authority and the military action in Haiti without congressional authority, I urge the President to follow the precedent of the Gulf war and seek congressional approval for incursions into Bosnia since there was ample opportunity for Congress to consider and decide the issue. CONGRESSIONAL RECORD, S. 31102, November 1, 1995.

On September 17, 1996, I spoke on the Senate floor on the use of force with missile strikes against Iraq on September 3, 1996, noting that this was another example where the President did not seek congressional authorization or even consultation in advance of that military action. CONGRESSIONAL RECORD, S. 10624–10625, September 17, 1996.

When there was speculation about additional military action against Iraq in early 1998, I spoke on the Senate floor on February 12, 1998, noting that an air attack or a missile attack constituted acts of war which required congressional authority. CONGRESSIONAL RECORD, S. 791–792, February 12, 1998. The President then ordered missile strikes against Iraq in December 1998 without seeking congressional authority.

On February 23, 1999, during Senate debate on the President's use of force in Kosovo, I noted my concern that air strikes constituted acts of war which required authorization by Congress. CONGRESSIONAL RECORD, S. 1771–1773, February 23, 1999. I again noted the continuing erosion of constitutional authority and the need for Congress to debate, deliberate and decide these issues when there was ample time to do so. I noted the tendency on the part of Congress to sit back and avoid such tough decisions. If things go wrong, there is always the President to blame. If things go right, we have not impeded Presidential action.

On March 23, 1999, the Senate voted 58 to 41 to authorize air strikes in Kosovo after the President's request for such congressional action. CONGRESSIONAL RECORD, S. 3118, March 23, 1999. I voted in favor of air strikes even though I had concerns about the President's reliance on the ''humanitarian catastrophe'' which was a departure from recognized U.S. policy to use force where there was a vital U.S. national security interest. The House deadlocked 213 to 213 on the same vote to authorize force. CONGRESSIONAL RECORD, H. 2451–2452, April 28, 1999.

On May 24, 1999, I proposed an amendment to S. 1059—the Department of Defense Authorization bill—calling on the President to ''seek approval from Congress prior to the introduction of ground troops from the United States Armed Forces in connection with the present operations against the Federal Republic of Yugoslavia or funding for that operation will not be authorized.'' CONGRESSIONAL RECORD, S. 5809–5811, May 25, 1999.

While supporting air strikes proposed by the President against the former Yugloslavia, I opposed any open-ended authorization, such as S.J. Res. 20, which would have ''authorized [the President] to use all necessary force and other means in concert with

United States allies to accomplish the United States and North Atlantic Treaty Organization objectives in the Federal Republic of Yugoslavia, Serbia and Montenegro''. I thought the broad wording of that resolution constituted a blank check which was unwise. Instead, the President should seek specific congressional authority after specifying the objectives and the means for accomplishing those objectives.

There is an understandable reluctance on the part of Members of the House and Senate to challenge a President, especially a popular President, on his actions as Commander-in-Chief to protect U.S. national interests. The constitutional issues on separation of powers and the respective authority of the Congress vis-a-vis the President are obviously important. Of even greater importance, however, is the value of a united front with the President backed by congressional authorization and American public opinion on an issue where most, if not virtually all, of the international community is in opposition.

If the Congress sits back and does nothing and the President is right, then there is public approval. If the President turns out to be wrong, then it is his responsibility without blame being attached to the Congress. There is an added element that the President may, and probably does, know more than the Congress. Hearings, in closed session, could address that discrepancy in knowledge.

The current issue of Iraq is another chapter, albeit a very important chapter, in the ongoing effort to define congressional and Presidential authority on the critical constitutional doctrine of separation of powers. In the present case, there is ample time for Congress to deliberate and decide. With the stakes so high, Congress should assert its constitutional authority to make this critical decision.

AMENDMENTS SUBMITTED & PROPOSED

SA 4307. Mr. NELSON of Florida 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 4308. Mr. TORRICELLI (for himself, Mr. LEAHY, and Mr. JEFFORDS) submitted an amendment intended to be proposed by him to the bill S. 812, supra; which was ordered to lie on the table.

SA 4309. Mr. GRAHAM (for himself, Mr. MILLER, Mr. KENNEDY, and Mr. CORZINE) proposed an amendment to the bill S. 812, supra.

SA 4310. Mr. HATCH (for Mr. GRASSLEY (for himself, Ms. SNOWE, Mr. JEFFORDS, Mr. BREAUX, Mr. HATCH, Ms. COLLINS, Ms. LANDRIEU, Mr. HUTCHINSON, and Mr. DOMENICI)) proposed an amendment to the bill S. 812, supra.

SA 4311. Mr. REID (for Mr. WYDEN (for himself and Mr. ALLEN)) proposed an amendment to the bill S. 2037, to mobilize technology and science experts to respond quickly to the threats posed by terrorist attacks and other emergencies, by providing for the establishment of a national emergency technology guard, a technology reliability advisory board, and a center for evaluating antiterrorism and disaster response technology within the National Institute of Standards and Technology.

TEXT OF AMENDMENTS

SA 4304. Mr. SMITH of New Hampshire (for himself, Mr. ALLARD, Mr. GRASSLEY, Mr. HATCH, Mr. BURNS, Mr. CRAIG, Mr. CRAPO, and Mr. SANTORUM) 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. ___. MEDICARE PAYMENT FOR OUTPATIENT PRESCRIPTION DRUGS UNDER THE RX OPTION.

(a) IN GENERAL.—Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by redesignating part D as part E and by inserting after part C the following new part:

''PART E—VOLUNTARY MEDICARE PRESCRIPTION DRUG COVERAGE

''MEDICARE PRESCRIPTION DRUG PLAN

''SEC. 1860AA. (a) IN GENERAL.—Each Medicare Prescription Drug Plan eligible individual may elect coverage (beginning on January 1, 2003) under this part in lieu of any other prescription drug coverage program under this title by enrolling in the Rx Option in order to receive coverage for outpatient prescription drugs as described in section 1860BB and to pay a combined deductible under section 1860CC.

''(b) MEDICARE PRESCRIPTION DRUG PLAN ELIGIBLE INDIVIDUAL DEFINED.—In this part, the term 'Medicare Prescription Drug Plan eligible individual' means an individual who is—

''(1) eligible for benefits under part A and enrolled under part B;

''(2) not enrolled in a Medicare+Choice plan under part C; and

''(3) not eligible for medical assistance for outpatient prescription drugs under title XIX.

''RX OPTION

''SEC. 1860BB. (a) ENROLLMENT IN THE RX OPTION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall establish a process for the enrollment of Medicare Prescription Drug Plan eligible individuals under the Rx Option that is based upon the process for enrollment in Medicare+Choice plans under part C of this title.

''(2) EXCEPTIONS.—

''(A) 2-YEAR OBLIGATION.—Except as provided in subparagraph (B), a Medicare Prescription Drug Plan eligible individual who elects the Rx Option shall be subject to the provisions of this part for a minimum period of 2 years, beginning with the first full month during which the individual is eligible for benefits under the Rx Option.

''(B) FREE LOOK PERIOD.—An individual who elects the Rx Option may disenroll from such Option no later than the last day of the first full month following the month in which such election was made.

''(3) ENROLLMENT IN MEDICARE SUPPLEMENTAL POLICIES.—An individual enrolled in the Rx Option may be enrolled only in a medicare supplemental policy subject to the special rules described in section 1882(v).

''(b) OUTPATIENT PRESCRIPTION DRUG BENEFITS.—

''(1) IN GENERAL.—Beginning in 2002, under the Rx Option, after the enrollee has met the combined deductible under section 1860C, the Secretary shall provide a benefit for outpatient prescription drugs through private entities under section 1860D equal to 50 percent of the lesser of—

''(A) the cost of outpatient prescription drugs for such year; or

''(B) $5000.

''(2) COST-OF-LIVING ADJUSTMENT.—In the case of any calendar year beginning after 2002, the dollar amount in paragraph (1)(B) shall be increased by an amount equal to—

''(A) such dollar amount; multiplied by

''(B) the percentage (if any) by which—

''(i) the prescription drug component of the Consumer Price Index for all urban consumers (all items city average) for the 12-month period ending with August of the preceding year; exceeds

''(ii) such prescription drug component of the Consumer Price Index for the 12-month period ending with August 2001.

''(3) ROUNDING.—If any increase determined under paragraph (2) is not a multiple of $1, such increase shall be rounded to the nearest multiple of $1.

''COMBINED DEDUCTIBLE

''SEC. 1860CC. (a) IN GENERAL.—Notwithstanding any provision of this title and beginning in 2002, a beneficiary electing the Rx Option shall be subject to a combined deductible that shall apply in lieu of the deductibles applied under sections 1813(a)(1) and 1833(b).

''(b) AMOUNT.—

''(1) IN GENERAL.—For purposes of subsection (a), the combined deductible is equal to $675.

''(2) COST-OF-LIVING ADJUSTMENT.—In the case of any calendar year after 2002, the dollar amount in paragraph (1) shall be increased by an amount equal to—

''(A) such dollar amount; multiplied by

''(B) the percentage (if any) by which—

''(i) the medical component of the Consumer Price Index for all urban consumers (all items city average) for the 12-month period ending with August of the preceding year; exceeds

''(ii) such medical component of the Consumer Price Index for the 12-month period ending with August 2001.

''(3) ROUNDING.—If any increase determined under paragraph (2) is not a multiple of $1, such increase shall be rounded to the nearest multiple of $1.

''(c) APPLICATION.—In applying the combined deductible described in subsection (a) such deductible shall apply to each expense incurred on a calendar year basis for each item or service covered under this title, and each expense paid on a calendar year basis for such an item or service shall be credited against such deductible.

''PARTNERSHIPS WITH PRIVATE ENTITIES TO OFFER THE RX OPTION

''SEC. 1860DD. (a) PARTNERSHIPS.—

''(1) IN GENERAL.—The Secretary shall contract with private entities for the provision of outpatient prescription drug benefits under the Rx Option.

''(2) PRIVATE ENTITIES.—The private entities described in paragraph (1) shall include insurers (including issuers of medicare supplemental policies under section 1882), pharmaceutical benefit managers, chain pharmacies, groups of independent pharmacies, and other private entities that the Secretary determines are appropriate.

''(3) AREAS.—The Secretary may award a contract to a private entity under this section on a local, regional, or national basis.