

needs that are so critical to quality of life for our service men and women. I also support many of the provisions we have included that will further improve the management of the department. I particularly appreciate the bipartisan effort that the staff has made to address a wide range of procurement issues, environmental issues, and long-standing DOD financial management problems.

While I support the overall actions taken in this bill, and commend all of my colleagues for the hard work that they have invested, as ranking member of the Readiness Subcommittee I have mixed feelings about our actions. We have increased funding for some key programs, but at the expense of others where the impact might be more easily obscured. Our experience with the Air Force over the last few years has shown that there is a direct correlation between increased spare parts and mission capable rates for aircraft; those spare parts are provided through the Air Force Working Capital Fund. The Navy expects to have only a few days of cash on hand at the end of this fiscal year, and may be forced to bill customers before they actually receive their orders. And the Army faces a situation where its orders for parts and other key items exceed its cash on hand by more than 700 percent. Wartime, when we see a great expansion of customer needs for readiness and large fluctuations in required support, is not the time to take on more readiness risk by decreasing cash balances in the working capital funds. It hurts readiness, and it hurts the men and women who serve in uniform.

By reducing funding for the readiness accounts and failing to provide any supplemental funding for 2005, this bill does not do enough to meet the most pressing needs of our men and women in uniform.

I will support this bill, and I urge my colleagues to do the same. I think it is a good bill that could have been better, and I will continue to work throughout the rest of the authorization process to improve it.

#### MORNING BUSINESS

Mr. WARNER. I ask unanimous consent that the Senate now go into a period for morning business, with each Senator permitted to speak no longer than 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Michigan.

#### MEDICARE VIDEOS

Ms. STABENOW. Mr. President, as we are wrapping up the session this week, I think it is very important to note what we all read in the Washington Post today. Something very serious was clearly spelled out. That is that the General Accounting Office has concluded the U.S. Department of Health and Human Services illegally

spent Federal money on what amounted to covert propaganda, by producing videos about the Medicare changes that were made to look like news reports. Portions of the videos which had been aired by 40 television stations around the country do not make it clear that the announcers were paid by Health and Human Services, or paid by taxpayers, and that they were not real reporters.

In fact, the administration has violated two Federal laws. This comes from the nonpartisan arm, the Congressional Investigative Services, the General Accounting Office.

They indicated two different laws that the administration broke in these ads on Medicare.

No. 1, the Omnibus appropriations bill of 2003: The prohibition on using appropriated funds for publicity or propaganda purposes.

No. 2, the Anti-Deficiency Act: Incurred obligations in excess of appropriations available for that purpose.

This is just one more example of the ongoing saga in what happened in relationship to the passage of the new Medicare law and all of the irregularities—the pronouncement that, in fact, the law was violated and the other ethics investigations going on.

Let me go through some of what else is happening. It is stunning, actually, when you look at the full picture. I would argue that this is absolutely in the wrong direction and against the interests of those who count on Medicare—our seniors and disabled, and the American taxpayers who have been funding what the GAO says are illegal ads.

In addition to that, 2 weeks ago, the Congressional Research Service concluded that the administration potentially violated the law in a related matter in which the Medicare Program's chief actuary has said he was threatened with firing a year ago if he shared with Congress cost estimates that the Medicare legislation would be one-third more expensive than what we were told—one-third more expensive than the \$400 billion the President said it would cost.

Also, the House ethics panel meanwhile is investigating whether Republican leaders attempted to bribe or coerce a Republican House Member—in fact, someone in my own State—to vote for the bill before it passed by a few votes just before dawn after the longest record rollcall in the history of the House.

We have numerous other challenges and questions. It is important to note for the record that the latest investigation by the GAO was not prompted by our side of the aisle, nor requested. It was something they looked into on their own separate from other concerns which have been raised. We have raised issues that relate to the advertising we have seen on television.

Concerning materials, the GAO indicated that, while they were not specifically in violation, the HHS materials

have notable omissions and other weaknesses. They say it is a question of prudence and appropriateness for HHS's decision to communicate by placing advertising in Roll Call, which we all know is something that we read and certainly our constituents and the seniors and the disabled of the country do not read.

This goes on and on, questions of violating the law and questions of an ethics violation.

Now we see, in fact, that the administration specifically has broken two different laws. One of the questions is, What do we do about that? I think the public deserves the answer to that. What is it that we do when the administration violates the law as it relates to spending public dollars and advertising as it relates to this Medicare bill?

A colleague of mine is suggesting—since we know it is a campaign year and we know this is put forward certainly to put the best light on this for the administration—the Senator from New Jersey, Mr. LAUTENBERG, has suggested that the President repay the funds from his Presidential campaign.

Given what we know is happening this year and the fact that certainly the administration wants to have the best face put on this Medicare package and certainly has everything to gain from using public dollars to advertise that, I think it would be appropriate to ask the President to repay that from his campaign funds. In fact, they are in violation of the law.

We have seen questionable action after questionable action. The head of the center of Medicare and Medicaid, after writing this bill and working closely with the industry that benefits from it—the pharmaceutical industry—leaves to take a job with folks involved in the industry that will make money off of this new law.

We have seen other individuals leaving and going into lucrative positions where they will themselves be making money off of this new law.

We know it has been analyzed and that the pharmaceutical industry will be making, during the next 8 years, about \$139 billion in new profits. That is tough to do if you are lowering prices and tough to do if you are providing a real Medicare benefit to seniors which they can afford.

The reality is that is not what this bill does. This bill doesn't allow Medicare to be able to negotiate group discounts as we do through the VA.

It creates a situation where up to 40 million seniors and disabled are locked into the highest possible prices—not only in our country but in the world. We have a bill that locks in high prices.

The industry is making billions of dollars from it. People from the administration are going to work for the industry or related businesses that will be making money off of this process.

We now see a situation where, again, the taxpayer money that was put aside

to be able to explain the Medicare bill has actually been used in a way that is in violation of the law.

I say again that the GAO concluded that the Department of Health and Human Services illegally spent Federal money—taxpayers' money—on what amounted to covert propaganda by producing videos about the Medicare changes that were made.

Another piece of that which is extremely disconcerting to me is we now have discount cards for seniors for those who qualify for Medicare—depending on where you live—and there could be 60 or 70 different cards that you now can attempt to wade through to try to find a discount card that will help you when you really are struggling to pay for your medicine.

We are now finding since passing the Medicare bill that many of the name brand companies have dramatically increased the prices of their products in anticipation of the discount card. The base is higher. That is like the storeowner who marked up the product 25 percent and then put a sign out that says: "15 percent sale." That is what is happening to many of our seniors.

To add insult to injury, those who purchase cards—most of them are purchased for about \$30—lock themselves into one card for a year after wading through all of the different cards. They pick the one that covers the medicines they use. They purchase the card and they are locked into it for a year, but the business, the industry can change every 7 days the list of what is covered. Today, four medicines are not covered; next week maybe two aren't covered; and next week maybe none of them are covered.

Why would this be set up like this? It is confusing. They are not real discounts. The discounts are changed. It is certainly not set up for the people who depend on Medicare every day.

Once again, the implementation of the bill that passed is being done in a way that helps the industry that already makes billions and billions of dollars in producing the products, but it is not helping our seniors. We want industry to be successful.

Taxpayers help subsidize the billions of dollars of research given free to the industry. We provide tax credits, tax deductions, writeoffs and patents. All we ask at the end of the day is that people can afford their medicine, that people can afford oftentimes the life-saving medicine they need for their cancer, diabetes, or other chronic disease.

This is serious. We debated and had a lot of hoopla about a new law in Medicare. We have seen nothing but broken promises, broken laws, broken ethics rules since the adoption of the law. I suggest it is time to start over. We can do better. It is time to scrap this benefit, start over, get it right, follow the law, follow the ethics rules, negotiate group prices, get a real benefit, bring prices down. That is what our seniors expected the first time. It is time we make a commitment to get it right.

I am very hopeful between now and the end of the session in the fall that we are going to turn around and get this right. Scrap the old bill and pass a new one that focuses on helping our seniors and bringing down prescription drug prices for everyone. And by the way, it is time to follow the law in the process.

The PRESIDING OFFICER. The Senator from Washington.

#### NUCLEAR WASTE

Ms. CANTWELL. Mr. President, I take a few minutes to clarify points from the debate we had prior to moving off the DOE bill and the specifics of the Graham amendment.

I know my colleague, the Senator from South Carolina, is probably somewhere still in the vicinity of the Senate. I, too, admire the Senator from South Carolina on a variety of issues, particularly on National Guard issues and some of the challenges we have had, both coming from States that have been hard hit economically and challenged with a large number of people participating in our efforts in Iraq and Afghanistan. This issue that he and I disagree on obviously is one of utmost importance and certainly one that needs a lot of attention by the Members of this body. We will get that time and attention when we return to DOE after the recess.

I bring up a couple of points made that are the crux of my concern about this legislation; that is, that section 3116 of the underlying bill, the Defense authorization bill, attempts to reclassify high-level nuclear waste into a low-level material and allow it to be disposed of in a different way.

I object to that and I object to the process by which that legislation was drafted. The Senate Armed Services Committee does not have jurisdiction over the ability to reclassify waste. That is a change to the Nuclear Waste Policy Act drafted in 1982. If the Department of Energy wants to have that debate, then the Department of Energy should come down here and have hearings before the appropriate committees and discuss that issue. But to have such a major policy change of 30 years' policy since 1982 and 50 years of science saying this is what high-level nuclear waste is and one day changing it in the DOD bill is beyond absurd. Obviously, that is why we have spent time this afternoon talking about it.

The chairman of the committee asked me in a question whether that committee has jurisdiction over the issue. I know that DOE many times has tried with various environmental issues to have them go through the Senate Armed Services Committee, environmental issues such as the Resource Conservation Recovery Act, Comprehensive Environmental Response, Compensation, and Liability Act, the Endangered Species Act. All of those, even though they are DOE issues, do not go through the Senate

Armed Services Committee. In fact, the committee even said they are not part of our issues. Those are environmental policies or policies for other committees and referred to those specific committees.

I read to my colleagues rule XXV earlier regarding what the jurisdiction of the Senate Armed Services Committee is. It is specific to the national interests that were necessary in creating nuclear fuel. That was an offshoot of the reactors used in the development of plutonium for our efforts in World War II and the cold war, but they do not have the legislative oversight of the cleanup policy. That is the prerogative of other committees, the Energy and Natural Resources Committee, the Environment and Public Works Committee.

To make my point, I took section 3116 of this bill, this section that reclassifies waste, and introduced it today as my own legislation and asked for a referral. If we took this section on reclassification now as a stand-alone bill, let's see where it was referred to. That bill, Senate bill 2457, by Senator CANTWELL, was referred to the Energy and Natural Resources Committee. That proves my point, that this policy change is not the jurisdiction of the Senate Armed Services Committee, and the Senate Armed Services Committee should not try, in a closed-door session, in secrecy without having a public hearing, without having a public debate, to change policy of this significant nature which is not the jurisdiction of their committee.

I ask unanimous consent to have printed in the RECORD a letter from the ranking member of the Senate Energy and Natural Resources Committee that was also sent to the Senate Armed Services Committee chairman and ranking member asking them not to pass this legislation out of committee, and that it was the jurisdiction of the Energy and Natural Resources Committee.

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

U.S. SENATE, COMMITTEE ON ENERGY  
AND NATURAL RESOURCES,  
Washington, DC, May 5, 2004.

Hon. JOHN W. WARNER, Chairman,  
Hon. CARL LEVIN, Ranking Democratic Member,  
Committee on Armed Services,  
U.S. Senate, Washington, DC

DEAR SENATOR WARNER AND SENATOR LEVIN: I am writing to urge you not to include language relating to the reclassification of high-level radioactive defense wastes proposed by Senator Graham of South Carolina in the defense authorization bill.

For thirty years, it has been the policy of this nation that the high-level radioactive defense wastes temporarily stored in tanks at Savannah River and elsewhere would, in time, be removed from those tanks and permanently disposed of in new facilities licensed by the Nuclear Regulatory Commission. Enactment of Senator Graham's amendment would abandon that policy and permit the Department of Energy, in its discretion, to reclassify an unknown part of the tank wastes as transuranic or low-level