

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

waste and either leave it where it is or ship it to New Mexico for disposal in the Waste Isolation Pilot Plant as transuranic waste, or to some other state for shallow land burial as low-level waste.

In addition, Senator Graham's amendment would exempt the Department's handling of these wastes from licensing and regulation by the Nuclear Regulatory Commission. Its enactment would have profound consequences for the nation's high-level nuclear waste policy, which is under the jurisdiction of the Committee on Energy and Natural Resources. It would also interfere in litigation now pending before the United States Court of Appeals for the Ninth Circuit.

For all of these reasons, I urge you not to include Senator Graham's amendment in the defense authorization bill.

Sincerely,

JEFF BINGAMAN.

Ms. CANTWELL. Mr. President, I am trying to make the point that the ranking member of the committee, and now the parliamentarian, have agreed that this is not the jurisdiction of this committee.

I ask my colleagues to weigh that in the time we have away from here, to drop this policy as it relates to trying to reclassify waste without having the proper public hearing and public comment about the issues.

Yes, everyone has heard of DOE attempts to try to reclassify this waste. It is well known that they actually tried to do it by order themselves and were shot down in court. They were shot down in court because specifically they do not have the authority. They have to change the definition under the Nuclear Waste Policy Act. If they want to do that, debate it on the Hill, have this discussion, and move forward.

I make a point that cleanup around America—whether it is in South Carolina, in the Savannah River, or whether it is Washington State at the Hanford reservation, whether it is Idaho or any other facility in this country—should be continuing. There is nothing about any court case or any court battle that prohibits the Department of Energy from continuing with cleanup. I hope they understand that is the judgment and the clarification of the court that ruled.

If my colleague from South Carolina is hearing that nuclear waste cleanup may be going slow or may be put on hold in the future, that is the absolute wrong message from the Department of Energy. Congress has appropriated funds, has appropriated funds in the past, and they should be going about their cleanup job.

What we are not going to do as a body is whitewash a change of significant nature where we do not have science backing that says we ought to reclassify this waste. In fact, science has been very specific in saying this is not a simple proposition.

In 1990, the National Academy of Science said:

There is strong worldwide consensus that the best, and safest, long-term option for dealing with HLW is geologic isolation.

Again, not grouting waste in existing tanks but removing the waste and put-

ting it in a geological isolation, as we have suggested, and others have suggested, at Yucca Mountain.

A 1992 report by the Pacific Northwest Laboratory said:

The grouts will remain at elevated temperatures for many years. The high temperatures expected during the first few decades after disposal will increase the driving force for water vapor transport away from the grouts; the loss of water may result in cracking . . .

A 1992 study on this issue regarding just pouring cement and sand on nuclear waste and somehow storing it and solidifying it in the ground said there would be a result of cracking.

What we know in Washington State is we already had the cracking of the tanks. We already had a plume of nuclear waste going toward the river. So we already know what this situation is all about.

In 2000, the National Academy of Sciences said:

[W]aste tank residue is likely to be highly radioactive and not taken up in the grout, so there is substantial uncertainty. . . .

Another 2000 study by the National Academy of Sciences says:

[Using grout,] the ability of the site to reliably meet long-term safety performance objectives remains uncertain.

I think there is much science that basically says we do not think grout can work. Obviously, we do not know what the Department of Energy is trying to do, because they want to leave an unspecified amount of waste in the ground and not be specific about that. So it is very difficult for us to see.

I would also like in my short time here, because I know each Member is limited in time this evening, to refute the letter that was submitted by the Nuclear Regulatory Commission. While we do not know what the Nuclear Regulatory Commission was asked to comment on, what they ended up commenting on was not the underlying language in the DOD authorizing bill. They did not comment on the fact that the Graham language would significantly change the Nuclear Waste Power Act and classify high-level waste as something else.

What they did comment on was the fact that you could take the entire tanks out of the ground and it would be very expensive, which I do not know if people can imagine, because the Hanford site is miles and miles of acres—I think earlier we said something close to one-third the size of the State of Rhode Island. That is how big the Hanford reservation is—580 miles of land. These tanks that have stored the spent fuel are enormous.

The Nuclear Regulatory Commission is saying: We do not know if it is feasible to take out the tanks entirely. Well, no one ever said we expected to take out the entire tanks. What we said was we think the tanks have to be cleaned and the site has to be cleaned. And that is the removal process we should continue to do.

So I think while we would be wise to get a letter from the Nuclear Regu-

latory Commission that was specific about the exact proposal that is in this bill and get their response, the issue is they are not in charge of short-term waste disposal. They are in charge of this geological isolation solution we in Congress and others have been looking for, and basically asking questions about, and saying, Where are you going to take the vitrified waste and put it? They are not the regulatory entity over those short-term issues.

I think the Nuclear Regulatory Commission has not fully addressed the question. I think perhaps we should send them a more direct question to which we can get a more specific answer.

We will hear a lot more about this issue when we return from the legislative recess. But I assure my colleagues, we are going to continue to talk about the fact that we in Congress cannot have this significant a change in a policy by simply sneaking language into a Senate Armed Services Committee bill that does not have jurisdiction over this issue and make a major policy change that is 30 years of law—30 years of established law—and 50 years of scientific evidence and override that in a short period of time without a full discussion and debate.

This underlying bill language needs to be stricken. We need to get about the nuclear waste cleanup that the science says we should do; that is, removing the high-level waste and not simply trying to do cleanup on the quick by calling it grout.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for quorum call be rescinded.

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

ROBERT A. (BOB) BEAN

Mr. DASCHLE. Mr. President, earlier today many of our Senate family attended the funeral of a former Senate employee, Robert Bean. Bob started here in the Senate when he was 15 years old as a Senate page under the sponsorship of Majority Leader Mike Mansfield. Following his page graduation Bob moved into the Democratic cloakroom where he continued his outstanding service to our members. He rose to the position of Assistant Secretary for the Majority and then was appointed by Senate Majority Leader George Mitchell to the position of Deputy Sergeant at Arms in 1990. He moved to the Treasury Department's legislative affairs office in 1995 and remained there until 1999 when he returned to the Hill to work on the House side as the minority staff director of the House Administration Committee. He retired from the Hill in 2002 and he had just recently begun work for the Jefferson Consulting Group.