

In the first phase, in less than 2 months, over 200 pounds of aluminum, glass, and plastic were recovered from 51,000 visitors passing through one such information center in Williston, VT. And today, the U.S. Senate's other Vermonter, PATRICK LEAHY, joins me and Senators JOSEPH LIEBERMAN, DANIEL AKAKA, and JOHN KERRY as original cosponsors as I introduce the National Beverage Producer Responsibility Act of 2003.

I recommend that all take advantage of this wonderful system we have in Vermont and in other States. I ask everyone to take a close look and see if we wouldn't be much better off if the rest of the country follows suit.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. JEFFORDS. I ask unanimous consent to speak in morning business for up to 10 minutes.

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

ENVIRONMENTAL PROVISIONS IN THE CONFERENCE REPORT ON H.R. 6

Mr. JEFFORDS. Mr. President, the conference report on H.R. 6, the comprehensive energy legislation, was released over the weekend. As the ranking member of the Environment and Public Works Committee, I have come to the floor today to share my deep concern that this bill will endanger our environment and unfairly benefit special interests.

The final conference report contains provisions that significantly change environmental law and undermine long-standing environmental protections. It is my sincere hope that the conference will remove many of these provisions during their meeting today.

The Environment and Public Works Committee, on which I serve, has jurisdiction over environmental matters, and we were not consulted in the development of any of these provisions.

This bill drastically rewrites existing clean air law. It postpones ozone attainment standards across the country. This is a matter never considered in either House or Senate bill that has been inserted into the conference report. By inserting this language, the conference will expose the public to dangerous air pollution emissions for far more time than under existing law. Several Federal courts have already struck down regulatory proposals similar to the provisions in the conference report as violations of the Clean Air Act.

The gasoline additive MTBE, which is known to contaminate groundwater, would have been phased out in 4 years

in the Senate bill. This conference report extends the phaseout for a decade and includes provisions that would allow the President to decide to continue the MTBE use.

This bill provides legal immunity to large petrochemical companies from "defective product" liability arising from the contamination of groundwater supplies by the gasoline additive MTBE.

It also terminates a lawsuit filed by the State of New Hampshire by reaching back to provide immunity as of September 5, 2003. This language allows a contaminating product to be used, possibly indefinitely, and provides communities with no fiscal remedies to clean it up.

As a further subsidy to the industry, the bill exempts all construction activities at oil and gas drilling sites from coverage under the runoff requirements of the Clean Water Act.

This means that contaminants, such as toxic chemicals, grease, and other pollutants from oil and gas drilling, will end up in our waterways.

Conferees have also removed hydraulic fracturing, an underground oil and gas recovery technique, from coverage under the Safe Drinking Water Act. This is a process in which water, sand, and toxic chemicals are injected under high pressure into oil- and gas-bearing rocks, potentially polluting drinking water supplies.

This bill suspends these existing drinking water protections, even though courts have found that hydraulic fracturing should be regulated to protect the public health.

Also, the conferees have included language to speed up energy exploration and development at the expense of environmental review and public participation on both Federal and non-Federal lands. The public will have less time to review and consider the impact of these projects.

When these reviews occur, oil, gas and geothermal energy companies can be reimbursed through credits against future royalties payable to the taxpayer for the costs of undertaking environmental assessments. These provisions subsidize energy development on our public lands.

The conferees have also included provisions that mandate specific timeframes and deadlines for agency decisions on Federal oil and gas leases. This would establish oil and gas development as the dominant use of our Federal public lands.

Our other Federal lands are at risk of becoming electric transmission corridors with this bill as well. The Department of Energy can open new areas for transmission line construction, harming the wildlife, water quality, recreational and other values we have sought to protect for years.

My colleagues should know that this is not an exhaustive list of the environmental provisions of concern in this bill.

In almost every title, there are significant changes to long standing envi-

ronmental law and policy. In addition, important issues which received majority support in the Senate, such as a Renewable Portfolio Standard for electricity, requirements to reduce our dependency on foreign oil, and adoption of sensible climate change policy, have been dropped.

While I support the establishment of a comprehensive energy policy for the United States, we should not use the final energy bill as a means to roll back important environmental protections.

This bill will not promote energy self-sufficiency, will not promote it, and will cause environmental damage. It is my sincere hope that these unwise provisions will be removed, and I urge my colleagues to consider seriously the environmental effects of this legislation in making their final decisions regarding whether or not to support this measure when it come before the Senate.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. KENNEDY. Mr. President, I ask unanimous consent to speak as if in morning business.

The PRESIDING OFFICER (Mr. ROBERTS). Without objection, it is so ordered.

MEDICARE PRESCRIPTION DRUG BENEFIT

Mr. KENNEDY. Mr. President, I wanted to take a short time this afternoon to talk about some of the concerns that I have on the recently agreed to proposition on the Medicare prescription drug agreement that was reached over the course of the weekend.

As we are anticipating this measure which is now being examined in terms of the Congressional Budget Office estimates and the legislative language that is being prepared, I expect that we will be addressing it at the end of this week or sometime in the very near future. I want to at least bring some focus and attention to some of the provisions in the legislation that haven't gotten the focus and attention they deserve, which they should have, and which I hope our Members will give study.

There is no truer indication of a nation's priorities than the investment it makes, and the legislation the Senate considers today I believe squanders a historic opportunity with a disregard for the Nation's health, particularly for our seniors. There is a provision in this bill dealing with a \$12 billion slush fund to lure HMOs into Medicare.

Let's see if I have the reasoning behind this fund right. The supporters of

the legislation are so concerned that HMOs can provide health care to seniors more efficiently than Medicare that they give HMOs a \$12 billion pay-off so they can compete. If they are so efficient, why do they need the hand-out? I guess the sponsors of the legislation believe a 9 percent reimbursement bonus for HMOs is not enough. In this legislation there is the assurance the HMOs will get a 9 percent increase over Medicare in reimbursement rates.

In addition, there is what they call a stabilization fund which is effectively a \$12 billion slush fund which will also be available to subsidize the HMOs.

That package adds up to a rather extraordinary benefit to the HMOs. The bill calls for competition between Medicare and the HMOs. Yet in this agreement private plans are going to get paid 109 percent of traditional Medicare reimbursements. And, those enrolled in HMOs are 16 percent healthier. That cumulatively is a 25 percent bonus to the private sector to compete with Medicare, without even considering the \$12 billion slush fund. Our friends on the other side say we want competition in this system. Yet they are giving them the 25 percent advantage in order to compete with Medicare.

The bill that passed the Senate was a prescription drug bill that had bipartisan support, with 76 Members for it. I was proud to stand here and support it. But now we basically have the restructuring of our Medicare system. We do it in a way that provides a fundamental risk to the Medicare system. That is why I am opposed to this agreement and the proposal.

I have given one illustration of why this proposal that is strongly supported by our friends in the House is going to weight this agreement so heavily for the HMOs and the PPOs. They talk about a fair playing field between the private sector and the Medicare. That is hogwash. In the Senate bill we passed a prescription bill. It had real competition for all parts of the country with a backup system of Medicare, but not in the proposal that comes out of the conference.

I remind our seniors the 25 percent bonus that is going to the HMOs is effectively being paid by our seniors today in the Medicare premiums. They are the ones, on the one hand, who are paying into this fund; on the other hand, it is the conference report that is effectively taking the 25 percent and giving it over to the private sector.

And we wonder why seniors might be somewhat concerned about that arrangement. Do Members think the seniors at home will not ask: Why aren't we using all that money to either make sure the benefit package is a stronger benefit package to help me, to help my family, or to help my grandparents? The decision made in the conference was no, we insist on "competition." But they are going to take the 25 percent, which has been paid in dollar by dollar by hard-working Amer-

icans over a lifetime that they thought was going to be put into the Medicare system, and we are going to use that to subsidize the private sector. I hope we will have a chance for explanations.

Second, there is a provision included in this conference that was not included in the Senate proposal, premium support. I never heard the President indicate strong support for it, or those who speak for the President. I don't think a great many of our colleagues are able to define what premium support is, but they will learn about it soon enough if they vote for this legislation. Premium support is a proposal that is primarily sponsored by those who are opposed to the Medicare system.

Let's make no bones about it. There are a number of other colleagues who are still strongly opposed to Medicare. That is no mystery, no secret. This proposal puts forward one of their strongest beliefs—that we need to change the Medicare system—I say undermine the Medicare system—with premium support. What that means is the averaging of various premium bids to determine the Medicare system reimbursement rate. The difference between what the Medicare system reimburses and what real cost is going to be paid by the individual. The premium support proposal does what the insurance companies do best, and that is cherry pick the healthiest senior citizens for their plans so they are able to make money, and leave those who are sicker and older in the Medicare system where the premiums will rise.

I will demonstrate with this chart. This is the Medicare actuarial estimates of the disparity of the premium support, what the premium would be under the proposed legislation. The national average of the current law is \$1,200. Several years ago, the estimate under the premium support was \$1,771. The new average this year is \$1,501. How do we know what the true estimates will be? Premium support is untested, untried, unworkable. We are playing roulette with premium costs for our senior citizens. This is a social experiment that uses our seniors as guinea pigs. That is what premium support is.

Look at the difference, say, if you are in Florida. The agreement reached said by the year 2010 the Secretary will be able to designate six metropolitan statistical areas that qualify. Currently, half the States have those areas. With the kind of subsidies we are providing in this legislation, by the year 2010, I doubt whether there is any State that will not have the opportunity to qualify. I hope our colleagues listen carefully to that because this diversity in premiums is going to come to your State and you are going to have to explain why a senior in one county, who pays same taxes, worked just as hard all his life, and who deserves Medicare, has to pay twice as much as his neighbor in the next county over in premiums for Medicare.

Medicare is a universal system that guarantees everyone will be treated equally, according to their medical needs. This legislation turns that proposition on its head and makes your Medicare benefits dependent on where you live and what will help private insurance companies the most.

This is the House Budget Committee, the Medicare actuarial data. The difference if we have premium support in Florida, what the premiums would be 1 year in Dade County and another year in Osceola, FL: Double the premium for the Medicare patients living in Dade; half that for those in Osceola. Now that is in Florida.

Take premium support in California. If you live in Los Angeles, \$1,700; in Yolo, CA, \$775.

It is just based on where you live. You have lived there all your life. You have your home. You have paid your taxes. You have brought up your children, and you have retired, and you find you are going to pay \$1,700 for your premium; and someone in Yolo County, CA, is going to pay \$775. Why? Because of this new concept of premium support.

It will happen in every State. For New York City, the Medicare actuaries' estimate that in Queens, seniors would pay \$2,000, but only \$975 in Erie, NY, because that is the estimate of what the premiums will be with competition in New York.

Try to explain that to your seniors who have lived their life, who have served this country, brought the Nation out of the Depression, fought in the wars, are living back home, and find out their premiums have increased 100 percent or 200 percent or 300 percent.

This is not just what I am saying about premium support, these are the Medicare actuaries. This information comes to us from testimony given before the Finance Committee.

Here we have figures from my home State of Massachusetts: \$1,450 in Barnstable, \$1,000 in Hampden, MA. So, \$400 more if you live down in Barnstable County, in Cape Cod, than the center part of the State.

So if you support this proposal, and you support the premium support, then you are going to have to explain to your constituents and to your elderly people that if they live in one community, they may be paying double what their neighbors are paying in another community.

What this proposal puts forward has never been tried. It has never been tested. And it is mandated—mandated—in this compromise from the House of Representatives. It is mandated in this bill.

You will hear the other side saying: Senator KENNEDY has not got it quite right. You will hear them say: We put a restriction in there, they can only go up 5 percent this year. Five percent this year, 10 percent the next year, 50 percent the year after.

Let's get real. Look at the direction in which we are going. This proposal

has heavy subsidies for the HMOs and a roll of the dice on the premiums for our senior citizens. And that is not even the beginning.

Currently, of our 40 million seniors, there are 6 million who have Medicare but also who have what they call Medicaid to those who are very poor, we are talking about 100 percent of poverty or below. Those beneficiaries have to pay copayments for medical care. Most of the States pick up those copayments. That is what is existing today.

Do you think that is going to continue under this bill? No. No, no. No, no, that does not continue under this proposal. That is actually prohibited under this legislation.

There will be 6 million of our seniors who are getting help and assistance from their States today who will be prohibited from getting it under this proposal. Why? This all saves the money—probably \$9 to \$12 billion—to use for other purposes.

If you come from a State with large numbers of very poor, and where the State is paying that \$1, \$3, \$5, in terms of the prescription drugs, it does not sound like a lot of money. But if seniors need that drug two or three times a week, it piles up every week, it piles up every month, and it piles up every year.

Why does the conference bill do that? Why in the world did they do that? It was not in the Senate bill. It was in the House bill, and it was accepted in the conference.

Now we come back to those who are the very needy and the very poor, and we see many of our elderly who are excluded from this program with what we call an asset test.

The asset test is basically the following: If you own a car that is worth more than \$4,500, you have a wedding ring worth \$2,300, you have \$6,200 in savings, and you have a burial plot that is worth more than \$1,500, all that is considered in terms of your assets to exclude you from being eligible for benefits targeted to the poorest of the poor.

The Senate bill said that low-income people could get the assistance they needed without going through a cruel and demeaning assets test.

Senators from New Mexico, Mr. BINGAMAN and Mr. DOMENICI offered an amendment, which passed by 67 votes, to reaffirmed the Senate's desire not to penalize people because they managed to save a small amount of money during their working lives. I was proud of the Senate, of Republicans and Democrats alike, for recognizing that if we were going to pass a prescription drug bill, it ought to be targeted on the neediest of the needy. But the bill put forward by this conference went in the opposite direction and restored that cruel and demeaning assets test.

We had a good bill. We did not provide these large subsidies to the PPOs and the HMOs. We did not have premium support program that so threatens, undermines and endangers Medi-

care. No, no, we did not have those. Ours was basically a prescription drug program focused on the neediest seniors built on private sector delivery with a backup in terms of the Medicare system. That was the compromise.

But not here. The conference needed more money to pay for what they call health savings account, the medical savings account, which they have put in this particular conference report, at the cost of anywhere from \$6 to \$7 billion, draining our national deficit even more and adds to the total cost of the legislation.

Health savings accounts are designed for the healthiest and wealthiest people in our society leaving the sickest and poorest of the workers in this country in the private sector where their premiums could be increased by 20 to 30 to 40 percent. As the debate unfolds, we will be presenting further estimates on this. It was best estimated, from the Urban Institute, at 60 percent increases.

This conference report gives us a whole new kind of a system. We have the heavy subsidizing of private plans with 25 percent more being paid for by seniors. We have the experimental system where you are going to have those enormous swings in premiums all over the country without any predictability, and it is untested and untried. We have the cutting back of 3 million of the neediest people because of the reimposition of the asset test. We have the introduction of the health savings account which is going to skew the health delivery system for millions of workers and the young people in this country.

Many people are going to bail out of their traditional system, and leave their coworkers, who may have greater kinds of health threats, to pay a very enhanced premium and also enhance the premium of the companies themselves.

What are we talking about with this legislation? Let's add it up. Of the about 10 to 12 million American workers who now have retiree accounts, under this proposal, the best estimate is that 2 to 3 million of those who are covered today will lose that, according to CBO.

We heard the estimate—this was a real good one—that up to 30 percent of those who were getting coverage were going to lose it. And then some of our Republican friends said that is too much, that is too many, so let's expand the base, which they did. Let's include all the Federal employees. Let's include other groups in there to lower the percentage. Now they come out and say: I know it was 33 percent before; now it is only 12 or 14 percent.

The total numbers are the same. You are going to lose the 3 million.

This is what we have: 6 million Medicaid beneficiaries who now have wrap-around coverage; they are going to be paying more. You have 2 to 3 million retirees who lose their coverage. They are going to be hurt by this legislation.

We have 6 million people in the untested, untried premium support demonstration. Add that up, 15 million of the elderly and disabled are going to be impacted or affected by this program. At the same time we are talking about billions of dollars in the slush fund for the PPOs. We are talking about the health savings accounts, which are billions of dollars, that the taxpayers are going to end up paying. Then we have the asset test which is going to exclude many of our seniors.

This legislation has been altered and changed. It was a prescription drug program when it passed the Senate with strong bipartisan support. Now it is a Medicare Program. At the heart of this program are the kinds of instruments that can undermine Medicare and threaten our seniors now and in the years to come. It doesn't deserve to pass.

I suggest the absence of a quorum. The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. BOND. Mr. President, I ask unanimous consent that the Senate proceed to a period for morning business with Members permitted to speak up to 10 minutes.

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

MEASURES PLACED ON THE CALENDAR—S. 1862, S. 1863, S. 1864, S. 1865, S. 1877

Mr. BOND. Mr. President, I understand there are five bills at the desk, and they are due for a second reading. I ask unanimous consent that the clerk read the titles of the bills en bloc for a second time.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will read the bills by title.

The assistant legislative clerk read as follows:

A bill (S. 1862) to provide certain exceptions from requirements for bilateral agreements with Australia and the United Kingdom for exemptions from the International Traffic in Arms Regulations.

A bill (S. 1863) to authorize the transfer of certain Naval vessels.

A bill (S. 1864) to enhance the security of the United States and United States allies.

A bill (S. 1865) to enhance the security of the United States and United States allies.

A bill (S. 1866) to enhance the security of the United States and United States allies.

Mr. BOND. I would object to further proceedings en bloc.

The PRESIDING OFFICER. The objection is heard. The bills will be placed on the calendar.

Mr. BOND. I suggest the absence of a quorum.