

It has the strong backing of patient and consumer groups, ranging from the American Diabetes Association, the National Council on Aging, Easter Seals, the American Nurses Association, and the National Family Caregivers Association, as well as the two major industry groups representing home health care agencies with whom we have worked very closely.

It is imperative we solve this problem before we adjourn this year. I appreciate the opportunity to address this issue.

The remainder of the time will be reserved for the Senator from Wisconsin, with whom it has been a real pleasure to work on this issue.

THE PRESIDING OFFICER (Mr. VOINOVICH). The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I am very pleased to join the Senator from Maine in talking about the importance of eliminating the automatic 15-percent reduction in Medicare payments to home health agencies. It is currently scheduled for October 1, 2001. I am very pleased to be working with her on this because she is a tremendous leader on this issue. It is a very good example of the kind of bipartisanship that is essential for this body to function well. I am most pleased to be working with the Senator on this because it is so obvious she has taken a great deal of time to listen to her constituents about this very important issue.

I have heard the same sad story in Wisconsin, and we hear a lot of very compelling human stories in this job. But I find this one impossible to ignore. I know the Senator from Maine feels the same way. The fact is, this system of home health care—at least in the State of the Senator from Maine and my State—was working. It is not as if it is something we are trying to create. It was working. Because of some poorly constructed policies, it is being harmed in a way that is truly harming older people in our country.

The story the Senator from Maine gave is a very compelling example of a broader series of tragedies that are occurring, I think, on an almost daily basis in my State of Wisconsin, and in many other States.

So, I thank her. I believe strongly that Congress must act to preserve access to home health care for seniors and others. That is why I have made the preservation of access to home health services one of my top priorities in the U.S. Senate.

For seniors who are homebound and have skilled nursing needs, having access to home health services through the Medicare Program is the difference between staying in their own home and moving into a nursing home.

The availability of home health services is integral to preserving independence, dignity, and hope for many beneficiaries. I feel strongly that where there is a choice, we should do our best to allow patients to choose home

health care. I think seniors need and deserve that choice.

Mr. President, as you know, and as many of our colleagues know, the Balanced Budget Act of 1997 contained significant changes to the way that Medicare pays for home health services. Perhaps the most significant change was a switch from cost-based reimbursement to an interim payment system, or IPS.

IPS was intended as a cost-saving transitional payment system to tide us over until the development and implementation of a prospective payment system or PPS, for home health payments under Medicare. Unfortunately, the cuts went deeper than anyone—including CBO forecasters—anticipated, leaving many Medicare beneficiaries without access to the services they need.

These unintended consequences of the Balanced Budget Act of 1997 have been severe indeed. Instead of the \$100 billion in 5-year savings that we targeted, present projections indicate that actual Medicare reductions have been in the area of \$200 billion.

Home health care spending, which the Congressional Budget Office expected to rise by \$2 billion in the last 2 years even after factoring in the Balanced Budget Act cuts, has instead fallen by nearly \$8 billion, or 45 percent.

These painful cuts have forced more than 40 home health care agencies in 22 Wisconsin counties to close their doors, in just 2 years.

So, what do these changes mean for Medicare beneficiaries?

Frankly, in many parts of Wisconsin, these changes mean that beneficiaries in certain areas or with certain diagnoses simply do not have access to home health care.

I am concerned that a further 15-percent cut in home health care reimbursements will further jeopardize care and leave some of our frailest Medicare beneficiaries without the choice to receive care at home. Last year, I was proud to work with Senator COLLINS and others to delay the automatic 15-percent reduction in Medicare home health payments for one year. However, I believe this reduction must be eliminated in order to preserve access to home health care.

I think seniors need and deserve the choice to stay in their homes, and I hope my colleagues will follow the leadership of Senator COLLINS and others by supporting the elimination of the 15-percent cut.

Mr. President, how much time do we have remaining?

THE PRESIDING OFFICER. The Senator has 8 minutes.

Mr. FEINGOLD. Mr. President, I believe that will be sufficient. I will just proceed, if I may.

JUDICIAL HONORARIA

Mr. FEINGOLD. Mr. President, I come to the floor today to express my

deep concern about a provision that is tucked into the Commerce, State, Justice appropriations bill. It came to light in a front page story last Thursday in the Washington Post. We have become accustomed in this body to hearing about outrageous special interest provisions finding their way into must-pass appropriations bills, but this one is really special. Section 305 of the bill that was reported by the Appropriations Committee exempts Federal judges from the ban on receiving cash honoraria contained in the Ethics in Government Act.

If this provision becomes law, Federal judges will once again be able to accept cash compensation for speeches. There will be no limit on this additional compensation because the bill also provides that honoraria will not be considered outside income, which is subject under current law to a cap equal to 15 percent of the salary of a Level II executive employee, or about \$22,000. With this change, Federal judges will be able to supplement their Federal salaries of over \$140,000 per year with tens of thousands of dollars from speaking engagements.

The Federal judiciary as a whole is widely respected, and deservedly so. But it has been a bad few months for the reputation of the judiciary. Even before this effort to lift the honoraria ban, there has been increasing attention to the practice of Federal judges traveling to posh resorts and dude ranches to attend seminars and conferences. These junkets are “all-expenses paid,” and the bill is often footed by legal foundations and industry groups with litigation interests before the very judges who attend the seminars.

A recent report released by Community Rights Council found that at least 1,030 Federal judges took over 5,800 privately funded trips between 1992 and 1998. Some of these seminars are conducted at posh vacation resorts in locations such as Amelia Island, FL and Hilton Head, SC, and include ample time for expense-paid recreation. These kinds of education/vacation trips, which have been valued at over \$7,000 in some cases, create an appearance that the judges who attend are profiting from their positions. More important, they create an appearance that is not consistent with the image of an impartial judiciary.

That is the same image that is threatened by this proposed repeal of the honoraria ban. Who in this body believes that the powerful interests that seek our good will through campaign contributions would not try to curry favor with judges with generous honoraria? Have we learned nothing over the past two decades? In 1989, the Congress took a big step forward by increasing the salaries of federal employees and prohibiting honoraria. Perhaps we need to revisit the issue of the salaries of federal judges in light of current economic circumstances. But one thing I am absolutely certain we should not

do is relax the ethical standards to which they are subject. The independence and impartiality of the judiciary are too important to our system of justice. This would truly be a case of cutting off our nose to spite our face.

Now let me say a few words about the process by which this significant change in the ethical guidelines that apply to judges has come close to becoming law. The provision was included in the bill reported by the Appropriations Committee on July 18. It was very quietly added to that bill. It takes up only a page and a half of 126 pages of legislative language. And the committee report, which usually can be counted on to explain the bill says the following about section 305:

*** section 305 amends section 501 of 5 U.S.C. App.

That is it. No explanation, no rationale, no argument for why this change should be made, or why it is being done in an appropriations bill instead of in substantive legislation that might be the subject—which you might imagine we would like to have—of hearing and committee consideration.

At any rate, the Commerce State Justice appropriations bill still has not yet come to the floor and now it appears very likely it will never come to the floor. That means that those of us who oppose the lifting of the honoraria ban, not to mention other troubling provisions in that bill, will never have a chance to offer an amendment to delete it from the bill. We will never have a chance to ask our colleagues to vote on this provision. We will never know whether the United States Senate supports what the Appropriations Committee has done.

I think that is outrageous. We should be ashamed. This is a very important revision to the Ethics in Government Act. The Senate should be permitted to vote on it. But the Republican leadership will not let that happen. That means that the crucial decision will be made by the appropriators in their mock conference, and by the negotiators of a final omnibus spending bill.

It appears that lifting the honoraria ban for judges in some of our colleagues' minds is just a first step to allowing other public officials to supplement their salaries with payments from special interests. The majority leader was quoted as saying that we'll probably need to get rid of the ban for Members of Congress as well. I urge the people who are crafting these bills to think twice before starting down this slippery slope. Let's keep the honoraria ban in place for judges and ensure that our judiciary maintains its integrity and the respect of the American people.

STRATEGIC PETROLEUM RESERVE

Mr. MURKOWSKI. Mr. President, I rise today to call the attention of my colleagues to an urgent matter, and that is the reauthorization of the Strategic Petroleum Reserve. The legislation is sitting here today and awaits

clearance. It is contained in the Energy Policy and Conservation Act, or EPCA.

We have a hold on the passage of EPCA, which contains the Strategic Petroleum Reserve reauthorization. Also in the EPCA package is the Northeast home heating oil reserve. I know this is of great interest to Members from the Northeast, who are concerned, legitimately, about the potential of higher prices for home heating oil this fall and this winter, particularly if we should have a very cold winter.

The White House, the Secretary of Energy, has pleaded with Congress to pass EPCA, including the Strategic Petroleum Reserve reauthorization. I am chairman of the Energy and Natural Resources Committee. We passed a companion measure out of this committee. Now EPCA waiting on the floor. An effort was made last night to clear it. The administration claims it is an emergency that they have the reauthorization. They are contemplating going into the SPR and taking oil out of it to try an address this crisis. The merits of that deserve additional consideration by this body.

I will just share this observation on the logic of such a move. SPR is a reserve, it holds about a 50-day supply of oil, which is to be used in the case of emergency disruption of our foreign oil. Currently our dependence on foreign oil amounts to about 58 percent of our consumption. However, because of the high prices and the inadequacy of our refining industry, we are facing a train wreck relative to energy prices, gasoline, diesel, and other petroleum products. If it seems I am being a little ambitious in citing the critical nature of this crisis, let me tell you that the Government of Great Britain and Prime Minister Tony Blair find it a real issue relative to the stability and continuity of that Government.

The responses we have seen in Germany, England, Poland, and other countries to the increasing price of energy and what it means to the consumer is not only of growing concern, but it has reached a crisis mentality. During this country's last energy crisis, we had our citizens outraged. It was in 1973 when the oil embargo associated with the production from OPEC—it was called the Arab oil embargo—hit this country. We had gas lines around the block. People were mad, outraged, indignant. At that time, we were only 37-percent dependent on imported oil. Today, we are 58 percent. The Department of Energy contemplates we might be as high as 63 or 64 percent in the not too distant future.

The oil price yesterday was the highest in 10 years, more than \$37 a barrel. There are those who predict it is going to go to \$40 a barrel. Here we have the reauthorization of the Strategic Petroleum Reserve, at the request of the administration, being held up by a Member on the other side of the aisle. There may be other reasons the Senator has

seen fit to put a hold on this legislation.

I certainly would be happy to debate one of the issues that concerns activity in my State. It is the measure that allows power plants smaller than 5-megawatts to be licensed through a state procedure in Alaska. It would allow our Native people in rural areas to have clean, renewable energy rather than the high-cost diesel power they now burn.

I want to tell my colleagues, the Native people in Alaska really need this exemption. This is utilizing the renewable resource; namely, rainwater, snowfall. The inability of these small projects to support the cost of a Federal energy regulatory relicensing procedure—which is appropriate for large-scale projects—makes it absolutely beyond the capability of these small villages to utilize renewable resources associated with a 5 megawatt powerplant generated by water power.

I do not know whether there is an objection on the royalty-in-kind provision. No other Senator has indicated an objection, nor has the administration. It is hard to understand an objection when the provision simply says that the Secretary of the Interior may accept gas and oil in lieu of cash payments. The Department of the Interior has that power now and is using it in pilot projects.

The provision allows the Secretary more administrative flexibility to actually increase revenues from the Government's oil and gas royalty-in-kind program. Under current law, the Government has the option of taking its royalty share either as a portion of production—usually one-eighth or one-sixth—or its equivalent in cash.

Recent experiences with the MMS's royalty-in-kind pilot program has shown that the Government can increase the value of its royalty oil and gas by consolidation and bulk sales. Under royalty-in-kind, the Government controls and markets its oil without relying on its lessees to act as its agent. This eliminates a number of issues that have resulted in litigation in recent years and allows the Government to focus more directly on adding value to its oil and gas.

I would hope my appeal results in the administration, the Secretary of Energy, and others who believe very strongly that EPCA should be passed, including the reauthorization of the Strategic Petroleum Reserve. This action is especially timely, when indeed this country faces a crisis in the area of oil. I think the merits of the President having this authority at a time when we contemplated an emergency suggests the immediacy of the fact that this matter be resolved and addressed satisfactorily. We should adhere to the plea of the President to reauthorize SPR. I want the Record to note it is certainly not this side of the aisle that is holding this matter up. I would suggest it be directed by the appropriate parties to get clearance so we can pass EPCA out of this body.