Fazio
Flake
Foley
Forbes
Ford
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
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Hastert
Hastings (FL)
Hastings (WA)
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Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Jones
Kanjorski
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kucinich
LaFalce
LaHood
Lampson
Lantos
Latham
LaTourette
Lazio
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
Meek
Menendez
Mica
Millender-McDonald
Miller (FL)
Minge
Moakley
Mollohan
Moran (KS)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Northup
Norwood
Oberstar
Obey
Ortiz
Packard
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Sununu
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Traficant
Turner
Upton
Velazquez
Visclosky
Walsh
Wamp
Watkins
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wolf
Wynn
Young (AK)
Young (FL)

NOT VOTING—30

Armey
Becerra
Boehner
Brown (CA)
Castle
Diaz-Balart
Fawell
Foglietta
Furse
Gonzalez
Jefferson
Johnson, Sam
Kolbe
Largent
Leach
Martinez
Meehan
Metcalf
Moran (VA)
Nussle
Oxley
Rangel
Reyes
Rohrabacher
Schiff
Souder
Talent
Waxman
Wise
Yates

□ 1115

Mr. KILDEE and Mr. NADLER changed their vote from ''yea'' to ''nay.''

Mr. OLVER changed his vote from ''nay'' to ''yea.''

So the motion to adjourn was rejected.

The result of the vote was announced as above recorded.

PARLIAMENTARY INQUIRY

Mr. MENENDEZ. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore (Mr. CALVERT). The gentleman will state his inquiry.

Mr. MENENDEZ. Mr. Speaker, I have a parliamentary inquiry that goes to the integrity of the House.

My question is, Could the Speaker advise the House of that provision of the rules which prohibits former Members of the House from coming onto the House floor and lobbying when they have a direct personal or pecuniary interest in a matter pending before the House?

The SPEAKER pro tempore. Pursuant to clause 1 of rule XXXII, former Members have the privileges of the floor or rooms leading thereto subject to the provisions of clause 3 of that rule.

Mr. MENENDEZ. And that is the controlling provision as it relates to former Members not lobbying in the House in that respect, Mr. Speaker?

The SPEAKER pro tempore. The gentleman is correct.

GENERAL LEAVE

Mr. PORTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill (H.R. 2264) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1998, and for other purposes, and that I may include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

The SPEAKER pro tempore. Pursuant to the order of the House of Thursday, July 31, 1997, and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2264.

□ 1118

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2264) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1998, and for other purposes, with Mr. BARRETT of Nebraska, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Tuesday, September 16, 1997, amendment No. 41 by the gentleman from Michigan [Mr. HOEKSTRA] had been disposed of and section 515 was open for amendment.

Are there further amendments to this section of the bill?

PARLIAMENTARY INQUIRY

Mr. MENENDEZ. Mr. Chairman, parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state his inquiry.

Mr. MENENDEZ. Mr. Chairman, what rules of the House permit a former Member of the House to accost verbally another Member of the House on a matter that affects that Member?

The CHAIRMAN pro tempore. The Chair is not aware of any such rule that permits that.

Mr. MENENDEZ. Well, Mr. Chairman, what procedure does a Member of the House have when they are accosted by a former Member of the House to have that Member removed?

The CHAIRMAN pro tempore. The Chair will consult with the gentleman on that question.

Mr. MENENDEZ. Well, I would like an answer, because I have just had Mr. Dornan, a former Member of this House, come up and verbally accost me. And I do not expect in the greatest democratic institution in the world to have to take what my foreparents did not do, in a country in which they left to avoid, is that to have to come to this body and listen to a former Member of the House proceed in that way and to use words that were both profane and at the same time to use words that were demeaning.

So I want to know, in public, what procedure do we have to not have that type of action happen on the House floor?

The CHAIRMAN pro tempore. The Chair will consult with the gentleman and the Sergeant at Arms on that question.

Mr. MENENDEZ. Further parliamentary inquiry, Mr. Chairman.

If in fact a Member of the House, a present Member of the House, were to make comments that were inappropriate, their words could be taken down. They would not be allowed to speak. I want to know whether or not there is a procedure existing that in fact will create the opportunity to not have this type of occurrence that happened on the House floor.

The CHAIRMAN pro tempore. The Chair can direct and will direct the Sergeant at Arms to maintain decorum in the House.

Mr. MENENDEZ. And I will hold the Chair to that expectation.

The CHAIRMAN pro tempore. I thank the gentleman.

AMENDMENT NO. 67 OFFERED BY MRS. LOWEY

Mrs. LOWEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mrs. LOWEY:

Amendment No. 57: Page 102, after line 24, insert the following new section:

SEC. 516. Subsection (k) of section 9302 of the Balanced Budget Act of 1997, as added by section 1604(f)(3) of the Taxpayer Relief Act of 1997, is repealed.

Mr. OBEY. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN pro tempore. The point of order is reserved.

Mr. PORTER. Mr. Chairman, I reserve a point of order.

The CHAIRMAN pro tempore. The point of order is reserved.

POINT OF ORDER

Mr. HOYER. Mr. Speaker, the Member continues to be harassed and that is not consistent with our rules.

The CHAIRMAN pro tempore. Former Members are requested to observe the rules.

The gentlewoman from New York [Mrs. LOWEY] may proceed.

Mrs. LOWEY. Mr. Chairman, I am offering this amendment with the gentlewoman from New Jersey, Mrs. MARGE ROUKEMA, my distinguished colleague and coauthor of this amendment, who has been an important leader on this issue.

I am offering this amendment today to repeal a disgraceful giveaway to the tobacco industry that was slipped into the budget bill at the last minute. The other body voted 95 to 3 to repeal this provision last week, and I introduced legislation to repeal this provision that has over 60 cosponsors from both sides of the aisle.

Mr. Chairman, the Republican leadership slipped this infamous $50 billion tobacco tax giveaway into the budget bill in the middle of the night. Now we are going to shine a spotlight on this provision and see who will stand with the American people and who will stand with the big tobacco companies.

At the heart of this issue is the understanding that American taxpayers should not be subsidizing big tobacco companies, but that is exactly what has happened. When asked about this provision, Kenneth Kies, the staff director of the Joint Committee on Taxation, said, ''The industry wrote it, submitted it and we just used their language.''

This is unacceptable. The Congress should be passing laws to protect the health of all Americans; it should not be lining the pockets of the tobacco industry.

Tobacco products, Mr. Chairman, kill 400,000 Americans every year. Americans spend $50 billion each year to respond to the adverse health effects of smoking. Every day more than 3,000 American teenagers start smoking. One in three will die from cancer, heart disease and other illnesses caused by smoking. American taxpayers, Mr. Chairman, should not be subsidizing this deadly product.

I urge all of my colleagues to stand up for the health of the American people and vote for this amendment.

Mrs. ROUKEMA. Mr. Chairman, will the gentlewoman yield?

Mrs. LOWEY. I yield to the gentlewoman from New Jersey, the coauthor of this amendment.

Mrs. ROUKEMA. Mr. Chairman, I thank my colleague from New York and really appreciate this opportunity. I will ask for my own time later, but I do want to commend her for approaching this subject and really make a presentation to our appropriators, the ranking member and the chairman.

Mr. Chairman, I have got to say that this is a very important amendment. This is a relevant issue; relevant because the President today is making a presentation on the tobacco pact, relevant because just last week the Senate past the identical provision to the identical bill.

I would suggest, and here I do not want to be too facetious, and I do not intend to be a William Weld here. I believe in following the rules and normal procedures of the House. But what we are asking here today of the appropriators is that we be given permission under this circumstance to use the rules of the House where waivers are permitted for this very particular issue that is high profile. This amendment is relevant and is an answer to our taxpaying public that we are not giving a tax favor to the tobacco industry on the backs of the taxpayers of this country.

Mr. OBEY. Mr. Chairman, will the gentlewoman yield?

Mrs. LOWEY. I yield to the distinguished ranking minority member, the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, this amendment is not in order under the rules of the House. It is a nongermane amendment. Unlike the other body, this House does have rules which relate to germaneness. I do not think either I or the gentleman from Illinois [Mr. PORTER] want to stand in the way of getting something done which is obviously the will of the House, but we have a long way to go on this bill.

The Durbin amendment, make no mistake about it, is going to be accepted in conference. I congratulate both of the gentlewomen for being interested in this, and I would be willing to withdraw my reservation if we have an understanding that this is going to take very little time of the House today. If we are going to debate something for a considerable period of time, and we have a tight schedule with many other Members who have noticed germane amendments, then I would be constrained to object, even though I do not want to.

Mr. PORTER. Mr. Chairman, will the gentlewoman yield?

Mrs. LOWEY. I would be delighted to yield to the chairman, the gentleman from Illinois.

Mr. PORTER. Mr. Chairman, I would say to the Members that the day that Senator DURBIN offered and passed the amendment in the Senate, he came to me and asked me if I would do everything possible to see that it was sustained in conference, and I assured him that I would.

□ 1130

I assured him, also, that I was certain that the conference would sustain the position of the Senate on this disgraceful tax giveaway to the tobacco industry that should never have found its way into earlier legislation.

My colleague, the gentleman from Wisconsin [Mr. OBEY], is correct, this is not a matter that is germane to this bill. But in a broader sense, it really is. Tobacco causes many of our health problems in this country, and I think it is appropriate that we address this matter in our conference and end this tax giveaway.

If this amendment were to be adopted, there would be identical provisions in both the House and Senate bills. The provision would not be suspect to conference. The provision would be accomplished without any further discussion.

The CHAIRMAN. The time of the gentlewoman from New York [Mrs. LOWEY] has expired.

(On request of Mr. PORTER and by unanimous consent, Mrs. LOWEY was allowed to proceed for 5 additional minutes.)

Mr. PORTER. Mr. Chairman, if the gentlewoman will continue to yield, I feel, as the gentleman from Wisconsin [Mr. OBEY] does, that if we can expeditiously finish this matter very quickly on the floor in this bill, that is a proper way to proceed.

Finally, Mr. Chairman, let me say that the gentlewoman from New Jersey [Mrs. ROUKEMA] and the gentlewoman from New York [Mrs. LOWEY] have shown tremendous leadership on this issue. I am delighted that both of them can offer this amendment together, and I hope that we can wind up debate very quickly and allow this to become a part of our bill.

Mr. OBEY. Mr. Chairman, will the gentlewoman yield?

Mrs. LOWEY. I thank the chairman, and I am delighted to yield to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Chairman, let me say that I think every thoughtful Member of this House understands what happened on the tax bill was an outrageous sneak play which delivered an illegitimate benefit to an industry that is not entitled to it. I would insist on its being eliminated and the Durbin amendment being accepted even if this amendment were not offered.

But in the interest of driving home the message and saving time, I would be willing to withdraw my objection and support the amendment under the conditions that we just described.

Mr. DOGGETT. Mr. Chairman, will the gentlewoman yield?

Mrs. LOWEY. I yield to the gentleman from Texas.

Mr. DOGGETT. Mr. Chairman, it is correct that this particular provision was tucked in under a title of the balanced budget amendment, the balanced budget agreement, somewhere around page 300 or 400, under the misleading title of Technical Amendments to Assist the Small Business Protection Act. And the small business that was protected here was the tobacco industry.

I have been on this floor on a number of occasions prior to this morning asking that the removal of this $50 billion tax giveaway be scheduled on the same day that we have reform of the soft money provisions in campaign finance, because I do not think it is a coincidence that the No. 1 soft money contributor to the Republican Party is Philip Morris, the No. 2 contributor is R.J. Reynolds. And I do not think it is a coincidence that this morning if we conducted a political paternity test, we could not find anyone willing to take the test.

This provision did not appear in this bill through divine intervention. It occurred because of the involvement and the corruption of our political system. Not one minute, not one second was devoted on the floor of this House or the U.S. Senate to debate this provision. It was wrong. It is the very kind of thing that the people of America are caused to be most cynical about this institution.

So I am pleased that we are taking the leadership to remove it, but we ought to get at not only the symptom, the $50 billion tax break. It is a symptom of the corruption of this system. We ought to get at the source and the cause, and that is the interference and corruption, not only by the American tobacco industry, but by others.

Every American ends up paying through tax breaks just like this that get stuck into this legislation because the soft money political system is corrupt and it is wrong. And until Speaker GINGRICH comes out here and schedules it for debate, this kind of thing will keep recurring again and again and again, and we will be forced to come to the floor to undo it whenever we find out about the fact that we are facing $50 billion tax breaks.

Mrs. LOWEY. Mr. Chairman, reclaiming my time, again I am very pleased that the chairman and the ranking minority member are in support of this amendment that my colleague, the gentlewoman from New Jersey [Mrs. ROUKEMA] and I are offering. We expect that this amendment will be accepted by the committee as we move forward in the process.

The CHAIRMAN pro tempore (Mr. BARRETT of Nebraska). The Chair would inquire, does the gentleman from Illinois withdraw his reservation of a point of order?

Mr. PORTER. Mr. Chairman, I am concerned that we are going to get off the subject, as we did just a moment ago, and this will turn into a long and lengthy debate. I do not want that to happen. If it does, I would insist upon my point of order. Can I continue to reserve that point?

The CHAIRMAN pro tempore. The gentleman from Illinois may continue to reserve his point of order.

Mr. PORTER. I continue to reserve.

Mrs. ROUKEMA. Mr. Chairman, could there be an agreement on the time limit rather than a point of order? Is that possible?

Mr. PORTER. It is certainly possible if we ask unanimous consent. I have not consulted either side as to what time they might want. Let me ask.

I ask unanimous consent that all debate on this amendment and all amendments thereto cease in 10 minutes, with 5 minutes to the majority and 5 minutes to the minority.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mrs. ROUKEMA. Reserving the right to object, Mr. Chairman, I am looking for 5 minutes myself. Could it be a 10-minute time period?

Mr. PORTER. Yes, Mr. Chairman.

Mrs. ROUKEMA. Mr. Chairman, I withdraw my reservation of objection.

Mr. RIGGS. Mr. Chairman, reserving the right to object, I would like to simply inquire of the Chair what amendment we are on now? That is my first inquiry; and second, to ascertain if in fact it is still the intention of the House to rise today, at least for the purposes of votes, by 4 p.m.?

The CHAIRMAN pro tempore. The Chair advises the gentleman from Wisconsin that the Committee is on the Lowey amendment, preprinted, No. 67.

Mr. RIGGS. Further reserving the right to object, Mr. Chairman, did I understand the unanimous-consent agreement would also include any amendment to this amendment?

The CHAIRMAN pro tempore. The gentleman is correct.

Mr. RIGGS. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Does the gentleman from Illinois modify his request as to 10 minutes on each side?

Mr. PORTER. I do, Mr. Chairman.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN pro tempore. The gentlemen from Illinois [Mr. PORTER] and the gentleman from Wisconsin [Mr. OBEY] each will control 10 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Chairman, might I just indicate that I hope the gentleman from Illinois [Mr. PORTER] can yield back my 10 minutes without using them. I think we cannot afford this much time on a nongermane amendment if we are going to finish this bill.

The CHAIRMAN pro tempore. Does the gentleman from Illinois continue to reserve his point of order?

Mr. PORTER. Mr. Chairman, I do not continue to reserve my point of order.

Mr. OBEY. Mr. Chairman, I withdraw my reservation of a point of order.

The CHAIRMAN pro tempore. The point of order is withdrawn.

Mr. PORTER. Mr. Chairman, I yield 5 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA], the cosponsor of the amendment.

Mrs. ROUKEMA. Mr. Chairman, I thank the gentleman for yielding the time.

Let me say that that this amendment which the gentlewoman from New York [Mrs. LOWEY] and I have presented deals in a legally binding way to repeal the $50 billion tax windfall that, was surreptitiously inserted into the tax bill in the dead of night without the knowledge of the Congress and the voters.

Particularly, I want my colleagues to understand that the taxpayers would be required to pick up the cost of that $50 billion, removing it from the assessment on the tobacco industry. So this is about relieving taxpayers and reducing their taxes.

I want to say also that it is coincidental but very timely that we are taking it up right now, since today, as we know, not only the President but many Members of both parties have expressed concerns and objections to the so-called tobacco pact. And I think that we really should be taking a tough stance not only to protect the taxpayers but to protect American health.

Remember, we are talking about taxpayers bailing out the tobacco industry. Now let me say, in addition to what my colleague, the gentlewoman from New York [Mrs. LOWEY], has already laid out, that this vote will make us accountable to the voters. This was put in the tax bill without anybody's knowledge. And I think the cynical voters out there are ready to throw up their hands and say, ''Oh, boy, that is that Washington crowd doing it again'' if we do not permit a vote on this issue.

Let me say this makes us accountable, but I also want to stress this is the only way we can do it with legal standing. Any other alternative is just instructive and has no standing in the conference with the Senate. Whether we use it as an amendment to another bill or whether we do a motion to instruct the conferees, it does not have the standing that the Durbin-Collins amendment from the Senate has on their bill. We should have that same parallel provision on our bill.

And so I respectfully must say that this vote will say to the American people that we stand for their health and for their children's health, and that the taxpayers should not be required to pay and bail out the tobacco industry. We must correct the wrong that was done in that budget deal in that tax

package, and we can help regain the confidence of the American people and restore some credibility to this House.

I want to thank my colleague, the gentlewoman from New York [Mrs. LOWEY]. I want to thank the chairman and ranking member of the Committee on Appropriations for understanding how critical this is and for permitting us under the rules to use the waiver rule in the House to bring this issue before our colleagues.

Ms. DELAURO. Mr. Chairman, I rise today in strong support of this amendment to repeal the tobacco tax giveaway. For years, the tobacco industry has denied the truth—that smoking kills. Its ads have made smoking appear glamorous and cool, and they have blatantly targeted children with characters such as the omnipresent Joe Camel.

But the truth isn't as comforting as tobacco commercials would have you believe. The truth is, every day 3,000 people under the age of 18 become regular smokers. The truth is, one out of every three of these kids will die of a tobacco-related illness like cancer or heart disease. The truth is, cigarettes kill more Americans than AIDS, alcohol, car accidents, murders, suicides, illegal drugs, and fires combined.

The way the tobacco industry targets children is a crime. And now that we are at the brink of a settlement that will force the industry to pay for its crime, a $50 billion tax giveaway for big tobacco is snuck into the tax bill in the dead of night. We don't know who put it there. No one will stand up to take responsibility.

It truly boggles the mind. This is not an industry that markets games or toys. We are talking about an industry that markets a product which is proven to cause cancer, heart disease, and lung disease. It has tacitly admitted to targeting children by retiring characters such as Joe Camel. And last month, the head of Philip Morris admitted in a court of law that 100,000 Americans might have died from smoking-related illnesses. That same day, another story ran where the Speaker of this House defended this tax giveaway as fair.

My friends, we shouldn't even be here today debating this amendment. In 1993 alone, taxpayers spent over $50 billion in health care costs to care for people who were stricken by cancer and other diseases caused by tobacco.

We should be ashamed of ourselves for even considering helping the tobacco industry to pay for its mistakes. The tobacco industry does not deserve to be bailed out by taxpayer dollars. I urge every member of this House to support this amendment to repeal the tax giveaway.

[From the Washington Post, Aug. 22, 1997]

SMOKING MAY HAVE KILLED THOUSANDS, CEO AGREES

WEST PALM BEACH, FL.—About 100,000 Americans ''might have'' died from smoking-related diseases, the head of Philip Morris Cos. Inc. conceded today to state lawyers suing his company.

Geoffrey C. Bible, chairman and chief executive officer of the nation's largest cigarette maker, made the admission at the end of nearly two hours of questioning in preparation for trial of a lawsuit.

Ron Motley, a lawyer representing the state, called Bible's statement a major breakthrough because except for one maverick, other industry leaders have not made such a concession. Bennett S. LeBow, chief executive officer of the smallest of the major cigarette makers, Liggett Group, Inc., has said that cigarettes kill and are addictive.

Members of Congress are pressing the tobacco industry for admissions before they consider approving a $368 billion settlement that would wipe out most lawsuits against the industry.

Florida was the first of 40 states suing the major tobacco companies to bring a case to trial. It seeks $12.3 billion for the public cost of smoking related illnesses. Jury selection began Aug. 1 and continues during the taking of depositions.

Motley asked Bible: ''Would Philip Morris agree that a single American citizen who smokes their products for 30 or more years, a single one, has ever died of a disease caused in part by smoking cigarettes?''

Bible answered, ''I think there's a fair change that one would have, might have.''

Motley followed up, ''How about a thousand?''

Bible said, ''Might have.''

Motley pressed, ''How about 100,000?''

Bible responded, ''Might have.''

''I salute Philip Morris for the first time in 40 years being forthright and candid,'' Motley said on CNN afterward. ''It's a very public, health-spirited way of looking at things.''

Responding to allegations that cigarette makers manipulate nicotine levels in cigarettes to capitalize on its addictive qualities, Bible said, ''I wouldn't even let them discuss adding nicotine, let alone adding nicotine to attract children.''

GINGRICH DEFENDS TOBACCO TAX BREAK—$50 BILLION CREDIT IS PART OF FAIR OVERALL DEAL, SPEAKER SAYS

MARIETTA, GA.—House Speaker Newt Gingrich (R-Ga.) today defended a new $50 billion tax credit for the tobacco industry as part of an overall plan that is fair.

''I think people were misreading the tax provision,'' he said. ''We're not cutting a break for the tobacco folks.''

The credit is part of a bipartisan tax bill that includes a 15-cents-a-pack tax increase on cigarettes. The tax proceeds would be credited against the money tobacco companies agree to pay in a proposed $368 billion settlement of state lawsuits against the industry.

The tax will pay for expanded child health care programs.

Clinton administration officials have said they will seek to offset the $50 billion tax credit when the proposed tobacco deal is reviewed by Congress.

State attorneys general have threatened to withdraw support for the deal unless the credit is blocked. Tobacco companies said any increase in the settlement's costs could kill the deal.

Gingrich said the tax credit is only part of the final deal with the tobacco companies.

''Whatever the final package is, we want to make sure that it's real,'' he said. ''It's all one pot of money, and I'm in favor of maximizing the amount of money available for children's health.''

Gingrich spoke to reporters after touring a vocational training center in his congressional district north of Atlanta.

Mr. BENTSEN. Mr. Chairman, I rise in strong support of the Lowey-Roukema amendment to H.R. 2264, the Labor, Health and Human Services, and Education appropriations bill. This amendment would repeal the stealth, windfall tax credit that was given to the tobacco industry as part of the Taxpayer Relief Act. This $50 billion tax credit was not included in either the House or Senate versions of the tax bill and was adopted without debate and review. This tax provision should never have been enacted and should be repealed as quickly as possible.

I am pleased to be a co-sponsor of legislation sponsored by Representative LOWEY to repeal this tax credit and strongly support this effort to eliminate this ill-advised tax provision. The House of Representatives should approve this amendment, just as the Senate did earlier this month by a vote of 95 to 3.

The balanced budget agreement we enacted in July raised the cigarette excise tax by 15 cents per pack to help pay for a children's health care initiative to provide insurance coverage for uninsured children. The tobacco tax credit completely undermined this intent by subtracting the increased excise tax paid by the industry from whatever they would have to pay as part of a global tobacco settlement. In essence, the children's health initiative would have come at the cost of important public health and smoking cessation initiatives that were to be funded by the global agreement. The children's health initiative was intended to be in addition to these other initiatives, not an alternative to them. The Lowey-Roukema amendment restores this clear congressional intent.

The children's health initiative and the cigarette excise tax to fund it are completely separate issue from the global tobacco agreement and ought to be considered by Congress as such. The Lowey-Roukema amendment makes this clear and allows us to consider these issues separately. Let us pass this amendment and repeal the tax credit now, then give the global tobacco settlement and the President's proposals to reduce underage smoking the careful and thorough deliberation they deserve. President Clinton today announced that he would support raising cigarette excise taxes by $1.50 per pack if tobacco companies fail to reduce smoking among young people. The administration proposal would stipulate targets to cut teen smoking and if these targets are not met, tobacco companies would pay higher penalties that would not be capped or tax deductible as a business expense. I look forward to reviewing these proposals with the goal of crafting legislation that reduces underage smoking and protects the public health.

I urge my colleagues to vote for the Lowey-Roukema amendment to repeal this unfair, irresponsible tax credit provision.

Mrs. ROUKEMA. Mr. Chairman, I yield back the balance of my time.

Mr. OBEY. Mr. Chairman, could I inquire of the gentleman from Illinois [Mr. PORTER], is he prepared to yield his time back if we do the same here?

Mr. PORTER. Mr. Chairman, I have no further requests for speakers, and I would be prepared to yield my time back, yes.

Mr. OBEY. In that case, Mr. Chairman, I yield back the balance of my time.

Mr. PORTER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentlewoman from New York [Mrs. LOWEY].

The amendment was agreed to.

AMENDMENT NO. 36 OFFERED BY MR. COBURN

Mr. COBURN. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 36 offered by Mr. COBURN:

At the end of the bill, insert after the last section (preceding the short title) the following section:

SEC. 516. None of the funds made available in this Act may be used by the Centers for Disease Control and Prevention, or any other part of the Public Health Service, to conduct or support any program in which blood samples are collected from newborns and tested for the human immunodeficiency virus in circumstances in which the samples do not indicate the identity of the newborns, from whom the samples were taken.

Mr. COBURN. Mr. Chairman, my friend the gentleman from New York [Mr. ACKERMAN] is not here and will be arriving on the floor shortly. This really is his amendment that I have agreed to introduce with him, and I want to give him credit for it.

In 1995, the CDC was practicing what I believe to be an unconscionable practice, and that was blindly testing newborn infants' blood for the HIV virus, discovering who was positive, yet never telling the mother, never notifying the parents that in fact their children were positive for HIV, which also implied that the mother was positive for HIV.

The tremendous amounts of moneys that have been spent by this country on research to treat this deadly virus have succeeded in bringing us very new, very good, very effective treatments in terms of delaying the ravages of this disease.

Each day, approximately 20 infants in this country are born to HIV-positive mothers. Thanks to the new treatments and thanks to the ban that was agreed to by the CDC in terms of withdrawing this blind testing, most moms now are being identified during their pregnancy, they are being treated, and their children are not becoming infected with HIV. However, concerning to Mr. ACKERMAN, as well as myself, was an indication by the CDC in the last 3 months that they intended to resume blind testing.

What I think is important is we would want the American public to know that we feel that this is a tremendously unethical practice to identify someone with a disease and have medicines available that could prevent that disease, first, second, markedly increase the quality of someone's life, and third, markedly prolong the quantity of that life, and then withhold it, we feel is unethical.

□ 1145

Mr. Chairman, I will submit for the RECORD a letter that I received on September 9 of this year. I would like to read that and then submit it. This is from the Department of Health and Human Services, from Richard Tarplin, the Assistant Secretary for Legislation.

DEAR CONGRESSMAN COBURN: Knowing of your continued concern regarding unlinked HIV testing of newborn blood specimens, I would like to inform you that the Centers for Disease Control and Prevention will pursue surveillance methodologies that do not include HIV serosurveys using any type of blood specimens of newborns without identification.

CDC will continue discussion with HIV prevention partners to identify alternative approaches to monitor HIV trends in women of childbearing age.

Dr. Satcher has recommended this approach, and the Department has concurred.

The text of the letter is as follows:

DEPARTMENT OF HEALTH & HUMAN SERVICES,
Washington, DC, September 9, 1997.

Hon. TOM COBURN,
U.S. House of Representatives, Cannon House Office Building, Washington, DC.

DEAR CONGRESSMAN COBURN: Knowing of your continued concern regarding unlinked HIV testing of newborn blood specimens, I would like to inform you that the Centers for Disease Control and Prevention (CDC) will pursue surveillance methodologies that do not include HIV serosurveys using any type of blood specimens of newborns without identification.

CDC will continue discussion with HIV prevention partners to identify alternative approaches to monitor HIV trends in women of childbearing age.

Dr. Satcher has recommended this approach and the Department has concurred.

Sincerely,

RICHARD J. TARPLIN,
Assistant Secretary for Legislation.

This is a great letter when it comes to babies knowing that, in fact, if they are tested, they are going to be notified by the CDC. But what is very, very worrisome about this letter is they did not mention anything about testing adults blindly and not agreeing to withhold treatment from them.

Mr. Chairman, I am very sorry that the gentleman from New York [Mr. ACKERMAN] is not here at this time. It is our intention to put into the record that we expect the CDC and have their concurrence that they will test no one blindly for a disease that will, in fact, take their life when we do have medicines that could prevent or at least prolong that life. It is our intention to withdraw this amendment pending that approval, knowing that we are now on record, that the CDC has committed that they are not going to do blind, unethical testing for any reason on anybody with HIV.

Mr. Chairman, I ask unanimous consent to withdraw this amendment.

The CHAIRMAN pro tempore (Mr. BARRETT of Nebraska). Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

AMENDMENT NO. 14 OFFERED BY MR. RIGGS

Mr. RIGGS. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 14 offered by Mr. RIGGS:

At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. . (a) LIMITATION ON PENALTIES UNDER IDEA.—None of the funds made available in this Act may be used by the Department of Education to investigate, or to impose, administer, or enforce any penalty, sanction, or remedy for, a State's election not to provide special education and related services under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) to individuals who are 18 years of age or older and are incarcerated in adult State prisons.

(b) EXCEPTION.—Subsection (a) shall not apply to any withholding of financial assistance to a State by the Department of Education pursuant to the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

Mr. RIGGS. Mr. Chairman, earlier this year when the Congress passed amendments to the landmark Federal special education and civil rights statute called IDEA, Individuals with Disabilities Education Act, we included in that package of amendments a number of incentives intended to make it easier for States such as my own, California, to serve adult prison inmates who happened to fall within the age group covered under the Federal special education law. These are adult prison inmates, incarcerated individuals between the ages of 18 and 21, so I want to say at the outset and make very clear to my colleagues that we are not talking about children or juveniles. We are talking about convicted adult felons.

Under that package of amendments, we intended to make it easier and less costly for States to serve this particular category, this particular segment of the total IDEA-eligible population in America. However, we did add an additional provision that made it explicitly clear, in my view, that the States still, despite these inducements, had the sole discretion, the sole option, the sole right to decide whether to serve these adult prison inmates, and if the States elected not to serve this segment of the IDEA-eligible population, they would only face the forfeiture of that small pro rata share of the total State allocation of Federal special education dollars.

I was one of the principal negotiators, one of the principal sponsors, one of the principal drafters of these amendments, and I can attest to the fact that it was our intent throughout these negotiations to limit the Federal Government and the Department of Education's remedy against a State, to limit their sanctions against a State to only the forfeiture of that small percentage of their total State allocation of Federal special education dollars.

Since that legislation has become law on obviously a bipartisan, bicameral basis, signed into law by the President with some fanfare down at the White House, the Department of Education has taken a different position. They now say that they may pursue other legal remedies against a State such as California in addition to the loss of that small percentage of funds represented by the adult prison inmate population as a percentage of the total IDEA-eligible population in the State. The Department of Education has corresponded with the State

of California saying that they may very well refer this matter to the Justice Department. So I have offered an amendment that makes it explicitly clear that States will not be penalized, cannot be penalized, under the IDEA amendments that passed earlier this year for failing, or for deciding to provide special education to 18- to 21-year-old individuals in adult prisons.

That is the reason that I am proceeding with this amendment. It was part of our negotiations on this floor last week with the minority party. I was told on that occasion that my amendment would be accepted, and if that understanding, that agreement with the minority party survives to this moment, then I do not intend to pursue a recorded vote on my amendment.

I just want to stipulate again that my amendment does not break the agreement, the unique, some said historic, bipartisan, bicameral agreement that enabled us to move this legislation expeditiously through the Congress earlier this year after the last several Congresses had been unable to pass revisions and amendments to the Federal special education statute. Indeed, it is very consistent with that legislation.

My amendment again, Mr. Chairman, prevents the Department of Education from using any funding under this act to force States, specifically California, to provide special education services to adult prisoners in a manner inconsistent with the IDEA amendments enacted into law last June. Again, I want to stress to my colleagues that we did under those amendments make it easier and less costly for States to serve that portion of the IDEA-eligible population. My amendment is not about children with disabilities. It only applies to the way in which the Department of Education requires special education services for adult prison inmates ages 18 to 21 in adult prisons. Many of these individuals are obviously serving long-term sentences for violent crimes.

The CHAIRMAN pro tempore. The time of the gentleman from California [MR. RIGGS] has expired.

(By unanimous consent, Mr. RIGGS was allowed to proceed for 30 additional seconds.)

Mr. RIGGS. It is my view, Mr. Chairman, and it is the intent of my amendment, that States should not be forced to spend their very precious and limited Federal and State special education money on education services, special education services, for adult prisoners if the States so elect. If a State does not serve these felons, it is and was the intent of our amendments earlier this year that the U.S. Department of Education should only withhold a pro rata share of the State's total Federal funding for special education.

I hope Members will look at my amendment, I hope that they will vote for my amendment and help protect children with disabilities.

Mr. MARTINEZ. Mr. Chairman, I move to strike the last word.

(Mr. MARTINEZ asked and was given permission to revise and extend his remarks.)

Mr. MARTINEZ. Mr. Chairman, regretfully I rise in opposition to the amendment offered by the gentleman. Regretfully, I say, because we all had a deal, we shook hands, tantamount to shaking hands. There were many Members who were in disagreement with certain portions of the bill on both sides, but all decided, in order for unanimous support of this bill and a bipartisan effort, to forgo their own personal feelings.

This particular issue we had a great discussion on, a great deal of decision on before it was signed. I think we all understood what it was at the time. To say that these are adults is carrying it to an extreme in many cases. In many States the laws actually try as adults children as young as 13 or 14 years old, and many of these young people we are talking about in these adult lockups are actually still children.

As the Members know, this amendment would limit the enforcement ability of the Department when States violate the Individuals With Disabilities Education Act with respect to children with disabilities incarcerated in adult correctional facilities.

Mr. Chairman, only 3 months ago on June 4, President Clinton signed the IDEA amendment into law. It was done so after one of the most bipartisan showings of support for a piece of legislation which has passed out of this Congress this session. With this overwhelming show of support, both Republicans and Democrats embraced this legislation as a truly bipartisan compromise aimed at addressing the needs of children with disabilities. Key to this agreement was an understanding that the core group, the many people I just spoke of, of Members who supported this legislation would not offer or support changes to IDEA.

I must respectfully point out to the chairman of the subcommittee that this amendment now would be inconsistent with that agreement. Under the recently enacted IDEA amendments, States are allowed to makes modifications to the plan and individualized program provisions required by the act, but they are still required to provide services to children with disabilities in adult correctional facilities. In fact, at a hearing the chairman heard from two witnesses, one his own, one ours, that said it would be the dumbest thing in the world not to educate these young people in institutions. If a State does not serve this population, they would be deemed in violation of the act, and the Department would be required to take enforcement action against such a State.

This amendment would undercut this core assurance, thereby negating the Department's ability to enforce the act nationwide. It severely weakens the tools which the Department has under the act to enforce the requirement that all children with disabilities receive a free and appropriate public education. In addition, this will deny a population of children who, upon being released from a correctional facility, will not have the education to give them any chance of becoming a contributing member of society. Instead these individuals will be left again at the whims of a society which has not yet learned to deal with its problems. Without the vital education services which children with disabilities desperately need, these children will result in future additional burdens to our society.

Why do we need to increase the burden of our criminal justice and social welfare system when we can give these children the ability to reclaim their lives? Why not deal with the problem now instead of allowing it to balloon into an unmanageable social disaster? These policy questions cannot be ignored.

In closing I would like to stress that I am confused by the gentleman's purpose in offering this amendment. Less than 2 months ago, we both watched the President sign the IDEA amendments of 1997. We both signed off on the legislation even though both of us fully realized that we did not absolutely have everything each of us wanted. Both of us compromised on issues with a goal of coming to an agreement that we could both support. This agreement is embodied in the bipartisan legislation that was signed into law by the President.

Now we are going back on this agreement and proposing changes which would affect the IDEA statute. How can I in good faith expect the gentleman not to have a change of heart on other items upon which we have reached a consensus? These are important questions which Members will have whenever we try to mold any bipartisan agreement in the future.

Mr. PORTER. Mr. Chairman, if the gentleman will yield, we accept the amendment.

Mr. OBEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would say on this side of the aisle that I reluctantly accept the amendment as well. I understand that this issue was subject to extensive negotiations during the reauthorization of the Individuals With Disabilities Act. I would point out that that reauthorization took 2 years. I think that this amendment is not consistent with that. However, I am willing to accept the amendment in the interest of comity and time. I anticipate we will discuss this issue extensively in conference on the bill to reach a solution that is more satisfactory to everyone.

I will accept very reluctantly the amendment at this time, and I would ask Members to recognize that we have a 5 p.m. deadline today, and if we are to finish this bill, we need to finish the bill.

Mr. SCOTT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, although this amendment has been accepted by representatives from the Committee on Appropriations on both sides, I rise to speak very briefly against the amendment. I oppose the amendment for two reasons. One, it is bad public policy. The people in prison will get out, and we know that education will make a difference in their ability to survive and be productive citizens outside. This amendment reduces the education available for prisoners and, therefore, is bad public policy.

In addition, Mr. Chairman, I would like to read a statement from Secretary Riley dated July 30, 1997 in which he says:

I understand that an amendment will be offered to the Labor/HHS/Education appropriations bill that would undermine the very important bipartisan and bicameral agreement on the IDEA that President Clinton signed into law less than 2 months ago. The IDEA legislation is the product of a painstaking process that reflected thoughtful compromises on behalf of all parties and that will bring about improved services and results for children with disabilities.

□ 1200

It took at least 2 years to get a balanced agreement and now, before it is even given a chance to work, efforts are being made to upset it.

The Secretary goes on to say,

As a full participant in this agreement, I strongly oppose any effort to undermine its enforcement. I am committed to honoring the principle that all children 3 to 21 have access to a free appropriate public education. Congress reaffirmed this principle in passing the IDEA amendments last month, which included new provisions allowing reasonable resolution to issues regarding educational services in adult prisons, particularly concerning violent offenders.

Mr. Chairman, I include the letter from Secretary Riley for the RECORD.

U.S. DEPARTMENT OF EDUCATION,
OFFICE OF THE SECRETARY
Washington, DC, July 30, 1997.

STATEMENT BY SECRETARY RICHARD W. RILEY

I understand that an amendment will be offered to the Labor/HHS/Education Appropriations bill that would undermine the very important bipartisan and bicameral agreement on the IDEA that President Clinton signed into law less than two months ago.

The IDEA legislation is the product of a painstaking process that reflected thoughtful compromises on behalf of all parties and that will bring about improved services and results for children with disabilities. It took at least two years to get a balanced agreement and now, before it is even given a chance to work, efforts are being made to upset it.

As a full participant in this agreement, I strongly oppose any effort to undermine its enforcement. I am committed to honoring the principle that all children ages 3–21 have access to a free appropriate public education. Congress reaffirmed this principle in passing the IDEA amendments last month, which included new provisions allowing reasonable resolution to issues regarding educational services in adult prisons, particularly concerning violent offenders.

Mr. Chairman, I therefore would prefer that my colleagues reject the amendment, although I know it is going to be adopted on a voice vote, because it dishonors the historic, bipartisan legislation signed last month, and because it represents bad public policy.

Ms. JACKSON-LEE of Texas. Mr. Chairman, will the gentleman yield?

Mr. SCOTT. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I too oppose this amendment, although I know it is moving forward. Simply to say if we are really sincere about ending recidivism and breaking the cycle of crime, we know that the best way to do that is to provide education for those inmates who will be out in our society. What better investment to ensure people do not return to a life of crime?

The amendment is misdirected and misguided and does not steer us in the direction of rehabilitation and ensuring that these young men and women can come and be viable citizens.

Mr. SOUDER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to commend the chairman of the subcommittee for his steadfast efforts over the last week to try to improve the targeted dollars going to IDEA. We had a bill that everybody agreed to in this Congress, and moved it through to try to get more money to these children.

The gentleman has a perfecting amendment here. I am pleased it has been accepted, and we are trying to move the debate forward. But I think it is a very targeted thing, to try to keep these funds directly on the kids affected, and not be wasted away in a lot of places where people in fact may not be coming out of the prison system.

Mr. RIGGS. Mr. Chairman, will the gentleman yield?

Mr. SOUDER. I yield to the gentleman from California.

Mr. RIGGS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, the gentleman worked very hard on this legislation, as did the gentleman from Virginia [Mr. SCOTT] and the gentleman from California [Mr. MARTINEZ], my good friend, and the distinguished ranking member of the Subcommittee on Early Childhood, Youth and Families.

I just want to make sure again, I do not know if this will allay concerns for those who believe we should be serving this population, but I want to point out one of the compromises we made on a bipartisan basis was to give States greater flexibility in providing special educational services to 18- to 21-year-old inmates in adult prisons.

Indeed, there were some, including the Governor of my home State, Governor Wilson, whose view I very much respect, who believed we should have flatly prohibited providing services to this segment of the population.

We did not do that. Instead, what we did do in the legislation is allow prison education to be delegated to the prison or corrections system. We relaxed standards to acknowledge the security requirements associated with serving this population in a prison environment or within a correctional facility, and, most importantly, as I stressed earlier, we provided that a State deciding not to provide services to this prison population only would forfeit that pro rata share of Federal funding for that small segment of the totally IDEA eligible population.

This seems again to be very reasonable, and it is the intent of my amendment to confirm that Congress indeed intends to give the States the option not to provide IDEA special education services to adult felons age 18 to 21 in adult prison while receiving only a limited monetary penalty.

I do take exception to anyone who would contend that my amendment somehow would unravel the bipartisan agreement on the IDEA Amendments Act, that it somehow violates the spirit of those good faith, bipartisan, bicameral negotiations.

Again, I view my amendment as purely a clarifying amendment to confirm that the carefully crafted compromise agreement on this issue was indeed structured to allow states to make an election to not provide costly IDEA special education services to convicted felons.

Mr. SCOTT. Mr. Chairman, will the gentleman yield?

Mr. SOUDER. I yield to the gentleman from Virginia.

Mr. SCOTT. Mr. Chairman, I would just point out that the position taken by the gentleman from California [Mr. RIGGS] was offered, and many of us thought it had been in fact rejected; that if there were a financial penalty, the financial penalty would be limited to the pro rata share of the persons not served, but at no point was an option given that there were other enforcement mechanisms possible.

We differ in terms of what we thought. Everybody else thought there was in fact no option, that the position articulated had in fact been rejected.

Mr. Chairman, I thank the gentleman for yielding.

Mr. JACKSON of Illinois. Mr. Chairman, the merits of affirmative action is not what this amendment is about. We'll get our opportunity to engage in that debate when we consider the so-called Civil Rights Act of 1997 which is sponsored by Mr. CANADY. The question posed by this amendment offered by my colleague, Mr. RIGGS, is whether, by popular sovereignty, a State can undermine, and in fact, ignore the law of the land, and prohibit the Federal Government from enforcing the Federal law.

By prohibiting the Department of Education from withholding assistance to institutions which do not comply with title VI of the Civil Rights Act of 1964, this provision will set a very dangerous precedent indeed. We must not, as a national legislative body, endanger the national interest, and the stability of our Union, by passing an amendment prohibiting the Federal Government from enforcing Federal law in California, or in any other State which seeks to negate the national will of our citizenry, as codified in our law.

The law of the land requires that public educational institutions that receive Federal funds may not discriminate in admissions. Title 42 of the United States Code, section 2000d declares that:

no person * * * shall on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance from the Department of Education.

In implementing title VI's mandate for equality of opportunity in public education, the Code of Federal Regulations section 100.3(b)(6) provides that if an institution's:

noncompliance or threatened noncompliance cannot be corrected by informal means, compliance * * * may be effected by the suspension or termination of or refusal to grant or to continue Federal financial assistance or by any other means authorized by law * * *

If we today, in a very shortsighted fashion, attempt to isolate this particular provision from the broader potential consequences, we will be doing ourselves, and more importantly, the Nation, a historic disservice.

By allowing the State of California and other intended States to affirmatively reject Federal civil rights law—in effect, pick from the panoply of benefits associated with Federal law—Federal funds, whether for public education, or for highway and transportation projects, these same States must uphold the obligations associated with our republican form of government.

History demonstrates that inherent in a State's effort to undermine Federal law is the fertile soil through which the seed of dissension is sown. If we allow Federal law to be undermined in this instance, who is then to stop tobacco growing States from holding a referendum on the tobacco settlement, or border States challenged by immigration issues from negating Federal immigration mandates, or States with lower per capita incomes from rejecting minimum wage increases.

Mr. Chairman, the strength of the Union is contingent upon the ability of the Federal Government to enforce the goals of the Union. States must not be allowed to pick and choose, to embrace Federal benefits, while rejecting Federal protections.

This body roundly embraces the notion of unfunded mandates—the guiding principle that we cannot, as a Federal legislative body, impose mandates on States and localities without adequately funding such mandates. The reverse is true as well. If Federal funds are granted to assist States in providing a quality education to its citizens, those States may not undermine title VI's mandate that these taxpayer dollars are expended in nondiscriminatory manner

Mr. Chairman, the question before us today is not whether you are for or against affirmative action, it is whether we can allow a State to ignore Federal law and undermine Federal enforcement of that law. A vote for this amendment is a vote prohibiting the Federal Government from enforcing a Federal law and in favor of exempting a State from complying with Federal law. In order to provide domestic tranquility, protect our national interest, and indeed build a more perfect union, Mr. Chairman, all Americans must have an equal opportunity to a quality public education.

And, so colleagues, whether you are for affirmative action or not, that is not what this amendment is about. Do not vote to undermine our ability to enforce the provisions amongst the States we fight for on this floor on behalf of our constituents in our efforts to build a more perfect union. Mr. Chairman, on these grounds I urge a ''no''' vote on the gentleman's amendment, and yield back the balance of my time.

Ms. JACKSON-LEE of Texas, Mr. Chairman, I rise in vehement opposition to the amendment offered by Representative RIGGS of California. This amendment is nothing more than an effort to force the Department of Education to apply a Federal ban on affirmative actions programs in education in States that have passed proposition 209 like efforts.

This is an attack on the Federal civil rights laws that so many have fought and even died to have enacted.

This amendment would, in effect, prohibit the Office for Civil Rights at the Department of Education from enforcing Federal civil rights laws. Title VI of the Civil Rights Act and title IX of the Education amendments of 1972 would not be enforceable.

This amendment effectively bars the Department of Education and the Office of Civil Rights from carrying out its statutory responsibility to enforce Federal antidiscrimination provisions relating to how Federal financial assistance is dispensed under a variety of education programs and activities. Even the most blatant cases of discrimination would have no remedy by the Department of Education if this amendment goes into effect.

Additionally, this amendment prohibits the Office of Civil Rights from enforcing Federal civil rights laws in all 50 States, which creates a patchwork of civil rights enforcement. This goes against the uniform longstanding national policy of the uniform application of civil rights laws.

While this amendment proports to apply only to Federal grant recipients located in States where State law, or a Federal court order prohibits the enforcement of affirmative action programs, we know the true effect of this damaging and dangerous amendment. It will set a difficult precedent for other efforts and amendments to ban all affirmative actions programs of the Federal Government.

The Federal civil rights laws have proved monumental in bringing about real changes in American education and have improved the educational opportunities of millions of students. The Federal civil rights laws have been in place to preserve minorities' rights when States would not act. We need do nothing to promote State actions over Federal law as it relates to protecting civil rights.

What has been the impact of civil rights laws in the United States? The dropout rate of African-American students—ages 16 to 24—declined from 22.9 percent in 1975 to 12.1 percent in 1995. Total minority enrollment at colleges and universities increased 63.4 percent in the past decade. Since 1990, the number of Latino and Hispanic students enrolled in higher education increased by 35 percent, the number of African-American students increased by 16 percent and the number of American-Indian students increased by 24 percent.

We should stop this amendment in its tracks now, before it picks up steam and rolls over all of the hard work and tireless efforts of Americans of all creeds who have stated over and over again that affirmative action works.

What are we really talking about when we talk about affirmative action? We are talking about diversity, opportunity, and the ability for persons who have historically not been able to gain access to education and jobs in this country to simply have access to these important arenas.

The 160,000 members of the American Association of University Women have affirmed that affirmative action programs continue to expand equal opportunity for hundreds of women and minorities in education and employment.

In 1992, the Bureau of Labor Statistics found that only 6.6 percent of all working women were employed in nontraditional occupations. Women in nontraditional occupations earn 20 to 30 percent more than women in traditional occupations.

Affirmative action programs in education and training open doors that were consistently slammed in the faces of women across this country. It allows opportunities for women and girls who might otherwise be tracked into low-wage, predominantly female jobs with little or even no opportunity for real advancement or economic independence.

This amendment is premature. Proposition 209 in California is undecided law. There are serious constitutional challenges to proposition 209 which must be heard by the Supreme Court.

In Texas, the *Hopwood* decision has resulted in a major setback for African-Americans and minorities to enter into graduate and undergraduate programs at public institutions. Among the freshman class of 6,500 students at the University of Texas, only 150 are African-American students. This is half of last year's enrolling class. At the law school, only 4 African-Americans and 26 Hispanics will be entering the first-year class. This is an outrage.

What are we prohibiting when no one has acted yet. We are keeping qualified, energetic, and eager students from attending schools of higher education across this country. We are allowing blatant racism to go unpunished and unanswered if we allow this amendment to pass.

I am pleased this amendment was eventually withdrawn.

The CHAIRMAN pro tempore (Mr. BARRETT of Nebraska). The question is on the amendment offered by the gentleman from California [Mr. RIGGS].

The amendment was agreed to.

Mr. BERMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, on October 1, 1997, the deadline for the child support enforcement system automation program comes upon us. The consequence of the States' failures to meet the automation and centralization of the computer systems obligation for enforcement of child support which were imposed by the 1988 Family Support Act will mean the automatic cutoff of all TANF, formerly AFDC funds, and child support funds.

At least 11 States in this country, including California, clearly cannot meet that October 1 deadline. It is quite possible that seven, eight, or nine other States will also not meet that deadline. The consequence of the failure to meet the deadline is that the cutoff of the

TANF funds and the child support funds will mean a loss of $4 billion to the State of California. States like the State of the great chairman of the subcommittee, Illinois, will lose close to $700 million in funds. Ohio, South Dakota, New Mexico, Hawaii, Maryland, Michigan, Nevada, Pennsylvania, all of these States are not going to meet that deadline.

I had originally intended to offer an amendment to delay the imposition of those deadlines and to provide for a moratorium for 6 months so that we could both look at the situation and have time to change the law. I have been persuaded by the fact that my amendment would not be in order, that was helpful in persuading me, but in addition to that, the gentleman from Florida [Mr. SHAW], the chairman of the key subcommittee of the authorizing committee, has a strategy which I would like to yield to the gentleman to describe, which will deal with the possibility of my State and many other States in this country losing an incredible amount of money, totally destroying the whole structure of the Welfare Reform Act the gentleman worked hard on, meaning the inability to enforce interstate child support collection functions and a number of other key functions.

Mr. SHAW. Mr. Chairman, will the gentleman yield?

Mr. BERMAN. I yield to the gentleman from Florida.

Mr. SHAW. I thank the gentleman for yielding to me to clarify exactly where we are on this, because as the gentleman quite correctly stated, this is not only a problem that the Californians are concerned about, but it is a problem that at least 9 other and perhaps 10 other States are concerned about, as the gentleman said.

The deadline was extended under the Welfare Reform Act to October 1 of this year. In that there are a number of States that have tried to comply and been unable to comply for some very technical reasons, we have had this matter under discussion in the committee itself.

The way the law presently is written and hopefully will remain is that after this deadline, there is a period of time of approximately 6 months in which the various States can, and I am sure will, appeal in order to pick up the added time and also in order to negotiate with the Secretary, also in order to give this Congress an opportunity to go back and review exactly where we are.

It is my intention as chairman of the Subcommittee on Human Resources to bring a bill to the floor, in cooperation with the Secretary, that would give her certain discretion in imposing any penalty, and, of course, I am sure she would never impose the tremendous penalty as to total defunding, as the gentleman pointed out, in California.

Nonsupport by noncustodial parents is probably the biggest reason for welfare in this country today. We are only collecting about $14 billion a year out of a total of almost $50 billion that is due. That is a horrible situation, and it is necessary that we solve the problem by making it easier to track the deadbeat parents down in order to be sure that they live up to their obligations.

My own State of Florida will probably make the deadline, but I found out in a hearing just the other day that in order to make that deadline it has had to rely on and continue to use an antique computerized system, which it was characterized as. The State of Florida will be on time with the deadline, but they are going to be on time using an Edsel instead of something that would be more modern than that.

That is a problem, and it was sort of the law of unintended consequences that took place.

The CHAIRMAN. The time of the gentleman from California [Mr. BERMAN] has expired.

(On request of Mr. SHAW, and by unanimous consent, Mr. BERMAN was allowed to proceed for 3 additional minutes.)

Mr. SHAW. Mr. Chairman, I am very much aware of the California problem. I have spoken to the gentleman's Governor, he has been in my office, Governor Wilson. Secretary Eloise Anderson was in my office as late as yesterday discussing this problem with me.

California it appears has a fragmented system, but it is very high-tech and it is a very good system, and California wants to retain their system. We are going to try to work out a way so that the intention of the law will be brought forward and that various States as California, who have used new technology and has been innovative in the way that they have taken care of their system and updated their system, are not penalized by a Federal mandate if they meet the spirit of the law.

So I would say to the gentleman, I look forward to continuing to work with him and other Californians as well as Pennsylvanians and some of the other States the gentleman mentioned, in seeing that they do meet deadlines and that the deadlines are really enforced in a very reasonable way and that the Secretary is given latitude.

Mr. BERMAN. Mr. Chairman, reclaiming my time, just to sort of pin down the issue perhaps a little bit more precisely, California becomes vulnerable on October 1. So do these other at least 11 States. The process, as I understand it, is that by December or January, HHS will assess and decertify the States, and there is an appeals process. So, as the gentleman pointed out, it is very unlikely any money will be withheld for the next 6 months. But the fear in California, Senator FEINSTEIN has worked on this issue, spoken with the President, and is pursuing whatever mechanisms she can to try and deal with it, the fear is that ultimately something will happen, the legislation will not move, and California will now be found to have been in default, owing $4 billion. Next year's payment will be held back because of this, and the fact is the underlying law California will not be able to comply with in 6 months or 1 year anyway.

So there are two issues, the need for California and the other States to know that the penalty structure will be fundamentally changed, it is nuts to withhold TANF or AFDC funds, $3.7 billion in the State of California because of the failure to meet the computer model, and there will be a new penalty structure dealing with child support enforcement proportional to the sins in the sense it will be structured. And then the underlying question also, which is how do we achieve the centralization and coordination we need without, as the gentleman indicated by implication, encouraging old technologies rather than new technologies and requiring the scrapping of very expensive computer systems. These are both difficult questions.

The CHAIRMAN pro tempore. The time of the gentleman from California [Mr. BERMAN] has expired.

(By unanimous consent, Mr. BERMAN was allowed to proceed for 1 additional minute.)

Mr. BERMAN. Mr. Chairman, people will want to go to the conference committee here and try to get this extension of the moratorium. I know the gentleman's feelings about it. Anything the gentleman can say to reassure people on this point would be very important.

Mr. SHAW. If the gentleman will yield further, first I want to make it very clear that California is not going to lose $4 billion. In fact, I would doubt that they will end up in the long run losing anything.

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Both this Member of Congress as well as the Secretary, and I assume the President, want to leave the deadline in place but want flexibility in administering the consequences.

We are looking at the law and we are going to do everything we can to restructure it to answer this California problem.

Mr. BERMAN. Mr. Chairman, I thank the gentleman.

The CHAIRMAN pro tempore (Mr. BARRETT of Nebraska). The Committee will rise informally.

The SPEAKER pro tempore (Mr. SHAW) assumed the chair.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Sherman Williams, one of his secretaries.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate agrees to the