Universal service is a fundamental principle. It is a statutory promise that Congress and the President made to Americans. It is worth fighting to preserve and protect. And I urge everyone in this body to take it very, very seriously.

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

The PRESIDING OFFICER (Mr. SMITH of Oregon). The clerk call the roll.

The legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. ENZI. Mr. President, I ask unanimous consent to speak for up to 15 minutes as in morning business.

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

THE PROPOSED TOBACCO LEGISLATION

Mr. ENZI. Mr. President, as we are heading out on the Easter recess, I want to wish all my colleagues godspeed and also make a small request of them while they are in their home States. That request is for them to thank the people that smoke for their contribution of $368.5 billion, or perhaps $510 billion. I think a lot of people out there think we are finally going to get to the big bad tobacco companies and get them to pay some money up front here and kick in for all the damage that has been done. But, really, the smokers are going to wind up paying this. I don't know whether it will be for increased tobacco costs, or whether it will be for an increased tobacco tax. At any rate, it is going to range from 50 cents to $1.10 or $1.50, or whatever they think will make a difference.

Having said that, I ought to mention that I had not accepted any money from the tobacco companies during my campaign. It could have been very critical, as I had a highly underfunded campaign. I was offered money from the tobacco companies, but I would not accept it. I could see this sort of debate and discussion coming up later. I didn't want to be seen as favoring the tobacco companies and will not be favoring the tobacco companies.

I have a lot of concerns, as we have gotten into this tobacco debate. In fact, the concerns have gotten to be so many that I am kind of depressed about whether or not there is any capability to do anything about the problem. When I was growing up, my folks smoked. Both my mom and my dad smoked, and they smoked a lot. In fact, I had the feeling that I didn't smoke because I could walk anywhere in the house, inhale, and get plenty of smoke. About the time I was a junior in high school, though, my dad saw a program on television. As part of this program, some kids visited a lab and they had a beaker about 6 inches in diameter and about a foot tall, half filled with some liquid. That was the amount of tar that the average smoker would have collected in their lungs. One of the kids reached into this beaker and pulled his fingers back up out of there and had strands of sticky tar hanging from it. At that point, my dad quit smoking.

He and Mom had talked about smoking for as long as I could remember and about all of the money they would save if they quit smoking. But they had not quit—well, they quit several times, but they had taken it back up again. My mom had always said that if my dad would quit smoking, she would quit. My dad saw the picture of the stringy tar coming out of the beaker, thought about his lungs, and quit. It wasn't easy, but he quit. After a couple of weeks of my dad having quit, my mom decided that she had to quit, too; that was part of the deal.

About a year later, I went for my annual athletic physical, and the doctor asked me to sit in his office for a minute because he wanted to talk to me, and I did; you always do what the doctor says. When he came in, he said, ''I am really glad to see that you quit smoking.'' I said, ''I have never smoked.'' He said, ''Oh, yes, you have, take a look at these x-rays.'' He put up the x-ray of a year before and showed me how clogged my lungs were the year before. So for years I have known about secondary smoke. We didn't even know to call it ''secondary smoke'' problems at that time. But they were there. It was evident on the x-rays. I also had a problem as I was growing up with hay fever. It wasn't seasonal, but I thought it had to do with molds, grass, and that sort of thing. Another benefit I had of my folks quitting smoking was that I got over hay fever. Secondary smoke again.

About a year and a half ago, my mom had a heart attack. We found out at that time that she might still be smoking. It is a powerful addiction. So I do have some interest in smoking. I went to the George Washington University here in Washington, DC, when I went to college, and there used to be a medical museum on the mall right by the Smithsonian. It has been replaced by the Air and Space displays there. I think it still exists somewhere in the District. But one of the displays they had in there was parts of the human body cut up in thin slices, encased in plastic, and you could kind of page your way through a liver or a heart or lungs. They had lungs of smokers and nonsmokers. So there is a problem there, and it has been recognized for a long time. I do not think there is anybody now who argues that cigarettes will not kill you if you use enough of them long enough. It will have an effect on your health. I am very disturbed that there are still young people who are starting to smoke. They know what the damage is, they know what the outcome is going to be, and they still smoke.

On behalf of all of these folks, we are going to look at a settlement. We are going to try to figure out whether we have the right to settle on behalf of the whole country and, if we do, in what categories we have that right to settle and what kind of a precedent we will be setting in all kinds of other fields where people may be damaged by things that at one point in time we did not know might damage them but now might clearly know that, because this will be precedent setting.

The biggest thing I wish to talk about today is the smokers themselves, because I know as I travel around Wyoming—and I am in Wyoming almost every weekend; it is a big State with a lot of small towns, so it takes a lot of travel, and we get around regularly and talk to folks. But I know from talking to the smokers, it has not hit home yet that the smokers will pay the bill. Whether it is an increased tax or increased prices of cigarettes, the companies will collect it, the companies will forward it to us, but the smokers will pay the tab.

Something that is happening back here that is disturbing me a little bit is, we have run into this $368.5 billion; that is a number that has been quoted for a long time. I noticed the tobacco settlement that came out of the Commerce Committee calls for about $510 billion. It doesn't matter which of those figures you want to use; they are both huge numbers. They are both probably too small a number to solve what we are talking about solving. But we are not necessarily talking about using that money to solve the problems of smoking, we are talking about it as a new addiction. That is what I call the political addiction —if there is some money and it is not earmarked, it is an addiction.

I saw a cartoon. The cartoon essentially said: Don't give alcohol to an alcoholic; don't give drugs to a drug addict; and don't give money to a politician.

This is more money than we have looked at in quite some time. There have always been constraints on the money we have had before. But this is pretty wide open. Oh, sure, we have said there are some things we would do with it. In fact, it was the States that brought up this issue originally. The States started some lawsuits against the tobacco companies, and they won. So now they have some money coming, and the tobacco companies can see that this could catch on, and it has. It has been to a number of States now. So the tobacco companies have said, let's get together and talk about a settlement; let's see how we can rein in a little bit of this and do some damage control. Of course, they are looking at damage control primarily for their companies, so they have reached some agreements with folks. It is a varied group of folks.

Again, I do not know if they have the right to do the kinds of negotiations they say they are doing, but any way that you look at it, it is the States that started, the States that got agreements partly through the courts, now

partly through negotiations and a settlement, and it seems to me that those States expect that they are going to get some money to reimburse themselves for the Medicaid they have spent to take care of smokers.

That is what the lawsuit was about. That is the basis on which they won. So probably we ought to think about a little bit of that money getting back to the States to do what we said would be done based on the lawsuits and the settlement that came out of them.

Now, 57 percent of Medicaid is the Federal part of the cost. So do we just have the States collect their share? How much of the $368 billion or $510 billion ought to be ours? Well, that is something we ought to legitimately address. But I am concerned that there is not money in that settlement that deals with the cost of Medicare. Smokers are going to have bigger problems when they get into Medicare than nonsmokers. It works that way with insurance; it works that way with Medicare. There isn't any money talked about in the settlement.

We have talked about taking the Federal portion of the money from tobacco and putting that into Medicare. Good idea. Part of it comes, though, from reimbursing Medicaid, the Federal portion, the 57 percent. So we ought to take some money and put it into Medicaid probably. But we are talking about taking it—and this is for ease of talking about how we are going to handle it. The Medicare system is in trouble partly because of smoking. We are going to take a portion, that portion that turns out to be the Federal portion, and put it into Medicare. Good idea. Good plan.

Medicare ought to have an additional contribution based on how much of it is caused by smoking—something that has been known by the companies for a long time that they have been causing, something they didn't own up to completely, something they are now talking about. So we need to be sure there is some Medicare money in there.

Now, one of the fascinating phases I have talked about in dealing with the Medicare thing is a comment by some of the tobacco companies that it really should not be a very big part of their expense, because most smokers do not live long enough to be a part of the Medicare problem. I do not know if that is justification or not. It does not seem to me that it would be.

We are also talking about using some of the money to compensate the people who are growing the tobacco, and there probably is some obligation on our part—not necessarily out of the $368.5 billion—to compensate the growers. The growers probably have seen the damage that smoking has been causing over the years and have had some options on other things they could have done with their land, and so a total compensation for losses probably is not in order.

There are vending machine owners, and they are small businessmen, and I think in the settlement we are talking about compensating them, compensating them even for future loss of revenues. I am an advocate of the small businessman. I have been a small businessman. I know what some of those problems are. But I cannot go along with compensating them both for the loss of the vending machine and the loss of their future revenues. That is the normal course of doing business—figuring out what the future is going to be, what changes there are going to be in the marketplace and how you will adjust. These changes are not coming on that suddenly that they have to be compensated for future loss of revenues.

I am even interested, as the only accountant in the Senate, in how they are coming up with the cost of the vending machines. It seems to me it ought to be the cost of the vending machines less what they have been allowed to depreciate under the tax system.

I suggest there ought to be another part to this, and that other part I call smokers' compensation. Since the smokers of this country are going to be paying the bill, at least a portion of the money that we are going to collect, whichever method we use, ought to go for some kind of a fund that is going to solve the future health problems of these folks who are paying the bill. They ought to have some individual responsibility. It is a decision they made on their own to smoke, it is something they have known about for a long time as causing their own problems, but we are about to have one of the biggest court gluts that we have ever seen. The tobacco settlement bill as it came out of the Commerce Committee, as I understand it, has some form of immunity in it. That is a cap for the tobacco companies, guaranteeing them they will not be sued for more than $6.5 billion a year.

That's liability protection. That means it still goes through the normal system of lawsuits. Somebody has to sue the tobacco companies to get compensation. They still have to win in court. But the companies will not lose more than $6.5 billion in any way.

What we are going to have is thousands of lawsuits piled up in the courts, lawsuits of people trying to get to be first to the money so their money will come within the $6.5 billion cap. It sounds like a lot of money. It is a lot of money. It is not enough money to take care of all of the problems caused by smoking out there. In fact, I am pretty sure that if we took the entire assets of every tobacco company in the United States, put them out of business and sold the assets, that that would not be enough money to take care of the problems that have been caused by smoking.

Unfortunately, the courts have become one of the biggest lotteries that we have in the country. It is a legal lottery, but you have to have a lawyer to scratch your card for you. That has become one of the biggest attorney retirement funds there is. The attorneys typically get about 40 percent of what they win for you. They don't have any pain. They don't have any suffering. They don't have the problems with the smoking. They just provide their legal expertise—and you need that to go to court. In exchange for their legal expertise and the money that you receive, they will get about 40 percent plus expenses. It has been anticipated that probably less than half of whatever money goes into this legal fund will ever get to a smoker.

So we have the problem of how much is going to get to the smoker. We have the courts jammed up now with everybody trying to be first in line to get his or her money. And I suspect, because we now know how bad the tobacco companies have been, that the first awards by the juries are going to be good ones. This is going to be truly the lottery. This is going to be a lot of money, and it will use up the $6.5 billion each and every year and leave some people without any compensation, or sharing in the lesser pool, or whatever.

I am trying to figure out how this could be handled and how we could save some of that money so the smokers who are paying the bill could get some of their compensation back, could get some of their health problems taken care of. I am suggesting that we set up a smokers' compensation fund. A lot of people are familiar with Workers Compensation. That goes to the workers on the job. If a worker gets hurt, there is a set procedure already that he can get his medical bills paid and get some compensation for his loss of time and not have to go to court. That is to give him quicker treatment, which is essential, and make sure the doctors understand that they will be paid. It's a system that has developed over more than half a century to try to help the worker. It does preserve some money there.

I am suggesting that same sort of system could be put in place so smokers, when they have a problem, can be assured of immediate treatment and immediate compensation, and the funds that they and the tobacco companies are paying in would be what provides this fund. So it not only provides for the smokers but it also provides that the nonsmokers are not funding the problem also. That is what we are doing now with Medicare. Medicare dollars from everybody go into the Medicare funds and then Medicare funds go to take care of the extra costs that come with the smoking.

I know that is not possible. It is too complicated. I cannot even do an adequate job, in a limited amount of time, of explaining how smokers' compensation would work and how it would save the courts problems, and how it would assure that everybody would have an equal shot at the money and how there would be enough money, provided we force the companies and the smokers

to put that money into the fund. What I am suggesting is that we do put the money from the settlement for tobacco into Medicare and at the same time we begin to collect the statistics from the Medicare fund that show how many of the illnesses that are going into that fund, that are drawing money out of the fund, are smoking related.

I looked at targeting them, decided that we can keep track of what is smoking related and what is not smoking related, so we will even have enough statistics that we would be able to establish a smokers' compensation fund where the smoking money goes to take care of the smoking problems and so there is money for the people who are there.

This is going to be a long process. I don't think we will reach a settlement this year. When I was flying back on the plane last weekend, I started making a list of the complications that are going to keep a tobacco settlement from happening. It only takes 51 votes out of the 100 here to stop anything. It is much harder to pass anything in a legislative body than it is to stop it, because when you pass something, it has to go through a whole series of processes starting with the committees, and at any one time in that process, if there is less than a majority vote, it is dead.

It will have to go through that process here, too. If 51 people don't like the deal that's put together, it is not going to happen. When I was listing those things, I got up to three pages, single spaced, of outline only, of the problems that look to me to be rather insurmountable in dealing with the tobacco settlement. So I don't think anybody will get really excited about what is going to happen and whether it will happen. But one thing they can be assured is we are going to raise prices on tobacco one way or another. So we ought to be both thanking the smokers and asking how we can reduce smoking and how we can take care of the people who are going to be paying the bill on this, which is the smokers.

Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

OCEAN SHIPPING REFORM ACT OF 1998

Mr. LOTT. Mr. President, I am pleased that today the Senate is considering the Ocean Shipping Reform Act. This legislation provides a major step forward in reforming America's public policy on maritime issues.

When the Senate adopts this legislation, it will make America's maritime container shipping industry more competitive in the global marketplace.

The bill is a fair and responsible balance for all the parties affected by this policy change.

This bill will increase competition in the ocean liner shipping industry and it will help American exporters, from every state in the nation. Every American exporter and the American maritime industry will have a better chance to compete in the world market.

Just last night I was working with Senator HARKIN to address his concern with the bill—Iowa farmers who export produce wanted to make sure we got the bill right. This is just another illustration that all states have a stake in making sure this maritime reform is completed.

Maritime policy affects all Americans. If an American company exports, it is likely that its goods are sent overseas by container ships. That is why it is especially important that the United States have a shipping system that allows American carriers to compete on a level playing field.

S. 414 provides America that system.

This evolving legislative effort started back in the 104th Congress. While it has taken the Senate and all the stakeholders' time to develop an equitable solution, we have ultimately reached an historic balance between the needs of shippers, carriers, ports, and labor.

My colleagues, who helped get to this point, will all tell you the ocean liner shipping world includes many different and difficult competing segments. But, every one of them genuinely wanted legislative reform.

In the end it meant all sides had to accept compromise. And, they did.

These stakeholders' rolled-up their sleeves and worked to reach a consensus.

I am proud of their efforts to look beyond their own self-interests. I am also proud of the leadership and support provided by my colleagues in the Senate for working in a bipartisan way to reach a consensus on this important initiative.

Again, I think it is important to recognize that affected stakeholders are solidly behind the changes in maritime policy called for by this Act.

The list of stakeholders included the National Industrial Transportation League, Sea-Land Service, APL Limited, Crowley Maritime, the Council of European and Japanese National Shipowners' Association, the Association of American Port Authorities, the International Longshoreman's Association, the International Longshoreman's and Warehouseman's Union, the Transportation Trades Department of the AFL-CIO, among others.

This is a divergent group that normally does not hang out together. Their interests often pit these groups at each other in adversarial relationships. But, they came to the table in the search of a much needed legislative solution. This is a signal of just how important Ocean Shipping Reform Act is to correcting America's maritime policy.

Not only did the group find a solution; they strongly support this legislative conclusion. It demonstrates that when they work together, the maritime industry can accomplish meaningful reform. Reform that is good for America.

I hope we can build on this effort and achieve additional reform.

Before I go further, I want to pause and salute my friend and colleague Senator GORTON for his participation in this reform effort. Mr. GORTON is the author of the 1984 Act which this legislation is amending. He fully recognizes that maritime reform is an incremental process because of the complexity of the interacting segments. His guidance was essential.

Senator GORTON has an amendment that affects the balance and the compromise achieved by the bill and its manager's amendment. I am opposed to this amendment. I feel it is in our best interest to proceed with Senator HUTCHISON's bill

Senator HUTCHISON has done an excellent job of advancing this needed maritime reform. She is a sponsor of the Ocean Shipping Reform Act, and its amendments. She will provide a response to why Senator GORTON's proposal should not be adopted.

I want to end by congratulating all of my Senate colleagues, on both sides of the aisle, for their efforts to advance this real maritime reform. Their staff's also worked hard on the Ocean Shipping Reform Act of 1998, and they too are a part of this successful effort.

I want to specifically point out Mr. James Sartucci of the Senate's Commerce Committee for his professional diligence and honest brokerage respected by all sides of the debate. He has kept faith with all the groups over the past three years. He was instrumental in making sure the policy changes were coherent and fair to everyone. He worked in a truly bipartisan manner which is a hallmark of why the Commerce Committee consistently produces successful legislative solutions.

Mr. President, I now call upon the House of Representatives to complete the legislative process on maritime reform this year so the nation's consumers, businesses, and shipping industry can reap the benefits of a reformed ocean liner system.

Mr. President, I ask unanimous consent that the vote in relation to the Gorton amendment No. 2287 occur at 10 a.m. on Tuesday, April 21, with 20 minutes under the previous consent agreement commencing at 9:40 a.m.

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

MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business with Senators permitted to speak for up to 5 minutes each.

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