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Senate

The Senate met at 9:31 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, so often we come to You listing out our urgent petitions. With loving kindness and faithfulness, You guide and provide. You bless us beyond our expectations and give us what we need on time and in time. Today, Lord, our prayer is for a much better memory of how You have heard and answered our petitions in the past. Now, we really need the gift of a grateful heart.

We commit this day to count our blessings. We thank You for the gift of life, for our relationship with You, for Your grace and forgiveness, for our families and friends, for the privilege of work to do well, for problems and perplexities that force us to trust You more, and for the assurance that You can use even the dark threads of difficulties in weaving the tapestry of our lives. Knowing how You delight in blessing thankful people, we thank You in advance for Your strength and care today. Lord, thank You, not just for what You do, but for who You are, blessed God and loving Father. In the Name of our Lord and Savior. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, Senator SMITH of New Hampshire, is recognized.

SCHEDULE

Mr. SMITH of New Hampshire. Mr. President, on behalf of the majority leader, I would like to announce that today there will be a period for morning business until the hour of 10:30 a.m. Following morning business, the Senate will resume consideration of S. 1415, the tobacco legislation, with several amendments still pending. It is hoped that short time agreements can be reached on those amendments so that remaining amendments to this important bill may be offered and debated.

As a reminder to all Members, a cloture motion was filed by the minority leader to the tobacco committee substitute. Under rule XXII, Senators have until 1 p.m. today to file first-degree amendments to the modified tobacco committee substitute. The leader has also announced that there will be no rollcall votes during today's session. Therefore, the cloture vote and any votes offered with respect to the tobacco bill today will be postponed to occur at a later date. As always, Members will be notified of the voting schedule next week as it becomes available.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. THOMAS). Under the previous order, leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to a period for morning business, with Senators permitted to speak therein for up to 5 minutes.

The Senator from New Hampshire is recognized for 30 minutes.

(The remarks of Mr. SMITH of New Hampshire pertaining to the introduction of S. 2135 and S.J. Res. 49 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. CLELAND addressed the Chair.

The PRESIDING OFFICER. Under the order, the Senator from Georgia is recognized for 10 minutes.

THE NEED FOR MANAGED CARE REFORM: A TRAGEDY IN GEORGIA

Mr. CLELAND. Mr. President, the distinguished Senator from New Hampshire has spoken eloquently about young people and the lives of young people and how we ought to be concerned on their behalf. I would like to spend a moment of the Senate's time speaking about a young boy in my State, James Adams, of Fairburn, GA, who is now 5 years old. Because of the rules of his parents' HMO, what happened to him in March of 1993, when he was only 6 months old, has changed his life forever.

The Senator from New Hampshire was speaking of right and wrong about young people. What happened to James Adams of Fairburn, GA, was not right.

James was suffering from a fever of over 100 degrees. Like 160 million other Americans, his parents were enrolled in a managed health care plan. James' mother took him to his HMO plan pediatrician, who diagnosed only a respiratory ailment and post-nasal drip. He prescribed only saline drops, vaporizer use, and Tylenol every four hours. James' mother was told not to worry, that high fevers in young children do not necessarily mean serious illness.

Later that night, his temperature was still rising and he was in great discomfort. James' worried mother called her HMO directly. The nurse on duty recommended bathing James in cold water. A pediatrician then placed a follow-up call, advising the parents to bring James to an HMO-participating hospital—42 miles away.

On the way to the hospital, as his parents' car sped past multiple other hospitals in Atlanta not covered by the Adams' HMO, James suffered full cardiac and respiratory arrest, and lost consciousness. His parents decided they simply couldn't wait to get him to the HMO hospital—James needed care immediately. His parents pulled into the closest hospital they could find—still 6

● This ''bullet'' symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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miles from their target destination. Upon his arrival at that hospital, doctors were able to restore his pulse and breathing. But the circulation to his hands and feet was cut off, and never returned.

James suffered irreparable damage to his extremities. Both his hands and feet had to be amputated. The delay of care caused by driving almost an hour to an affiliated hospital had taken its toll.

Today, James is doing really well. He was able to get to a hospital just in time enough to save his life, and has worked hard ever since to rehabilitate himself. I am confident he will be able to lead a full and productive life. But could things have turned out better for James? Probably so.

The question I have is, if S. 1890, the Patients Bill of Rights had been in effect, could it have helped James Adams and his family? The answer: probably so.

First, the Patients Bill of Rights would have covered access to and payment for emergency services. That is, regardless of what the outcome looked like at the time, since James' parents reasonably believed that emergency care was needed, they would have been able to get it, accessibly, in time. I believe that an individual should be assured that if they have an emergency, those services will be covered by their plan. This bill states that individuals must have access to emergency care, without prior authorization, in any situation that a ''prudent lay person'' would regard as an emergency.

Second, the Adams family's HMO could not have restricted their choice in service provider. They would have been able to have their own doctor—a regular doctor—convenient to where they live, and covered by their HMO plan.

Third, the Adams' HMO would have been more clearly liable. Luckily, the lawsuit against the HMO that James' family went through was successful, but under current law such an outcome is far from guaranteed. The Patients Bill of Rights includes a provision for health plans that make medical decisions which result in harm to the patient, just as doctors and hospitals are held accountable today.

In addition, the Patients Bill of Rights would mandate a fair and timely appeal process both within the plan and to an independent external body when health plans deny care. It would also provide for access to medical specialists, continued care when a plan or provider is terminated and protection for providers who advocate on behalf of their patients.

Most important, the Patients Bill of Rights would help restore some of the confidence consumers have lost in their health care plans. It would ensure that Americans receive the care they were promised when they enrolled in their plan, and that they paid for with their monthly premiums.

I believe it is imperative that as lawmakers, we work with health professionals, insurance providers and the American people, to create the most efficient, accessible and responsive health care system possible. To that end I am cosponsoring S. 1890, the Patients' Bill of Rights Act of 1998, which would reform the delivery of managed care. We have a responsibility to ensure that the best health care system in the world remains accessible and affordable to all Americans. Though managed care has changed the nature of the health care industry by providing a more coordinated approach to medical care which reduces costs and waste, many beneficiaries believe, with cause, that their quality of care has been diminished.

As the debate over health care reform continues, I will continue to fight to refocus our health care system on patients—like James Adams—and away from the bottom line.

The ultimate goal of any health care provider, including managed care providers, should be to provide the best possible care for the patient. Anything less is unacceptable. Although the financial aspects are important, we cannot let patient care be sacrificed just because of a bottom line issue. I believe that Congress must take swift action to address the issue of managed care reform and I believe that the Patients' Bill of Rights Act of 1998 is a significant step in that direction.

I yield the floor.

The PRESIDING OFFICER (Mr. GRAMS). The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I thank my colleague from Georgia. Not that there are not other Senators who are connected to people back in their States, but the Senator from Georgia, I think, among us, stands out as a Senator who is really connected to people he represents. When he uses the word ''fight,'' I think he will be fighting very hard for people and I think we will have really a historically significant debate on this legislation.

This is a very personal issue for people we are talking about, I say to my colleague, their health and the health of their children. So I thank the Senator from Georgia for his very strong words.

BOBBY KENNEDY AND EQUAL OPPORTUNITY

Mr. WELLSTONE. Mr. President, on June 6, 1968, at 1:44 a.m., Bobby Kennedy passed away. I would like to speak about Senator Kennedy. First of all, I just recommend for people in Minnesota and our country a wonderful documentary that will be shown this week on TV on the Discovery Channel, ''Robert F. Kennedy, A Memoir.'' This was done by Jack Newfield and Charlie Stewart. My wife Sheila and I had a chance to see 2 hours of this, a preview. It is very powerful.

I thought what I would do is read from a book which just came out, written by one of Bobby Kennedy's children, Maxwell Taylor Kennedy. The title of it is ''Make Gentle The Life Of The World.'' This is an excerpt from one of Bobby Kennedy's speeches:

> Let us dedicate ourselves to what the Greeks wrote so many years ago, ''to tame the savageness of man and make gentle the life of the world.'' Thus the title, ''Make Gentle The Life Of The World.''

Let me just say at the beginning, before quoting from some of Bobby Kennedy's speeches, that I believe—this is just my opinion—that the Senator who really most lives this tradition, of course in a very personal way, but in terms of his just unbelievable advocacy for people and the kind of courage and power, the effectiveness of his advocacy for people, of course, is Senator TED KENNEDY.

Behind me is the desk of President John Kennedy, which is Senator EDWARD KENNEDY's desk. I can't think of any Senator who better represents the words I am now about to quote.

Bobby Kennedy gave a speech. I believe it was at the University of Kansas. He wanted to talk to students and young people. He wanted to talk about the way in which we measure ourselves as a people. It is one of my favorite speeches, and I quote a part of it:

> Yet, the gross national product does not allow for the health of our children—

In other words, do we measure how we are doing as a country just by the economic indicators.

> Yet, the gross national product does not allow for the health of our children, the quality of their education or the joy of their play. It does not include the beauty of our poetry or the strength of our marriages, the intelligence of our public debate or the integrity of our public officials. It measures neither our wit nor our courage, neither our wisdom nor our learning, neither our compassion nor our devotion to our country. It measures everything, in short, except that which makes life worthwhile. And it can tell us everything about America, except why we are proud that we are Americans.

Mr. President, another speech that Senator Kennedy gave is relevant to our times:

> There are millions of Americans living in hidden places whose faces and names we never know, but I've seen children starving in Mississippi, idling their lives away in the ghetto, living without hope or future amid the despair on Indian reservations with no jobs and little help. I've seen proud men in the hills of Appalachia who wish only to work in dignity, but the mines are closed and the jobs are gone and no one, neither industry nor labor nor Government, has cared enough to help. Those conditions will change, those children will live only if we dissent. So I dissent, and I know you do, too.

Interesting words about crime:

> Thus, the fight against crime is, in the last analysis, the same as the fight for equal opportunity, or the battle against hunger and deprivation, or the struggle to prevent the pollution of our air and water. It is the fight to preserve the quality of community which is at the root of our greatness, a fight to preserve confidence in ourselves and our fellow citizens, a battle for the quality of our lives.

About the importance of work:

> We need jobs, dignified employment at decent pay.

What many today call living-wage jobs.

The kind of employment that lets a man—

And I add, and I am sure Senator Kennedy would add, a woman——

say to his community, to his family, to his country and, most important, to himself [or herself], ''I helped to build this country; I'm a participant in this great public venture; I am a man''—

And, I add, ''I am a woman.''

The importance of work—

Community:

Today, we can make this a nation where young people do not see the false peace of drugs. Together, we can make this a nation where old people are not shunted off, where regardless of the color of his skin or the place of birth of his father, every citizen will have an equal chance at dignity and decency. Together, Americans are the most decent, generous and compassionate people in the world. Divided, they are collections of islands—islands of blacks afraid of islands of whites; islands of northerners bitterly opposed to islands of southerners, islands of workers warring with islands of businessmen.

Government:

Governments can err, Presidents do make mistakes, but the immortal Dante tells us that divine justice weighs the sins of the cold-blooded and the sins of the warm-hearted in a different scale. Better the occasional faults of a government living in the spirit of charity than the consistent emissions of a government frozen in the ice of its own indifference.

Courage—I think the pages will especially like this:

It is from numberless, diverse acts of courage and belief that human history is shaped. Each time a man stands up—

Or a woman stands up—

for an ideal or acts to improve the lot of others or strikes out against injustice, he sends forth a tiny ripple of hope and crossing each other from a million different centers of energy and daring those ripples build a current which can sweep down the mightiest walls of oppression and resistance.

These are really beautiful words.

Mr. President, I had an opportunity about a year ago to travel just to a few communities Senator Kennedy visited. I started out in the delta, Mississippi, and actually just this past Friday, a week ago, I went back to Tunica in the delta, just by myself, mainly to teach classes. I went back because there was a marvelous teacher, Mr. Robert Hall, who said a year ago at a community meeting, ''I wish you could come back around graduation time, because only about 50 percent or just a little bit more of our students graduate, and our students need to have more hope.''

In Tunica, the public high school is all African-American, and the private schools are all white. So I came back. I landed, and a man named Mr. Young picked me up at the airport. He said, ''Before you go to the high school, you will be addressing the third and fourth graders.'' I say to the Chair, I thought to myself, addressing the third and fourth graders the last day of school, like a policy address? It didn't sound like this was going to work very well.

I went to the elementary school, and the third and fourth graders were all sitting in the auditorium. A principal, a young man, introduced me, and we were high on the stage. I told the principal, ''I think I will not stay on the stage.'' I went out to where the students were.

This one young girl helped me out so much, because we were talking about education and school and why you like school. She said, ''I like it because a good education will help me be all I want to be in my life.'' Then 40 hands went up at one time. That is a teacher's dream, and these children had all sorts of dreams—doctors, lawyers, psychiatrists, professional wrestlers, boxers, football players—you name it—teachers, on and on and on. I thought to myself, this is what it is about. The only problem is that for too many children, that is the way they start out, and then this just gets taken away from them. The same spark isn't there later on by the time they get to high school.

I then went to East L.A. and to Watts and went to public housing projects in Chicago and inner-city Baltimore and Letcher County, KY, and inner-city Minneapolis, Phillips neighborhood, rural Minnesota. The point is there are heroines, and heroines are doing great work. That is my point.

The other point is, everywhere I went, I really believe—and these are my words, I summarize it—what part of the people were saying with a lot of dignity was, ''What happened to our national vow of equal opportunity for every child? We don't have it in our communities.'' And the jobs—where are the jobs with decent wages? That is what we want to be able to do. Just think about Robert Kennedy's words, about the importance of work. That is what people are saying today. ''We want to have jobs at decent wages so that we can earn a decent living and we can give our children the care we know they need and deserve.''

Really, Mr. President, as I think about that travel—and travel in any community—this is the focus: On jobs and education, health care, earning a decent living, being able to do well for your children. That is the focus.

Different people think about Senator Kennedy's career, Bobby Kennedy, and what he stood for, and different people in different ways, to try to use that inspiring example to do good work. I want to just raise one question before the Senate today, as I feel that this is very connected to Senator Kennedy's life and what he tried to do for our country. And this is the question. I pose this question for my colleagues and the people in the country: How can it be that in the United States of America today—not June of 1968—June of 1998, how can it be the richest, most affluent country in the world, at the peak of our economic performance—we are all writing about how well the economy is doing—how can it be that we are still being told that we cannot provide a good education for every child, that we cannot provide good health care for all of our citizens, that people still cannot find jobs at decent wages that they can support their families on, that we cannot at least reach the goal of making sure that every child who comes to kindergarten is ready to learn? She knows how to spell her name; she knows colors and shapes and sizes; she knows the alphabet; she has been read to widely; and she or he is ready to learn. And we are still being told we can't reach those goals as a nation?

And how can it be that in our peak economic performance today, one out of four children under the age of 3 are growing up poor in America—under the age of 3; and one out of every two children of color under the age of 3 are growing up poor in our country? How can this be? How can it be that we have a set of social arrangements that allow children to be the most poverty-stricken group in America? That is a betrayal of our heritage. The impoverishment of so many children is our national disgrace.

I just feel—and I am just speaking for myself—as I think back about Robert Kennedy's life, he would surely say today that this is not acceptable and that we can do better. He would probably say, ''We can do betta.'' And I think those words are very important.

One final point, if my colleague would indulge me.

I had a chance to speak at a baccalaureate at Swarthmore College this last weekend. And I was saying to the students—a lot of people have given up on politics. A lot of people, it is not that they don't care about the issues, they care deeply, they care desperately, but they don't think there is much of a connection between their concerns and our concerns. They read all about money in politics, and they just do not think it is that important.

A friend of mine was telling me he was teaching a seminar class on electoral politics, and he was talking about Presidential races and some of his involvement in the past, and students said, ''Well, that's when elections mattered.'' Elections do matter. All of us in public service, I think, believe that, even if we have different viewpoints.

I said to the students—and I want to conclude this way, in just talking with young people, not at young people—that I read—and certainly this was the case in Swarthmore College—an incredibly high percentage of students in our colleges and universities are involved in community service, and also high school students. It is not true that young people do not care about community, do not want to serve our country. There is a tremendous amount of good work being done. The problem is that I think many young people say community service is good and politics is unsavory.

I just say today, on the floor of the Senate, to the young people: We need you to be mentors and tutors. We need your community service. We need you to volunteer at battered women's shelters. If my wife Sheila was here, she

would say, ''Mention that, PAUL.'' We need you to be advocates for children. We need you to help other children. We need you to do community work. When you go on to college and universities and get degrees, and you are lawyers and businesspeople, we need you to take some of your skills and give it to the community. We need you to do that. But we also need you to care about public policy. We need you to care about good public policy, and we need you to make sure that our Nation does better.

Mr. President, I want to say today—since I wanted to take a few minutes to speak about Robert Kennedy and his life, the meaning of that life, to me and I think to many Americans—I think that the final point that I would want to make—feels right to me, at least—is to say, especially to younger people, the future is not going to belong to those who are content with the present. The future is not going to belong to cynics; it is not going to belong to people who stand on the sidelines; it is not going to belong to people who view politics as a spectator sport.

The future is going to belong to people who have passion and people who are willing to make a personal commitment to making our country better. And the future is going to belong—these are not Bobby Kennedy's words; these are Eleanor Roosevelt's words—''The future is going to belong to people who believe in the beauty of their dreams.''

Bobby Kennedy had many beautiful dreams. His life was cut short, and he was not able to realize all those dreams. But his dreams and his hope and his work for our country is as important to our Nation today as it ever was while he was alive.

I yield the floor.

Mr. JOHNSON addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. JOHNSON. I ask unanimous consent to address the Senate for such time as I may consume.

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

TORNADO IN SPENCER, SOUTH DAKOTA

Mr. JOHNSON. Mr. President, I returned Wednesday night from my second tour of what is left of the small community of Spencer, SD, which was devastated, as many know, by a tornado this past Saturday night. Many of you may have seen the media reports and the pictures of the utter destruction in Spencer.

After touring the site for the second time on Wednesday, I can honestly say the pictures simply do not do the site justice, and it is almost impossible to fathom the indiscriminate totality of the destruction.

This tornado, which hit this small town, has been classified as an F4 on the Fujita rating scale of the National Weather Service. The rating means winds have been estimated between 207 to 260 miles an hour.

As I toured the remains of this small town, the wind literally blew the bark off the trees—what trees still remained standing.

To the community of Spencer, the rating means that the tornado was powerful enough to destroy 80 to 90 percent of their town.

The grain elevator, service station, post office, and library were all destroyed, as were all four churches, an antique store, the fire hall, and water tower. The town had no sewer, water or power.

All that is left of Spencer's 120-foot tall water tower is the crumpled metal on the side of the street with the word ''Spencer'' written upside down now. A tan car hung suspended 5 feet off the ground in the tower's mangled legs.

The grain spilled from the Spencer Grain Company elevator out onto a field. Spiky tops of tree trunks stuck up out of the ground, their branches stripped of leaves—and furniture, bedding, miscellaneous items stuck in the tree tops of what trees did remain.

Most tragically, the tornado was powerful enough to injure, out of the 300-some in the community, 150 people—almost half the population—and to take the lives of 6.

The victims were Bev Bintliff, Elizabeth Burnham, Mildred Pugh, Gloria Satterlee, Ron Selken, and Irene Yost.

Bev Bintliff was 68, a Spencer native. She and her husband, Robert, moved back to Spencer after living in Oklahoma for a number of years. She worked for several local businesses before becoming the city's finance officer. Her husband is a painter. And they also operated a music shop in the nearby community of Mitchell.

Elizabeth Burnham was 85, lived in Spencer most of her life. She was a widow, and lived alone in her home. She is survived by two daughters.

Mildred Pugh, 93, a widow, moved from her home of 60 years in Spencer to an apartment in the mid-1980s. She was born on the family homestead northeast of Spencer and lived in the area all of her life. Her husband was a rural mail carrier, and she was a homemaker. Friends say that she loved her garden and she loved to deer hunt with her husband. Mildred had lived through other disasters. She survived floods, cyclones, famine, the Depression, wars, but could not survive this tornado. She is survived by a great-nephew, a grandson, and two granddaughters, and a sister.

Ron D. Selken, 62, has been described as a quiet man who enjoyed spending time with his family. Selken was born in 1936. He attended Hawthorne Elementary in Sioux Falls. He served in the Korean War. He worked as a laborer at Gage Bros. Concrete in Sioux Falls until becoming disabled because of back problems. In his spare time, Selken liked to work on his cars, watch sports and fish.

He recently became a grandfather for the third time and tragically did not get to hold his new granddaughter who was born May 2. On my first trip to the tornado site last Sunday, I met Ron's daughter, Kris Roelfs, of Sibley, Iowa. I have to say, it was a very touching meeting and I felt inadequate that I could only give her my heartfelt condolences. Her father had moved to Spencer about eight years ago from Sioux Falls. In addition to his daughter, Kris, Ron Selken is survived by another daughter, Vicky Selken of Sioux Falls, a son, Kelley of Lake Benton, MN. Three grandchildren, two brothers and four sisters.

Gloria Satterlee, was in her mid 70's and was an organist and pianist at the Nazarene Church where her husband, Ward Sr. has been pastor for the tiny congregation. Reverend Ward Satterlee was hospitalized at Queen of Peace Hospital in Mitchell with broken ribs and cuts but on my second visit to the tornado site yesterday, I had the chance to speak briefly with Ward as he explained his predicament to Vice President GORE.

The Satterlees celebrated their 50th anniversary last year and had lived in Spencer for more than 20 years. Mrs. Satterlee was a homemaker who was interested in music and caring for elderly people. In addition to her husband she is survived by two children one in Kansas and one in northern Minnesota.

Irene Yost, in her mid 70's was retired and living in a downtown apartment complex in Spencer. She had been ailing and had just been getting back on her feet when it happened. She was a lifelong resident of Spencer, and once owned a business establishment in the community, worked as a telephone operator and in a Salem factory and operated a Bingo Gas Station for a number of years.

While we mourn the tragic loss of these people and pray for their families, we are grateful for those who survived. Many descriptions of the terror the residents felt last Saturday night and of different individual's determination to survive have been shared with me personally over the past few days or have been shared with the public through the news media.

Linda Morehead's first thought was, ''Oh God don't let it be a tornado.'' As the tornado hit, Linda tried to open her basement door, but it stuck. She finally got it open and made it down one step when the wall between her dining room and the staircase fell and her roof blew off. She said that the roof flew off like a frisbee then it was all over and that she was down in a pit with stuff all around me like a hill.

Linda was trapped in her home after the storm because her left leg became pinned under cement and a radiator. Her leg was broken in two places and a chunk of flesh was ripped off when the cement was removed by rescue workers. Morehead's arms and shoulders were covered with bruises and cuts, but her face was untouched. As rain and marble-sized hail began to fall while

she was trapped she covered her face with a nearby pair of sweatpants. In spite of the pain she continues to suffer and the long road ahead to recovery, Linda recognizes her good fortune to have survived and remembers moments when she didn't think she was going to live through it.

Linda has mixed emotions as she said ''I am angry because everything you own is gone. Everything Mom and Dad worked for all their life is gone. I get so angry. And then I'm thankful the kids are all right.

Late Sunday afternoon Linda was still finding debris in her hair—rocks, pine needles, glass, wood splinters.

Tammy Kreutzfeldt remembers that she and her family all screamed as the pressure built and the roof of their house blew off. She and her family looked up and could see the tornado and the sky from their basement. Tammy had cuts on her head inflicted from falling bricks as she huddled with friends and family members in the basement of her home during the tornado.

Lucille and Jimmy Mone, 89 and 95 years old respectively, crawled over glass to safety. Jimmy who had been blown right out of bed crawled with Lucille on their hands and knees through shards of glass from blown out windows and broken pictures to their downstairs where they stayed until the storm had passed. Again, these two amazingly strong fighters recognized their good fortune as they looked back on their minutes of terror and acknowledged that, ''We're still alive and that's the important thing.''

Arnold Eldeen was driving Saturday night when he spotted the tornado that demolished much of his hometown. He raced home and arrived about 15 minutes after the tornado hit. While Arnold had been able to call his two sons before the tornado hit Spencer, it took almost three hours for him to find them to ensure they were both alive—thankfully, his sons had been able to make it out of Spencer before the tornado ravaged the community.

Amanda Stevens, 85, was in a corner of her basement when the tornado struck and she prayed that she would not be pulled out of her basement. The tornado ripped the roof off her home, but miraculously the ceramic tile remained in place which she tediously laid on the walls 27 years ago as she and her now-deceased husband built their home.

On Sunday, South Dakota's Governor William Janklow acted expeditiously to request a disaster declaration for the Spencer area from President Clinton. I was extremely pleased that the President acted swiftly and responded positively on Monday with a declaration for McCook County. While the declaration opens up a lot of assistance to help the victims start rebuilding their lives, the assistance certainly won't make anyone whole.

I was also pleased that on Monday, Vice President GORE and FEMA Director James Lee Witt both announced they would tour the tornado ravaged area. I was pleased to join them on their tour Wednesday. I truly believe their visit helped lift the spirits of many of the victims.

South Dakota has been hit by many devastating acts of Mother Nature in recent years. While the natural disasters South Dakota has faced in the recent past have all been different, two things are consistent in the wake of every disaster my state has experienced:

First, the victims of the disaster always have a positive spirit and are determined to survive and rebuild their lives. Having met with residents of Spencer twice in the past 6 days, I have been moved by their resilence and their ability to remain focused on the future, after an act of Mother Nature wiped away the town they called home and a lifetime of personal possessions in a matter of minutes. The victims have shown a quiet determination to rebuild their lives and I commend them for their attitude. It can't be easy and I am committed to doing what I can to help each and every resident of Spencer move forward with their lives.

I am always impressed and heartened by the selfless giving of concerned individuals coming to the aid of their fellow South Dakotans. South Dakotans have made it through tough times before and I think South Dakotans rush to reach out to our neighbors in need because we all realize that the next disaster could hit us.

The response was tremendous. The tornado hit Spencer at approximately 8:45 pm on Saturday night. By 10 pm 300 emergency rescue workers and medical personnel were on the scene.

Volunteers came from almost every city in the region to assist and help ease the shock from Kimball to Stickney to Dell Rapids. As a stream of ambulances entered city limits packed with volunteers, water, and blankets, other ambulances screamed out, loaded with wounded en route to hospitals in Mitchell and Sioux Falls.

Members of the National Guard and the State Highway Patrol were also on the scene immediately to assist victims.

While almost all families had their homes destroyed, very few victims have had to seek shelter provided by the Red Cross of FEMA because family and friends in the area have opened their homes to the victims.

Within a day of the devastating tornado in Spencer, businesses and individuals from across South Dakota provided tornado victims with financial and moral support to help them rebuild their lives. I have been extremely touched—though I must say not surprised—by the many examples of generosity and compassion exhibited by individuals all over our state.

The community is working together to assist victims, including collecting items needed by tornado victims. The Chapter of the American Red Cross has set up a fund. The United Methodist Church in Huron will give their entire offering of the next weekend to assist the victims. A television telethon raised over $500,000 in a matter of hours. Some 8,000 volunteers—more, frankly, than could be efficiently utilized—showed up at the Spencer city limits to volunteer. Many other communities around the State have set up funds for the disaster victims. The South Dakota Community Foundation, which grants money to worthy causes, announced it will give $1,000 to every Spencer resident.

Two nights ago, KELO TV conducted an impromptu telethon to collect funds for the victims. The effort collected over $500,000 in a matter of hours.

Perhaps most impressive, in response to a request by Governor Janklow for volunteers to come to Spencer yesterday morning, again an estimated 8,000 people showed up to volunteer in this small town. Governor Janklow originally asked for 1,000 volunteers.

The leaders of Spencer, South Dakota have continued their commitment and loyalty to their community all throughout the disaster. Mayor Rocky Kirby, owner of the destroyed grain elevator, has spent day and night dealing with not only his own personal loss of his business but working with Governor Janklow and FEMA officials to get their town back together.

City Council member Donna Ruden stayed up the entire first night putting together a map of the community with the names and locations of all citizens to assist Governor Janklow, the National Guard, and the cleanup crews. As an employee of the Security State Bank, which was also destroyed with only the vault left standing, opened her home immediately as a make-shift bank, a meeting place for citizens and their insurance companies and a place to stop and share their accounts of the storm. She placed a sign on her front door, ''please come in''.

The Red Cross and Salvation Army have done a remarkable job and I would be remiss if I did not recognize these people.

In closing, Mr. President, I just want to again commend the victims for their resilience and positive spirit in the wake of this tragedy. I also want to assure them that in the coming weeks as the tv cameras and media leave and they are left to the day-to-day effort of rebuilding their lives, I will not forget about them. I am committed to working with individuals and with the different federal agencies offering assistance to ensure aid comes when people need it and with as few bureaucratic strings attached as possible.

Again, my thoughts and prayers are with the families of those who lost their lives in this tragedy and my best wishes to all of the survivors during the next few critically important weeks as they take steps to rebuild their lives.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, I commend our colleague, the Senator from South Dakota, Senator JOHNSON, for drawing the attention of this body to the extraordinary tragedy in South Dakota. I think all of us were stunned to see those photos of this town, the town of Spencer, which was just wiped out. It really is stunning to see the complete devastation of that small town.

I remember seeing the press reports and seeing the pictures and being reminded of the devastation we suffered in North Dakota last year with the 500-year flood, on top of the worst winter in history, the most powerful winter storm in 50 years, and in the middle of all that, the fires that destroyed much of downtown Grand Forks, ND.

Our hearts go out to the people of South Dakota. Our hearts go out to the people who have suffered this extraordinary tragedy, to those who lost their lives, to those whose lives have been disrupted forever. And I think it is important for them to know that those in this body on both sides of the aisle will reach out and will help. We certainly saw that in our tragedy, and we will never forget the assistance of our colleagues. We want our friends in the South Dakota delegation to know that we are prepared to help and to reach out and to be of assistance, just as they were of help to us in our disaster. So we want to say to our colleague, Senator JOHNSON, when you are back home talking to the people who have suffered, they can count on this Federal Government to reach out and be there to help in their time of need, just as they were there to help others when they were afflicted.

I also want to say to Senator DASCHLE, the other Senator from South Dakota, obviously, those of us in the Dakotas have a special bond. We will do everything we can to help as you go through this difficult process of rebuilding.

Mr. COVERDELL. Mr. President, it is interesting how each of our States has experienced disasters in the last several years—you a 500-year flood, we a 500-year flood, and now this devastating tornado. In April, we have had four natural disasters in Georgia: a flood, an early freeze wiping out the entire first peach crop, and three separate tornadoes. No matter how many times you experience it, the power of it is just mind-boggling. I remember years and years ago, on the eve of my high school graduation in Lee's Summit, MO, being hit by one of these tornadoes that leveled 700 homes to the foundation. I have never seen anything like it. It was like a bomb hit.

You are right. All of our colleagues have been so responsive, and it makes an enormous difference when you are faced with that kind of situation when neighbors and friends across the country are there to help. So I appreciate the remarks of the Senator from South Dakota and the Senator from North Dakota.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The time for morning business is closed.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The PRESIDING OFFICER. The Senate will now resume consideration of S. 1415.

The clerk will report.

The legislative clerk read as follows:

A bill (S. 1415) to reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Gregg/Leahy amendment No. 2433 (to Amendment No. 2420), to modify the provisions relating to civil liability for tobacco manufacturers.

Gregg/Leahy amendment No. 2434 (to Amendment No. 2433), in the nature of a substitute.

Gramm motion to recommit the bill to the Committee on Finance with instructions to report back forthwith, with amendment No. 2436, to modify the provisions relating to civil liability for tobacco manufacturers, and to eliminate the marriage penalty reflected in the standard deduction and to ensure the earned income credit takes into account the elimination of such penalty.

Daschle (for Durbin) amendment No. 2437 (to amendment No. 2436), relating to reductions in underage tobacco usage.

Lott (for Coverdell) modified amendment No. 2451 (to amendment No. 2437), to stop illegal drugs from entering the United States, to provide additional resources to combat illegal drugs, and to establish disincentives for teenagers to use illegal drugs.

AMENDMENT NO. 2451

Mr. COVERDELL. Mr. President, we are returning to the tobacco legislation, by previous order, and specifically to the amendment that I introduced last evening along with Senator CRAIG of Idaho and Senator ABRAHAM of Michigan, which is now commonly called the drug amendment.

To put this in context, Mr. President, the point that we are making is that you cannot talk about teen addiction and be silent on the No. 1 teen addiction problem, which is drug abuse. So the purpose of this amendment is to make certain that any legislation being considered by this Chamber about teen addiction and teen problems must also include a title to deal with the raging epidemic in our country—teenage drug abuse.

Mr. President, in the last 6½ years, teenage drug abuse has increased by 135 percent. Well, what does that mean? Does that mean that 10 more youngsters are using drugs than were 6 years ago? No. It means that almost 2 million teenagers are using drugs today that were not 6½ years ago.

This is a massive problem and it is a consequence, unfortunately, of altered Federal policy. We decided early in this administration that the battle against drug abuse would be altered, changed, downsized. The drug office was virtually closed, interdiction facilities were drastically reduced, the Coast Guard was diminished in the Caribbean, and we quit talking about the problem. Simultaneously, we entered into new trade agreements with Mexico, which enormously increased the amount of travel between the two countries, upwards to 4 million vehicles now. So that interdiction apparatus was down and the transportation across the border was up, and we quit talking about the problem. Well, consequently, massive amounts of new drugs came into the country, and because they were coming in such quantities, the price fell. So we had a product that was everywhere, inexpensive, and very, very dangerous.

You can go into any school in the Nation and ask students and they can tell you the name of all these designer drugs; they can tell you exactly where to buy them, and in most cases, it doesn't take over 30 minutes. As I have said, the price plummeted 50, 60, 70 percent. Dropped interdiction, increased border crossings, flooded the market with drugs, the price falls, and the targets are kids, age 8 to 14 years of age. What happened? It doubled and almost tripled drug abuse among teenagers.

Today, in high schools across the country, one in four are using drugs regularly. In junior high, it is 1 in 10. We now have almost 2 million more kids caught up in this lethal snare, drug abuse. To be specific about the numbers, in 1979 at the peak of the last epidemic, 14.1 percent of the entire teenage population ages 12 to 17 was using drugs regularly. The Nation said we can't tolerate this. And from the President to the sheriff, the whole Nation began to fight this epidemic. And what happened?

By 1992, we had reduced drug use among this population by two-thirds. Instead of 3.3 million teenagers using drugs, we drove it down to 1 million. This is very important because it demonstrates that we can correct this problem. There are some in our society, and very powerful people, who would like Americans to believe you can't do anything about this. That is an utter absurdity. We have proven, and very recently, that you can attack this problem and make a difference. But in 1992, as I said a moment ago, we quit talking about the problem. And so today, 2 million-plus are back using drugs regularly. It is a very, very disturbing situation. It just sort of snuck up on us.

A lot of our parents are not talking to their children about this problem, which is very unfortunate, because we know that if parents are talking to their children about this issue, the odds of the children using drugs are cut in half. It is cut in half. But if you went into a classroom, and there are 100 students out there, and say, ''How many of you talk to your parents about this problem?'' you would be lucky if 10

held up their hands. There is just not that interplay, which explains a little bit here this recent survey. It is most interesting. Forty-three percent of parents believe their teens could find marijuana easily. Sixty percent of the teenagers said it is easy to find. Thirty-three percent of the parents thought their children viewed marijuana as harmful. But only 18 percent of the kids thought it was harmful. It is just a complete disconnect going on here. Forty-five percent of parents felt teens had a friend who smoked marijuana. But if you ask the kids, 71 percent know somebody smoking marijuana. It is just a total disconnect.

So one of the purposes and reasons of this amendment is to assert Federal policy, bold Federal policy that attacks this drug epidemic at every level—at the border, in our communities, in our law enforcement agencies—everybody. It substantially increases funding for interdiction and for education, and it attacks it at every level. If this is put into play, within 24 months there will not be a poll that has 21 percent thinking their teenage children knew someone who experimented with marijuana while 44 percent of the teens said they actually had. This disconnect will be ended in America, and you will begin to drive the numbers of teenagers using drugs down. But not if we bring a major bill about teenage addiction to the Senate and before the American public and never mention drugs and just totally be silent on it as if that is not a problem.

Teenage drug abuse is the No. 1 teenage problem. It is No. 1. Myself, my colleague from Idaho, and my colleague from Michigan felt this almost is damaging if it is so much focused on teenage smoking, which is a problem, but it is a fourth problem. The first one is teenage drugs. So you would almost be saying, ''Look, we are accomplishing something here,'' and looking completely away from the fact that we are in the midst today in this country of one of the most singular alarming epidemics we have ever faced: teenage drug abuse.

I am going to yield, because I see the Senator from North Dakota is prepared to talk here in a minute on the bill.

But one of the saddest things about this whole teenage drug abuse epidemic is that in the last epidemic, in the 1960s and 1970s, most of those teenagers were 16 to 20 in age. Now they are 8 to 14. The cartels have focused. We talked about tobacco focusing on teenagers. It is an unconscionable policy. But the narcotic cartels are totally focused on a young teenage market 8 to 14, as vulnerable a market as could be.

We will pay an unbelievable price—and are—if we do not attack this problem forcefully with the Nation's will, and boldly; not deja vu, just another day. We have to turn this thing around.

Mr. President, I am going to yield to my colleague from North Dakota.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I am going to speak on a number of subjects this morning. I am going to talk about a Web site contest that I sponsored in North Dakota on this question of tobacco. I am going to talk about the marriage penalty debate that we have ongoing. Then I am going to file a cloture motion on behalf of the leader.

First of all, I want to say to my colleague from Georgia that there are some of us who agree that dealing with drugs as part of this legislation makes some sense. We hope we are able to work together and see if we can't find a formula that works so it can be included here. We know there are others who do not think it is appropriate to include it here, and we respect their views. But some of us do believe it is appropriate to deal with the question of other drugs in this bill. Hopefully, we can find a way to be successful at the end of the day. There is no question that it is a serious problem, just as tobacco is a serious problem that imposes enormous health and financial costs on society. Illegal drug use is also creating enormous difficulties.

When we are in Washington, my wife and I live eight blocks from the Capitol. From the steps of the Capitol, we can look right down the street that leads to the house we live in here in Washington. In 1991, my wife was abducted at gunpoint by a crack addict. I tell you, I will never forget the trauma it caused our family. It is an epidemic in many parts of our country. I am proud to say it is not an epidemic in North Dakota, but even there we have a problem.

I think all of us who are serious about improving the lives of people we represent want to address this problem in this bill if we possibly can. So I thank the Senator from Georgia for the effort he has made.

Mr. President, I sponsored a Web site contest for kids from my State on the question of tobacco use. I asked them to create electronic pages, or electronic posters, to help spread the word that tobacco use causes problems. We just had an outpouring of kids from around the State who entered the contest. One of the winners was Justin Grueneich of Ellendale, ND. His Web site said, ''Smoke Is No Joke.'' He is right. His Web site was packed with statistics and information.

One of the things that impressed us was, we found there was more information there than we have heard on the Senate floor. He actually found facts that we haven't heard in the debate on the Senate floor.

So Justin did a superb job.

Another person who did excellent work was Anne Erickson, a senior at Cavalier High School. She was very creative. Her graphic design was great, and her messages were right on target. She wrote, ''To smoke or not to smoke, there is no question.'' She also posted that in addition to being unhealthy, smoking was also unattractive.

As we know, the tobacco industry has tried to present smoking as cool and attractive and sophisticated. She wasn't buying it.

So thank you, Anne, for seeing through those advertising gimmicks by the industry.

Six fifth graders from Dakota School in Minot joined forces and created a Web site they called ''The Healthiest Web Site in North Dakota.''

Congratulations to Cierra Bails, Christina Leyrer, Mikey Perron, Jr., Nicole Rogers, Jessica Sarty, and Nicki Taylor for their excellent work.

These fifth graders designed a colorful and informative Web page that included links to North Dakota facts and laws on tobacco. They did really a great job in reminding kids that buying tobacco is illegal and it is unhealthy.

Now, younger students also entered the contest and published electronic posters on the Internet. I brought some of them here to the floor to share with my colleagues today. These are from third graders at North Hill Elementary School in Minot, ND. These are very young children, some as young as 7 years old. This one was done by Annie Kirchofner. It has a very simple message. Fruit is healthy, yes to grapes and apples, no to cigarettes. That is Annie Kirchofner.

Devin Blowers doesn't think that smoking is cool. He says, ''Smoking is bad for you. Be cool. Don't smoke.'' And then he has down here this alligator figure. I guess this is his alternative to Joe Camel, and he has sunglasses on the top of his head here and he says ''Yuk'' to tobacco.

That is pretty good for 7- and 8-year-old kids. They certainly have the message.

Courtney Sluke, another third grader, produced this poster: ''Do not smoke.'' She is saying to her friend, ''Hey, you should not smoke.'' Again, a third grade student from Minot, ND.

The next was Nicole Belgarde. She had a very interesting message. She says, ''Don't always take the advice off T.V.'' That is a pretty good message. She realizes. Here is the television and it is sending the message that ''Smoking is cool.'' And a fellow youngster is picking up that message saying ''Smoking is cool'' and she is countering it saying, ''No, smoking is not cool.''

Alex Deck gets right to the point. He says, ''Smoking is bad.'' He has the universal symbol here, the crossing out of the cigarette, and he has this little figure who is chanting ''Smoking is bad.''

Bryan Moe, he also was able to get right to the heart of it. He says, ''Don't smoke cause you might die.'' He put the victim right in his deathbed. He was on top of this. And he has X's for his eyes. Pretty tough message. If you smoke, you die. That poor victim is right on his deathbed.

The first place winner—the first place winner is Amanda Roise. She

shows that price does matter. I really like very much what she did.

Now, remember, these are 7- or 8-year-old children who designed these. And these are electronic posters. It is just amazing; these kids posted them on the Internet after we had a call statewide: Send us your ideas. And really we got a tremendous response from all around the State.

Her theme is, ''Don't waste your money on cigarettes.'' And here they have a price of $2.95 and a customer saying, ''I don't have enough.'' And here is a sign ''Don't do drug.'' She ran out of room so she put the ''S'' down here. ''Don't do drugs.'' And it is a store, obviously, and one of my favorites is she has excellent coloring, wonderful coloring. These are Cheerios boxes, and I like to eat my Cheerios every morning, so I thought this was especially good. Amanda Roise, the first place winner in our contest for electronic posters.

Congratulations to all of the winners and all of the contestants. We are going to be having fun with this when we go back home presenting the awards to not only these very young children but older ones as well who participated in this web site contest. Gee, we have had so much fun with this. I can tell you, we had a number of distinguished judges make the determinations, and my thanks to them as well.

Mr. President, I wanted to direct my main remarks this morning to the question of the marriage penalty because that has become an important part of the debate here as to what alternative we ought to pursue in addressing the marriage penalty. I thought it might be helpful to discuss for a moment what the marriage penalty is, who is really being hurt by it, and what we could do to address it in some rational way.

Let's put up the first chart that shows the question of who really is facing the marriage penalty. This is according to the Congressional Budget Office, and it shows that 51 percent of noncorporate filers in this country are singles. So, of course, they don't face the marriage penalty. Of all the noncorporate filers, 51 percent are single people. They don't have a problem with the marriage penalty. And 3.5 percent are joint returns that are unaffected by the so-called marriage penalty, so we don't need to focus on them.

Then when you look at the rest, what you find is that 24.5 percent, in fact, face the marriage penalty; that is, they pay more taxes because they are married than if they were filing separately. Interestingly enough, 21 percent get a bonus by being married; that is, they pay less by being married than they would pay if they filed separately as single individuals.

I want to indicate that the Democratic alternative to the Gramm amendment focuses its relief on those taxpayers who are actually being penalized. That seems to make sense. Unfortunately, Senator GRAMM's offering deals not only with those who are actually being penalized but he also gives relief to those who are getting a bonus. I am not quite sure what logic there is to that, but that is, in fact, what the amendment of the Senator from Texas would do, and as a result there are insufficient resources to help those who are really hurt by the marriage penalty. What sense that makes escapes this Senator.

What we have done is instead of diluting the relief that would go to couples paying a marriage penalty, we focus on those who are paying the marriage penalty. It seems to me that tax fairness would require that married couples with equal incomes ought to be taxed equally. That seems to be a basic kind of concept, one that makes common sense.

The Democratic alternative recognizes, as did the Congress in 1981 when it enacted the Kemp-Roth tax cuts, that to eliminate or reduce the marriage penalty, it is necessary to draw a distinction between one-earner and two-earner couples. As in 1981, the most efficient way to provide relief to couples who are incurring a marriage penalty is to allow a percentage of the earned income of the spouse with the lower earnings to be, in effect, free from income tax. Because the alternative offered by the Democrats is targeted on low- and moderate-income couples, we can make this two-earner deduction more generous than the one that was enacted in 1981. At that time, they provided the 10-percent deduction. Our alternative, when fully phased in, will provide a 20-percent deduction from the lower earner's income. This represents a much more potent assault on the marriage penalty than either the 1981 provision or the proposal offered by the Senator from Texas.

Let me direct my attention for a moment to the proposal of the Senator from Texas. His proposal is a one-size-fits-all approach that scatters the modest relief that it provides to all joint filers, whether they actually incur a marriage penalty or not. He gives it to those who have a bonus from being married instead of focusing on those who actually are penalized by being married. As a result, he gives much less help to those who actually are paying a penalty. Again, the logic of his approach I do not think holds up under scrutiny.

In fairness, there is marriage penalty relief in the Gramm proposal, but there is also a considerable tax cut for people who are already getting a marriage bonus. I just do not think that makes sense. The Senator from Texas would spend about half of the revenue he is all too willing to take away from health research and public health efforts in order to spend the money on tax relief for people who already enjoy an advantage under the system and, in the process, shortchanges the couples who are actually being penalized.

The next chart demonstrates the weakness of the Gramm approach in comparison to what we are offering. This looks at the alternative that we are proposing on the Democratic side to cut the marriage tax penalty more than the Gramm proposal does for most families. This would be in 2002, when fully phased in. The first example is for a couple earning $35,000 a year, split, with one member of the couple getting $20,000 a year of income and the other, $15,000 a year of income. The Gramm amendment would provide a tax deduction of $1,650. Our proposal would provide a deduction of $3,000—far more generous, because it makes much more sense, in order to provide actual relief to those who are being penalized by the marriage penalty.

The second alternative is a couple earning $50,000, evenly split between the two. Again, the Gramm amendment, the one-size-fits-all approach, gives a deduction of $1,650. That doesn't really make much sense because, again, he is conferring benefits not only on those who are being penalized by the marriage penalty but he is conferring benefits on those who are already getting a bonus, those who are being given favorable treatment. He treats them all alike. Those who are helped, those who are hurt—he treats them all alike. We say you ought to focus the resources you have on those who are hurt, so we say a $5,000 tax deduction for that couple who has $50,000 a year of income, evenly split between the two.

By the way, this is precisely the situation in which the largest marriage penalties occur, yet Senator Gramm treats them the same way as the others. And, in addition, he is giving that same benefit to couples who are actually advantaged by being married because of their tax circumstances under the current Tax Code. Again, the Gramm approach just does not stand up under much scrutiny.

I think if we analyze what has happened here, the fact is that we know who the taxpayers are who face a marriage penalty and we know that some penalties are harsher than others. Why should we opt for an approach that treats everybody the same, especially when it is substantially more expensive than a tailored approach that responds to the marriage penalty in a proportional way on a couple-by-couple basis?

Senator GRAMM calls our approach a figleaf. I think moderate-income families who are struggling on two incomes would welcome our figleaf when they compare it with the pine needle the Senator from Texas would provide. The fact is, ours is far more generous to those who are actually experiencing a marriage penalty. If we are going to call it marriage penalty relief, we ought to target it to those who are actually facing a marriage penalty.

I think it is also important to say that when the Senator from Texas asserts that this bill which is moving through Congress is regressive and imposes a harsh penalty on those who are

at the lowest end of the income continuum in this country, that there is another side to the story that he is not telling. The fact is, smoking is a huge tax on low-income Americans. An average pack-a-day smoker will spend more than $25,000 on cigarettes over his lifetime. An average pack-a-day smoker will have an additional $20,000 in medical costs over his or her lifetime. And the average low-income American, both smokers and nonsmokers, will pay his or her share of the $4.7 trillion in costs that smoking will impose on society over the next 25 years. That is something that has been left out completely by the discussion of the Senator from Texas.

He talks a lot about tax increases, but he does not mention the hidden tax that is being imposed on members of this society every year: $130 billion that this industry is imposing in costs on society—$60 billion in health costs, $60 billion in lost productivity, and $10 billion in other costs. The fact is, low-income workers' payroll taxes are paying for about $18 billion a year in Medicare costs; low-income workers' income taxes are paying for about $12 billion a year in Medicaid costs. Those are hidden taxes that low-income people are paying each and every year because of the costs being imposed by the tobacco industry in this society. The fact is, low-income workers are also paying higher health insurance costs and getting lower wages as a result of the costs to our health care system of smoking.

Again, let me stress the bottom line: $4.7 trillion in costs being imposed on this society over the next 25 years. The biggest tax cut that we could give low-income Americans is to reduce that cost. The McCain bill will cut smoking by about a third. That would produce savings of about $1.6 trillion for this society from the $4.7 trillion price tag imposed on us by the tobacco industry. That is the smart way of helping low-income Americans. Obviously, when we couple that with the proposal of the Democrats to focus on the marriage penalty, not to be giving the same treatment to those whether they are hurt or helped by the current tax system, we have a potent combination.

Mr. President, I ask unanimous consent to have printed in the RECORD an analysis by the Congressional Budget Office describing what causes the marriage penalty and what causes the marriage bonus, so people might see how it comes about, the situations in which people are adversely affected by the marriage penalty, and how others benefit by being married and actually pay less taxes than they would pay if they were filing as singles.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TABLE 3.—FACTORS DETERMINING WHETHER COUPLES FACE MARRIAGE PENALTIES OR BONUSES, 1996

Tax parameter or feature	Conditions leading to marriage penalty	Conditions leading to marriage bonus
Personal Exemptions ($2,550 for all individuals, regardless of marital status)	None	One spouse cannot use full single exemption but other spouse would have positive taxable income if taxed as an individual.
Standard Deduction ($4,000 for singles, $6,700 for couples)	Combined use of two single deductions exceeds value of married deduction	One spouse cannot use full single deduction but other spouse would have positive taxable income if taxed as an individual.
Tax Brackets (Lower brackets for singles are 60 percent as wide as those for couples; top bracket starts at same income for all).	Spouses have more nearly equal incomes; as married couple, more of combined income taxed at higher rate; high earners have more income subject to top tax rate.	Spouses have unequal incomes; as singles, income of higher-earning spouse taxed at higher rate.
Earned Income Tax Credit (Parameters same regardless of filing status)	Low-earning parent married to spouse whose income causes loss of some or all of earned income tax credit.	Low-earning childless person married to parent with no or very low earnings.
Phaseout of Personal Exemptions (Starting income for singles equals two-thirds of that for couples).	Spouses have more nearly equal incomes; as married couple, more of total income falls in phaseout range.	Spouses have unequal incomes; as singles, more income of higher-earning spouse subject to phaseout.
Limitation on Itemized Deductions (Starting point same regardless of filing status).	Spouses have more nearly equal incomes; as married couple, more of total income falls in limitation range.	None.
Other Fixed Dollar Limitations (For example, income limit for individual retirement accounts, thresholds for taxation of Social Security).	Either marriage does not increase limit or increase is less than spouse adds to measure subject to limit.	Marriage increases limit and one spouse adds less to measure subject to limit than the increase in limit.

Source: Congressional Budget Office.

CLOTURE MOTION

Mr. CONRAD. Mr. President, on behalf of the Democratic leader, I would like to close by sending this cloture motion to the desk.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the modified committee substitute for S. 1415, the tobacco legislation.

John Kerry, Bob Kerrey, Kent Conrad, Harry Reid, Paul Wellstone, Dick Durbin, Patty Murray, Richard Bryan, Tom Harkin, Carl Levin, Joe Biden, J. Lieberman, John Glenn, Jeff Bingaman, Ron Wyden, and Max Baucus.

Mr. CONRAD. I thank my colleague from Georgia for his indulgence and his patience.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, I suspect this most recent cloture motion has the potential of engendering some controversy. It puts into rather tenuous circumstances the amendment we are discussing, because if we cannot vote—if cloture were secured, this amendment would not be in order, along with a number of other very core components of the debate about this very contentious legislation. So I hope that is being thought through very carefully by all parties concerned, that this is a very significant piece of legislation that has an enormous effect on our country and there are some very important amendments that cloture could arbitrarily remove from the debate.

I will leave that to the leadership and another day.

AMENDMENT NO. 2451

Mr. COVERDELL. Mr. President, returning to my amendment for a few minutes—I see Senator GRAHAM has been waiting—I will take a couple of minutes and then yield the floor. But I want to reiterate the importance of this amendment that puts teenage drug addiction in the mix.

I have said repeatedly throughout the debate that I think it is unconscionable policy to be talking to the country about teenage addiction and skip the No. 1 problem of teenage addiction, which is drug abuse. It almost is an extension of the silence that we have witnessed over the last several years about this problem. This Senator does not intend to allow that silence to occur here. In other words, the idea being we will pass a bill that deals with teenage smoking and somehow will have comfortably addressed teenage addiction problems is the wrong message. It certainly should be part of the message that we are dealing with teenage smoking, but we cannot—I repeat—cannot ignore the teenage drug issue which is, of course, related to smoking.

I point out here, someone who smokes marijuana regularly may have many of the same respiratory problems that tobacco smokers have. These kids may have daily cough and phlegm, symptoms of chronic bronchitis and more frequent chest colds. Continuing to smoke marijuana can lead to abnormal functioning of lung tissue injured or destroyed by marijuana smoke. Regardless of the THC content, the amount of tar inhaled by marijuana smokers and the level of carbon monoxide absorbed are three to five times greater than among tobacco smokers. This may be due to marijuana users inhaling more deeply and holding the smoke in the lungs.

A very large component of teenage drug abuse is directly related to the smoking of the most prominent drug abused by teenagers, which is marijuana. When they smoke marijuana, the effects and damage are far greater.

Again, I reiterate, as I will repeatedly, you cannot talk about teenage addiction without the two. You have to talk about teenage smoking of tobacco, but you cannot be silent on the smoking of marijuana or the other drug-related abuses.

Mr. President, I yield the floor.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I look forward at the appropriate time to discuss the amendment of the Senator from Georgia because I agree with his premise that there is a relationship between tobacco smoking and the use of drugs. I have spent a great deal of my time in public office trying to increase our ability to deal with illicit use of drugs, both in terms of effective enforcement at all levels of government and those things that will reduce the likelihood of persons desiring to use drugs.

Let me say the most fundamental relationship between the tobacco issue that we debate today and the amendment of the Senator from Georgia is that virtually no one starts with the use of illicit drugs. Tobacco is the gateway to the use of illicit drugs. So our ability, by effective legislation or otherwise, to substantially reduce the number of persons who commence the process of experimentation, use and then addiction to tobacco will make one of, if not the most, fundamental contributions to the reduction of the use of illicit hard drugs. That is an issue that we will have an opportunity to discuss in more detail later.

My concern today is a series of ads that are being run, ads that are being run either under the specific sponsorship of the tobacco industry or by organizations which we know are supported by the tobacco industry.

Typical of these ads is one in which there is a lady, a waitress who is looking into a television camera and is stating how much her cost of smoking will increase if legislation such as that proposed by the Senate Commerce Committee were to become the law.

There are other ads that make the same point through other appealing messages. There is a fundamental error in those ads. There is a fundamental deception. There is the latest example of the manipulation for which this industry has become so well known. What is that error? What is that fraud? What is that manipulation? It is the assumption that the status quo is an option. It is the assumption that we can roll back the events of the last several years and go back to 1970 and everything will be as it was then; that that lady in the ad will not be threatened with the possibility of higher prices for her cigarettes.

The fact is that the status quo is not an option. There are two basic options that are before us as we continue this debate, and I think that it is important that we reassert what our real alternatives are.

Our alternatives are either comprehensive, and I believe as Senator CHAFEE and Senator HARKIN and I have believed for many months, that it also must be bipartisan, health-oriented national legislation. That is one alternative.

The other alternative is not the status quo. The other alternative is a continuation of the pattern of State-by-State litigation, a pattern which has already increased the price of cigarettes in America between 17 to 20 cents per pack to pay for the settlements that have been reached thus far in only four States—Mississippi, Florida, Texas and Minnesota.

It is projected that if the increase in cigarettes that will be a result of the other 46 States successfully pursuing litigation against the tobacco industry is at the same per capita level as these first four States, Mr. President, that the cost per pack will go up by an additional dollar or to a level higher than that which is being proposed by the Senate Commerce Committee.

So the option that we have is not one of whether there is going to be an increase in the price of cigarettes; the question is whether it will come through a comprehensive, bipartisan, health-oriented national legislation, or whether it will come by a series of State-by-State litigations augmented by the kinds of litigations that are now being brought by Blue Cross-Blue Shield as an example of insurance carrier litigation, being brought by labor unions on behalf of their members and, Mr. President, I believe eventually will be brought by the Federal Government to secure its appropriate compensation for the additional cost that it has paid for tobacco-related illnesses through programs such as Medicare, the Veterans' Administration, CHAMPUS—the health care program for military personnel and their dependents—and a variety of other programs in which the Federal Government is either the total or a substantial contributor to their financing.

The choice is either we do this through comprehensive, bipartisan, health-oriented national legislation, or it occurs on a State-by-State, litigation-by-litigation basis.

My personal feeling is that by every criteria that we have used to assess what is the public interest, that the public interest would be better served by a comprehensive, bipartisan, health-oriented national legislation.

What are some of those interests? Our most fundamental interest, the issue that has brought us here today and for the last several days and will for several more to come, has been our concern over teenage smoking. We know that every day 3,000 American youth, under the age of 18, commence the process that will eventually lead to the regular use of tobacco. We know that of that 3,000, that a third—1,000—will become so addicted to tobacco that they will die, that they will die prematurely of a tobacco-related affliction.

That is the fundamental objective of this legislation, to reduce this unnecessary carnage of America's youth and adult population because of the continuation of a youthful introduction to tobacco.

Which of the two approaches is most likely to achieve the objective of reducing youth smoking? We know some things, Mr. President, as to what is the effective combination of initiatives. We know that the most effective plan will be a broad-based, comprehensive public health-oriented plan. It will include items such as the funding of smoking cessation programs and the funding of education programs on the consequences of the use of tobacco. It will include limitations on marketing and promotion. It will include penalties against the industry and individual companies which fail to meet national standards for the reduction of teenage smoking. It will include, and probably most significantly, a substantial increase in the price of cigarettes, because it is that increase in price that will have the greatest deterrent effect on the use of cigarettes.

The Centers for Disease Control has estimated that in the initial stages of an increase in price, that for every 10-percent increase in price, there is a 7-percent reduction in use. Those relationships begin to change as you reach higher levels of price increases. But the legislation that the Senator from Arizona has presented to us is projected to have, by the price alone, a reduction in teenage use of in the range of 40 to 50 percent.

It is also important, Mr. President, that that price be instituted on a shock basis. If the price increase is gradual, incremental, drop by drop, then it is more likely to be absorbed, become the norm, and set the foundation for acceptance of the next increase. But if that price increase is dramatic—is imposed quickly—it will have the greatest affect in terms of achieving our objective of reducing teenage smoking.

It is obvious that on all of those counts, comprehensive, bipartisan, public health-oriented national legislation will better achieve our objective of reducing teenage smoking than will the pattern of State by State, litigant by litigant courtroom action that will be the alternative to a national, comprehensive, bipartisan public health-oriented resolution of this issue.

On the standard of enforcement, much is made in these ads that the tobacco industry is promoting that there will be a burgeoning of black-market sales if there is a substantial increase in the price. The fact is that by a legislative settlement—which among other things will provide the funds for those areas of enhanced enforcement that may be necessary, a national settlement that can contain provisions for strengthening our enforcement, a national settlement that will result in less variation State to State in terms of the price of cigarettes, and therefore less likelihood of black-market sales domestically within the United States—that a national legislative settlement will reduce the potential of black-market activities to a substantially greater degree than the alternative of State-by-State litigation.

We also know that, on the issue of tobacco farmers, there is great recognition of the necessity to provide some

transition. That transition is contained in every serious piece of legislation that has been introduced in the national Congress.

There will be a debate over which of those alternatives is preferred, but the fact that it is a recognized part of a national, comprehensive, bipartisan health-oriented tobacco resolution is unanimously agreed to. But, Mr. President, that has not been included in the State-by-State settlements, and will not likely be included. Only a relatively small number of States are directly affected by the issue of tobacco farmers and, therefore, could not be expected to include, in their settlements with the tobacco industry, funding for tobacco farmers.

If there is going to be a transition, it has to be done at the national level, not at a State-by-State level. So the interest of that constituency and that important part of this overall complex issue will be much better served by national legislation than they will be by a State-by-State settlement.

Finally, having a rational distribution of the funds, yes, this is going to raise a substantial amount of money. It may raise more money on the State-by-State basis, it may impose higher costs on the industry, and eventually on the users of this product than national legislation, but in either event there will be a substantial amount of funds raised by either national legislation or by State-by-State litigation. But it is at the national level that we will have a better likelihood of being able to allocate the funds to important programs, such as research in our national health institutes so that we will learn more about the consequences of past tobacco use and an effective means of avoiding such use in the future.

It is less likely that the States will be equitably treated through a series of State-by-State matters as opposed to doing it on a national basis. There will not be the funds likely to be available for effective counteradvertising, which will require a national program just as the national program that the Federal Government is now underwriting as it relates to advertising against the use of illicit drugs.

So, Mr. President, based on our principal objective, which is the reduction of youth smoking, and other important subissues of this current effort, including appropriate use of the funds, enforcement against black marketing, the effect on tobacco farmers, it is much more likely that we will achieve our objectives through a national legislative settlement than what is the real alternative, which is for us to do nothing and then allow the course of action which is already in place, State by State, private, soon to be, I hope, Federal litigation against the tobacco industries to be the alternative.

So, Mr. President, as we conclude this week's debate, I hope as we return next week we will be prepared to focus on what the real options are and get the business of America done and stop the carnage of American children that is resulting every hour we delay in this effort to mitigate the carnage of American youth that occurs as they take up the use of tobacco.

PRIVILEGE OF THE FLOOR

Mr. President, I ask unanimous consent that Mr. Jason Westin of my staff be allowed floor privileges for the remainder of the consideration of this legislation.

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

Mr. HARKIN. Would the Senator yield for a question? I compliment the Senator on his outstanding statement and thank him for all of his diligence and hard work on the whole issue of cutting down on teen smoking. I know the Senator from Florida has made that one of his key principles, which is in this bill. Really, the essence of this bill is to cut down on teen smoking. I appreciate all of the work he has done, and with Senator CHAFEE and with me on this.

I know Senator CHAFEE will be speaking next. We hope to engage in some colloquy here on the Senate floor to talk about some of the issues that have come up that are extraneous—important issues, but extraneous to the bill.

I just want to basically ask the Senator from Florida—before I know Senator CHAFEE will make his opening statement—about that aspect, about the other issues that seem to be coming up on this bill and whether or not we could address those later on and just keep the focus on the main issue here.

Mr. GRAHAM. Senator, I agree with your statement. We have one principal objective with this legislation, and that is to reduce teenage smoking, to reduce this unconscionable level of death and damage that is inflicted upon our young people by their early addiction to tobacco.

There are other issues that are being suggested—from reforming the tax law to an enhanced enforcement effort against illicit drugs—which are all important issues, and many of us have supported and advocated and led the charge on those issues on other days and in other forums.

Our concern is—and I will not impugn the motives of any of the advocates of those other provisions—that some outside, and maybe a few inside, this Chamber would be pleased at the objection of these ''tantalizing but extraneous issues'' because they would see them as a means of delay, obfuscation, and, eventually, defeat of comprehensive national legislation.

What stuns me is that they don't also see what the alternative is. The alternative is not that defeat here will mean the American public will throw up its hands and say, ''I guess we have to accept the fact that 125 American young people will take up smoking every hour of every day of the 365 days of the year.'' That will not be the alternative. The alternative will be that the American public, having disdained of our ability to deal with this problem, will go to their States, will go to their labor unions, will urge their insurance carriers to enter the fray, as they have in other States, and we will have a 50-State shootout in the courts on this issue.

We will move toward our objective, but not nearly as effectively as if we accept the responsibility and the opportunity to probably make the greatest contribution to the enhancement of public health of Americans that has occurred in this century by the adoption of this legislation.

Mr. HARKIN. I thank the Senator.

Mr. CHAFEE. Mr. President, over the past several days it seems to me that the Senate debate on the tobacco bill has taken a very unfortunate turn. It is a turn away from what I strongly believe are the purposes and objectives of the legislation. I want to remind my colleagues that the very name of the bill that we are dealing with is the National Tobacco Policy and Youth Smoking Reduction Act. I want to accent the ''Youth Smoking Reduction Act'' portion of the title.

Now, the purpose of this tobacco legislation is to fundamentally change the way tobacco products are marketed and sold in this country. Clearly, there is an epidemic sweeping the Nation. That is the rapid growth of teenage smoking and tobacco use. The Centers for Disease Control, as has been said many times on the floor, estimates that every day 3,000 young American children, teenagers, take up smoking and that one-third of these 3,000 will die prematurely because of smoking-related diseases.

Thus, if you multiply that out, it is a million children a year, a million young American children under the age of 18, who join the ranks of adult smokers, and more than 300,000 of them will die prematurely. Over a 25-year period, that amounts to 8 million Americans dying early because of smoking. That is more Americans than were lost in all the major wars that our Nation has been involved with.

As has been pointed out also frequently, tobacco use is the largest preventable cause of death in America today. In other words, if we want to look where can we do something about preventing deaths in our country, and should we tackle alcohol or should we tackle accidents or should we deal with illegal drugs or automobile accidents—yes, all of those are important, but none of them compares with the reduction in fatalities that would occur if we could eliminate smoking among the young people.

The statistics are chilling. Tobacco-related deaths are four times the number of Americans who die every year from alcohol-related deaths. Tobacco-related deaths kill 9 times the number who die from accidental deaths and 44 times the number of Americans who die from illegal drugs. In America

alone, 419,000 deaths occur as a result of tobacco-related illnesses, diseases. Nearly half a million every year in our country die from tobacco-related diseases.

So, obviously, the way to prevent and discourage young people from taking up tobacco is in the beginning and doing all we can to encourage adults to cease smoking.

Some of the amendments before us would take us far afield from that purpose. In other words, the objective of the exercise is to reduce teenage smoking, prevent it if possible, and to encourage adults to give up smoking. But these amendments we have before the Senate now go far afield from that.

Let me begin with the drug amendment currently pending. This amendment would take $3 billion annually out of this bill to combat illegal drugs, which means we will have $3 billion less per year available for the war on tobacco. Now, we already have a war on drugs, and we are spending billions of dollars every year to combat the serious problems of illegal drugs. This may be a meritorious amendment. Maybe we should spent $3 billion more fighting drugs. But this isn't the place to do it. If there is an antidrug amendment to be brought up, bring it up as a freestanding amendment. See if the money is there somewhere to fund this initiative. If it is all that important, let's find the money for it. But it doesn't belong on this bill.

Now, the next one, Mr. President, the marriage penalty tax relief proposal. Now, maybe that is a good proposal, but it has no place in this legislation. Correcting a bias in the Tax Code may make sense, but not on this bill. As the fiscal year 1999 budget process advances, we will have a chance to consider the marriage penalty. Indeed, the Senate budget resolution which we adopted here has $30 billion provided for tax cuts. That is the place where marriage penalties should go if it is that important. The budget resolution reported from the House Budget Committee calls for $100 billion in tax cuts. There is ample opportunity to do something about tax cuts and the marriage penalty.

Now, I know one of the arguments for doing a tax cut in this bill is, it is enunciated they want to return some of the money that will be paid in the form of higher cigarette prices paid by smokers. It is said that the great majority of smokers are in the low-income or the middle-income group and that we ought to do something for them. Somehow that has a twist to it that isn't really sensible. I reject the argument that these individuals somehow need to be reimbursed. The fact is, because of the smoking of individuals in America, we all are paying vastly higher taxes than we ever would otherwise. We are paying higher Medicare costs, we are paying higher Medicaid costs, we are paying higher private health insurance premiums, because smokers insist on smoking, and they are the ones in whom, unfortunately, so many smoking-related illnesses occur.

The fact of the matter is, smoking is a hidden tax on all taxpayers. The direct medical costs of treating smoking-related illnesses exceed $60 billion a year. We are all paying that—higher premiums on our health insurance, as I mentioned before. The current Federal excise tax on cigarettes does not begin to approach offsetting these additional costs. Thus, in my judgment, it is perfectly proper that smokers pay more than they are currently paying in taxes on cigarettes.

Now, let me conclude by making a simple point. Here, the original McCain bill provided an increase in revenues of $65 billion. How is that money to be spent?

It was to be spent with $26 billion going to the States. This is over 5 years—$26 billion to the States. NIH is to get $14 billion plus. In other words, cessation and prevention programs were to receive $14 billion. Agriculture, $10 billion over 5 years. This is the total; it comes to $65 billion.

But now what is happening, Mr. President, is a whole series of things have been added on. Yes, the States stay at $26 billion. In comes illegal drugs, $15 billion, and marriage penalty, $15 billion. Veterans—we adopted that already—is at $3 billion, agriculture at $18 billion, public health at $14 billion, and NIH at $14 billion. In other words, the spending equalling the revenue—the revenue being $65 billion over 5 years, and suddenly it is up to $105 billion. Obviously, the traffic can't bear that. That is not what the taxes are going to produce. So something has to give.

Mr. President, I remember this: There is a strong constituency for the States. Oh, yes, they want their money. The marriage penalty is very enticing and veterans has already been adopted. In agriculture, there is a strong constituency. What is going to fall out is the NIH and the public health programs.

Mr. President, I think that is terribly unfortunate. And we see here what is going to lose. When we talk about health-related programs, we are talking not only about NIH, which is a separate thing, but there are cessation, prevention/education, counteradvertising, antismuggling, and youth access restrictions. Those are the things that are so important if we are truly concerned with reducing smoking amongst our young people, as the very name of this legislation provides. These are the things that will go out if we adopt these other proposals, attractive though they may be, for marriage penalty and antidrug activities.

Mr. President, the point is there won't be resources for these programs that are so important. So I don't think that is where we want to be at the end of the day. I don't think we want to end up with these programs losing out because we have adopted the others. If the others are all that important—the antidrug provisions, illegal drugs, the marriage penalty relief—there will be a chance at another time to address those. But in this legislation let's stick with the objective, which is to reduce teenage smoking, prevent it from occurring in the beginning, and do all we can to encourage those who are smokers to give up that unfortunate habit.

So for these reasons, I urge my colleagues to reject the antidrug and the tax cut amendments. They are not about tobacco; they should not be in this bill.

I thank the Chair.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. LOTT. Mr. President, first, I listened with great interest to the comments of the Senator from Rhode Island about these two amendments. I urge him to think about the end game and not just look at this vote or this amendment at this time. Like everybody else around here, people are assuming that if we have a bad bill at this point—which we do—or if we add an amendment here or there, that is going to become law. Somebody needs to think about how do we get to an end result that will achieve the things we want.

If there ever is a bill, it will have a teenage smoking cessation campaign and it will have a drug abuse cessation campaign. It is very appropriate that we tie these two together. It will have additional help for health programs that have been affected by smoking. NIH, obviously, would be a major beneficiary, and it should be. We need research on the health problems caused by smoking. Medicaid and Medicare—that would be the end result. Somebody better think about how do you ever get an end result. If we don't add something on marriage penalty, tax relief, and on drugs, there won't be a bill. There will not be a bill.

I want to remind everybody how we got to this point. First of all, Senator MCCAIN, the manager of the bill, chairman of the Commerce Committee, had hearings; his committee met. They reported the bill out. I think it was 19 or 20–1. Republicans and Democrats voted for it. All of them had to sort of hold their noses, knowing there were too many things in here that were the wrong thing to do, and they had gone too far. They had some problems, but they got it done. It was a Republican chairman and every Republican but one voted to report it out of that committee.

I want the record to show, once again, that I am the guy that called up this legislation for it to be considered. But I am here to say that at this point it looks to me like it is over because of the games that are being played. Now, efforts were being made this very morning to work out a reasonable compromise on the tax cut proposal by Senator GRAMM. We were going to have to have a good debate and a vote on

this drug-related amendment. There were going to have to be additional votes on the attorneys' fees issue. There is going to have to be votes on the substitutes, if offered, by Senators HATCH, GRAMM and DOMENICI. At that point, perhaps cloture could begin. That is not what has been happening.

Yesterday, Senator DASCHLE filed a cloture motion and, frankly, I did not appreciate the way that was being done. We are not ready for cloture on this. We have some other issues that have to be considered before cloture would ever be invoked. And now, for the information of all Senators, the junior Senator from North Dakota, Senator CONRAD, has filed a cloture motion on the pending committee amendment to the tobacco bill. Now, who else is going to file a cloture? We have a good man back here in the cloakroom, Tiny; maybe he can file cloture on this bill. Is everybody going to wander in and file a cloture? Do we want two cloture votes on Tuesday, or one every day, or do we want a bill?

Frankly, Mr. President, I am offended by this. I consider it a breach of the good faith that we have worked in within this Chamber. I was not notified this was going to happen until 5 minutes after 11. I never had a discussion with my counterpart on the other side, and then Senator CONRAD files his cloture motion at about 11:20. I resent it. I don't appreciate it. It is counterproductive and it is killing this bill. So I truly regret this action by our minority colleagues.

As all Senators know, rule XXII, the cloture rule, is one of the most rigid of our rules, as far as imposing an arbitrary schedule for the consideration of a bill. Amendments and even dictating the convening time of the Senate with respect to the time of a cloture rollcall vote are locked in under this rule. The bill before us would require eight cloture motions—that is an important point—to be invoked and each of the eight cloture items to be disposed of with up to 30 hours of debate on each.

They are as follows: cloture on the Commerce Committee amendment; cloture on the bill, S. 1415; cloture on the motion to proceed to a House revenue bill; cloture on the substitute amendment to insert the Senate text into the House revenue bill; cloture on passage of the House revenue bill; cloture on the motion to insist on the Senate amendment required to send the bill to conference; cloture on the motion to request a conference with the House on disagreeing amendments; and cloture on the appointment of conferees.

I am not the only guy in the Senate who knows where all these cloture motions can be filed. Of course, that is assuming you get cloture, which then would require 30 hours and hundreds of amendments. This is a very complex, very important piece of legislation, no matter what your viewpoint is, for or against. Everybody has to acknowledge that it has many moving parts, is very complex, and there are many opportunities for amendments to be offered and for mischief to be caused. It could take forever or, in fact, never, as far as this bill being completed, unless we have some modicum of cooperation on both sides of the aisle and some effort to be fair to Senators that do have amendments that they think should be offered.

So I am disappointed. But if this is the way we are going to proceed, if it is going to be done this way, then I will join the ranks of those that are going to use every procedural parliamentary tool to work against this legislation, and we can just go ahead and admit that it was a good thought.

We tried our best. It didn't work. I think that is unfortunate. But the way that this is set up now, that is exactly where we are.

I yield the floor.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER (Mr. CHAFEE). The minority leader.

Mr. DASCHLE. Mr. President, I am disappointed that the majority leader has taken the floor to criticize what has occurred this morning. I notified the majority leader last night of our intention to file cloture again. We have been on the bill 42 hours, 39 minutes as of 11:53. Eight days we have been here debating. We have sought some cooperation from our colleagues on the other side in terms of reaching some agreement on how we can proceed on amendments. We have attempted to do that. We were getting nowhere. It was only after we filed cloture last night that we were able to get a vote finally on the Durbin amendment.

The majority leader talks about fairness being the criterion by which we judge a Senator's right to offer an amendment. In the name of fairness, we need to offer Senators their opportunity to come to the floor to offer amendments. I wish we would use the same standard. Let's use the same standard for the tobacco bill as we used for the Coverdell bill, as we used for all other bills that we have had before the Senate this year. We were arguing fairness when Senators were denied the opportunity to offer amendments. In fact, somebody said, ''Can you believe they are offering a tax amendment on the Coverdell bill?'' We said, ''Well, this is a tax bill.'' But we were accused of destroying what harmony there may have been to reach some agreement. And Senators on this side of the aisle were precluded from offering amendments on the Coverdell bill even though it was a tax bill, because they said this is an education bill. Do you remember that debate? Because it was ''an education bill,'' we were not supposed to offer tax amendments. But it was a tax bill.

Now we have the tobacco legislation, and our colleagues on the other side of the aisle are saying we want to offer a tax amendment. We are saying this is a tobacco bill. They say it doesn't matter. We are going to offer this tobacco amendment, and you are not being fair unless you ensure that we have a right to offer tax amendments.

I am just asking, let's play fair. Let's use the same standard. That isn't too much to ask. Once we have agreed on what that standard is, let's accommodate Senators on both sides who have amendments they wish to offer. We have a tax amendment. We don't understand why it would be that difficult for us to come to some agreement about having a vote on two competing ideas on the same exact issue. Let's have our debate. Let's lay the amendments down. Let's have a vote back to back on the amendments, and let's move on. We will have an amendment to the amendment that has now been offered by the distinguished Senator from Georgia. We laud him for many of the things that are incorporated in his amendment. There are some concerns that we have. If we can't work through those, we will certainly have an alternative there as well.

But it seems to me that we have a double standard here, Mr. President. When it was in circumstances in the past, we had one set of rules. Now, with circumstances with this bill, there is another set of rules. Let's play by the same rules. Let's work together and see if we can't find some resolution of this problem. I think that can be done, but we have a ways to go.

I yield the floor.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I listened with interest and great attention to the words spoken by the majority leader. He used the phrase, ''Let's keep in mind the end game.'' I go back to what my colleague from Florida, Senator GRAHAM, and Senator CHAFEE just spoke about before the two leaders took the floor. What is the ''end game''? It is right here. This is the end game. The number of high school students smoking is going up at a precipitous rate, higher than ever. The end game of this bill is to cut down on teenage smoking. That is the end game.

The majority leader says if there is no marriage penalty tax in there and no illegal drug money, then there is going to be no bill. I hope I still have some rational reasoning power. I have to ask, Why? Why is that? The majority leader didn't expound on why that would be. You mean to say that we are holding these teenagers being addicted every day—3,000 teenagers every day being addicted to tobacco—hostage to the marriage penalty tax provision or illegal drug money? Holding them hostage? Yet, the majority leader says there will be no bill unless we have this. I don't understand that. The committee-reported bill didn't have them in it. The committee-reported bill that was reported out by a huge vote under the leadership of Senator MCCAIN didn't have that in it.

And the majority leader went on to say—I don't understand where he is

getting his figures—that we are going to have money for research, we will have money for cutting down teenage smoking. I don't know where he is going to get the money. Look, I am using the same chart that Senator CHAFEE used just a minute ago. Here is the original McCain bill: $65 billion over 5 years for public health, NIH, health research, States, and agriculture. Add it up—$65 billion. If we keep the States at $26 billion, we keep agriculture, we add in illegal drugs, the Coverdell amendment, the marriage penalty, and veterans, we are up to $65 billion, and we have no money for NIH and no money for public health, period.

Does the majority leader mean to say that he is going to bring another bill on the floor to magically find some money floating around someplace for NIH research and for public health for cutting down on teen smoking? I am sorry. The facts are simple.

If you put in the $15 billion on the illegal drugs, the $15 billion on the marriage penalty, the veterans' $3 billion, agriculture $18 billion, you can forget about public health and NIH. There is no money left, unless, of course, the majority leader is going to come back on the floor with a provision to raise the price of tobacco to even more than $1.10 a pack. Maybe the majority leader would like to raise the price of cigarettes to $1.50 a pack or $2 a pack. That might get you the money. But with the $1.10 a pack you have in there now, you are not going to have the money, period.

So I just do not understand what the majority leader can possibly be talking about and where he could possibly be finding all of this money that he is going to have.

The majority leader said he was offended. Enough happens around here to offend each and every one of us every single day of the year, I suppose. But I have learned after 13 years here—14, I guess—that you can't be too offended too much by what goes on around here.

I guess you have to look at the reality of the situation, and the reality is very simple. There are those in this body who do not want a tobacco bill, period. They do not want the tobacco companies to have to shell out this money. They don't want to have a bill that will provide for an increase in the price of cigarettes per pack. That is legitimate. That is their viewpoint. They are welcome to it. They can defend it all they want. Maybe they have good reasons they can defend it. But that is the reality of the situation.

For example, the Senator from Texas, I believe, propounded the amendment on the marriage penalty tax, doing away with that. I believe—I think I am correct—that he even said if this amendment was adopted he would still vote against the bill.

So what kind of games are being played around here? I don't take offense at that; I just simply point it out for the reality of the situation. The reality is that we have a battle going on on this Senate floor, a big battle, and it is a battle between those who want to stop 3,000 kids a day from starting to smoke, 1,000 who will die from it, and those who say business as usual; the tobacco companies, that is OK; let them go ahead; it is a legal product.

We don't have to do anything to them. And if we just add all these amendments on, it is going to fall of its own weight.

That is the game being played around here. It's a game that is played all the time. That is just sort of the way the Senate operates. What I guess we have to do is continually point out what is in fact being done.

Now, let's talk about at least illegal drugs. We all want to stop illegal drugs. I have been here 13 years, 14 now. It seems like every year we have a bill to do something about illegal drugs: We are going to beef up the Border Patrol; we are going to raise the penalties; we are going to have mandatory sentencing. Year after year after year we go after illegal drugs because it makes nice headlines and we know that 100 percent of the American people are against it so it is kind of an easy thing. It makes you feel good. You can hit at illegal drugs. It gets popular support. It gets in the newspapers. That's all well and good.

But, Mr. President, what are we talking about? When you are talking about death and illness to the youth of America, illegal drugs doesn't hold a candle to tobacco. And here are the figures. I welcome anyone to dispute the findings by the Centers for Disease Control and Prevention. If someone would like to take the Senate floor and dispute this, please let me see the data you have. But the data we have from the Centers for Disease Control and Prevention says, ''Tobacco kills more Americans than alcohol, car accidents, suicides, AIDS, homicides, illegal drugs and fires combined'' every year. Here is tobacco over here: 418,000 deaths in 1 year. Here is illegal drugs, 9,463. What's important? Year after year we come here going after illegal drugs, and we let the biggest killer and destruction of youth in America go by—tobacco. Let it go by every year. And we are about to do the same right here by loading on all these amendments.

Now, the marriage penalty needs addressing. I think I would agree with others who have said it before, yes, it needs to be addressed. Yes, it is an unfair tax. But we are going to have a tax bill later this year. It is not going to take effect until next year anyway. Address it at that time.

Illegal drugs, we can address that at another time. Keep our eye on what the majority leader said, ''the end game.'' Is the end game of this bill to go after homicides or illegal drugs? No. It is go after tobacco. That is the end game. And the end game is to make sure that we have the money to fight it.

That is what this is all about. It is not just about getting tobacco companies to put a lot of money into the Federal Government. If that is all that was happening, I would be opposed to it. What it is about is saying to the tobacco companies you have for years through your advertising, through covering up the health risks, you have for years hooked a whole generation of Americans on tobacco. You know that it is carcinogenic. You know that nicotine is addictive. You know that it causes emphysema and cancer and heart disease. And yet through your slick advertising year after year you hook more young Americans.

We know what the tobacco companies have known for years, that smoking begins early, that by age 18, 89 percent of all adult smokers have started smoking. We know that. Tobacco companies know that. Oh, they have said for years, no, no, we advertise for brand selection, to get people off of one brand and onto another. Hogwash. They know that if they can hook someone when they are young, they have them later on.

As I have said many times, Joe Camel never appealed to me. Joe Camel does not appeal to someone my age. Neither do all these slick advertisements of young people on the beach and having a lot of fun and they are all looking healthy and they are out there. They don't appeal to older people. The Marlboro gear that you can get with your coupons, that doesn't appeal to older people. They are after young people. How many older people do you see wearing the Joe Camel beach togs. You don't see that. How many older people do you see wearing Marlboro gear. You see teenagers wearing it but not older people.

The tobacco companies systematically for years have been targeting young people because they knew if they got them hooked young, they got them later on.

What we are saying today is no, tobacco companies, don't dump a lot of money into the Federal Government so we can take care of the marriage penalty, illegal drugs, this and that. We are saying, we are telling you that you are going to have to pay money in so that we can put the money out for public health, to help take care of those people you hooked years ago, to bring money in so we can put it into NIH on research, so we can put money into the Centers for Disease Control and Prevention on research on how to cut down on smoking, how to keep kids from smoking, have smoking cessation programs and prevention programs in all of our schools.

That is what we are after right here. NIH Health Research. End game: NIH health research, smoking cessation programs, smoking prevention and education in our schools, counter advertising, which we know is very effective and which the tobacco companies probably dread more than anything else, antismuggling, and youth access restrictions.

This is the comprehensive bill that we are talking about. You add in the

add-ons that are now before us and all of this is gone. Every single one of these is gone because you don't have the money for them unless again can someone please get on the floor and tell me where are we going to find the money if in fact we adopt all of these extraneous provisions.

So that is what the end game is about. It is saying to the tobacco companies it is time for you to cough up, cough up enough money to take care of those you have addicted through your advertising and that you did not warn about the health aspects even though you knew what the health aspects were going to be. It is time for you to cough up enough money for research in heart disease and lung cancer and emphysema and all the illnesses that tobacco plagues us with. It is time for you to cough up enough money so we can go out to our schools and we can have prevention programs and education programs for our kids. It is time for you, tobacco companies, to cough up enough money so we can have counter advertising, not the slick ads that tell you how good smoking is but ads that really tell you how death and illness will occur if you do in fact take up smoking.

That is what this money is all about. It is not about the marriage penalty or illegal drugs or anything else. It is about taking care of the youth of America who have been hooked on tobacco. For the life of me, I don't understand why it is the majority leader can say that if these add-ons are not adopted, the tobacco bill is dead. I would like to see a vote out on the Senate floor. I think we ought to vote on the amendment by the Senator from Texas on the marriage penalty. Let's vote it up or down. Let's vote on all these amendments. Let's just vote on them. And then let's have a final vote on this bill and see where we come down. Let's cut out the games. Let's cut out all this game playing.

I bet the tobacco industry CEO's today, Mr. President, are slapping each other on the back and they are laughing all the way to the bank, gleefully watching us hack away at the programs designed to prevent young people from smoking and to help those smokers quit who have already taken it up.

They must be really happy watching us go through all of this when they know that tobacco is the biggest killer of youth.

This is the end game right here. This is the end game. I have used this chart before on the floor. Two young, attractive women coming in to buy cigarettes. Which one is 16? You don't know. You don't know which one is 16. Melissa and Amy—it turns out Melissa is 16 and Amy is 25.

We want to keep Melissa from taking up tobacco, and if Amy has taken it up, we want her to quit. That is what the end game here is all about. It is not about marriage penalty or anything else. To those who say it is, to those who say, as the majority leader said, that if we don't have these extraneous measures on here the bill is going to die, I say, come out and explain to the American people why it is we had a bill reported from the Commerce Committee under the leadership of Senator MCCAIN that came out with one dissenting vote, out of committee, and we cannot have a vote on that bill here on the Senate floor; why it is we are going to have all these extraneous measures, and they have to be adopted, according to the majority leader, or the bill will not pass? These were not in the committee bill, and it passed out of committee with only one dissenting vote.

So, I don't know what the majority leader is talking about, unless what the majority leader is talking about is that he really wants this bill killed, that he wants no tobacco bill, that he wants to load it down with a number of amendments that will surely mean the end of any tobacco legislation this year.

I hope that is not the case. As I said, I do not know what the majority leader had in mind. All he said was if these amendments are not adopted, the bill is dead. I don't know what he means by that. Hopefully, in the coming days, he will explain himself further in that regard.

Mr. President, our charge is clear and simple here. Our charge is only one—cut teen smoking. We know what does it. The Senator from Florida, Senator GRAHAM, spoke about it. It has to be a comprehensive bill encompassing a rapid and significant increase in the price of tobacco; and, second, smoking cessation and education programs, research, and counteradvertising. If you do all of those, you will cut teen smoking. You can save those lives. You will save a lot of illness in America. That is what we have to be about.

Senator CHAFEE and Senator GRAHAM and I have worked very hard on this legislation in a bipartisan manner going back several months. I think we can still, hopefully, have a good bipartisan bill come out. The committee bill was bipartisan. I am sorry to see that we have gotten now into this partisan wrangling over the marriage penalty, or motions, cloture motions and things like that. I think our leader, Senator DASCHLE, had it right. We ought to have one set of rules and we ought to abide by those rules. Whatever those rules are for one bill, we ought to attach them to the other bill.

I think the best course of action for us here is to vote on these amendments, move on, and vote on final passage. Let's exercise the Senate's will. We have been on the bill long enough. Hopefully, we can finish it next week.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Mr. President, I rise to join my colleagues Senator COVERDELL and Senator CRAIG in offering the Drug Free Neighborhoods Act as an amendment to the tobacco bill.

I fervently believe that we must do everything we can to reduce teenage smoking. But we are not here to deal with one issue a year. We are here to deal with the priorities of our constituents and our country. So I think we also must address the serious problem of teenage drug use in America today as well.

In my view it is crucial, given our continuing struggle in the war on drugs, that we send an unwavering and unambiguous message to all Americans, and to our children in particular, that the use and sale of illegal drugs is dangerous, wrong, and will not be tolerated.

As the father of three young children, I am deeply disturbed by recent trends in drug use. Indeed, since 1992 Washington has been losing important ground in the war on drugs. Let me cite just a few of the alarming statistics:

First of all, over the past five years, the average number of Federal drug defendants prosecuted has dropped by almost 1500 cases from the 1992 level. And the average number of drug convictions has gone down by a similar amount since 1993.

The drug interdiction budget was cut by 39 percent from 1992 to 1996 and drug surveillance flights were cut in half.

The impact on our kids has been serious. In the last six years, the percentage of high school seniors admitting that they had used an illicit drug has risen by more than half.

Incredibly, 54 percent of the Class of 97 had used an illicit drug by graduation.

For 10th graders during that same time, drug use has doubled.

And—perhaps worst of all—nearly 20 percent of our 8th graders use illegal drugs.

Faced with this bad news, this year the Administration finally submitted a comprehensive long range National Drug Strategy to Congress.

Unfortunately, it took them nearly five years to take this step. And, as the numbers show, our children have been paying the price.

That is why today we are offering the Drug Free Neighborhoods amendment. This amendment addresses the alarming trends in drug use among teenagers. Let me describe briefly what this amendment entails:

First, it provides additional resources for drug interdiction programs in the U.S. Customs Service, the Coast Guard, and the Department of Defense. It would double the interdiction budget for each of these departments.

Second, this amendment provides additional resources to combat drugs that reach our schools and neighborhoods. For example, it authorizes $50 million per year for the Drug Free Communities Act. It also promotes drug free schools by allowing federal funds to be used for voluntary random drug testing programs—and to provide school choice for K–12 students who are victims of drug-related school violence.

Third, the amendment increases disincentives for teens to use illegal drugs through the Drug Free Student Loans Act. This act would deny student loans to those convicted of drug possession. In addition, the amendment's Drug Free Teen Drivers Act, would provide grants to States that enact and enforce laws to crack down on teen drivers who use drugs.

Finally, this amendment would ban taxpayer funding for needle exchange programs. In my judgment, Washington must constantly reinforce the message to our kids that drugs are dangerous, and drug use is unacceptable.

Federal funding of needle programs sends the wrong message. And the statistics gathered from programs in Vancouver, Montreal, Zurich and Manhattan all clearly show that these programs significantly increase drug use. Every program studied has shown a significant increase in the use of narcotics among those receiving free needles—every study.

Mr. President, we owe it to the thousands upon thousands of families struggling to protect their children from the scourges of drugs and drug violence to stay tough on the criminals who prey on their neighborhoods.

Washington has to renew the war on drugs. We must provide needed resources, and we must reinforce the message that drugs aren't acceptable and that drug dealers belong in prison—for a long time.

Our kids deserve no less.

Mr. President, let me close by just commenting briefly on the majority leader's earlier remarks. There are, obviously, a lot of issues that are on this floor. I don't want to attempt to address every one of them. But I think the point the majority leader is trying to make, as he outlined some of his thinking as to the final version this legislation might take, is a very important point for us to remember, which is that the tax dollars we are talking about here are not coming from tobacco companies. They are coming from taxpayers. They are coming from citizens. They are coming from people, for the most part, in lower-income categories. So I think we do have a responsibility to determine, if we are going to increase taxes on working families in this country, exactly how those resources ought to be spent.

The notion that we cannot, in any sense, change any of the formula for the expenditure of those resources or we are somehow undermining this legislation, I think is an incorrect conclusion. This bill, like every other bill we have, is about priorities. In offering the amendment that we are offering, that the majority leader spoke to in his comments, we are trying to establish as a priority of this Congress that we will do more in the battle against illegal drugs.

There may be some Members—I am not sure in which States—but there may be some Members in some States where illegal drug use is not a significant problem in their communities, where they are not hearing from their constituents about this, where this is not a serious problem. Maybe that is the case. I do not know. I cannot speak for other States, but I can speak for my State, and when I go around my State I hear families in virtually every corner of Michigan talking about the problems, the threat to their kids, of drugs.

If we are going to tax the families of this country to the tune of billions of dollars a year—not the tobacco companies but the families—billions of dollars a year, and the notion we are not going to do anything about illegal drugs, that this is somehow inappropriate on this legislation, that the majority leader is wrong to come to the floor and say there needs to be a drug component here—I don't know what State that represents, but it doesn't represent mine.

I think the majority leader is right on target, and I think this amendment is a critical part of this legislation. I think it makes sense for us to do this now. We are not going to have many more opportunities to do this, and I think we will be sending a terrible message to the people of this country and our kids if we pass this legislation and say we are worried about tobacco and we are worried about smoking, but drugs can wait for another day. In my State, that won't sell. Maybe it will in other places. The majority leader is right, Senator COVERDELL is right, Senator CRAIG is right, and I am happy to join them.

Mr. President, I yield the floor.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER (Mr. GORTON). The Senator from Georgia.

Mr. COVERDELL. Mr. President, first, I associate myself with the remarks of the Senator from Michigan. I think his comments on the appropriate nature of this amendment as it relates to teenage drug abuse is absolutely correct.

I was taken aback by the suggestion by a couple of our colleagues that somehow teenage addiction to drugs was something that ought to be left for another day. I suggest my colleagues need to ask Americans what they think the most important teenage problem is today. When you ask American families, not CDC or some think tank, but you ask American families what they think the No. 1 teenage problem is, it is drug abuse—No. 1, and there is not even a close 2.

The Senator from Iowa has a chart from CDC that shows the numbers of deaths. Of course, that is over a lifetime of the entire population. It shows substantial more deaths related to tobacco than to drug abuse on an annual basis. I don't dispute the numbers, but I do dispute the point he is trying to make. He is trying to say that tobacco is the most significant problem, and I guess just measured against deaths, he is correct. But I wonder if he would be interested in looking at America's prison population, the millions of Americans in prison today. There is just one little kernel, one nugget that would be of interest to him, and that is that 80 percent—80—8 out of 10 prisoners in America are in prison on a drug-related charge, direct or indirect—80 percent of the prison population.

Drugs are fueling havoc in our cities, in our States and communities because they fuel crime and they fuel violent crime, disconnected mindless crime. We all know that the nature of criminal activity, particularly among our juveniles, is becoming more violent. We have had a lot of discussions about it. It is drug driven. The fact that we are talking about addiction and silent on the most pressing problem facing teenagers, in my judgment, isn't even debatable; it is unconscionable.

The Senator from Michigan alluded to it when he said we will be sending the wrong message, it will be sending a message, ''Well, we've gotten to the most prominent, most difficult problem for teenagers because we have passed a program dealing with teenage smoking.''

Teenage smoking is up. It is up about 40 percent, and it needs attention. Drug abuse among teenagers is up 135 percent and escalating as we stand here, fueling not only enormous personal disruption, family disruption, but community disruption as it expands itself into criminal behavior.

Not long ago, I was at a youth detention center in my State. It was a female center. There were about 20 young people aged 12 to 16. They were in this detention center for prostitution, assault and battery, auto theft, attempted murder, and the root of every one of the crimes was drugs. The real reason they were there was drugs. You can walk into any school, I venture to say in any State, and you ask the children what the No. 1 problem is—alcohol, cigarettes, drugs? Ninety-five percent, drugs.

If we are going to talk about addiction of teenagers, we have to talk about the combined problem. Yes, tobacco. It is not healthy for them to use tobacco products, and we want to direct our guns at that. But the most important problem, Mr. President, for teenagers is drugs. It is almost an extension of the message coming out of this city for the last 6 months: We don't want to talk about drugs; we will shut the drug czar's office; we will cut the interdiction in half. And we are surprised because suddenly we are in an epidemic of teenage drug abuse? The message was silence. To let a teenage addiction bill come through this Senate and be silent on drugs is unconscionable.

I, along with my colleagues, Senator CRAIG of Idaho and Senator ABRAHAM of Michigan, are not going to allow that to happen. We are going to talk about teenage addiction, yes; we are going to talk about tobacco, but we are going to put drugs in the mix because it is the No. 1 problem.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Ms. COLLINS. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, with Senators permitted to speak for up to 10 minutes each.

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

NINTH ANNIVERSARY OF THE MASSACRE OF PRODEMOCRACY DEMONSTRATORS ON TIANANMEN SQUARE

Ms. COLLINS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 244 submitted earlier today by Senators COLLINS, LOTT, HUTCHISON, and ABRAHAM.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A resolution (S. Res. 244) expressing the sense of the Senate on the ninth anniversary of the massacre of prodemocracy demonstrators on Tiananmen Square by military forces acting under orders from the Government of the People's Republic of China.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Ms. COLLINS. Mr. President, yesterday was the ninth anniversary of the massacre of hundreds of prodemocracy students on Tiananmen Square in Beijing by troops acting under the orders of the Communist Government of China. In memory of the brave students who suffered and died there for speaking out peacefully against political repression, and in memory of those who are imprisoned still, last night I attempted to introduce this resolution expressing the sense of the Senate that our Government should remain committed to honoring the memory of these victims of oppression and also that supporting China's peaceful transition to democracy should be a principal goal of our foreign policy.

I know that such sentiments are shared by all Members of this body. After all, who could possibly object to honoring the Chinese student martyrs to democracy on the ninth anniversary of their massacre? After all, our most cherished political ideals are those of inalienable rights and democratic self-rule. Unfortunately, however, we were unable to get the resolution cleared last night on the Democratic side. This objection prevented the Senate from making any statement in memory of the victims of Tiananmen Square on the ninth anniversary of their murder.

I am pleased, however, to report today that the cold light of morning has helped bring some perspective to this issue and that the objection to my resolution has now been withdrawn. I am very grateful for the cooperation of the Democratic leader in resolving the issue on his side.

I spoke at some length last night about the purpose of this resolution, so I will not repeat those remarks now. Let me merely say that it is deeply gratifying to see all of us join together in expressing our heartfelt commitment to democracy and human rights in China and in honoring the memory of those slain in the pursuit of these ideals. It may be 24 hours late, Mr. President, but history will not find the U.S. Senate to have been voiceless in remembrance of the victims in the Tiananmen Square massacre of June 4, 1989.

Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 244) was agreed to.

The preamble was agreed to.

The resolution (S. Res. 244), with its preamble, reads as follows:

S. RES. 244

Whereas in the spring of 1989, thousands of students demonstrated in Tiananmen Square in Beijing in favor of greater democracy, civil liberties, and freedom of expression in the People's Republic of China (PRC);

Whereas these students' protests against political repression in their homeland were conducted peacefully and posed no threat to their fellow Chinese citizens;

Whereas on the evening of June 4, 1989, these students were brutally attacked by infantry and armored vehicles of the People's Liberation Army (PLA) acting under orders from the highest political and military leadership of the PRC;

Whereas hundreds of these students were killed by the PLA in Tiananmen Square on June 4, 1989 for offenses no more serious than that of seeking peacefully to assert their most basic human, civil, and political rights;

Whereas many of the leaders of the student demonstrations thus attacked were subsequently imprisoned, sought out for arrest, or otherwise persecuted by the Government of the PRC;

Whereas during or shortly after the brutal assault of June 4, 1989, at least 2,500 persons were arrested for so-called ''counter-revolutionary offenses'' across China and dozens of persons were executed;

Whereas the Chinese government has never expressed grief for its actions on June 4, 1989, still imprisons at least 150 persons in connection with the Tiananmen Square demonstrations, and has continued to deny its citizens basic internationally-recognized human, civil, and political rights;

Whereas the Government of the PRC, as detailed in successive annual reports on human rights by the United States Department of State, still routinely and systematically violates the rights of its citizens, including their rights to freedom of speech, assembly, worship, and peaceful dissent; and

Whereas the Tiananmen Square Massacre has become indelibly etched into the political consciousness of our times as a symbol both of the impossibility of forever denying a determined people the right to control their own destiny and of the oppressiveness and brutality of governments that seek to do so: Now, therefore, be it

Resolved, That, in the interest of expressing support for the observance of human, civil, and political rights in China and around the world, it is the sense of the Senate that—

(1) the United States Government should remain committed to honoring the memory and spirit of the brave citizens of China who suffered and died in Tiananmen Square on June 4, 1989 for attempting to assert their internationally-recognized rights; and

(2) supporting the peaceful transition to democratic governance and the observance of internationally-recognized human, civil, and political rights and the rule of law in China should be a principal goal of United States foreign policy.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

Ms. COLLINS. Thank you, Mr. President.

I thank the distinguished senior Senator from West Virginia for allowing me to precede him.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. 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. BYRD. Mr. President, what is the state of things at this point?

The PRESIDING OFFICER. We are in a period of morning business, with Senators permitted to speak for up to 10 minutes.

Mr. BYRD. Mr. President, I ask unanimous consent, in view of the fact that my statement may require more than 10 minutes—it may not—that I may use as much time as I may consume, with the understanding that I will not use more than 15 minutes.

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

Mr. DORGAN. Mr. President, reserving the right to object, and I shall not object, I wonder if the Presiding Officer might entertain a consent request that I be allowed to follow Senator BYRD.

The PRESIDING OFFICER. Does the Senator yield for that purpose?

Mr. BYRD. Yes.

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

''POLITICAL CORRECTNESS''—ENOUGH IS ENOUGH

Mr. BYRD. Mr. President, it seems that concern with so-called ''political correctness'' has been elevated to a near religion in recent years.

I thought it might be well to speak on this subject this afternoon when we

are not overly busy with other matters. I am sure it is a subject on which not everyone will agree with me. But that doesn't necessarily concern me. I feel that I have something to say, and I am going to say it at this point.

It seems, I say, that concern with so-called ''political correctness'' has been elevated to a near religion in recent years. Well, I have long been puzzled by the doctrine, if it may be termed as such, the doctrine of political correctness. When it comes to benefits of this overtly patronizing assault on thought patterns and contemporary speech, I have to admit that I guess I just don't get it.

It has always seemed to me that one of the intrinsically valuable things about America is its ''melting pot'' aspect. I heard about the melting pot when I was a boy, and there have been many, many, many valuable aspects of the melting-pot policy.

The phenomenon of American life and culture has been its uncanny ability to absorb a reasonable number of people from all around the globe of different races, religions, nationalities, abilities and talents, and inspire them to embrace the ideals of freedom, and work toward the common good of the Republic, without destroying their individuality.

But today's trendy, misguided urge to vigorously emphasize in contemporary thought, and speech, not the value and worth of individual difference, but merely the inoffensive security of ''sameness'' seems to be going against the time-honored grain that has facilitated the successful achievement of a richly diverse, yet united nation.

The gross, linguistic overreaching for the goal of being perfectly politically correct that goes on in most public discussions, both written and spoken, is not only insultingly gratuitous, but, at times sublimely ridiculous as well. It is as if everyone who writes or speaks in the public arena today is making a concerted and rather forced effort to banish from the face of the Earth the obvious differences in gender, race, religion and genetic codes inherent in all human beings through the clumsy device of disavowing verbally all dissimilarities. And the results are often either humorous or downright sad.

In order to avoid offending anyone in anyway we have come up with such linguistic acrobatics as Chair or Chairperson to replace chairman.

When I think of the Chair there in the front of the Chamber, I think of the position. I address the Chair. I am thinking of the position. But the person who is in the chair is not a chair. He is not a piece of wood; he is not a piece of furniture; he is the chairman.

Well, one may say what if it is not a ''he,'' what if it is a lady? Then I would say ''Madam Chairman.'' I would still refer to the person as the chairman. That has been the case for centuries —eons of time. And here in this latter part of the 20th century we have decided we have to change all that. So, I don't think of the distinguished Senator from Ohio, who presently presides over the Senate in a very dignified and efficient way—I don't think of him as a piece of wood. If I would refer to him personally, I would not call him ''the Chair.'' I would just as soon that nobody referred to me as a piece of wood, as a ''chair.'' I was the chairman of the Appropriations Committee. If we want to address the Chair, that is the position. I have no problem with that. But don't refer to me as ''the Chair.'' I may object to it.

I see letters that come to my office with reference to the ''chair.'' And I have told my staff, when you respond to such a letter, you should use the word ''chairman.'' Don't use the word ''chair.'' I am not going to get in that parade and go down that road, falling into that pothole of ''political correctness.''

So, we have come up with other linguistic acrobatics, in order to replace any reference to skin color other than white; and Native American to replace American Indian. Well, I am a native American. I was born in North Carolina. If I am not a native American, of what country am I a native? I am a native American. I have no problem with referring to the Indians as ''original'' Americans. But when they are referred to as ''Native'' Americans, I think that is demeaning to the Indians. I am a native American. But I don't pretend to be an original American—the American Indian.

Some day, in the misty future when political correctness is dead and gone, (may that day come with all speed) our descendants may remark on the peculiarity of such terms as ''Chairperson.'' Did it mean that the poor unfortunate soul possessed a body like a chair? Could it refer to the quality of one's intellect? Or maybe it was related somehow to one's lack of mobility—perhaps akin to the popular expression, ''couch potato.''

Gender neutrality, which is an absolute fetish in our country at this time, produces a plethora of strange choices for its adherents. What, for example, to be gender-neutrally correct, do we call a man-hole cover? How do we neutralize the very necessary ''his'' and ''her'' designations on restrooms? And whatever do we do to purge such common expressions as ''man-alive,'' ''he's a macho-man,'' ''he's a ladies man,'' and ''man overboard'' from the population at large?

If one stops to think about such things, it becomes absolutely ridiculous. It is laughable, indeed.

This insane preoccupation has even been carried so far as to apply to the good Lord and his words as related in Holy Scripture, as some ''new age'' Bibles have done.

I don't want any of them in my house. They won't find a resting place in my house. That kind of Bible will find its way to the wastebasket if it ever gets to me or to anybody in my family. We will stick with the King James version.

Personally, I think enough is enough when it comes to political correctness. I think we should all stop this unhealthy preoccupation and consider what effect it has had on the content of public dialogue in general. Far from erasing differences from the public mind, I think political correctness in all of its suspect forms has tended to overly accentuate them. In order not to risk offending anyone, we spend so much time focusing on race, gender, country of origin or whatever aspects of an individual we have to tiptoe around, that we then tend to ignore all of the other truly valuable and important aspects of that individual, such as brainpower, level of achievement, talent or quality of character. In other words, our anxious efforts not to emphasize such surface differences as race and gender have, in my view, paradoxically, had precisely the opposite effect.

On a more subtle level, political correctness has encouraged us to become much less honest with one another and with ourselves and, as a result, much less willing and able to come to grips with the troubling problems which beset our land. In our obsequious efforts not to offend anybody, we in public life thereby mentally partition our population into groups by race or by gender or by some other category, obscuring the inarguable fact that we are all citizens of the United States of America, that our fates hang together, and that public debate should, in the best of all worlds, be about what is good for the country, not what may appease this group or that group or this individual. That is one reason why I absolutely abhor hyphenated-American designations. They separate and divide us into arbitrary categories which are based for the most part solely on what the eye can readily see. And we find the same problem in our textbooks in the schools.

How can we help the entire population of our land, the men, the women, the blacks, the Hispanics, the white or the Asian populations, if we submerge honest and forthright discussions of what is best for the Nation in favor of pandering to the sensibilities of this group or that group? The answer is we can't. And the real answer is we don't want to. It is far easier to observe the customary taboos and the popular, awkward, and thoroughly phony norms of political correctness than to actually grapple with real problems in a meaningful and substantive way.

Personally, Mr. President, I hope that ''political correctness'' will soon go the way of high-button shoes or the lace-up corset. It is shop-worn window dressing far, far too constraining for a fast-moving, difficult age, crying out for courageous leaders, frank discussion, and innovative solutions.

Mr. President, I yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I believe we are in morning business.

The PRESIDING OFFICER. That is correct.

Mr. DORGAN. I ask unanimous consent to speak for as much time as I may consume in morning business.

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

KIDS AND SMOKING

Mr. DORGAN. Mr. President, we have been debating the tobacco bill in the U.S. Senate and will continue to debate that piece of legislation into next week and perhaps even beyond. I will begin a discussion on the subject of kids and smoking, and I will read into the RECORD pieces of information from the tobacco industry itself. Then, at the conclusion, I will ask the question and have all Americans ask the question: Were the tobacco companies and was the tobacco industry in America targeting our children as customers for their tobacco products?

If the answer is yes, then the question is not any longer whether there should be tobacco legislation; the question will be exactly what kind of legislation must we pass and how quickly can we enact it.

Let me begin with a few quotes. These are quotes from the tobacco industry that have been unearthed in various lawsuits and discovery proceedings.

Brown & Williamson, a 1972 company document:

It's a well-known fact that teenagers like sweet products. Honey might be considered.

Talking about the potential of adding honey to cigarettes to make them more appealing to teenagers.

RJR tobacco company, 1973:

Comic-strip-type copy might get a much higher readership among younger people than any other type of copy.

Talking about advertising, clearly a strategy that says—how do we advertise to kids? This from the RJR tobacco company.

Brown & Williamson, 1973:

Kool—The brand Kool—has shown little or no growth in share of users in the 26-and-up age group. Growth is from 16- to 25-year-olds . . . at the present rate, a smoker in the 16- to 25-year-age group will soon be three times as important to Kool as a prospect in any other broad-age category.

Is this a company interested in getting kids addicted to cigarettes? Sure sounds like it to me.

Philip Morris, 1974:

We are not sure that anything can be done to halt a major exodus if one gets going among the young. This group—now speaking of the young, according to Philip Morris—follows the crowd, and we don't pretend to know what gets them going for one thing or another . . . Certainly Philip Morris should continue efforts for Marlboro in the youth market . . .

R. J. Reynolds, 1974:

They represent tomorrow's cigarette business . . . As this 14- to 24-age group matures, they will account for a key share of the total cigarette volume—for at least the next 25 years.

In a 1975 report, a Philip Morris researcher writes:

Marlboro's phenomenal growth rate in the past has been attributable in large part to our high market penetration among young smokers . . . age 15 to 19 years old . . . my own data, which includes younger teenagers, shows even higher Marlboro market penetration among 15- to 17-year-olds.

That is a 1975 report from a researcher in Philip Morris. These are internal company documents:

To ensure increased and longer-term growth for Camel filter—This according to a 1975 RJR memo—the brand must increase penetration among the 14- to 24 age group which has a new set of more liberal values and which represent tomorrow's cigarette business.

RJR Nabisco, 1975, talking about increasing penetration among 14- to 24-year-olds.

R. J. Reynolds, 1976:

Evidence is now available to indicate the 14- to 18-year-old group is an increasing segment of the smoking population. RJR-T must soon establish a successful new brand in this market if our position in the industry is to be maintained . . .

Fourteen to 18-year-old kids. This is a tobacco document that says, ''We have to go after this to maintain our position.''

1978, Lorillard cigarette company:

The base of our business is the high-school student.

Philip Morris, 1979, writes:

Marlboro dominates in the 17 and younger category, capturing over 50 percent of this market.

What a cause for celebration at Philip Morris in 1979!

Marlboro dominates the 17-and-younger category, capturing over 50 percent of this market.

Marlboro Red, 1981, a Philip Morris researcher writes:

. . . the overwhelming majority of smokers first begin to smoke while in their teens. At least part of the success of our Marlboro Red during its most rapid growth period was because it became the brand of choice among teenagers who then stuck with it as they grew older.

Does this sound like a set of documents—and I am going to go on at some length to talk about these documents from the industry—does it sound like a set of documents from an industry without morals, without values? From an industry that sees 14-year-olds with dollar signs painted on their baseball cap?

Is that a company or an industry without values? I think so.

The Tobacco Institute, 1983. It says:

[Brown & Williamson] will not support a youth smoking program which discourages young people from smoking.

Well, there it is, I guess. They know who their customers are, and they target their customers. They try to addict these kids to cigarettes. And then they say, ''We will not support a youth smoking program discouraging young people from smoking.''

''Strategies and Opportunities,'' by R.J. Reynolds, 1984:

Younger adult smokers have been the critical factor in the growth and decline of every major brand and company over the last 50 years. They will continue to be just as important to brands [and] companies in the future for two simple reasons: The renewal of the market stems almost entirely from 18-year-old smokers. No more than 5 percent of smokers start after age 24. . . . Younger adult smokers are the only source of replacement smokers. . . . If younger adults turn away from smoking, the industry must decline, just as a population which does not give birth will eventually dwindle.

That is according to a strategies memo from R.J. Reynolds.

R.J. Reynolds, 1986, Camels.

[Camel advertising will create] the perception that Camel smokers are non-conformist, self-confident, and project a cool attitude, which is admired by their peers. . . . Aspiration to be perceived as cool [and] a member of the in-group is one of the strongest influences affecting the behavior of [young adults].

Well, those are just some, and the list is long.

After reading what has been unearthed from the bowels of the records of the tobacco industry about their attempts to addict our children to cigarettes, starting with a single sentence by one cigarette company that says ''the base of our business is the high school student,'' does anyone doubt that we have a tobacco industry who, for years in this country, has decided that their customers must be children? Because when you reach age 30—just as one of the researchers suggested, and wonder what will further enrich your life that you are now missing, you will not conclude that smoking is the activity you have missed. No adult that I know says, at age 30, ''Gosh, if I could just start smoking, I would further enrich my life.'' The only opportunity for new customers for the industry is to addict a child.

That brings me to the point of the legislation on the floor of the Senate. Some say this is punitive. Some say, ''What's all the fuss about?'' Well, fuss is about a country that says to the tobacco industry:

Tobacco is a legal product, but for adults, and it is amoral to try to addict our children, and we want to stop it. We want to say to the industry, ''We will not allow you to continue to profit by trying to addict America's children to nicotine. We will simply not allow it. And if you don't like it, tough luck. And if you lose money, too bad. But you cannot continue with impunity in this country to try to addict America's kids to cigarettes.'''

There have been a lot of claims about this legislation. I want to talk about a couple of those claims. We know from statistics that America is full of a lot of wonderful people. I do not know anyone that I am acquainted with who would want to live elsewhere. It is not that the rest of the world isn't wonderful—this is just a great place. And we are blessed to be able to live here in this time.

But there are challenges. Among those challenges is that every day 3,000

additional kids in our country start to smoke, and 1,000 kids will die because they started to smoke today. Today, and every day, when those 3,000 take their first cigarette, they consign—one-third—all with names, all with families, all with potential careers and dreams and hopes and aspirations—one-third will be consigned to die because they took up a habit that can kill you. And 300,000 to 400,000 people a year die in this country from smoking and smoking-related causes.

Smoking rates among high school students—10th and 12th graders—have increased for the last 6 years in a row. In my State of North Dakota, according to statistics 39 percent of high school kids under age 18 smoke.

We can do something to stop this, and that is the genesis of the tobacco legislation. Senator MCCAIN, from the Commerce Committee, the committee on which I serve, passed a piece of legislation to the floor of the Senate. I voted for it. Senator CONRAD, my colleague from North Dakota, has done exceptional work in this area working with Senator MCCAIN.

Incidentally, Senator CONRAD produced his own piece of legislation with a task force.

But we are attempting, on the floor of the Senate, to pass a piece of legislation that tells the tobacco industry: ''You cannot addict America's children. We won't allow it.''

In this debate, we are describing the record of the industry, because some still deny that the industry is targeting our kids. I do not think they can deny it any longer with any credibility. I think unearthing all of these memos, strategies, and words of the industry itself, saying—''We're going after your kids''—I think that destroys any credibility anybody had who says that the tobacco industry isn't targeting America's kids.

What does this legislation do? The legislation will increase the cost of a pack of cigarettes. The legislation on the floor will increase it by $1.10 a pack over 5 years.

What is going to happen with this money? Let me describe how the money will be used. First of all, the largest share of the money, 40 percent, will be returned to the States to compensate the States for the costs they have incurred as a result of tobacco-related illnesses—for example—the substantial increase to health costs, Medicaid, and others. The substantial increased costs that the States have incurred as a result of tobacco-related causes will be reimbursed by this price increase of tobacco.

The medical costs of smoking are estimated to be somewhere around $50 billion a year annually. Lost economic productivity, as a result of the medical conditions caused by smoking, is somewhere around $47 billion a year. The States incur medical costs of about $4 billion just caring for smokers. This legislation will reimburse them and their taxpayers for that range of costs that I have just described, somewhere close to $100 billion.

Twenty-two percent of the funding—aside from funding I have just described that will go to States—will be devoted to public health programs. Half will be dedicated to educate children about the dangers of smoking, to fund programs to reduce youth smoking, and a counteradvertising program to offset the extensive marketing efforts of the industry.

Rather than create the big bureaucracies that the tobacco industry claims would happen, what will happen is, these funds will be used by the States to try to develop efforts and coordinate advertising and other smoking cessation programs that we are convinced will work to teach and to persuade America's kids not to begin smoking.

Twenty-two percent of the funding will go to health and medical research largely through the National Institutes of Health (NIH). Frankly, I cannot think of anything we do in this country that has more impact, value and importance to every American than investments in health research.

What is happening at the National Institutes of Health is really quite remarkable. From breathtaking changes and breakthroughs in health coverage to health remedies which attempt to deal with disease and problems. And what we are trying to do is to increase the amount of investment and research for health care at the National Institutes of Health. That makes a great deal of sense to me.

So we are talking about a range of things—offsetting the costs the States have, smoking cessation programs, counteradvertising programs, prohibition on the industry's advertising, substantial investments in the National Institutes of Health, and a range of other things—that I think will be very beneficial. It will also allow someone 20 years from now to say that these companies were unable to devote advertising and unable to devote efforts to try to addict 14-year-olds. First, because you cannot advertise to them, and second, because we are going to counteradvertise, and we are going to have smoking cessation programs and other efforts to try to prevent you from addicting America's children to cigarettes.

There is in this piece of legislation some assistance for farmers, as well, because tobacco farmers will be impacted by this legislation, and we should be mindful of the problems caused for tobacco and to tobacco farmers as a result of this piece of legislation. Senator FORD has crafted an amendment that I think goes a long way in addressing the issue that will affect tobacco farmers from this legislation. We will be talking about that, I think, next week.

We have liability issues that are dealt with in this piece of legislation. I mentioned advertising restrictions. We had a problem affecting veterans that I think has been solved thanks to the work of Senator ROCKEFELLER from West Virginia and Senator WARNER, as well as the Senator from Arizona, Senator MCCAIN.

Those are the issues that I think are very important to our country with respect to the tobacco bill. My hope is that in the coming days, whether it be 3 or 5 days or a week and a half, that we will pass in the Senate a piece of legislation that all of us can be proud of.

I defy anybody, I defy one person of any political persuasion or of any philosophical bent, I defy one person to stand up on the floor of the Senate and defend this sort of behavior: Page after page after page of evidence that this industry knew that the teenagers of this country were their target audience and deliberately tried to addict children to smoking. I defy anybody to read this evidence and then tell me that is not the case. If you believe, as I do, that this industry has seen dollar signs on the heads of America's kids, and you believe that is wrong, then we must believe, together, that we have a responsibility to pass legislation of this type.

I am not saying every word is sacrosanct. There are plenty of ideas here to add to this that perhaps can improve it. I say at the end of the day we had better pass a piece of legislation that acknowledges the bankruptcy, the moral bankruptcy approach we have seen when we unearthed the information from the bowels of the tobacco industry.

COMPANY MERGERS

Mr. DORGAN. Mr. President, I spoke 2 weeks ago on a subject that I care deeply about. I want to just make a couple of additional points about it, and that is this orgy of mergers that is occurring in America today. You can't wake up and take a look at the business section of any newspaper in the country without seeing another big megamerger announcement.

I come from, I believe, the Jeffersonian side of my party and share very deeply the notion that the broad-based political freedoms in this country are nurtured by broad-based economic freedom. Broad-based economic freedom comes from dotting the landscape all across this country with individual entrepreneurs, businesses, broadly based and owned businesses all across this country. That represents the free enterprise system, people having dreams and hopes and starting a business and nurturing this business.

It doesn't mean to say that big is always bad or that small is always beautiful. It is just to say this country works best, our free enterprise system works best and the market system works best when this is not dominated by enterprises that choke competition. We have decided in law a long, long while ago those that are choking down competition and trying to clog the arteries of the marketplace are violating

the law. There is precious little enforcement these days. Antitrust activities are kind of out of favor. But we are seeing an alarming growth of mergers in this country.

As I start, let me again say not every merger is bad. I am not here to say that. There are times when the mergers of a couple companies make sense. But what is happening now is a wave of mergers that ought to be alarming to this country. Former Senator Hart, Phil Hart from the State of Michigan, did a lot of work on this issue. There is a building named after him here on Capitol Hill. He is probably the last person in Congress to talk much about merger activity and antitrust enforcement. It is not sexy and it does not win any friends. But it does lose friends.

Let me describe what happens. This chart shows merger completions in the last 15 years. Take a look at the exponential growth of mergers. This merger mania means you have fewer enterprises. They are buying each other, merging, some hostile takeovers, and two become one. It is like getting married. You have two people that court each other; you have two companies that court each other and they get married. You read it in the paper, but you don't even know they are dating. Sometimes it is a forced marriage as the case with hostile takeovers.

Here on this chart are all the marriages going on in corporate America—two become one. The railroad industry—we used to have a lot of railroads. Now we have a very few railroads. They tell us what they are going to haul and how they are going to haul it. If you don't like it, tough luck. The airline industry—we used to have a lot of airlines in this country. Now we have a few. They have retreated into regional hubs and dominate the hub and say here is where we will fly and here is what it will cost. If you don't like it, go buy a jet. The telecommunications industry—you talk about what is happening in telecommunications. All of these big telecommunications companies are looking around for suitors to find out who they can romance and who they can add to their collection. Pretty soon, ten companies become five and five become one. We have Baby Bells—they are not so baby anymore. Now they are getting married. So there are fewer Baby Bells because they are combining.

Let me just go through a couple of other charts to describe this circumstance. Here we have the value of merger activity in this country. In 1998, $1.7 trillion. It is moving up exponentially. Those who say that we believe in the free enterprise system, those who say that the market system is critically important to the success of this country ought to be concerned about this.

Let me show a chart briefly with respect to the largest mergers. I showed this 2 weeks ago and it has since changed because we had a chemical company and a pharmaceutical company that started dating and then they decided to announce they were getting married—Monsanto and American Home Products. On this chart are the 25 largest corporate U.S. mergers through June 2, 1998. Seventy billion, CitiCorp wants to join with Travelers Group. Fifty-nine billion, BankAmerica wants to join with National Bank.

While I am speaking about it, the banks, they of course, are a go-go industry with respect to mergers. Last year, there were 599 bank mergers. The biggest banks are merging as quickly as you can open your paper these days. About 75 percent of the domestic banking assets are held by 100 of the largest banks. The Federal Reserve Board has a policy. In fact, if you are big enough, they call it ''too big to fail.'' If you are big enough, you are never going to be allowed to fail because the consequences of the failure would be too detrimental to the country. There used to be 11 too-big-to-fail banks. Eleven is now 21 because all the big banks are getting bigger. So the next merger you see with one of those banks, there is no risk to them. They can't fail. The American taxpayer has to pay the risk of a merger that turns sour.

Small community banks especially understand this problem. Let me talk about the testimony of the president of the Independent Bankers Association of America. He says ''The evidence shows that increased concentration in banking has not benefited bank customers.'' He adds that ''larger banks charge higher fees, bank mergers have an adverse effect on consumer deposit prices, and small business lending receives a short shrift in a world of ever-larger banks.''

Banks are just one area. I just stop to say that if you take a look at this list, it is banks, railroads, telecommunications companies, defense companies. Frankly, I think it is alarming. I think Congress ought to pay some attention to this.

I represent a lot of farmers. Family farmers aren't merging. They are out there fueling up a tractor, trying to plow in seeds, hoping to get a crop. But when they market, they market back up through the neck of the bottle. If they market meat, if they are raising a cow and are going to market the meat from the cow. In 1980 the big four packing plants had 36 percent of the market. In 1994, the big four meatpacking plants in this country had 82 percent of the market. This means that if you are a farmer trying to market up through the neck of that bottle, the products of meat—in this case perhaps pork or beef—you are discovering that you are marketing up towards a monopoly. On the top they tell you what they will pay you for it. The same is true for the grain farmer.

My point is it doesn't matter whether you are on Main Street or running a family farm. If you are operating in an economy in which big interests are clogging the marketplace arteries, you have to be concerned that this system doesn't work for you. Congress has a responsibility and there are laws on the books that would require us to look carefully and closely at merger proposals to see, is this in the best interests of the country or will this injure the marketplace? Will this injure the free enterprise system? In some cases, maybe not; in some cases, maybe it will. In those cases, Congress has a responsibility to act.

We had a circumstance with respect to airlines. For example, not too many years ago we had a whole raft of merger proposals go to the Department of Transportation. The then-Secretary of Transportation never met a merger she didn't love. It didn't matter what it was. ''Just bring them up, and we'll try to merge them. We say amen, and we stamp 'Approved.'" The result is that we have had fewer airlines that retreated into regional monopolies. I think whether it is railroads, airlines, meatpacking plants, banks, or telecommunications companies, this country functions best and our market system and free enterprise system functions best when you have robust, aggressive competition. I worry very much that those who are supposed to be minding the store are paying precious little attention to some of these issues.

Finally, let me say an encouraging word about one person who is paying some attention, and that is Joel Klein over in the Justice Department. I will not talk about any of the specific cases before them, because I am not interested in doing that. But he is someone who heads the Antitrust Division. I hope this Congress provides substantial resources so that he has the capability and the people over there to investigate these mergers to determine whether they are in the best interest of the country or whether they violate the law with respect to antitrust. I want those who are supposed to be the referees with respect to the market system to make sure that competition abounds and the market system works. I want Mr. Klein, head of the Antitrust Division at Justice, to have the resources necessary to do that, and I hope my colleagues agree with me.

I am going to speak at greater length at another time. I apologize to the Senator from Arizona. He has been waiting. I wanted to make the point on mergers. I hope my colleagues on both the Republican and Democratic sides who have an interest in this issue and an interest in making certain that those mergers that are fine proceed unimpeded, but those that restrict and constrict and impede the market system ought to be looked at with a fine-tooth comb to determine whether they ought to be approved or rejected. I will have more to say on this at some point later.

With that, I yield the floor.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER (Mr. ENZI). The Chair recognizes the Senator from Arizona.

PRIVILEGE OF THE FLOOR

Mr. KYL. Mr. President, I ask unanimous consent that Jim Savage of my staff be accorded floor privileges during my remarks.

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

THE TOBACCO LEGISLATION

Mr. KYL. Mr. President, I want to discuss today the matter pending before us, S. 1415, the tobacco legislation. It is, as we have been told by many people, one of the most expensive, complex, far-reaching legislative proposals ever considered by the U.S. Senate. The stated goal of the proposal is, of course, nonpartisan and universally recognized—the reduction of teenage smoking. We all agree on that.

What a parent wants is for his or her children to grow up healthy and strong. No parent really desires that their children become addicted to tobacco use. The issue is, what is the best way of achieving that goal, to go about discouraging teen smoking and highlighting the dangerous health risks associated with tobacco while also preserving individual adult liberties.

At the Federal level, I think we should also remind ourselves that underage smoking is, at this time, illegal in all 50 States by State law. I think that as the Senate considers this legislation, we should keep some fundamental principles in mind and they should be part of any legislation we should eventually adopt.

Specifically, I think our legislation should include the following components:

One, we should ensure that teen smoking is reduced. There are a variety of mechanisms for doing that, including making vending machines inaccessible to children, conducting an advertising campaign specifically directed toward children's tobacco use. I think we should ensure that any tobacco tax increase does not create a black market. It is very difficult to know the magic point at which you have raised the price enough to discourage its use without having, however, raised it so much that you create a black market. I think it is probably very difficult to do that, as testimony before the Senate Judiciary Committee has confirmed.

I think we need to ensure that proceeds raised by any tax increase are primarily used for health-related purposes, such as Medicare, research for NIH, reimbursement to the States for their Medicaid expenses, particularly associated with tobacco illnesses, and increasing the self-employed health care tax deduction to 100 percent. In that regard, incidentally, if there are excess moneys left over from a tax, I think we should return it to the people. We could do that, among other ways, by significantly reducing the marriage penalty which is currently built into the Tax Code, that proposal already having been made by Senator GRAMM.

I think another principle that should be embodied in this legislation is to ensure that proceeds not be used to create new, or expand existing, non-health-care-related Federal programs. One of the worst things this body could do is to impose a huge new tax ostensibly relating to tobacco use and curing its effects but, in fact, generating money to serve totally unrelated purposes, as some of our colleagues suggest. That would be wrong.

I think another principle that should be embodied in any legislation we adopt is that attorneys involved in the litigation regarding tobacco not reap windfall profits at the expense of these education and smoking prevention programs, particularly when they are established for kids.

Finally, I think we should ensure that no provisions are included that are virtually certain to later be adjudged to violate the first amendment's protection to speech or other constitutional provisions.

Mr. President, the rest of the time I would like to address the link between tobacco use and drug use, especially by children, because while there has been much legitimate concern expressed about the dangers of teenage smoking—and about that, as I said, I think there is no disagreement—I think there has been insufficient attention paid to children's use of drugs and abuse of drugs and the Federal Government's responsibility to deal with that problem as well. There is an even greater danger of drug addiction, and the relationship between tobacco and drugs makes it clear that, in dealing with one, we can and should deal with the other. I think our outrage should have some perspective here, and if it does, we should all agree that drug use among children is much more dangerous than tobacco use, as bad as it is.

Now, I noted the connection between the two. Ironically, it appears to work both ways. For example, we have known for some time that cigarette smoking is often a precursor to drug addiction. So, obviously, this is another reason to deal with the problem of youth tobacco use. For example, a survey by the Substance Abuse and Mental Health Administration reported that almost 75 percent of teens surveyed had tried cigarettes before marijuana. Moreover, a 1996 national health survey on drug abuse showed that current smokers are more likely to be heavy drinkers and illicit drug users.

Equally disturbing is the apparent innovation by youth in combining tobacco and drugs. For example, some teens are now smoking cigarettes after they smoke marijuana in order to enhance their high. I learned last night that the reason for this is that apparently the methanol in some cigarettes physiologically allows greater absorption of the THC in marijuana and therefore does prolong or enhance the high. Others hollow out cigars and replace the tobacco with marijuana in order to maintain a better high. This behavior illustrates the undeniable connection between tobacco and drugs. For this reason, I support linking our effort to reduce teen smoking with that expanded antidrug effort.

I believe we have to keep in mind recent polls which show that the parents of this country are much more concerned about drug use than tobacco use. Their No. 1 fear is their children will become involved in illegal drug use. By contrast, in the May 1998 survey published by The Polling Company, a very recent survey, parental concern about juvenile tobacco use ranks No. 6 on the list. Only 3 percent of the parents cited that, whereas with respect to the No. 1 concern, drug use, 39 percent of the parents mentioned that as their primary concern with respect to their children.

According to Centers for Disease Control research, recently speaking to the New York Times, some kids maintain an illegal drug high by using tobacco, the same point that I had made earlier. And, obviously, what this means is for these kids illegal drugs are the gateway to tobacco use, and not the reverse, as I indicated earlier.

Drugs should be taken at least as seriously as tobacco. The two are undeniably linked. In dealing with one, we should deal with the other. I believe, therefore, that our effort to reduce teen smoking has to be tied to a renewed Federal commitment to reduce marijuana, cocaine, heroin, and methamphetamine use among both youth and adults. Incidentally, if we do that by a comparable amount, we will be reflecting the purpose of the Ashcroft proposal that has been presented to the Senate.

Let us look at some of the disturbing statistics. Prior to 1992, illegal drug use by high school seniors had fallen sharply, from 30 percent in 1985 to 14 percent in 1992. This is a very important statistic, because today people say we are losing the war on drugs, we can't win it, and therefore we ought to give up. Obviously, if we had said the same thing about tobacco use, we wouldn't be engaged in this important effort today to try to reduce tobacco use. But the people who say we have lost the war on drugs are wrong because of the statistic that I just cited. Once this country became engaged in the war on drugs, particularly trying to reduce the use of drugs in schools, the use by schoolkids of drugs dropped dramatically. It was cut in half.

Again, remember the statistics I am talking about. When we began this effort in about 1985, remember we created a drug czar's office, and Bill Bennett and others went out and campaigned fervently against drug use by kids. From 1985 to 1992, illegal drug use by high school seniors fell from 30 percent to 14 percent. So we were clearly making progress. We had made substantial progress. We were doing good.

What happened after 1992? The process reversed. And, frankly, the reason for that is inattention, and in some

cases downright hostility to the effort by the Clinton administration, and only recently reversed by the appointment of Gen. Barry McCaffrey as the drug czar. I think we can see that once we began to reassert our effort, we have begun to just barely see a little bit of progress.

During the first Clinton administration, illegal drug use among high school students doubled. Heroin use for 8th and 12th graders has more than doubled in the last 5 years. By 1996, one in four high school seniors and sophomores reported using drugs in the previous 30 days; 15 percent of 8th graders reported using drugs in the previous 30 days.

So the point of these statistics is that once we became engaged in the war on drugs, we dramatically reduced their use by kids. We cut it in half. What happened when we stopped? It went right back to where it had been.

Equally disturbing about our inattention to this problem over the last 5 years is the fact that, as a result, drug users are getting younger and younger. A survey last year by the Center for Addiction and Substance Abuse at Columbia University showed that 500,000 eighth graders began using marijuana in sixth and seventh grades. As we all know, there are more victims, incidentally, in this drug use than just the user because, of course, drugs are linked to crime. According to the Bureau of Justice Statistics, 36 percent of convicted jail inmates said that they were using drugs at the time of their offense in 1996. That was compared to 27 percent in 1989.

So by a third we found more drug use among those people committing crimes. Moreover, 16 percent of convicted jail inmates said they had committed their offense to get money for drugs. We believe the statistics are much higher. But at least it is astonishing that that number would admit that they committed their crimes in order to get drugs. We know one in four property and drug offenders had committed their crimes to get money for drugs. And in a place like Arizona, where you have such high property crime rates, we know the strong connection between the two. In my hometown of Phoenix, for example, we lead the country in another kind of theft—postal theft by addicts in order to get money.

According to the postal inspector, 90 percent of these thefts are committed by meth addicts. It is their preferred method of maintaining their high.

I also note, Mr. President, that in reminding ourselves of the connection between drug use and crime, to make the point that drug use is not a victimless crime, we should also think of the individual drug user and his or her family.

I recently held a field hearing in Phoenix primarily on the subject of methamphetamine use and the costs to society of having to clean up the meth laboratories and the environmental concerns and the dangers to people as a result of these toxic substances in their midst. But one of the witnesses was a young woman named Heather, a student, who told us about her beginning the use of drugs, starting with a free offer of drugs when she was in grade school, and working on up through the use of harder and harder drugs until, by her own words, she was a ''mess'' by the time she was in high school. She noted the fact that she wasn't the only person who was affected by her drug use. Her friends, her family, and, in particular, her mother were deeply affected by what she went through and what they had to bear as a result of her drug use. Fortunately, she was one of the ones who decided to try to kick the habit, and, after several difficult tries, appears now to be on a path of recovery and abstinence and of getting her life turned around.

But it is a terrible, terrible struggle for anyone, but certainly including kids who have become addicted to drugs, to try to get off of the drugs and turn their life around. In the context of the tobacco debate, I just ask everyone to think about this for a minute. We all get used to doing certain things that we know aren't good for us. It is hard to change our habits. We all, most of us at least when you get to our age, would like to lose a little more weight. We don't like the fact that gravity has its inevitable impact on our bodies, and we begin to not quite look like we did when we were 20 years old. We would like to eat a little less and have more self-discipline about our weight. It is hard to do. We would like to discipline ourselves to do other things. It is hard to do. We get to tobacco use, and we know it really becomes hard because there are physiological addictive qualities to nicotine that makes us crave tobacco. For many people, it is very, very hard to stop using tobacco as a result of that addictive quality. But as hard as that is, it is orders of magnitude more difficult for hard drug users and even soft drug users to stop their behavior to get over their addiction. It is much, much harder.

When you hear the story of a young woman like Heather and what she has gone through and how difficult it was for her, I think it makes it crystal clear to us that as we are focused on tobacco and because of the connection between tobacco and drugs it is also very important for us to take this opportunity at this time to also recommit ourselves to fight this war on drugs for the sake of the people who are becoming addicted to drugs every day, for the sake of their friends and the sake of their families, as well as the rest of us in society who end up bearing the costs of their addiction.

Because of the seriousness of this increase in drug use by our youth, I am very troubled that the goal of the administration in its 1998 National Drug Control Strategy is not more ambitious. What is its goal? Its goal is to get us back, a couple of years after the turn of the century, to where we were when President Clinton took office. That is not only not very ambitious, but I think we could say it does not even begin to express the degree of commitment that we ought to be making.

For the sake of the kids who at least are of junior high age today, we have to do better than that. That is why I am an original cosponsor of the Gramm-Domenici-Kyl Teenage Health Preservation Act. Let me just tell you a little bit about what the Teenage Health Preservation Act will do and why we think it is so important to be included within this tobacco legislation.

Because of the link between underage tobacco use, illegal drugs, and crime, as I indicated earlier, we have established several important provisions in this legislation that I think get to each of those problems.

First, we would establish a $5 billion antismoking, antidrug advertising campaign. We know that kids watch a lot of television. We know that they are susceptible to advertising. We know that there can be some very effective, good advertising telling them why they should not take on drugs or tobacco use. We would establish a five-member commission, with members nominated by the President, confirmed by the Senate, responsible for developing a comprehensive antidrug and antismoking advertising campaign. This $5 billion over 5 years would be funded out of the National Teenage Health Security Trust Fund established under the legislation.

We also establish some antidrug and antismoking provisions and penalties, increasing, for example, by 50 percent the drug interdiction budgets of the Customs Service, Coast Guard, and the Department of Defense for activities along the U.S.-Mexican border and the Caribbean region; doubling the number of Border Patrol agents to achieve a level of 15,000 over the next 5 years; increasing the law enforcement budgets of the DEA and FBI by 25 percent; adopting the McCain antismuggling language which directs the Treasury Department to require the placement of a unique serial number on each pack of cigarettes to assist in determining the location and date of production. It would impose penalties of not less than 10 years of imprisonment for any adult who sells drugs to a minor, and a second offense would be life in prison.

We would establish a Federal penalty of not less than 20 years for any person convicted of smuggling illegal drugs into the United States and, again, for a second offense, a penalty of life imprisonment. We would impose a fine of up to $100,000 and a term of imprisonment of up to 5 years for smuggling cigarettes into the United States. Those who would knowingly sell smuggled cigarettes to teenagers would face up to a year in prison and up to a $10,000 fine.

Mr. President, let me just note, some of these fines may sound very drastic,

but if we are going to get serious about this problem we have to do some very different kinds of things. I don't think it is too much to say that a fine up to $10,000 and up to a year in prison is too much for people who are smuggling cigarettes and selling them to teenagers, if we are really serious about this problem.

We would suspend Federal student loan eligibility for teenagers who use drugs or purchase cigarettes. The penalty for drug convictions would be a year's suspension of eligibility for Federal student loans, and a second offense would be a permanent loss of eligibility for student loans. For teen cigarette purchase, it would be a warning the first time around, a 6-months suspension of eligibility for the second offense, and a year's suspension for the third offense. So there would be important penalties attached to all of these.

We would establish a Teenage Health Security block grant program to the States. The distribution of the funds is linked to State adoption of sanctions for teenage tobacco use. The States themselves need to do more to enforce their already existing laws against youth smoking.

We would adopt the McCain requirement that warning statements on cigarette packages take up not less than 25 percent of the upper space on the pack on the front and back of each package. Importantly, as I said before, vending machine sale of cigarettes would be restricted to areas that are not accessible to children or teenagers.

The payment that would be called for here, we think, should be capped at a per-pack amount that is estimated to be below the trigger point of significantly increased black market activity. After financing the tax reductions—in other words, the self-employed health insurance deduction that we talked about earlier—all of the remaining amounts would be deposited in a new National Teenage Health Security Trust Fund. We think the total amount of the tax that would be required in this case would be on the order of 75 cents per pack.

We think that full deductibility of health insurance and smoking cessation programs is called for, and therefore under this legislation we would provide for an accelerated phase-in of a 100-percent deductibility of health care insurance for the self-employed, to be effective January 1, 1999. We would allow all workers not covered by an employer-provided insurance to deduct fully the cost of health insurance. This is the Roth proposal on the above-the-line deduction, so to speak.

In addition, low-income working taxpayers who are eligible for the earned-income tax credit could take advantage of the health insurance deduction. Specifically, the cost of health insurance premiums would be excluded from their modified adjusted gross income for purposes of the earned-income tax credit. This would not apply to an individual covered by employer-provided health insurance or by Medicaid. The cost of an FDA-approved smoking cessation program would be deductible and treated as an above-the-line deduction as well.

I mentioned the National Teenage Health Security Trust Fund in this proposal. It would finance all the programs and initiatives which are created by the legislation. The Department of the Treasury would establish an accounting mechanism necessary to ensure that the trust fund deposits and outlays are credited properly, and all expenditures from the fund would be outside the spending caps, but all would have to be appropriated on an annual basis. There would be no new entitlement or mandatory spending programs.

No distributions or expenditures from the fund would be permitted for any purpose other than a specific authorization provided in the Teenage Health Preservation Act. Any moneys remaining in the Trust Fund after the annual appropriations process has concluded would be transferred to Medicare.

I mention the increased funds for the National Institutes of Health. This legislation would earmark an additional $5 billion over the next 5 years from the trust fund to the NIH in addition to—in addition to—the $15.5 billion increases over 5 years already provided in our budget resolution of this year.

With regard to the State settlements with tobacco companies, we would guarantee the right of tobacco companies and the individual States to enter into legally binding—within the border of each State—settlement agreements, including limiting liability if that is what the States negotiated.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. KYL. Mr. President, I ask unanimous consent for 3 additional minutes to conclude my remarks.

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

Mr. KYL. Thank you. I will conclude with this brief description.

The windfall profits tax on lawyers' fees that I mentioned earlier would provide, for States where there have been tobacco settlements reached, lawyer fees above $1,000 per hour but below $1,500 an hour would be subject to a surtax of 20 percent, and fees in excess of $1,500 an hour would be subject to a surtax of 40 percent.

Bear in mind the level of fees I am talking about. While a good lawyer today might charge up to $200, $250 an hour—you know, the really superstars, maybe even $300 or $400 an hour—we are talking about $1,500 an hour here before this would kick in. But, amazingly, there are some lawyers who are getting far more than that in these tobacco settlements.

There are some other provisions in here, but I will not go into the details in the interests of time. Also pending before us right now is the Coverdell-Craig-Abraham Drug Free Neighborhoods Act. I also strongly support that legislation. That legislation has been adequately described by Senator COVERDELL a little bit earlier this afternoon. It has the drug-free teen drivers provision, the drug-free schools provision, which is very important. It emphasizes drug-free workplaces. I think it is very important for us to recognize that we are not going to be able to have drug-free workplaces if it is possible for people in this country to use drugs legally. Finally, there are key provisions for drug-free communities support.

I might just note, too, a couple of the very specific provisions of the bill that I particularly like. It bans free needles for drug addicts and has a very important money laundering provision and a registration of convicted drug dealers.

These are some important things that we can be doing to enhance the tobacco legislation before us to apply to the drug problem that also faces our youth today.

We can't let this opportunity slip to address the national drug problem at the same time that we are addressing the important tobacco issue. Underage smoking is a serious problem, but smoking doesn't result in the crimes against the person and property that illegal drug use does. We have to focus at least as much attention on the problem of illegal drug use as on the problem of underage smoking. It is important to remember, Mr. President, that underage smoking represents only 2 percent of all smoking occurring in the United States. Teenage drug addiction is a critical and growing problem within this country.

Thank you, Mr. President.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, will the Senator from West Virginia be speaking in morning business?

The PRESIDING OFFICER. The Senate is in a period of morning business with speakers allowed to speak up to 10 minutes.

Mr. ROCKEFELLER. I thank the Presiding Officer.

VETERANS AND HIGHWAY TECHNICAL CORRECTIONS BILL

Mr. ROCKEFELLER. Mr. President, I will address two subjects, primarily veterans and the highway technical corrections bill. But in this morning's Congressional Daily, the majority leader, when referring to the question of the matter of the treatment of disabled veterans who have been addicted to smoking and have become disabled because of that, said, ''Where was ROCKEFELLER when we passed this bill?'' And that is a quote.

The majority leader has publicly questioned my record on the issue of veterans' smoking-related disability rights, and I really thought I had a duty to set the record straight.

The Clinton administration has met with me on several occasions on the veterans smoking issue. I told the Director of OMB and I told the Secretary of Veterans' Affairs at least a year ago that I would vigorously oppose their proposal to deny veterans' disability rights. I have maintained that exact position all along.

When the Senate considered this year's Republican budget resolution in March, I offered an amendment to strike the budget language which would have transferred the smoking disability rights issue to the Transportation Appropriations Subcommittee and assumed denial of smoking-related disability rights—assumed denial of those rights. My amendment was defeated, frankly, fairly much along party lines.

When the ISTEA bill was brought to the floor by the committee, there were no provisions at all in that highway bill which would have denied veterans disability rights. I support, therefore, highways and I supported the ISTEA bill. I voted for it.

But in the course of the highway bill conference, language was inserted to deny smoking-related disability rights in the deep of the night, with no consultation—nothing. Of course, as we know now, even this midnight raid was not done correctly and requires major corrections, and I refer to the highway technical corrections bill. Since the conference report was not amendable, there was nothing that I could do about that. There was no opportunity to reverse at that point the injustice that was being done. I could not offer an amendment. It was called a conference report.

The corrections bill on TEA 21 provides for the first time, therefore, the opportunity to fully protect highways and veterans. We no longer need to make a choice of one over the other. Highways will remain fully authorized. They will not lose a dime. Veterans' disability rights will be preserved.

The Republican leader asked where was ROCKEFELLER? I am pleased to respond that I have been busy protecting the rights of disabled American veterans. That is where I have been.

Further, Mr. President, I rise to urge the Republican leader to bring up H.R. 3978, the highway corrections bill, for immediate floor consideration in the Senate. Our failure to have this corrections bill considered immediately will have a devastating impact on veterans' disability rights.

As I indicated yesterday to my colleagues, when H.R. 3978 is considered, I plan to offer an amendment—and nothing will stop me from offering an amendment if that bill comes up, and I will object to other bills coming up in order to force that bill to come up if I am able to so exercise my due parliamentary rights —I plan to offer an amendment to strike the veterans' disability compensation offset from the underlying conference report on H.R. 2400. I have asked for a very limited time agreement of 30 minutes equally divided—15 minutes for each side does not seem to me unreasonable—and then a vote.

As the Presiding Officer is very well aware, adoption of my amendment will have the effect of preserving current law; that is, it will preserve existing disability rights for veterans, the status quo. It will simply preserve what already exists—nothing new—what already exists, and will fully preserve each and every highway project that was included in the ISTEA bill. That is such an important point to make.

Some people think we are talking about removing billions of dollars from highways. We are not. Not one dime will be lost to highways. All of that money is going to have to be appropriated by the Appropriations Committee in any event. Let me repeat that: Every highway project in ISTEA, now TEA 21, will remain fully authorized after my amendment is adopted, if adopted. They will be in law, so to speak.

The highways will be in law. If the leadership permits the TEA bill to stand as is by failing to raise the corrections bill, veterans' disability rights will be eliminated and the current law will be changed. Smoking will be considered an act of ''willful misconduct'' in the military, and we will be cutting smoking-related disability benefits for veterans who became ill on active duty and those who became ill due to exposure to Agent Orange and those who became ill due to exposure to ionizing radiation. This goes far beyond the intended scope of even the conferees, I have confidence in that.

Mr. President, roads and bridges are, obviously, very important to the State of West Virginia, which is only 4 percent flat. I support highways. I support highway funding. Not a single project in West Virginia or in any other State—I repeat and repeat again—will be affected in any way by the amendment which I will put forward if given a chance.

This amendment is a proveteran amendment. It is simply whether we are going to deny disabled American veterans the rights they now have under the law. There has been a great injustice done to America's veterans, and this corrections bill is an opportunity to remedy that injustice.

Existing law requires the payment of disability compensation to veterans who can prove in a very complicated process that they became addicted to tobacco while in military service, if that addiction continued without interruption and resulted in an illness and in a disability. Addiction is the illness; addiction is the issue. The conference report on the highway bill rescinded—that is, cut—this compensation to disabled veterans for tobacco-related illnesses resulting from nicotine addiction that began in service.

This cut in veterans' disability compensation generated $17 billion in what only can be called the most extraordinary paper savings that I have come across in my 13 years in the Senate, and these paper savings were literally stolen from veterans and used to partially fund an unprecedented increase in the ISTEA fund.

Of course, anyone familiar with these claims for compensation for tobacco-related illnesses, and there will be few who are, knows that OMB's cost estimate is just a guess. They just guessed, and they sort of guessed in a way that they could pay for a lot of the other President's program ideas. I didn't appreciate that, but that is the game they decided they were going to play, and so that is what they did. They tried to talk me out of my objections to it, and they could not. That is my administration, not the Presiding Officer's. The so-called savings we are spending on highways are just that, they are paper savings.

Since 1993, the Veterans' Administration has only received less than 8,000 claims—the Presiding Officer will be interested in this; since 1993, there have been only 8,000 claims for these tobacco-related disability illnesses—and has granted only 200 to 300—200 to 300. So 27 million veterans and only 200 to 300 disability claims for smoking-related illnesses granted by the Veterans' Administration.

In arriving at its $17 billion estimate, the administration, for some unexplained reason, estimated that 500,000 veterans would apply for tobacco-related claims every year, Mr. President. It is absurd; it is ridiculous. It is a shell game. It was intended to pay for some of their other programs. And in the process, they wanted to cut off disability claims for veterans who are owed them. It is make-believe.

The amendment that I offer would maintain current law as is by reversing the highway bill's raid on veterans.

My amendment strikes no highway project. My amendment merely preserves VA's disability compensation for tobacco-related conditions as is.

I am sure we will hear a good deal of doomsday projections about the effect of this amendment. Again, here are the facts. The amendment does not otherwise affect the highway bill or the projects that it authorized. They remain the same. They are unaffected. My amendment will not bring down the highway bill, will not create a sequester. I can read you law on that. But I will spare the Presiding Officer that. But those who say that, ''Oh, this will cause a sequester and a cut in Medicare, Social Security,'' the Presiding Officer and others will hear that argument—that argument is wrong. That argument is wrong. Those are the contentions of those who would deny disability benefits to veterans.

When we argued this issue 2 months ago, when my amendment to the budget resolution was debated, I warned my colleagues that veterans would be justifiably outraged by this raid on their disability compensation program, and they are.

America's veterans perceive that Congress has turned its back on the Government's responsibility and promise to care for its veterans and on the role it played in fostering their addiction to tobacco—that is well known to the Presiding Officer and all other Members—distribution of free cigarettes in C-rations and K-rations; reduced prices; and they delayed the warning that appeared on tobacco in the military cigarettes until 5 years after it had been done at the civilian level.

Mr. President, we have spent weeks talking about addiction to tobacco and how powerful that addiction is and how that addiction has been fostered. Why is it when it comes to the issue of veterans and tobacco, it is viewed solely as a matter of personal choice? Why is it that this administration and this Congress believe that veterans should have had greater knowledge about tobacco's addictive properties when they began smoking than the general public did?

Veterans believe in doing their share and carrying their weight. They always have; they always will. But the Congress is not asking for cuts in all accounts this year, oh, no. In fact, we are not even demanding that others, such as Social Security disability recipients, lose smoking-related compensation. Again, only veterans are singled out for this treatment.

There has been a lot of talk about veterans and smoking in the last few months. So I want to make sure that my colleagues are not confused. The amendment that was adopted on Tuesday to direct a portion of the proceeds from the tobacco bill to VA health care in the tobacco bill, by voice vote, is only for health care. The tobacco-related amendment does not deal with disability benefits, compensation; only with health care, not compensation, benefits for tobacco-related illnesses. That is a major point.

Those of my colleagues who will seek refuge in the tobacco legislation need to reconsider. And, in fact, in some sadness I am not even sure there will be tobacco legislation. I hope otherwise. But one cannot be confident at this point.

In any event, some will say—and I close on this point—that the corrections bill puts in $1.6 billion for other veterans programs. And indeed it does. But our friends in the veterans community speak with one voice on this issue. And I agree. They cannot support the increase in benefits to one set of veterans to be paid by the cutting of important benefits to another set of veterans.

Veterans across this Nation reject this attempt to buy them off. That is why I urge support of my amendment. It is a simple choice. Again, the choice is not highways versus veterans. Highways are fully protected. Veterans are not. Please choose veterans.

I thank the Presiding Officer and I yield the floor.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Ohio.

Mr. DEWINE. Mr. President, I ask unanimous consent to proceed in morning business for the next 25 minutes.

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

TOBACCO LEGISLATION AND THE COVERDELL-CRAIG AMENDMENT

Mr. DEWINE. Mr. President, I rise this afternoon to support the Coverdell-Craig amendment. As the Chair knows, and Members know, the Coverdell-Craig amendment was offered yesterday to the underlying McCain tobacco bill. I congratulate my colleague from Georgia and my colleague from Idaho for this very worthwhile amendment.

Let me first, though, begin by saying, again, what I have said numerous times on the Senate floor in the last few weeks, and that is I support the underlying McCain bill.

It represents a unique and critical opportunity to change attitudes and to save young lives from the debilitating effects of smoking. All of us know, Mr. President, all too well, that youth smoking is a component of an even larger and more dangerous reality, the tragedy of youth drug use.

If we had to talk about the health problems in this country today, particularly if we want to talk about the preventable health problems in this country, we would talk about illicit drug use, we would talk about smoking, and we would talk about abuse of alcohol. Those three are clearly the three biggest, the things that will ultimately kill tens of thousands of Americans. They prey on our young.

So I think it makes sense, as we struggle in this Senate to come up with a comprehensive bill that deals with our tobacco problem in this country, that we also use this as an opportunity to deal with another problem, and certainly a related problem, and that is the use of illicit drugs. So I congratulate my friends and colleagues from Georgia and Idaho, Senator COVERDELL, Senator CRAIG, for this very good amendment.

I think we need to use this unique opportunity to address youth smoking. But we also need to take it one step further and address youth drug use. Doing so would make this even more effective, this current bill, the MCCAIN bill, even more effective in changing the young lives for the better.

Mr. President, drug trafficking remains a tragic reality of life in this country today. Let me share some facts with my colleagues.

Fact: Recent reports suggest that heroin trafficking from Mexico has dramatically increased.

Fact No. 2: The Caribbean is fast becoming once again a major illegal drug transit route.

Fact: While drug production and trafficking have been on the rise, our resources we, as a country, have dedicated for drug interdiction have dramatically declined.

In 1987, approximately 27 percent of the entire national drug control budget was dedicated to interdiction. During that period of time, the United States did, in fact, make a dent in the trafficking of narcotics. Cocaine seizures, for example, were significantly up.

However, Mr. President, starting in the early 1990s, the percentage of drug control funds devoted to interdiction has declined dramatically. In fact, by 1995, only 10 percent of the national drug budget was dedicated to interdiction—a very significant drop. By 1998, the percentage still remained at 10 percent. Looking at it another way, in 1992, over $2 billion was dedicated to interdiction purposes. But by 1995, only $1.2 billion was set aside for this specific matter.

Mr. President, let me be very clear. I strongly support—strongly support—increased funding to deal with the demand side of the drug situation that is finding ways to persuade Americans, particularly young Americans, that doing drugs is wrong, that it destroys lives, and destroys families, schools, and communities.

In a sense, Mr. President, we could argue that in the end reducing demand is the only real effective way to ultimately overcome the threat of drugs in this country today. As long as there is a demand for drugs, there will always be a supply. That is why education as well as drug treatment remains central long-term goals.

The amendment offered by the Senator from Georgia and the Senator from Idaho recognizes the need to invest in demand-reduction efforts, as well as the need to invest in interdiction efforts. However, reducing the demand for drugs is not going to be achieved overnight. It will take years, if not generations, to change minds and attitudes regarding the use or abuse of drugs.

I believe one way to reduce demand is to have an effective interdiction policy, one that will put a serious dent into the flow of drugs into this country. We must find ways to raise the cost of narcotics trafficking, making it far more difficult for drug lords to bring these drugs to our Nation and making the cost of drugs on the streets—whether that be the streets of New York, Los Angeles or Cleveland—making the cost of those drugs go up. Just like the underlying bill, we can impact demand by raising the street value of drugs, and we can do that by going after the supply routes.

There is an inverse relationship between the cost and consumption. I believe that is true with drugs. I believe that is also true with cigarettes. That is the basic principle of the McCain bill. I think it is logical to extend that principle, as my colleagues have done, Senator COVERDELL and Senator CRAIG, in this amendment.

As I mentioned, I do want to make it very, very clear: Drug interdiction,

which I am talking about this afternoon, is only one of the things that we have to do. We have to have good domestic law enforcement. We have to deal with the problem of treatment. Treatment does work. It is tough but it can, in fact, work. We can save lives. We have to continue to invest in treatment. Education prevention—that works, as well, as long as we are consistent. As long as we do something consistently through a child's life, it works. So we need to focus on that, as well.

Let me turn now to what I was talking about a moment ago, that is the need to increase our emphasis on drug interdiction. As I mentioned before, the Caribbean is becoming more and more the transit route of choice for drug traffickers. I made two visits to this transit zone in the Caribbean in the last several months. During my last visit, I learned that our agents in the Bahamas have seized more cocaine in the first 3 months of 1998 than in the past previous 3 years combined. With sufficient funding, interdiction efforts can make a huge difference. Clearly, drastic funding reductions have drastic consequences when it comes to results.

I had the chance on these visits to meet with the soldiers on the front lines, or sailors on the front lines of our war on drugs. I witnessed our strategy in action. I sat down with the experts, both military and civilian, the people who are actually on the front line, the people who are charged with carrying out the monitoring, the detection, and the interdiction of drugs. Given what I have learned during these visits and the conclusions I have reached, the amendment by the Senators from Georgia and Idaho could not have come at a better time. There is a dire need for a renewed commitment, a rededication of resources toward drug interdiction.

With energy and with adequate resources, our drug interdiction efforts can be improved. We cannot ask those tasked to implement our drug interdiction strategy to conduct their missions without the proper level of resources to do the job. One reason why is simple: This drug interdiction puts the lives of these law enforcement officers in danger. That is the nature of the business. We have to ensure that they have the best equipment, the best resources and the best intelligence so that they can carry out this mission, not only so they can be effective, but so they can do it in as safe a way as humanly possible. The men and women charged with interdicting drugs face a ruthless enemy who will go to great lengths to protect their cartel. We are dealing with millions and millions of dollars.

When I visited the Caribbean last month, I saw videos of drug traffickers in ''go-fast'' boats—that is what they are called, go-fast boats—that are made almost exclusively for the only purpose of bringing drugs up from Colombia, bringing up drugs from that part of the world. I saw videos of the go-fast boats literally running over Customs vessels in the shallow waters south of Florida during a nighttime interdiction pursuit. I believe we owe it to these law enforcement officers to ensure they have the proper equipment and manpower to do the job they were asked to perform. After all, it is unfortunate reality that the drug cartels don't have a budget process or a bureaucracy to slow them down. These drug cartels, these drug lords, are constantly adjusting to their environment and updating their equipment.

What kind of resources are we talking about? What kind of resources do I believe we are lacking? Let me use the U.S. Customs Service operating in south Florida as just one example. In 1986, Customs had 77 vessels and 124 maritime officers. Today, they are now down to 30 vessels and 23 officers. Funding for the Maritime Enforcement Program is down from $13.25 million—that was the figure in 1992—to $5.2 billion. So we have gone from $13.25 million in 1992 to $5.2 million in 1997.

Further, Customs no longer has a 7-day, 24-hour operation. To make matters worse, Customs not only lacks basic resources, they also lack 1990s technology. A Colombian go-fast boat can go between 80 and 90 miles per hour, while the few Customs go-fast boats that are available only top about 70 miles per hour. So not only does Customs lack resources in general, they lack the state-of-the-art equipment needed to match those of the drug lords.

On my most recent trip, I visited the Joint Inter-Agency Task Force located in Key West, FL. This is the primary hub for detection, monitoring, and interdiction efforts. During these visits, I saw firsthand that our government agencies there—and there are many—have tremendous monitoring and detection capability, and they are doing a good job. They can detect when a small, drug-carrying aircraft is leaving Colombia and making the journey across the Caribbean.

Unfortunately, however, while we may have the capability to detect and monitor drug trafficking in the Caribbean airspace, we do not have adequate resources and capabilities for the end game—the actual seizing of illegal drugs in transit. And the drug lords know this. For example, I was informed that of the total drug air events in the Bahamas from April of 1997 until April 1998, our U.S. agents state that there was only an 8-percent success rate of stopping drug air flights that have been detected—8 percent. That means approximately 92 percent got away. And though cocaine seizures are up, their concern is the higher amounts seized represent probably a fraction of the total amount of drugs coming through the area.

While in Key West, I was also briefed on specific interdiction efforts in the eastern Pacific. I was surprised to find out that in the eastern Pacific, off the coast of Mexico and Central America, up this region that is cut off on the map, the coast is virtually, literally clear for drug lords to do their business. Mr. President, this is simply not acceptable.

The U.S. Government—and I am talking about us—is not effectively dealing with this increasingly large threat in the Eastern Pacific. We have virtually no presence because of the lack of funding. I was briefed about an operation called Caper Focus, which would have focused on interdiction efforts in the area. We would have had a number of surface assets and aircraft to patrol the waters and interdict. This operation, unfortunately, was canceled before it started because of a Department of Defense decision to send the needed surface assets elsewhere. To date, this issue has not been resolved, and the coastal waters in the Eastern Pacific are open for drug business.

Mr. President, our men and women who work on interdiction matters on a daily basis are committed to success, but they are not getting the support that they really need from us. Because of limited resources, we are selectively spending resources—a little bit here and a little bit there, a little bit at a time, and in different places. This, of course, has tremendous negative consequences.

With more limited resources, we could seal off one or two of the so-called ''drug corridors,'' but the reality is that drug routes are constantly in flux, as the traffickers always seek to exploit the chinks in the armor of law enforcement. This phenomenon has been compared to the squeezing of a balloon—squeezing it at one end and it pops out on the other. That is the problem we have constantly run into in this antidrug effort. When we step up efforts in one area, like squeezing a balloon on one end, the traffickers just move to another area.

Let me give my colleagues an example of this. On one of my recent trips I saw that, in particular, Haiti has become an attractive rest-stop on the cocaine highway. Haiti is strategically located about halfway between the source country—Colombia—and the destination country—right here in the United States. Haitian law enforcement, though slowly getting better, is really unequipped to put a dent in the drug trade. What's more, their coast guard fleet, while it is improving and we are working with it, consists of a handful of boats. And as it is the poorest country in the hemisphere, by far, Haiti is extremely vulnerable to the kind of bribery and corruption that the drug trade needs in order to flourish. It is not surprising that the level of drugs moving through Haiti has dramatically increased.

According to a U.S. Government interagency assessment on cocaine movement, in 1996, between 5 and 8 percent of the cocaine coming into the U.S. passed through Haiti. By the third quarter of 1997, the percentage jumped 12 percent, and then it increased to 19 percent by the end of that year.

Mr. President, accordingly, because of that, we responded to this crisis with a military operation called Operation Frontier Lance. Operation Frontier Lance utilized Coast Guard cutters, speedboats, and helicopters to detect and capture drug dealers on a 24-hour per day basis. Incidentally, Mr. President, this operation was modeled after another successful interdiction effort off the coast of Puerto Rico, called Operation Frontier Shield. However, unfortunately, funding for Frontier Lance ran out and the operation just ceased. In fact, it ceased on Monday of this week. I had the opportunity to be on one of the cutters that was off the coast of Haiti and talk to the men and women who were so proud of the tremendous job they were doing. This potential roadblock on the cocaine highway is no more. Again, it ceased to exist this past Monday. The reality also is that Coast Guard funding has been slashed in the past several years. I think this is a mistake.

It is my hope that by passing the Coverdell-Craig amendment, we can jump start Operation Frontier Lance, and other similar programs. We need to get back into the game.

Now, Mr. President, our first and best resource in this antidrug effort, of course, is people. We are lacking in personnel in areas where we need it the most. Of the more than 100 U.S. drug enforcement agents authorized to be in the Caribbean, I was surprised to find only one agent in Haiti last March when I visited. Since my March visit, the DEA has agreed to add six more agents; that is clearly the direction in which we ought to go. But we also need additional manpower, men and women, to go to the Dominican Republic, and other areas of the Caribbean as well.

Mr. President, as I mentioned earlier, one of the major problems regarding our current interdiction efforts is that we are using scarce resources sparingly. The drug traffickers know that if we place resources in one or two selective places, they will just switch their routes and go elsewhere. A more logical approach, more funding permitting, would be to have more manpower and resources at different key places at the same time; or, in other words, ''squeeze the balloon'' at different ends—all at the same time. I believe that we can do that by passing the Coverdell-Craig amendment. That is why I support this timely amendment.

Mr. President, I believe it is time to rededicate ourselves to an effective interdiction strategy. A lot of good work is now going on. But we can do a lot more and we can do better. I have had the opportunity to see our efforts firsthand. We are competing with an enemy that has increased its resources to do the job, while we tragically have cut our resources by more than half. Having said that, I also believe that we must have a clear idea what we should expect with increased funding. In short, we need to ascertain from the relevant agencies, whether it be from the Navy, Coast Guard, Customs, DEA, FBI, or whatever the agency may be, what we can expect to accomplish with more resources, and we have to look to them to tell us what they think they can do. I believe it is our obligation to give them those resources and to give them the direction. My point is that we need to make sure that the Government agencies have the necessary amount of money and that they indeed strictly use the funds for counter-narcotics efforts.

Again, I want to commend my friend from Georgia, Senator COVERDELL, as well as Senator CRAIG, for their efforts in this regard, their efforts in combating the drug threat both within and beyond our borders. I look forward to working with them and other colleagues on this important, new initiative.

In conclusion, let me just say again how important I believe it is that we pass the McCain bill. It has been a struggle. No one should have expected it not to be a struggle. This is a big bill. It is comprehensive legislation. It is tough sledding. We knew that when we started. But we should not be discouraged. The stakes, I think, are very high. What are the stakes? The stakes are whether or not we are going to seize this historic opportunity to pass legislation that will, in fact, have a significant impact on reducing the number of young people who start smoking every day. The consequence of this legislation will affect not only young people today, it is going to impact our society for years and years to come. So we should continue, we should push on, and we should get the job done.

The amendment that I am speaking about this afternoon—I am sure we will be back on it again next week—which was brought to the floor by Senator COVERDELL, is an amendment that I believe will improve the McCain bill. It will improve it by taking some of the resources from the bill and using it in the antidrug effort, using it on drug interdiction, which I believe is so urgently needed. With some additional resources, I am convinced that the men and women who I have had the chance in the last several years to meet with, to see, that are on the front lines, along our borders—and I have had the chance to visit our borders—as well as in the Caribbean and other areas, I believe they can get the job done.

I believe that they can impact the drug trade. They can only do it though if we are willing to give them the resources and give them the backing to allow them to do that job.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill 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.

NATIONAL DRUG COURT WEEK

Mr. CAMPBELL. Mr. President, I begin my statement today thanking the various individuals and organizations that support the drug court programs. I have always been a strong supporter of drug court, and wish to express my pleasure with the ''National Drug Court Week'' events that are scheduled in Washington, DC this week. Recognizing the importance of practitioners who work on drug courts and the significant contributions that drug courts have made, and continue to make, in reducing drug use and crime in our communities is extremely important. I believe in the success of the drug courts and wish to acknowledge the dedicated efforts of drug court professionals.

Drug Courts are revolutionizing the criminal justice system. The strategy behind drug courts departs from traditional criminal justice practice by placing nonviolent drug abusing offenders into intensive court supervised drug treatment instead of prison. Some drug courts target first time offenders, while others concentrate on habitual offenders. They all aim to reduce drug abuse and crime.

Drug court programs have expanded from the original 12 in 1994 to around 400 today. Drug courts provide comprehensive judicial monitoring, drug testing and supervision, treatment and rehabilitative services, and sanctions and incentives for drug using offenders. The success of the drug court system is well documented. More than 70% of drug court clients have successfully completed the program or remain as active participants. Additionally, the cost of drug court programs are significantly less than the cost of incarceration and traditional court systems.

In my home state of Colorado the drug court movement is growing. Started in 1994, the Denver Drug Court assigns defendants to one of three tracks. Tracks 1 and 2 are community supervision and treatment tracks. Track 3 is a serious offender incarceration track. These tracks establish the different type of programs that are offered to various offenders.

Approximately 75% of all drug cases are appropriate for the community supervision track. At any given time, approximately 1500 cases are under court supervision. An analysis of post-conviction progress reviews of offenders under Track 1 or Track 2 demonstrates that 67% of those individuals complied with the Drug Court Program and did not use any illegal substances. Since the graduation of the first class in July 1995, the Drug Court has successfully graduated over 500 individuals. Of the 100 graduates who have been out of the Drug Court for one year or longer, only 10% have been rearrested for a felony offense.

Last year, General McCaffrey and I had the opportunity to observe the Denver Drug Court. Through this experience I was able to see first hand the judicial procedures surrounding drug

courts. I was impressed with Denver's Drug Court procedures, and believe in the success they will yield.

I am pleased with the success of the Denver Drug Court program and support the growing programs within Colorado. I believe the success of drug courts is well documented and strong Congressional support should be given to the rehabilitation of future drug offenders. Traditional incarceration has yielded little gains for our drug offenders. Costs are too high and the rehabilitation rate is minimal. The drug courts of America are an excellent way to make strides forward in our fight against drugs. I commend the National Association of Drug Court Professionals (NADCP) in their planning and sponsoring of ''National Drug Court Week'' events here in Washington. The recognition of this excellent program and promotion of its initiatives is well deserved.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Thursday, June 4, 1998, the Federal debt stood at $5,496,567,867,122.10 (Five trillion, four hundred ninety-six billion, five hundred sixty-seven million, eight hundred sixty-seven thousand, one hundred twenty-two dollars and ten cents).

One year ago, June 4, 1997, the Federal debt stood at $5,358,712,000,000 (Five trillion, three hundred fifty-eight billion, seven hundred twelve million).

Five years ago, June 4, 1993, the Federal debt stood at $4,301,348,000,000 (Four trillion, three hundred one billion, three hundred forty-eight million).

Twenty-five years ago, June 4, 1973, the Federal debt stood at $452,029,000,000 (Four hundred fifty-two billion, twenty-nine million) which reflects a debt increase of more than $5 trillion —$5,044,538,867,122.10 (Five trillion, forty-four billion, five hundred thirty-eight million, eight hundred sixty-seven thousand, one hundred twenty-two dollars and ten cents) during the past 25 years.

DEATH OF SENATOR BARRY GOLDWATER

Mr. MURKOWSKI. Mr. President, I rise today to speak of the passing of our former colleague, Senator Barry Goldwater—one of the giants of twentieth century American politics.

There is no doubt that Barry Goldwater was a transformational political thinker whose courage and conviction never wavered despite enduring a defeat in 1964. For in that defeat were sown the seeds of the Republican revolution that ultimately brought Ronald Reagan to the Presidency in 1980 and Republicans to control of Congress 14 years later.

Senator Goldwater was a man who never minced words. He was honest, open and forthright. After his 1964 Presidential hopes were completely vanquished, he observed ''When you've lost an election by that much, it isn't the case of whether you made the wrong speech or wore the wrong necktie. It was just the wrong time.'' In fact, Barry Goldwater was far ahead of his time and had the opportunity to see his beliefs vindicated when Ronald Reagan was elected President.

Barry Goldwater did not base his political views on focus groups or poll results. He had core beliefs and was not willing to bend them for temporary political advantage. He warned of the dangers of big government and the welfare state precisely at the time that Lyndon Johnson was constructing the largest expansion of government since the Depression. He preached a strategy of winning the cold war through a policy of peace through strength while the conventional wisdom argued for peaceful coexistence with a de-emphasis on military strength.

When the American Presidency was in crisis in 1974 after the Supreme Court had ruled against President Nixon's claims of Executive Privilege, Senator Goldwater joined several Congressional colleagues in a visit to the White House to give counsel to the President. Although he had long supported President Nixon throughout the ordeal of Watergate, most observers believe that his words were decisive in persuading the President that the case was hopeless and for the good of the Nation he must resign.

Mr. President, there are certain quotations that live on decades and centuries after a man has died, yet they capture the spirit of the time and the man. Two centuries ago, when America was heading into revolution, that spirit was best captured in the words of Patrick Henry: ''Give me liberty or give me death.'' The words of Barry Goldwater spoken 34 years ago at the Republican convention best sum up the spirit, clarity and wisdom that he will forever be remembered for: ''Extremism in the defense of liberty is no vice, and moderation in the pursuit of justice is no virtue.''

We will all miss this decent and honest man who made such a difference for America.

GOVERNMENT PICKING WINNERS AND LOSERS

Mr. ABRAHAM. Mr. President, I am compelled to rise today to comment once again on what I consider to be the troubling path that the Federal Government has taken with respect to this nation's high-tech industry. It has come to my attention that on Monday, the Federal Trade Commission will vote on whether to bring an antitrust action against Intel Corp.

In November of last year I warned the Senate Judiciary Committee during a hearing on the Department of Justice's investigation of Microsoft of the slippery slope of more government regulation of, and intrustion into, America's high-technology sector. Monday's proposed vote makes clear to me that we are well into our slide. We are now witnessing a revolution in antitrust action in which it appears the federal government seeks to influence the very terms on which intellectual property is shared within an industry. We already have an entire field of laws that deal with this Mr. President. They are called ''patents,'' and to the extent that there are deficiencies in patent law, this Congress is attempting to address those concerns through legislation.

We do not need the Federal Trade Commission's help in this endeavor. Let me make clear, I do believe in appropriate antitrust enforcement. In this industry, however, overzealous pursuit of alleged antitrust violations sends a chilling signal to one of this nation's most prized industries: Success is illegal, violators will be punished.

It is extremely important to keep in mind that our antitrust regulation is intended to protect consumers. I believe our central concern in looking at antitrust as it relates to the high-tech industry should be to ensure that consumers continue to see prices go down as the quality and variety of products go up.

American consumers are presented with a vast number of choices in the high-tech marketplace. One need only walk into one of the thousands of computer and software stores in America to find an enormous, even bewildering selection of hardware for every imaginable need. The overwhelming evidence indicates that competitiveness is alive and well in the high-tech industry—indeed, virtually the only monopolies that exist today are those that have been created by government.

Mr. President, it is time for Washington to get out of the business of picking winners and losers in the free market, and I am deeply concerned about the FTC's actions to this effect. I intend to closely monitor this matter, and I encourage my colleagues to join with me in expressing their concerns about the increasing amount of government intrusion into this sector of the economy.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting one nomination which was referred to the Committee on the Judiciary.

(The nomination received today is printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 2:30 p.m., a message from the House of Representatives, delivered by

Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House of Representatives to the bill (S. 1150) to ensure that federally funded agricultural research, extension, and education address high-priority concerns with national or multistate significance, to reform, extend, and eliminate certain agriculture research programs, and for other purposes.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3433. An act to amend the Social Security Act to established a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide beneficiaries with disabilities meaningful opportunities to return to work, to extend Medicare coverage for such beneficiaries, and to make additional miscellaneous amendments relating to Social Security.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate.

H. Con. Res. 285. Concurrent resolution expressing the sense of Congress that the President of the United States should reconsider his decision to be formally received in Tiananmen Square by the Government of the People's Republic of China.

At 3:04 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 284. Concurrent resolution revising the congressional budget for the United States Government for fiscal year 1998, establishing the congressional budget for the United States Government for fiscal year 1999, and setting forth appropriate budgetary levels for fiscal year 2000, 2001, 2002, and 2003.

MEASURES REFERRED

The following concurrent resolution was read and referred as indicated:

H. Con. Res. 285. Concurrent resolution expresssing the sense of Congress that the President of the United States should reconsider his decision to be formally received in Tiananmen Square by the Government of the People's Republic of China; to the Committee on Foreign Relations.

MEASURE READ THE FIRST TIME

The following bill was read the first time:

H.R. 3433: An act to amend the Social Security Act to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide beneficiaries with disabiliites meaningful opportunities to return to work, to extend Medicare coverage for such beneficiaries, and to make additional miscellaneous amendments relating to Social Security.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1275. A bill to implement further the Act (Public Law 94-241) approving the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, and for other purposes (Rept. No. 105–201).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

S. 1693. A bill to renew, reform, reinvigorate, and protect the National Park System (Rept. No. 105–202).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

H.R. 1460. A bill to allow for election of the Delegate from Guam by other than separate ballot, and for other purposes (Rept. No. 105–203).

By Mr. BENNETT, from the Committee on Appropriations, without amendment:

S. 2137. An original bill making appropriations for the Legislative Branch for the fiscal year ending September 30, 1999, and for other purposes (Rept. No. 105–204).

By Mr. CAMPBELL, from the Committee on Indian Affairs, with an amendment in the nature of a substitute and an amendment to the title:

S. 2069. A bill to permit the leasing of mineral rights, in any case in which the Indian owners of an allotment that is located within the boundaries of the Fort Berthold Indian Reservation and held in trust by the United States have executed leases to more than 50 percent of the mineral estate of that allotment (Rept. No. 105–205).

By Mr. DOMENICI, from the Committee on Appropriations, without amendment:

S. 2138. An original bill making appropriations for energy and water development for the fiscal year ending September 30, 1998, and for other purposes (Rept. No. 105–206).

By Mr. CAMPBELL, from the Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 1279. A bill to amend the Indian Employment, Training and Related Services Demonstration Act of 1992 to provide for the transfer of services and personnel from the Bureau of Indian Affairs to the Office of Self-Governance, to emphasize the need for job creation on Indian reservations, and for other purposes (Rept. No. 105–207).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SMITH of New Hampshire (for himself, Mr. HELMS, and Mr. ASHCROFT):

S. 2135. A bill to amend title 42, United States Code, to protect human life; to the Committee on the Judiciary.

By Mr. GORTON:

S. 2136. A bill to provide for the exchange of certain land in the State of Washington; to the Committee on Energy and Natural Resources.

By Mr. BENNETT:

S. 2137. An original bill making appropriations for the Legislative Branch for the fiscal year ending September 30, 1999, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. DOMENICI:

S. 2138. An original bill making appropriations for energy and water development for the fiscal year ending September 30, 1998, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. THURMOND:

S. 2139. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel YESTERDAYS DREAM; to the Committee on Commerce, Science, and Transportation.

By Mr. CAMPBELL:

S. 2140. A bill to amend the Reclamation Projects Authorization and Adjustment Act of 1992 to authorize the Secretary of the Interior to participate in the design, planning, and construction of the Denver Water Reuse project; to the Committee on Energy and Natural Resources.

S. 2141. A bill to require certain notices in any mailing using a game of chance for the promotion of a product or service, and for other purposes; to the Committee on Governmental Affairs.

S. 2142. A bill to authorize the Secretary of the Interior to convey the facilities of the Pine River Project, to allow jurisdictional transfer of lands between the Department of Agriculture, Forest Service, and the Department of the Interior, Bureau of Reclamation, and the Bureau of Indian Affairs, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SMITH of New Hampshire (for himself, Mr. HELMS, and Mr. ASHCROFT):

S.J. Res. 49. A joint resolution proposing a constitutional amendment to protect human life; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Ms. COLLINS (for herself, Mr. LOTT, Mr. HUTCHINSON, and Mr. ABRAHAM):

S. Res. 244. A resolution expressing the sense of the Senate on the ninth anniversary of the massacre of pro-democracy demonstrators on Tiananmen Square by military forces acting under orders from the Government of the People's Republic of China; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SMITH of New Hampshire (for himself, Mr. HELMS, and Mr. ASHCROFT):

S. 2135. A bill to amend title 42, United States Code, to protect human life; to the Committee on the Judiciary.

LEGISLATION TO PROTECT HUMAN LIFE

By Mr. SMITH of New Hampshire (for himself, Mr. HELMS, and Mr. ASHCROFT):

S.J. Res. 49. A joint resolution proposing a constitutional amendment to protect human life; to the Committee on the Judiciary.

CONSTITUTIONAL AMENDMENT TO PROTECT HUMAN LIFE

Mr. SMITH of New Hampshire. Mr. President, our Nation's founding document, the Declaration of Independence, ultimately proclaimed that the right to life comes from God and that it is unalienable. Life itself, the declaration

held, is the fundamental right without which the rights of liberty and the pursuit of happiness have no meaning. As the author of the declaration, Thomas Jefferson, wrote, ''The care of human life and not its destruction . . . is the first and only object of good government.''

It is important and I think proper to note that without that basic right of life, there is no liberty, there is no opportunity to pursue happiness in any way, shape, or form.

One hundred ninety-seven years after that Declaration of Independence, in 1973, the U.S. Supreme Court violated this most sacred principle of the declaration. In Roe versus Wade, the Supreme Court held that the entire class of unborn children—from fertilization to birth—have no right to life and may be destroyed at will. As we know, the statistics are pretty dramatic. Thirty-five million children since Roe versus Wade were denied the opportunity to be born. Without getting into the reasons or the explanations or the rationale, the result is that 35 million children were denied that right.

In subsequent cases, the Court has zealously guarded the right to abortion that the Court created. The Court has repeatedly rejected all meaningful attempts by the States to protect the unalienable right to life of unborn children since that decision in 1973.

Mr. President, those of us who support the pro-life cause must never lose sight of our ultimate goal. Our objective is very simple. It is not complicated. It is to keep the promise of the Declaration of Independence. There is only one way to do that, Mr. President, and that is to overturn Roe versus Wade and restore to unborn children their God-given right to life, a God-given right that our Constitution. I believe, and certainly the declaration, gave them. And the Court took it away—a court, by the way, that is sworn to uphold the Constitution.

In order to keep that hope alive in the Senate today, Mr. President, I am introducing two legislative proposals, and I am pleased and honored that the distinguished Senator from North Carolina, Mr. HELMS, and the distinguished Senator from Missouri, Mr. ASHCROFT, are joining me as original cosponsors of both measures.

Senator HELMS for many, many years—long before my time in the Senate—had the courage to stand here on the Senate floor day after day, week after week, taking insult after insult but supporting the lives of unborn children. I believe history will judge Senator HELMS very prominently in this regard. And Senator ASHCROFT, with less time in the Senate, is certainly a strong proponent and advocate of the right to life of unborn children.

Let me talk specifically about the bills—first, a bill, the Human Life Act of 1998. The human life bill sets forth the findings of Congress that ''the right to life is the paramount and most fundamental right of a person'' and that ''the life of each human being begins at fertilization.'' Based on these findings, and in the exercise of the power of Congress under section 5 of the 14th amendment, my bill establishes that the word ''person,'' as used in the Constitution, applies to all human beings, including unborn children, because, Mr. President, an unborn child is a human being.

I have never been able to understand the rationale, as many times as it has been debated here on the floor, how one can say that an unborn child is not a human being. Remember, if it is a human being, it deserves the right of protection under the Constitution of the United States.

As one Senator, I will freely admit that when fertilization occurred, I was created. There was a sequence of time that occurred after that caused me to be here today, standing on the floor of the U.S. Senate. If it had been interrupted at any stage from that moment of fertilization until today, I wouldn't be here.

The effect of this legislative determination that the unborn child is a human being and, therefore, a ''person'' would be to place unborn children under constitutional shield of due process and equal protection clauses of the 14th amendment. Thus, the right to life of every unborn person would be protected to the same extent that the right to life of all born persons is guaranteed by our Constitution.

Mr. President, today we have seen in this day and this age a number of violent acts: School shootings, violence of children upon children, of children upon parents, terrible violence. I think we have a cultural problem. Most Americans would not deny that.

I think it is fair to say that we need to set an example as adults—those who are supposedly leaders of our country not only here in the Senate, or in the White House, or in the Congress, but also at the head of our communities, our families, whatever else. Whatever the role we may play as parents, as citizens, or husbands, or wives. I think we have a role to set an example. I would ask here on the floor of the Senate my colleagues: Are we setting an example for young people to follow when, at the will of any individual at any time after fertilization occurs, we say or we tolerate that that unborn child's life may be ended? It is an innocent life. It is a life who can't speak here on the floor of U.S. Senate. No child who is unborn has the opportunity to stand up on the floor and say, ''I'd like to live; I'd like to have the opportunity to raise a family, to be a leader, to be a preacher, be a Senator, be a doctor, to cure cancer, to be a teacher, be a good mom, a good dad. I would like to have that opportunity.'' I think they would say if they could speak that they do not have that opportunity.

I think of those 35 million children, I say to my colleagues, since 1973 whose lives have been ended. How many of those children may have lived to find that cure for cancer or may have lived to have made a difference in a life—perhaps one of those lives of those children who took the lives of others? Perhaps one of these children who died may have been a counselor, may have been somebody on the spot who may have made a difference. We will never know, because those 35 million lives are gone—never had the opportunity to be happy, never had the opportunity to be successful, never had the opportunity to live—gone. And we did it. We did it because of that Supreme Court decision. It is wrong.

I am reminded of Abraham Lincoln—a totally different issue but very similar in terms of its scope. Abraham Lincoln didn't take polls when he stood up in the United States of America in the 1860s and said: Slavery is wrong. It is wrong to enslave an American, or any individual, because of the color of their skin. And he spoke out against it. He spoke out eloquently against it, and he didn't take polls. He didn't stand up at a press conference and say to his aide, ''I am going to examine the feelings of my constituents on this. Would you please take a poll and find out whether the majority of the American people favor slavery or oppose slavery?''

I am reminded of what Lincoln said. I don't have the exact quote in front of me. I am going to paraphrase it from memory. He said: They tell me not to oppose slavery in the slave States, because they have left the country, so it is not our concern. They tell me not to oppose slavery in the free States, because we don't need to because they are free. They tell me not to oppose slavery from the pulpit, because it is not religion. And they tell me not to oppose slavery in politics, because it causes too much of a fuss.

Substitute abortion for slavery in each of those four examples and you have the same situation. If we can't oppose it in any of the 50 States, if we can't oppose it in politics, if we can't oppose it in religion, where does that leave the unborn children who will never have the opportunity to stand up here and debate this issue?

The right to life of every unborn person should be protected to the same extent as the right to life of all born persons. How can anybody in America, any Christian in the Judeo-Christian culture of America, not believe that?

I know the insults. I have been the victim of them. I know the taunts. I know the recriminations that come from standing up here and making these comments. But it is nothing—nothing—compared to what those unborn children endure because they have been denied after they have been created by God himself. Man denies them the right to life, that life.

I am reminded of Gianna Jesson, a young woman, perhaps 23 or 24 now, who was aborted. She was aborted. I saw her sing ''Amazing Grace''in front of 1,000 people a couple of years ago in which she said ''I am thankful to my

God to be where I am today, and I forgive my mother.'' Well, I say that is powerful, Mr. President. I have never seen anything to equal it. Not from the lips of any politician or any pastor have I ever seen testimony stronger or more powerful than that young woman crippled by abortion standing up before 1,000 people and singing ''Amazing Grace.'' There was not a dry eye in the place. That woman deserved the right to live. So did every one of those other 35 million children who have been denied.

There is only one way to stop this. We can preach about it. We can talk about it. We can debate it in politics. We can sing, or be quiet and be silent. But there is only way to stop it. We have to change the Court. The Supreme Court is wrong. In 1857, the Supreme Court said in the Dred Scott decision that a slave could not sue in federal court because he was property and not human. Chief Justice Roger Taney made that decision. The Supreme Court is not omnipotent. Roger Taney was wrong in that decision. He was wrong. And *Roe* v. *Wade* was wrong. And we need to change it.

My bill provides that nothing—nothing—in it ''shall prohibit a law allowing justification to be shown for only those medical procedures required to prevent the death of either the pregnant woman or her unborn offspring as long as such a law requires every reasonable effort be made to preserve the lives of both of them.''

I am also introducing a joint resolution that would submit the human life amendment to the States for ratification as part of the Constitution of the United States. Specifically and more directly, I am introducing an amendment to the Constitution of the United States to protect the lives of unborn children. It has been done before. It has been introduced before, and it has gone nowhere. It doesn't mean that it should not be introduced again and again and again and again until somehow, someway the message is received in this country that we have to protect the lives of these innocent children.

Let me explain why I am proposing a human life amendment in addition to the human life bill. If the human life bill were to be enacted into law and its constitutionality upheld by the Supreme Court, it could be weakened or repealed by some Congress of the future. But a human life amendment to the Constitution could not be altered or repealed except by another constitutional amendment. Thus, my human life amendment would provide more durable protection to the fundamental right to life of unborn children.

Like the human life bill, the human life amendment restores the word ''person'' in the Constitution to its original and natural meaning by making clear that it includes all human beings—all human beings—born and unborn.

I have witnessed the birth of three of my children. It is a privilege that I am glad I had. I will tell you something. There is no difference between the 15 or 20 minutes before the child was born, when it was in the womb and I could not see it, and 15 or 20 minutes after the child was born when I saw my daughter and my two sons for the first time. There is no difference. Why is it right and proper under the law to kill that child 20 minutes or 20 days or 20 months before that wonderful time when the child comes into the world? Why is it right to do that and wrong to do it 20 minutes or 20 months or 20 years after? It is wrong in both cases. It is wrong in both cases.

So the human life amendment includes the same language as the bill regarding medical procedures required to prevent the death of either the pregnant woman or her unborn offspring.

I introduce these two legislative proposals and I realize as I stand here today that there is not sufficient support in the Congress to restore legal protection of the right to life of unborn children in this country, but I believe ultimately we will prevail. When the abolitionists stood in this Chamber in the 1820s and the 1830s and the 1840s and they said that slavery was wrong, they did not prevail either, but ultimately they did because they were right. And we are right. It is wrong to take the lives of unborn children, and someday, someway, somehow, the American people are going to come to realize this, and they are going to throw everybody out of here who will not support the changing of that court. That is what they are going to do.

One of our Nation's greatest Presidents, in my estimation, Ronald Reagan, had the same confidence that the right-to-life cause someday will prevail. He believed it deep into his being. I can remember meeting personally with President Reagan and discussing this issue with him. I know how deeply he felt about it, and I also know the attacks he had, but I would ask my colleagues who somehow are a bit timid to stand up; when this issue comes up, they hide, many of them. They are worried about the political repercussions. Well, those repercussions of politics are not as bad as what Gianna Jesson went through when she was aborted. Here is what Reagan said 14 years ago in a book called ''Abortion and the Conscience of the Nation.''

> Despite the formidable obstacles before us, we must not lose heart. This is not the first time our country has been divided by a Supreme Court decision that denied the value of certain human lives.

This is a reference to what I talked about earlier.

> The Dred Scott decision of 1857 was not overturned in a day, or a year, or even a decade. At first, only a minority of Americans recognized and deplored the moral crisis brought about by denying the full humanity of our black brothers and sisters; but that minority persisted in their vision and finally prevailed. They did it by appealing to the hearts and to the minds of their countrymen, to the truth of human dignity under God. From their example, we know that respect for the sacred value of human life is too deeply ingrained in the hearts of our people to remain forever suppressed.

Mr. President, I close by addressing my colleagues in the Senate. Each one of us, every one of us, started out in life as an unborn child. We were once, all of us, very small human beings living in our mother's wombs. As President Reagan wrote, ''Abortion concerns not just the unborn child, it concerns every one of us,'' because we would not be here if our parents had made that awful decision.

The English poet, John Donne said, ''Any man's death diminishes me, because I am involved in mankind; and therefore never send to know for whom the bell tolls; it tolls for thee.''

''It tolls for thee.''

My colleagues, regardless of where you have stood on abortion in the past, regardless of the acrimonious debate, regardless of the hard feelings, regardless of the political pressures, the contributions, the political attacks, I urge you to search your conscience and to search your soul and ask yourself, is it right, is it really right to kill an unborn child?

I am not interested in hearing about all of the social conditions of the person who is having the child. That is another issue. I am not asking you to comment about the plight of that child when it is born. That is another issue. I am asking you to think, reach down in your souls like you would have if you stood on this floor in 1840 talking about slavery, if you were an abolitionist. I am asking you to search your soul and I am asking you to say, Is it right; is it right? And if it is not right, then you have an obligation to support this amendment and to help me to right a wrong.

I am pledging here today in this Chamber that as long as I am a Senator, and as long as I am alive, I am going to work for the passage of this amendment. I have two cosponsors this morning. That is all I have. But I know there are more people who agree with me in both political parties. Frankly, I am going to be talking to them, every one of them. It is not an in-your-face situation. This is an in-your-heart situation—not the face, the heart. Is it right or is it wrong? If you can look me in the eye and tell me it is right to take the life of an unborn, innocent child, then I will not bother you anymore. But if you don't tell me that, then I am going to keep on bothering you and try to get your support.

I hope you will decide to join me in cosponsoring both of these measures and place the lives of the unborn children of our Nation once again under the protection of our great Constitution. The only way to do that, in my opinion, is through the amendment.

Mr. ASHCROFT. Mr. President, in America today, a great debate—a great division—exists over the issue of abortion. For some, abortion is about the so-called ''right to choose.'' For others, it is ultimately about control. For me, it is about something completely different. It is about life.

Abortion is, at its core, about the destruction of an innocent human life; a life that is unique in the history of the world—formed and shaped in the image of God; a life that has never been and will never be again.

''Abortion,'' said the late Mother Teresa, ''is the great destroyer.'' And so it is. More than thirty-five million lives have been lost in the terrible years since Roe versus Wade became the law of the land. It is a tragedy unmatched in modern times. For mother, for father, for child, abortion is never a real resolution. It is but a temporary answer that inflicts a permanent pain. It is a wound that does not heal; a wound, alas, that cannot heal.

Senator SMITH and I come to the floor this morning to stand against abortion and to stand for life. For we believe that the Fifth and Fourteenth Amendments to the United States Constitution protect every person's ''life.'' The protection designed by James Madison and adopted by the People is universal in scope. Its protection is unequivocal. It admits of no exception. ''No Person shall . . . be deprived of life.''

As this is the Constitution's ''plain meaning,'' I believe our proposed Human Life Act is a legitimate exercise of Congressional power under Section Five of the Fourteenth Amendment. However, while I support a statutory approach, I would, as I said before Senator East's Judiciary Subcommittee in 1981, go farther. For I also believe it necessary to amend the United States Constitution to restore its original meaning.

Mr. President, the Supreme Court's efforts to create an abortion jurisprudence from whole cloth demonstrate the difficulty of deviating from the view that life begins at conception. Every judicial effort to establish a time when constitutional protections magically kick in has been undermined by medical reality.

Earlier this year, I held a Constitution Subcommittee hearing to mark a profoundly sad occasion—the 25th anniversary of Roe versus Wade. At that hearing, we heard testimony about the relentless progress of medical technology in pushing forward the date of viability.

More recently, we have learned how judges in striking down bans on partial birth abortions have undermined birth as a clear line for when the constitutional protection for life begins—effectively legalizing infanticide.

Clearly, the Supreme Court, unguided by any constitutional text, has written themselves into a position that is legally, medically and morally incoherent. The experience of the past twenty-five years confirms the desperate need for the legislation and the proposed amendment we introduce today.

In thinking about this morning, I was reminded of my first run for Congress. I supported a Human Life Amendment in 1972—fully a year before Roe versus Wade was handed down. In 1981, as Missouri Attorney General, I argued before the United States Supreme Court on behalf of the unborn in Planned Parenthood versus Ashcroft. As Governor, I signed the pro-life law which became the basis for the Webster decision. And so, like Senator SMITH and Senator HELMS, I am not a newcomer to this debate.

But I stand before the Senate this morning not to discuss my past, but to talk about our future—about the kind of America we want to have in the next century.

Abortion makes a statement not only about the life of the unborn child, it makes a statement about the life it leaves behind. Sadly, it sends a message that life is expendable: life that is too young, too old, ailing, or tenuous. It says, ''You are worthless.'' It says, ''You are not important.''

To all who might hear my voice, I say, ''That is not the kind of statement America wants to make.'' It is not the message American wants to send. It is not the kind of America we want to be. Recall Deuteronomy, ''I have set before thee this day, life and death, blessing and cursing; therefore, choose life that both thou and thy seed may live.'' That both thou and thy seed may live, Mr. President. For an America that can be again—America the beautiful.

By Mr. GORTON:

S. 2136. A bill to provide for the exchange of certain land in the State of Washington; to the Committee on Energy and Natural Resources.

I–90 LAND EXCHANGE LEGISLATION

● Mr. GORTON. Mr. President, in 1984, I spoke in this Chamber to champion passage of a bill that would dramatically expand the Alpine Lakes Wilderness Area. The bill became law, and the wilderness area now boasts more than 390,000 acres of alpine and subalpine forests, 450 miles of trails, more than 500 lakes and countless peaks and pinnacles. It offers year-round opportunities for hikers, campers, skiers, fishermen, or those who simply want time away from urban life. It is arguably one of Washington's favorite recreational sites.

Today, I introduce legislation that would dramatically enhance the value of this recreational and environmental jewel—a bill to complete the I–90 Land Exchange between the Forest Service and Plum Creek Timber Company. The land exchange would bring up to 60,000 acres of forest land adjacent to the wilderness area into public ownership, creating a stretch of publicly owned forest from the southern border of the wilderness area to I–90.

Plum Creek would trade up to 60,000 acres of its land on the I–90 corridor of the Central Cascades for up to 40,000 acres of Forest Service land in three different forests. The benefits of the exchange are immense. It will place into public hands some of the last large blocks of privately owned old growth forest and increase publicly owned spotted owl habitat by 22,000 acres. It will bring into public ownership 14 miles of Pacific Crest Trail. It would eliminate much of the complicated checkerboard land ownership pattern, under which public and private entities each owns every other square mile of land. And it will fulfill a long-sought priority of Washington's environmental community—the public acquisition of prized sites such as Silver Creek, Scatter Creek, and Thorp Mountain.

There is a long history of controversy surrounding these lands. Although the land exchange has been under consideration in one form or another for more than a decade, this is the closest it has ever come to completion.

Conservationists began pushing for a resolution to the checkerboard ownership pattern back in the late 1970's. In 1986, the Forest Service and Plum Creek considered an exchange in the Silver Creek basin, the heart of the land exchange package under consideration today.

In 1988, with the support of local environmental groups and Plum Creek, a legislative proposal to complete the exchange was brought to Congress. When the bill was not considered, the Forest Service and Plum Creek launched an attempt to complete the exchange administratively. However, the listing of the spotted owl put the project on hold.

Since that time, some parcels have been acquired using the Land and Water Conservation Fund, but with such limited federal resources and such a vast amount of land, an exchange has proven to be the only way to bring a final resolution to the Central Cascades' checkerboard.

In fact, the Conference Report that accompanied the 1996 fiscal year appropriation for the Forest Service stated:

> The managers continue to encourage strongly the use of land exchanges as a way in which to protect important recreational or environmentally significant lands, in lieu of the Federal Government acquiring lands. The managers believe that land exchanges represent a more cost-effective way in which to do business and encourage the Forest Service to give high priority to those exchanges either nearing completion, or where land management decisions are made particularly difficult due to checkerboard ownership.

In August of 1995, Plum Creek and the Forest Service went back to the drawing board, and agreed to initiate the I–90 exchange. By mid-June of 1996, when Plum Creek signed a 420,000 acre Habitat Conservation Plan, Plum Creek and Secretary Glickman entered into a two year agreement to finish the exchange. Plum Creek agreed to withhold harvest on most of the exchangeable lands worth approximately $200 million during the two-year period, and although that deadline has now passed, Plum Creek agreed to extend it through the end of this year.

But we're still running out of time. If we fail, we will lose this opportunity to maximize the public benefits of this exchange. Neither Plum Creek nor the

Forest Service has the financial resources to continue endlessly this process. No one can reasonably expect Plum Creek to have the patience to continue on with this arduous and difficult process indefinitely.

If the I–90 Land Exchange is not completed by year's end, the exchange will begin to fall apart under the weight of an endless appeals process and litigation battles that could go well into the next century. And it's not reasonable to expect Plum Creek to sustain operations on the exchangeable lands through the indefinite and uncertain appeals process.

To put it bluntly, if the exchange is appealed, this current opportunity will be lost forever and we won't have another chance to acquire such a large block of some of Washington's premier forest land.

That's why I am introducing this bill. We need to keep all options open for finishing the land exchange on time. I understand that both Plum Creek and the Forest Service are still committed to the administrative process, and that's important. With the introduction of this bill and companion legislation in the House by Congressman DOC HASTINGS, we now have two options for finishing this land exchange on time and getting the most value out of the trade.

Ultimately, public support or public opposition will determine the outcome of the exchange, regardless of how it is completed. Passing a bill though Congress and earning the President's signature demands public support.

The building blocks are in place. In March, Washington State Governor Gary Locke wrote to President Clinton urging completion of the exchange by the end of the year. The State Legislature unanimously passed a resolution in support of the exchange. Recreational enthusiasts see the long-term value of bringing these lands into public ownership. Environmentalists recognize the value of blocking up these lands to create a habitat corridor for wildlife and to protect some of the last large blocks of privately owned old growth forest. And major newspapers have endorsed it.

Earlier this spring, the Seattle P–I described the dire consequences if this land swap was not completed this year. The PI–'s editorial stated: ''None of the land exchanges is apt to satisfy everyone involved. But if the lands are not consolidated, however imperfectly, it will be next to impossible to preserve them effectively for salmon or wildlife habitat. And that's a real lose-lose.''

Under the administrative process, however, it only takes one voice of opposition to file an appeal and kill the proposal for good.

The lands package outlined in this bill is not final as discussions and negotiations continue back in Washington state. I appreciate that all parties are at the table working towards a lands package that everyone can support, and I know from experience that these discussions take time and patience.

Mr. President, let me emphasize once more that the legislation I am introducing today is only a placeholder. It represents a starting point—albeit an excellent one—to achieve a consensus-based end product. I encourage the parties now at the table to continue their efforts and to expedite the completion of this large and vital exchange.

Mr. President, I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

CLOSE LAND TRADE OR EVERYONE LOSES

The parties to the Plum Creek timberland swap need to conclude their negotiations and get on with the next such trade.

The company, the Forest Service and environmentalists have spent more than two years negotiating a land swap in the Cascades that involves 100,000 acres now scattered in unmanageable public and private checkerboard ownership. The Sierra Club in particular gets high marks for taking a leadership role in making a priority of consolidation of checkerboard forest lands in this state.

But company officials now say that if the deal isn't closed by the end of the year, it's off. They have 20 percent of their harvestable timber base in this state tied up in the swap.

They also say they may go to Congress to get the deal immunized from lawsuits. That could poison environmental groups' enthusiasm for such trades in the future.

Conservationists and other groups are accusing the firm of high-handed tactics. They also complain that the deal doesn't give them all they want.

Not many such deals do. But this one leaves nearly everybody who wants something from Plum Creek better off than if the deal falls through and the company makes good on its threat to start logging the stands conservationists want to preserve.

If the deal doesn't go through, the company plans to build logging roads in 53 different areas. If it does, that number will be reduced to eight.

None of the land exchanges is apt to satisfy everyone involved. But if the lands are not consolidated, however imperfectly, it will be next to impossible to preserve them effectively for salmon or wildlife habitat.

And that's a real lose-lose.●

By Mr. THURMOND:

S. 2139. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Yesterdays Dream*; to the Committee on Commerce, Science, and Transportation.

CERTIFICATE OF DOCUMENTATION FOR THE VESSEL ''YESTERDAYS DREAM''

Mr. THURMOND. Mr. President, I rise today to introduce a bill to direct that the vessel, *Yesterdays Dream*, official number 680266, be accorded coastwise trading privileges and be issued a coastwise endorsement under 46 U.S.C. sections 12106 and 12108.

This vessel was purchased in 1984 by Duncan MacRae of Columbia, SC, for a pleasure boat. In attempting to establish a charter service, he discovered that the boat could not be used in a chartering business because the vessel was foreign built. For this reason, the boat did not meet the requirements for coastwise trading privileges in the United States. When Mr. MacRae bought his boat, he was unaware that it could not be legally used for its intended purpose.

Therefore, Mr. MacRae is seeking a waiver of the existing law because he wishes to use the vessel for charters. If he is granted this waiver, he intends to comply fully with U.S. documentation and safety requirements. The purpose of the legislation I am introducing is to allow *Yesterdays Dream* to engage in the coastwise trade and fisheries of the United States.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2139

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CERTIFICATE OF DOCUMENTATION.

Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), section 8 of the Act of June 19, 1886 (24 Stat. 81, chapter 421; 46 U.S.C. App. 289), and sections 12106 and 12108 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel YESTERDAYS DREAM, United States official number 680266.

By Mr. CAMPBELL:

S. 2140. A bill to amend the Reclamation Projects Authorization and Adjustment Act of 1992 to authorize the Secretary of the Interior to participate in the design, planning, and construction of the Denver water reuse project; to the Committee on Energy and Natural Resources.

DENVER WATER REUSE WATER AUTHORIZATION

Mr. CAMPBELL. Mr. President, I take the time today to introduce a bill that will help millions of water consumers throughout my state. The Denver Water Department has developed a unique plan to re-use non-potable water for irrigation and industrial uses. This bill would simply authorize the Denver Water Department to access federal funds to assist in the implementation of this plan. The Mayor of Denver has fully endorsed this legislation. I am delighted to assist the Mayor and the great City of Denver.

Denver Water Department serves over a million customers and is the largest water supplier in the Rocky Mountain region. Due to uncertain water supplies in the semi-arid west, it is critical to make wise use of every drop of water. With this in mind, over the past several years Denver Water has developed a plan to treat and reuse some of its water supply for uses not involving human ingestion, such as irrigation and industrial purposes. In this manner, Denver will stretch its

water supply without the cost and potential environmental disruption of building new reservoirs. It will also ease the demand on fresh drinking-quality water supplies.

The Denver Nonpotable Reuse Project will treat secondary wastewater, that is water which has already been used once in Denver's system. It is an environmentally and economically viable method for extending and conserving our limited water supplies. The water quality will meet all Colorado and federal standards. The water will still be clean and odorless, but since it will be used for irrigation and industrial uses around the Denver International Airport and the Rocky Mountain Wildlife Refuge, the additional expense to treat it for drinking will be avoided.

The nonpotable project is constructed in three phases and ultimately will result in an additional useable water supply of 15,000 acre feet. The use of the nonpotable water for irrigation and industrial customers will free potable water supplies for up to 30,000 homes.

Construction will include a treatment plant and a distribution system that is separate from the potable water system. Phase I will serve customers in the vicinity of the reuse plant, including a Public Service Company power plant, other industrial users and other public areas. Phase II will add irrigation for parks and golf courses in the former Stapleton Airport and the recently closed Lowry Air Force Base redevelopment areas. The Rocky Mountain Arsenal, which is being converted to a national wildlife refuge, will also use the reuse water to maintain lake levels on-site and to provide water for wildlife habitats. Phase III will service existing parks as well as new development of a commercial corridor leading to the Denver International Airport. With the construction of Phase II, the irrigation, heating and cooling, and car washing facilities at Denver International Airport will convert to reuse water, where a dual distribution system has already been installed.

This plan would benefit many Coloradans, and would help relieve many of the water burdens faced in the Denver region. Again, I'd like to thank Mayor Webb for his support, and I am hopeful this bill can be quickly passed and put into effect.

I ask unanimous consent that a copy of the Mayor's letter and the bill be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

S. 2140

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DENVER WATER REUSE PROJECT.

(a) IN GENERAL.—The Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. 390h et seq.) is amended—

(1) by redesignating sections 1631, 1632, and 1633 (42 U.S.C. 390h–13, 390h–14, 390h–15) as sections 1632, 1633, and 1634, respectively; and

(2) by inserting after section 1630 (43 U.S.C. 390h–12p) the following:

"SEC. 1631. DENVER WATER REUSE PROJECT.

''(a) AUTHORIZATION.—The Secretary, in cooperation with the appropriate State and local authorities, may participate in the design, planning, and construction of the Denver Water Reuse project to reclaim and reuse water in the service area of the Denver Water Department of the city and county of Denver, Colorado.

''(b) COST SHARE.—The Federal share of the cost of the project described in subsection (a) shall not exceed 25 percent of the total cost.

''(c) LIMITATION.—The Secretary shall not provide funds for the operation or maintenance of the project described in subsection (a).''.

(b) CONFORMING AMENDMENTS.—

(1) The table of contents in section 2 of the Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. prec. 371) is amended—

(A) by redesignating the items relating to sections 1631, 1632, and 1633 as items relating to sections 1632, 1633, and 1634, respectively, and

(B) by inserting after the item relating to section 1630 the following:

''Sec. 1631. Denver Water Reuse Project.''.

(2) Section 1632(a) of the Reclamation Projects Authorization and Adjustment Act of 1992 (as redesignated by subsection (a)(1)) is amended by striking ''1630'' and inserting ''1631''.

(3) Section 1633(c) of the Reclamation Projects Authorization and Adjustment Act of 1992 (as redesignated by subsection (a)(1)) is amended by striking ''section 1633'' and inserting ''section 1634''.

(4) Section 1634 of the Reclamation Projects Authorization and Adjustment Act of 1992 (as redesignated by subsection (a)(1)) is amended by striking ''section 1632'' and inserting ''section 1633''.

CITY AND COUNTY OF DENVER,
Denver, CO, May 15, 1998.

HON. BEN NIGHTHORSE CAMPBELL,
U.S. Senate,
Washington, DC.

DEAR SENATOR CAMPBELL: Please accept this letter as a statement of my support of the Denver Water Nonpotable Reuse Project. Your willingness to sponsor this worthwhile legislation adding the Denver project to the Title XVI authorized list is appreciated by the City and County of Denver. Nonpotable reuse has been identified as a critical element in the Denver Water Department's recent Integrated Resource Plan. Coupled with conservation and system refinements, it forms the core of the water supply needs for the Denver system for the next 20 years.

As you are well aware, the water resources in Colorado are limited and valuable. Reuse conserves potable water sources. This project will help to fulfill Denver's obligations under water decrees that provide for the importation of water from the Colorado River Basin. Those obligations require Denver to exercise reasonable steps which, in view of legal limitations and economic feasibility, provide for the reuse of imports so as to reduce or minimize Denver's demands on Colorado River sources.

Yours truly,

WELLINGTON E. WEBB,
Mayor.

By Mr. CAMPBELL:

S. 2141. A bill to require certain notices in any mailing using a game of chance for the promotion of a product or service, and for other purposes; to the Committee on Governmental Affairs.

HONESTY IN SWEEPSTAKES ACT OF 1998

Mr. CAMPBELL. Mr. President, today I introduce the Honesty in Sweepstakes Act of 1998.

Every day millions of senior citizens and other innocent consumers receive sweepstakes announcements that boldly announce that they have just won millions of dollars or some other prize, perhaps a luxury cruise, when in fact they have not. Millions of Americans also receive cashier's check look-alikes, made out to their name, and written for thousands of dollars, as a ploy to get them to purchase some product or service. But upon close scrutiny, these cashier's check look-alikes are actually worthless.

These two tactics are some of the most pervasive deceptive direct mail marketing ploys being used today. Theses slick direct mail marketing ploys prey directly upon the better elements of the American character: optimism, good nature, trust, and natural tendency to accept things at face value.

The recent increase of news reports detailing how American consumers are being deliberately misled into believing that they have just won a huge prize, only to find out later that they were taken advantage of, clearly shows that the problem is getting worse. All across our country, families' home mail boxes are being stuffed with increasingly deceptive direct mail marketing ploys, and senior citizens are particulary vulnerable to these deceptive tactics.

Something needs to be done to restore honesty in sweepstakes.

This legislation has two key provisions. The first ensures accuracy and honesty in direct mail sales promotions that use sweepstakes or other games of chance to entice consumers to buy their products or services. The second provision promotes honest forthrightness when cashier's check look-alikes are used in direct mail sales promotions. Together, this legislation's two key provisions will benefit American consumers, the U.S. Postal Service, and the direct mail marketing industry.

First, my bill will protect American consumers from deceptive marketing practices. It will accomplish this by requiring that direct mail marketers provide consumers with honest, up-front and clear disclosure of what is being sent to their mail boxes. These new disclosure standards will enable consumers to quicky separate mail that is truly important from mail that is deceptively designed to look important by masquerading as something that it is not.

Second, the bill helps the Postal Service do its job better. This bill will strengthen the Postal Service's efforts by enabling it to halt the delivery of deceptive mass mailings. This legislation will reassure the American people that the Postal Service is on their side, and not on the side of those who would

use the Postal Service to deliver deceptive marketing ploys.

Finally, this legislation will benefit the direct mail marketing industry as a whole. It will enhance the public image of the majority of direct mail marketers that are honest by compelling companies that use deceptive marketing practices, and whose activities taint the entire industry, to either clean up their act or get out. For many years, direct mail marketers have successfully sold their products without resorting to deception. Let's return to those days.

The Honesty in Sweepstakes Act is built on a solid foundation of precedents. The key principle for the sweepstakes portion of this legislation is based on the way in which lotteries clearly disclose important information, like the total chances of winning. As for achieving the same goal for the printed materials used in direct mail marketing, this honesty is achieved through requiring the disclosure to be printed on top and in easy to read font sizes. It is also similar to food labeling, letting you know what is inside the product. The cashier's check look-alike portion of this bill is founded on precedent in current law that allows the Postal Service to dispose of, or otherwise refuse to deliver, government look-alike materials. My bill simply expands this current statutory provision to include cashier's check look-alikes.

This bill addresses deceptive sweepstakes in two important ways. First, it requires an announcement to be clearly printed on the face of the envelope to state that ''This is a sweepstakes. You have not automatically won.'' This announcement must be clearly printed in a large 16 point font, or in an even larger font in some circumstances, so that it is crystal clear and easy for everyone to read. Many of our nation's seniors will especially benefit from this large font size requirement. Second, this bill requires that important information be printed clearly on the top of the first page of enclosed material, including the chances of winning the big prize being promoted and that no purchase is necessary to participate. For cashier check look-alikes, this bill calls for a 16 point font notice that ''This is not a check. This has no cash value.'' The days of deceptive marketers burying all of the important information and other disclaimers in fine print are numbered.

Enforcement is triggered by the consumers themselves. When people receive sweepstakes and cashier's check look-alikes that do not meet the honesty guidelines laid out in this bill, they should contact the Post Office and register a complaint. These consumer complaints can then trigger a postal investigation of the materials in question. If the Postal Service finds that the materials do not live up to the Honesty in Sweepstakes guidelines, the Postal Service can then dispose of the mail accordingly, either by disposing of it or returning it to the sender. As a result, marketers who are not complying with the Honesty in Sweepstakes standards will then take a loss on the production and postage costs associated with that mailing. Needless to say, the company will quickly learn its lesson and produce marketing materials that are more forthright and honest.

I have consulted with the Attorneys General of both my home state of Colorado, and of the state of Florida, which is in the forefront of the effort to fight deceptive sweepstakes practices. These two offices expressed support for both this bill's goals and new approach. The Attorneys General were also glad to hear that this bill contains a clause stating that nothing in this bill will preempt state law. This important clause gives each of our respective states the freedom to enact its own additional guidelines as it sees fit. I appreciate the helpful feedback and support these two states' Attorneys General have shown.

For too long, too many of our senior citizens and other innocent consumers have been victimized by deceptive sweepstakes and cashier's check look-alikes. This bill will end this practice, and I urge my colleagues to support its passage.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2141

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NOTICE REQUIRED ON MAILINGS USING GAMES OF CHANCE.

(a) SHORT TITLE.—This Act may be cited as the ''Honesty in Sweepstakes Act of 1998''.

(b) NOTICE REQUIRED.—Section 3001 of title 39, United States Code, is amended—

(1) by redesignating subsections (j) and (k) as subsections (k) and (l), respectively; and

(2) by inserting after subsection (i) the following:

''(j)(1) Matter otherwise legally acceptable in the mails that constitutes a solicitation or offer in connection with the sales promotion for a product or service that uses any game of chance of winning anything of value (including any sweepstakes) shall not be carried or delivered by mail, and may be disposed of as the Postal Service directs, unless such matter in conspicuous and legible type in contrast by typography, layout, or color with other printing on its face, in accordance with regulations which the Postal Service shall prescribe—

''(A) bears on the envelope the following notice: ''This is a game of chance (or sweepstakes, if applicable). You have not automatically won.'', or a notice to the same effect in words which the Postal Service may prescribe; and

''(B) bears on the top of the first page of enclosed printed matter the following notice: 'This is a game of chance (or sweepstakes, if applicable). You may not have automatically won. Your chances of winning are (insert applicable mathematical probability). No purchase is required either to win a prize or enhance your chances of winning a prize.', or a notice to the same effect in words which the Postal Service may prescribe.

''(2) Matter otherwise legally acceptable in the mails that constitutes a solicitation or offer in connection with the sales promotion for a product or service that uses any matter resembling a negotiable instrument shall not be carried or delivered by mail, and may be disposed of as the Postal Service directs, unless such matter bears on the face of the negotiable instrument in conspicuous and legible type in contrast by typography, layout, or color with other printing on its face, in accordance with regulations which the Postal Service shall prescribe the following notice: 'This is not a check (or negotiable instrument). This has no cash value.', or a notice to the same effect in words which the Postal Service may prescribe.

''(3) The notices described under paragraphs (1) and (2) shall be printed in a font which is the larger of—

''(A) 80 percent or more of the size of the largest font otherwise used in the matter; or

''(B) a 16-point font.

''(4) Nothing in this subsection shall preempt any State law that regulates advertising or sales of goods and services associated with any game of chance.''.

By Mr. CAMPBELL:

S. 2142. A bill to authorize the Secretary of the Interior to convey the facilities of the Pine River Project, to allow jurisdictional transfer of lands between the Department of Agriculture, Forest Service, and the Department of the Interior, Bureau of Reclamation, and the Bureau of Indian Affairs, and for other purposes; to the Committee on Energy and Natural Resources.

VALLECITO RESERVOIR TRANSFER LEGISLATION

Mr. CAMPBELL. Mr. President, today I introduce a bill that will allow the Bureau of Reclamation to transfer the title to the Vallecito Reservoir in southwestern Colorado to the Pine River Irrigation District. This transfer has been developed after close consultation and extensive meetings with the Pine River Irrigation District, the Bureau of Reclamation, the U.S. Forest Service and the Southern Ute Indian Tribe.

This bill contributes toward my ongoing goal of developing local cooperation and control of public resources, while addressing the concerns of managing site-specific resources, recreation, and environmental protection. It fits with my long-held belief that we need to downsize the role of the Federal Government, while allowing the State and local entities which are most affected to manage valuable resources.

For the past twenty-five years, the District has managed the Vallecito Reservoir for the Bureau of Reclamation. This bill will allow the District, which has developed extensive expertise and knowledge, to purchase the reservoir which they manage. The concerns of the public are addressed through provisions which require certain conditions be met before the title can be transferred. Once the transfer is complete the Pine River District will continue to manage the reservoir in compliance with State and Federal law.

This bill is a companion bill to H.R. 3715 introduced in the House of Representatives by our colleague Congressman SCOTT MCINNIS. The House already has held a hearing on this legislation. Therefore, I am hopeful that the Senate can move rapidly to complete this transfer.

ADDITIONAL COSPONSORS

S. 834

At the request of Mr. HARKIN, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 834, a bill to amend the Public Health Service Act to ensure adequate research and education regarding the drug DES.

S. 1252

At the request of Mr. D'AMATO, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 1252, a bill to amend the Internal Revenue Code of 1986 to increase the amount of low-income housing credits which may be allocated in each State, and to index such amount for inflation.

S. 1309

At the request of Mr. KERRY, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 1309, a bill to provide for the health, education, and welfare of children under 6 years of age.

S. 1325

At the request of Mr. FRIST, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 1325, a bill to authorize appropriations for the Technology Administration of the Department of Commerce for fiscal years 1998 and 1999, and for other purposes.

S. 1392

At the request of Mr. BROWNBACK, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of S. 1392, a bill to provide for offsetting tax cuts whenever there is an elimination of a discretionary spending program.

S. 1413

At the request of Mr. LUGAR, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 1413, a bill to provide a framework for consideration by the legislative and executive branches of unilateral economic sanctions.

S. 1481

At the request of Mr. DEWINE, the names of the Senator from Illinois [Mr. DURBIN] and the Senator from Maine [Ms. COLLINS] were added as cosponsors of S. 1481, a bill to amend the Social Security Act to eliminate the time limitation on benefits for immunosuppressive drugs under the medicare program, to provide for continued entitlement for such drugs for certain individuals after medicare benefits end, and to extend certain medicare secondary payer requirements.

S. 1868

At the request of Mr. NICKLES, the name of the Senator from Maine [Ms. COLLINS] was added as a cosponsor of S. 1868, a bill to express United States foreign policy with respect to, and to strengthen United States advocacy on behalf of, individuals persecuted for their faith worldwide; to authorize United States actions in response to religious persecution worldwide; to establish an Ambassador at Large on International Religious Freedom within the Department of State, a Commission on International Religious Persecution, and a Special Adviser on International Religious Freedom within the National Security Council; and for other purposes.

S. 1903

At the request of Mr. THOMAS, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 1903, a bill to prohibit the return of veterans memorial objects to foreign nations without specific authorization in law.

S. 2078

At the request of Mr. GRASSLEY, the name of the Senator from Idaho [Mr. KEMPTHORNE] was added as a cosponsor of S. 2078, a bill to amend the Internal Revenue Code of 1986 to provide for Farm and Ranch Risk Management Accounts, and for other purposes.

S. 2128

At the request of Mr. STEVENS, the names of the Senator from Alabama [Mr. SHELBY] and the Senator from Missouri [Mr. ASHCROFT] were added as cosponsors of S. 2128, a bill to clarify the authority of the Director of the Federal Bureau of Investigation regarding the collection of fees to process certain identification records and name checks, and for other purposes.

SENATE CONCURRENT RESOLUTION 94

At the request of Mr. ABRAHAM, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of Senate Concurrent Resolution 94, a concurrent resolution supporting the religious tolerance toward Muslims.

SENATE CONCURRENT RESOLUTION 101

At the request of Mr. ABRAHAM, the names of the Senator from Wisconsin [Mr. FEINGOLD], the Senator from Maine [Ms. SNOWE], the Senator from Florida [Mr. MACK] and the Senator from Arkansas [Mr. HUTCHINSON] were added as cosponsors of Senate Concurrent Resolution 101, a concurrent resolution expressing the sense of the Congress that the President of the United States should reconsider his decision to be formally received in Tiananmen Square by the Government of the People's Republic of China.

SENATE RESOLUTION 235

At the request of Mr. AKAKA, the names of the Senator from Michigan [Mr. ABRAHAM], the Senator from Illinois [Ms. MOSELEY-BRAUN] and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of Senate Resolution 235, a resolution commemorating 100 years of relations between the people of the United States and the people of the Philippines.

SENATE RESOLUTION 244—EXPRESSING THE SENSE OF THE SENATE ON THE NINTH ANNIVERSARY OF PRO-DEMOCRACY DEMONSTRATORS ON TIANANMEN SQUARE

Ms. COLLINS (for herself, Mr. LOTT, Mr. HUTCHINSON, and Mr. ABRAHAM) submitted the following resolution; which was considered and agreed to:

S. RES. 244

Whereas in the spring of 1989, thousands of students demonstrated in Tiananmen Square in Beijing in favor of greater democracy, civil liberties, and freedom of expression in the People's Republic of China (PRC);

Whereas these students' protests against political repression in their homeland were conducted peacefully and posed no threat to their fellow Chinese citizens;

Whereas on the evening of June 4, 1989, these students were brutally attacked by infantry and armored vehicles of the People's Liberation Army (PLA) acting under orders from the highest political and military leadership of the PRC;

Whereas hundreds of these students were killed by the PLA in Tiananmen Square on June 4, 1989 for offenses no more serious than that of seeking peacefully to assert their most basic human, civil, and political rights;

Whereas many of the leaders of the student demonstrations thus attacked were subsequently imprisoned, sought out for arrest, or otherwise persecuted by the Government of the PRC;

Whereas during or shortly after the brutal assault of June 4, 1989, at least 2,500 persons were arrested for so-called ''counter-revolutionary offenses'' across China and dozens of persons were executed;

Whereas the Chinese government has never expressed grief for its actions on June 4, 1989, still imprisons at least 150 persons in connection with the Tiananmen Square demonstrations, and has continued to deny its citizens basic internationally-recognized human, civil, and political rights;

Whereas the Government of the PRC, as detailed in successive annual reports on human rights by the United States Department of State, still routinely and systematically violates the rights of its citizens, including their rights to freedom of speech, assembly, worship, and peaceful dissent; and

Whereas the Tiananmen Square Massacre has become indelibly etched into the political consciousness of our times as a symbol both of the impossibility of forever denying a determined people the right to control their own destiny and of the oppressiveness and brutality of governments that seek to do so: Now, therefore, be it

Resolved, That, in the interest of expressing support for the observance of human, civil, and political rights in China and around the world, it is the sense of the Senate that—

(1) the United States Government should remain committed to honoring the memory and spirit of the brave citizens of China who suffered and died in Tiananmen Square on June 4, 1989 for attempting to assert their internationally-recognized rights; and

(2) supporting the peaceful transition to democratic governance and the observance of internationally-recognized human, civil, and political rights and the rule of law in China should be a principal goal of United States foreign policy.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

AMENDMENTS SUBMITTED

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

WELLSTONE AMENDMENT NO. 2458

(Ordered to lie on the table.)

Mr. Wellstone submitted an amendment intended to be proposed by him the bill (S. 1415) to reform and restructure the processes b which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the advers health effects of tobacco use, and for other purposes; as follows:

At the appropriate place in title XI, insert the following:

SEC. ___. SALE, DISTRIBUTION, AND ADVERTISING OF TOBACCO PRODUCTS IN FOREIGN COUNTRIES.

(a) AMENDMENT TO CHAPTER VIII.—Chapter VIII of the Federal Food, Drug, and Cosmetic Act is amended by adding at the end the following:

"SEC. 804. SALE, DISTRIBUTION, AND ADVERTISING OF TOBACCO PRODUCTS IN FOREIGN COUNTRIES.

''(a) REGULATIONS.—Not later than 2 years after the date of the enactment of this section, the Secretary shall promulgate regulations to—

''(1) prohibit domestic concerns from—

''(A) selling or distributing tobacco products in a foreign country to children; or

''(B) advertising or promoting tobacco products in a foreign country in a manner that appeals to children;

''(2) require domestic concerns to ensure that any person under the control of a domestic concern does not engage in conduct that would be prohibited under this section if engaged in by the domestic concern; and

''(3) require domestic concerns to take all feasible measures to ensure that tobacco products bearing a brand name controlled or used by a domestic concern are not sold, distributed, advertised, or promoted in a manner that would be prohibited under this section if engaged in by a domestic concern.

''(b) INTERPRETATION.—For purposes of this section, advertising or promoting tobacco products in a manner that would not be lawful under this Act if it occurred in the United States shall be deemed to be advertising or promotion that appeals to children.

''(c) DEFINITION.—The term 'domestic concern' means—

''(1) any individual who is a citizen, national, or resident of the United States; and

''(2) any corporation, partnership, association, joint-stock company, business trust, unincorporated organization, or sole proprietorship which has its principal place of business in the United States or which is organized under the laws of a State of the United States or a territory, possession, or commonwealth of the United States.''.

(b) ENFORCEMENT.—Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C 331) is amended by adding at the end the following:

''(bb) The violation of any requirement under section 804.''.

SESSIONS (AND OTHERS) AMENDMENT NO. 2459

(Ordered to lie on the table.)

Mr. SESSIONS (for himslf, Mr. JEFFORDS, Mr. ENZI, and Mr. FAIRCLOTH) submitted an amendment intended to be proposed by them to the bill, S. 1415, supra; as follows:

Beginning on page 435, strike line 12 and all that follows through line 4 on page 442, and insert the following:

SEC. 1413. NATIONAL TOBACCO COMPENSATION PROGRAM.

(a) ADMINISTRATION BY SECRETARY.—The Secretary of Health and Human Services (referred to in this section as the ''Secretary'') shall administer the Voluntary National Tobacco Compensation Program (referred to in this section as the ''Program'') established under this section.

(b) VOLUNTARY PAYMENTS BY INDUSTRY.—

(1) CERTAIN TOBACCO PRODUCT MANUFACTURERS.—The amount of the voluntary contributions described in this subsection for each year during which the Program is in existence shall equal, in the aggregate, $8,000,000,000, to be apportioned as follows:

(A) Phillip Morris Incorporated—65.8 percent.

(B) Brown and Williamson Tobacco Corporation—17.3 percent.

(C) Lorillard Tobacco Company—7.1 percent.

(D) R.J. Reynolds Tobacco Company—6.6 percent.

(E) United States Tobacco Company—3.2 percent.

(2) CONTRIBUTIONS IN FUTURE YEARS.—If contributions under paragraph (1) result in amounts in the fund exceeding $25,000,000,000 in any fiscal year, any such excess amount shall be made available to the States as provided for in section 452.

(3) NO CONTRIBUTION FROM OTHER TOBACCO PRODUCT MANUFACTURERS.—No other tobacco product manufacturer may make contributions under this subsection unless such manufacturer is the successor or assign of one or more of the manufacturers described in paragraph (1).

(4) COMMENCEMENT OF PROGRAM.—The Program shall commence operations on the date on which at least 1 manufacturer has paid the full share of its contribution under this subsection. The Program shall only be available to those manufacturers that have contributed their full shares under this subsection.

(c) RESPONSIBILITY OF SECRETARY.—The Secretary shall administer the Program pursuant to the guidelines established by the National Tobacco Compensation Commission established under subsection (d).

(d) NATIONAL TOBACCO COMPENSATION COMMISSION.—

(1) ESTABLISHMENT.—There is hereby established a commission to be known as the ''National Tobacco Compensation Commission'' (referred to in this subsection as the ''Commission'').

(2) COMPOSITION.—The Commission shall be composed of 7 members, of which—

(A) 1 member shall be appointed by the President;

(B) 2 members shall be appointed by the Majority Leader of the Senate;

(C) 1 member shall be appointed by the Minority Leader of the Senate;

(D) 2 members shall be appointed by the Speaker of the House of Representatives; and

(E) 1 member shall be appointed by the Minority Leader of the House of Representatives.

(3) TIME FOR APPOINTMENT, TERMS AND VACANCIES.—The members of the Commission shall be appointed not later than 90 days after the date of enactment of this Act. A vacancy in the Commission shall not affect the powers of the Commission and shall be filled in the same manner in which the original appointment was made.

(4) COMPENSATION AND EXPENSES.—Members of the Commission may not receive compensation for service on the Commission. Such members may, in accordance with chapter 57 of title 5, United States Code, be reimbursed for reasonable travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Commission, notwithstanding the limitations contained in sections 5701 through 5733 of such title 5.

(5) ESTABLISHMENT OF PROGRAM.—Not later than 90 days after the expiration of the period described in paragraph (3), the Commission, in consultation with the Secretary and the Congress, shall establish a Voluntary National Tobacco Compensation Program to provide compensation to claimants who have a total disability or terminal disease, as classified under the list developed under subsection (e)(2), that is directly attributable to the use of a tobacco product in accordance with subsection (e)(3). Such program shall, subject to the payment of contributions under subsection (b), continue in operation for the 25-year period beginning on the date of enactment of this Act, or until the provisions of this title are repealed, whichever occurs first. Congress may at any time act to reauthorize and extend the Program established under this section.

(6) DUTIES.—The Commission shall—

(A) annually meet and review the most recent scientific developments and research relating to tobacco use and update the comprehensive list described in subsection (e)(2);

(B) develop rules and procedures for the administration of the program established under this section;

(C) develop procedures for paying compensation to claimants under this section, including procedures to provide for the payment of such claims over more than 1 year if sufficient funds are not available under subsection (b) for the year in which the claim is made;

(D) develop procedures for the submission of conflicts to binding arbitration;

(E) procedures for waiving the compensation limitations described in subsection (e) in cases of extraordinary circumstances;

(F) procedures for the conduct of internal reviews under subsection (e)(8)(A);

(G) carry out any other activities determined appropriate by the Commission; and

(H) at its discretion based on the remaining funds make a determination as to the availability of the Program for individuals with a partial disability that is directly attributable to the use of a tobacco product in accordance with subsection (e)(3), while assuring that claimants suffering from a total disability or terminal disease that is directly attributable to the use of a tobacco product have a priority when applying for compensation under the Program.

(7) REPORT.—

(A) IN GENERAL.—Not later than 180 days after the expiration of the period described in paragraph (3), the Commission shall prepare a report that describes the establishment, guidelines and operations of the Program, that recommends adjustments in the contribution levels under subsection (b), that provides the list of illnesses described in subsection (e)(3), and that provides the procedures described in subsection (e)(5).

(B) SUBMISSION.—The report described in subparagraph (A) shall be submitted to the—

(i) President and the Secretary;

(ii) Majority and Minority Leaders of the Senate;

(iii) Committees on Commerce, Labor and Human Resources, Finance, and Judiciary of the Senate;

(iv) Speaker and Minority Leader of the House of Representatives; and

(v) Committees on Commerce, Judiciary, and Ways and Means of the House of Representatives.

(8) INFORMATION.—Each department, agency, and instrumentality of the executive branch of the Federal Government, including independent agencies, shall furnish to the Commission, upon request by the Commission, such information as the Commission determines to be necessary to carry out its functions under this section.

(9) USE OF SERVICES AND FACILITIES.—The Commission may utilize the services and facilities of any Federal agency without reimbursement, may accept voluntary services notwithstanding section 1342 of title 31, United States Code, and may enter into contracts with any public or private person or entity for reports or research in furtherance of the work of the Commission.

(10) TERMINATION.—The Commission shall terminate on the date that is 5 years after the date on which the final report of the Commission is submitted under paragraph (7). Congress may at any time act to reauthorize and extend the Commission established under this subsection.

(11) AUTHORIZATION OF APPROPRIATIONS.—Subject to the limitation described in subsection (e), there is authorized to be appropriated not to exceed $1,000,000 for each of the fiscal years during which the Commission is in operation, from the National Tobacco Settlement Trust Fund to carry out this section.

(e) PROCEDURE.—The Commission, in developing the National Tobacco Compensation Program under subsection (d), shall establish—

(1) procedures under which an individual with a disease described in subsection (d)(5) may file a one-time administrative claim per separate and distinct disease with the Secretary seeking compensation for any and all diseases and conditions appearing on the comprehensive list described in paragraph (2);

(2) procedures to ensure that such claims are submitted on a form to be developed by the Commission that shall contain—

(A) the name and address of the individual;

(B) a description of the disease or condition for which the individual is seeking compensation; and

(C) any other supporting documentation that is determined appropriate by the Commission or the Secretary;

(3) in consultation with the Centers for Disease Control and Prevention, the Department of Health and Human Services, and appropriate committees of Congress, a comprehensive list of diseases and conditions which constitute total disability or are terminal for purposes of paying claims brought under this section on an equitable basis, taking into consideration age and tobacco product use history, including tobacco use in conjunction with exposure to asbestos and black lung disease;

(4) procedures to require that a claimant provide supporting documentation that such claimant has a compensable disease that is directly attributable to the use of tobacco, including documentation pertaining to the claimants tobacco use history and exposure to asbestos or black lung disease;

(5) procedures, in order to make a determination with respect to a claim under paragraph (2), or to make a determination with respect to the amount of compensation for which a claimant is eligible, for the requesting from a claimant of additional information relating to the disease or condition involved;

(6) procedures for the implementation of a schedule to pay claims in a manner that ensure the full payment of claims;

(7) streamlined procedures so as to ensure that a claimant is not required to be represented by an attorney;

(8) procedures to provide for the resolution of disputes regarding determinations of the Secretary concerning the eligibility of the claimant for compensation, or the amount of compensation to be paid, under which the claimant may—

(A) obtain an internal review of the determination of the Secretary;

(B) after a review under subparagraph (A), submit the dispute to arbitration as described in subsection (d)(6)(D) under procedures to be established by the Commission; and

(C) after an arbitration hearing under subparagraph (B), file a civil action against the manufacturer involved;

(9) procedures to provide for the collection of voluntary contributions under subsection (b); and

(10) procedures to ensure that the liability of manufacturers for claims under this section are separate based on the illnesses involved and the nature of the tobacco product involved.

(f) NO JUDICIAL ACTION.—Except as provided in subsection (e)(8)(C), upon the contribution of funds as provided for under subsection (b), an individual may not commence a tobacco claim in any Federal or State court against a tobacco product manufacturer who makes such a contribution.

(g) ADMINISTRATION AND ATTORNEYS FEES.—

(1) IN GENERAL.—The procedures developed under subsection (e) shall ensure that amounts paid from the Program in connection with administrative costs do not exceed an amount equal to 10 percent of the amounts available under the program is each fiscal year.

(2) ATTORNEYS FEES.—

(A) IN GENERAL.—Procedures developed under subsection (e) shall provide that, whenever the Secretary renders a determination favorable to a claimant under the Program and that claimant was represented by an attorney, the Secretary may determine and allow as part of its determination a reasonable fee for such representation, not in excess of 10 percent of the total of the benefits to which the claimant is entitled by reason of such determination. In case of any such determination, no fee may be payable or certified for payment for such representation except as provided in this paragraph.

(B) LIMITATION.—Any attorney who charges, demands, receives, or collects for services rendered in connection with proceedings to which subparagraph (A) applies, any amount in excess of that permitted under such subparagraph (A) shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $500, or imprisonment for not more than 1 year, or both.

(h) TIME FOR PAYMENT.—The Secretary shall take steps to ensure that, to the maximum extent practicable, claimants receive compensation in accordance with this section not later than 90 days after the date on which the claim involved is filed.

(i) LIMITATION WITH RESPECT TO PRISONERS.—No individual incarcerated in a Federal, State or local prison or jail may file a claim with the Program under this section.

(j) APPLICABILITY.—This section shall apply as provided for under subsection (b)(4). The provisions of section 1412 shall apply only if the voluntary contributions are not made in any year or are less than the amount described in subsection (b) in any year.

(k) EFFECTIVE DATE.—The Secretary shall implement the compensation program under this section not later than 90 days after the date on which the report of the Commission is submitted under subsection (d)(7).

FEINSTEIN AMENDMENT NO. 2460

(Ordered to lie on the table.)

Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill, S. 1415, supra; as follows:

In section 451(a), strike paragraph (3) and insert the following:

(3) DISTRIBUTION TO STATES.—From the amounts in the State Litigation Settlement Account for a fiscal year, the Secretary of the Treasury shall make available to each State the applicable percentage of such amount in accordance with the following table which shall represent the share of each State of the total number of individuals in the United States under 18 years of age (as determined by the United States Census Bureau in its data table compilation entitled ''Population Estimates for States and Outlying Areas: July 1, 1996):

State	Applicable Percentage
Alabama	1.559
Alaska	0.2670
Arizona	1.666
Arkansas	0.955
California	12.841
Colorado	1.445
Connecticut	1.156
Delaware	0.255
District of Columbia	0.159
Florida	4.957
Georgia	2.828
Hawaii	0.444
Idaho	0.505
Illinois	4.571
Indiana	2.170
Iowa	1.042
Kansas	0.995
Kentucky	1.403
Louisiana	1.786
Maine	0.434
Maryland	1.863
Massachusetts	2.059
Michigan	3.674
Minnesota	1.806
Mississippi	1.110
Missouri	2.019
Montana	0.337
Nebraska	0.640
Nevada	0.604
New Hampshire	0.428
New Jersey	2.878
New Mexico	0.726
New York	6.576
North Carolina	2.656
North Dakota	0.244
Ohio	4.124
Oklahoma	1.276
Oregon	1.170
Pennsylvania	4.192
Rhode Island	0.341
South Carolina	1.358
South Dakota	0.296
Tennessee	1.915
Texas	7.896
Utah	0.983
Vermont	0.212
Virginia	2.363
Washington	2.081
West Virginia	0.611
Wisconsin	1.945
Wyoming	1.456

DOMENICI AMENDMENTS NOS. 2461–2462

(Ordered to lie on the table.)

Mr. DOMENICI submitted two amendments intended to be proposed by him to the bill, S. 1415, supra; as follows:

AMENDMENT NO. 2461

At the appropriate place, insert the following:

Notwithstanding any other provision of this Act, section 401(e) is null and void.

AMENDMENT NO. 2462

Strike section 401(e).

COATS AMENDMENTS NOS. 2463–2467

(Ordered to lie on the table.)

Mr. COATS submitted five amendments intended to be proposed by him to the bill, S. 1415, supra; as follows:

AMENDMENT NO. 2463

Beginning on page 385, strike line 10 and all that follows through line 20 on page 386.

AMENDMENT NO. 2464

On page 127, after line 24, add the following:

(h) MILITARY BASE EXCLUSIONS.—Nothing in this section shall be construed to provide authority to the Secretary or to a State to establish a retail licensing program for, or conduct inspections of the sale of tobacco on, Federal military bases.

AMENDMENT NO. 2465

At the appropriate place in title I, insert the following:

SEC. ___. PROHIBITION ON DIVERSION OF FDA RESOURCES.

Notwithstanding any other provision of this Act, or an amendment made by this Act, the Secretary shall ensure that the tobacco-related authority provided to the Food and Drug Administration under this Act and the amendments made by this Act will not result in the diversion of resources from the Center for Biologics Evaluation and Research, the Center for Drug Evaluation and Research, the Center for Devices and Radiological Health, the Center for Food Safety and Applied Nutrition, the Center for Veterinary Medicine, the National Center for Toxicological Research, or from any of the other activities of such Administration, including the review, approval process and other activities required with respect to drugs, devices, cosmetics, and foods.

AMENDMENT NO. 2466

At the appropriate place in title IV, insert the following:

SEC. ___. CENTER FOR TOBACCO PRODUCT REGULATION.

(a) ESTABLISHMENT.—The Secretary may establish within the Food and Drug Administration a Center for Tobacco Product Regulation (referred to in this section as the ''Center'').

(b) JURISDICTION.—The Center shall have sole jurisdiction to regulate tobacco products under chapter IX of the Federal Food, Drug and Cosmetic Act.

AMENDMENT NO. 2467

On page 23, after line 22, add the following:

(20) NONPROFIT PRIVATE ENTITY.—The terms ''nonprofit private entity'' or ''private nonprofit entity'' include faith-based organizations, and the provisions of section 1981F shall apply with respect to such organizations. With respect to amendments made by this Act, the terms ''nonprofit private entity'' or ''private nonprofit entity'' shall have the meaning given in this paragraph.

On page 147, between lines 5 and 6, insert the following:

''SEC. 1981F. CHARITABLE CHOICE.

''(a) FAITH-BASED ORGANIZATIONS INCLUDED AS NONGOVERNMENTAL PROVIDERS.—For any program carried out by the Federal Government, or by a State or local government under this subpart, the government shall consider, on the same basis as other nongovernmental organizations, faith-based organizations to provide the assistance under the program, so long as the program is implemented in a manner consistent with the Establishment Clause of the first amendment to the Constitution. Neither the Federal Government nor a State or local government receiving funds under this subpart shall discriminate against an organization that provides assistance under, or applies to provide assistance under, this subpart, on the basis that the organization has a faith-based character.

''(b) EXCLUSIONS.—As used in subsection (a), the term 'program' means activities carried out under this subpart.

''(c) FAITH-BASED CHARACTER AND INDEPENDENCE.—

''(1) IN GENERAL.—A faith-based organization that provides assistance under a program described in subsection (a) shall retain its independence from Federal, State, and local governments, including such organization's control over the definition, development, practice, and expression of its faith-based beliefs.

''(2) ADDITIONAL SAFEGUARDS.—Neither the Federal Government nor a State or local government shall require a faith-based organization—

''(A) to alter its form of internal governance; or

''(B) to remove faith-based art, icons, scripture, or other symbols;

in order to be eligible to provide assistance under a program described in subsection (a).

''(d) EMPLOYMENT PRACTICES.—The exemption of a faith-based organization provided under section 702 or 703(e)(2) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–1, 2000e–2(e)(2)) regarding employment practices shall not be affected by the faith-based organization's provision of assistance under, or receipt of funds from, programs described in subsection (a).

''(e) RIGHTS OF BENEFICIARIES OF ASSISTANCE.—

''(1) IN GENERAL.—If an individual described in paragraph (3) has an objection to the faith-based character of the organization from which the individual receives, or would receive, assistance funded under any program described in subsection (a), the appropriate Federal, State, or local governmental entity shall provide to such individual (if otherwise eligible for such assistance) within a reasonable period of time after the date of such objection, assistance that—

''(A) is from an alternative organization that is accessible to the individual; and

''(B) has a value that is not less than the value of the assistance that the individual would have received from such organization.

''(2) NOTICE.—The appropriate Federal, State, or local governmental entity shall ensure that notice is provided to individuals described in paragraph (3) of the right of such individuals to make the objection described in paragraph (1).

''(3) INDIVIDUAL DESCRIBED.—An individual described in this paragraph is an individual who receives or applies for assistance under a program described in subsection (a).

''(f) NONDISCRIMINATION AGAINST BENEFICIARIES.—A faith-based organization shall not discriminate against an individual described in subsection (e)(3) in regard to—

''(1) rendering assistance funded under any program described in subsection (a) on the basis of religion, a faith-based belief, or refusal to hold a faith-based belief; or

''(2) rendering assistance funded through a grant or contract under such program on the basis of refusal to actively participate in a faith-based practice.

''(g) FISCAL ACCOUNTABILITY.—

''(1) IN GENERAL.—Except as provided in paragraph (2), any faith-based organization providing assistance under any program described in subsection (a) shall be subject to the same regulations as other nongovernmental organizations to account in accord with generally accepted accounting principles for the use of such funds provided under such program.

''(2) LIMITED AUDIT.—Such organization shall segregate government funds provided under such program into a separate account. Only the government funds shall be subject to audit by the government.

''(h) COMPLIANCE.—A party alleging that the rights of the party under this section have been violated by a State or local government may bring a civil action pursuant to section 1979 of the Revised Statutes (42 U.S.C. 1983) against the official or government agency that has allegedly committed such violation. A party alleging that the rights of the party under this section have been violated by the Federal Government may bring a civil action for appropriate relief in an appropriate Federal district court against the official or government agency that has allegedly committed such violation.

''(i) LIMITATIONS ON USE OF FUNDS FOR CERTAIN PURPOSES.—No funds provided through a grant or contract to a faith-based organization to provide assistance under any program described in subsection (a) shall be expended for sectarian worship, instruction, or proselytization.

''(j) EFFECT ON STATE AND LOCAL LAWS.—

''(1) IN GENERAL.—If a State or local government contributes State or local funds to carry out a program described in subsection (a), the government may—

''(A) segregate the State or local funds from the Federal funds provided to carry out the program; or

''(B) commingle the State or local funds with the Federal funds.

''(2) SEGREGATED FUNDS.—If the State or local government segregates the State or local funds, the provisions of State law relating to the expenditure of public funds in or by sectarian institutions shall apply only to the segregated State or local funds.

''(3) COMMINGLED FUNDS.—If the State or local government commingles the State or local funds, the provisions of this section shall apply to the commingled funds in the same manner, and to the same extent, as the provisions apply to the Federal funds, and the provisions of State law described in paragraph (2) shall not apply to the commingled funds.

''(k) TREATMENT OF INTERMEDIATE CONTRACTORS.—If a nongovernmental organization (referred to in this subsection as an 'intermediate organization'), acting under a contract or other agreement with the Federal Government or a State or local government, is given the authority under the contract or agreement to select nongovernmental organizations to provide assistance under the programs described in subsection (a), the intermediate organization shall have the same duties under this section as the government.

CHAFEE (AND STEVENS) AMENDMENT NO. 2468

(Ordered to lie on the table.)

Mr. CHAFEE (for himself and Mr. STEVENS) submitted an amendment intended to be proposed by them to the bill, S. 1415, supra; as follows:

On page 130, after line 25, add the following:

''(3) For each of the first 5 fiscal years following the date of enactment of this part, a percentage of the amount available for any fiscal year under subsection (a) shall be made available to the Secretary to make grants under section 1981F.''.

On page 147, between lines 5 and 6, insert the following:

''SEC. 1981F. GRANTS TO MINORITY MEDICAL SCHOOLS FOR ENDOWMENTS; PUBLIC HEALTH PROGRAMS REGARDING TOBACCO PRODUCTS.

''(a) IN GENERAL.—From the amount made available under section 1981(b)(3) for the fiscal year, the Secretary shall make grants to schools specified in subsection (b) for the purpose of establishing at the schools endowments each of whose income is used exclusively to carry out—

''(1) public health programs; and

''(2) programs of biomedical research on diseases for which the consumption of tobacco products is a principal causal factor.

''(b) RELEVANT SCHOOLS.—

''(1) IN GENERAL.—The schools referred to in subsection (a) are the following medical schools (schools of medicine or osteopathic medicine) and nursing school that are located in a State or the District of Columbia:

''(A) The 4 medical schools in the United States whose enrollment for academic year 1998 of Black individuals constituted a higher percentage of such individuals than other medical schools in the United States.

''(B) The 4 medical schools in the United States whose enrollment for academic year 1998 of Hispanic individuals constituted a higher percentage of such individuals than other medical schools in the United States.

''(C) The medical school in the United States whose enrollment for academic year 1998 of Native American individuals constituted a higher percentage of such individuals than other medical schools in the United States.

''(D) The school of nursing in the United States whose enrollment for academic year 1998 of Alaska Natives constituted a higher percentage of such individuals than other schools of nursing in the United States.

''(2) PAYMENTS TO DIFFERENT SCHOOLS.—The Secretary may modify the requirements of paragraph (1) only for purposes of ensuring that 10 different schools receive grants under this section.

''(c) DISTRIBUTION OF FUNDS.—

''(1) IN GENERAL.—Subject to paragraph (2), of the funds made available for grants under this section for a fiscal year each school described in subsection (b) shall receive $5,000,000.

''(2) PRO RATA REDUCTIONS.—If the funds made available for grants under this section for a fiscal year are not sufficient to pay each school described in subsection (b) the amount described in paragraph (1), the Secretary shall pay each such school an amount equal to the pro rata share of the amount made available.

''(d) ACCOUNTABILITY.—Any school that receives a grant under this section shall file an annual report with the Department of Education and the Department of Health and Human Services on the use of the funds received by the school under a grant made under this section.''.

CHAFEE (AND OTHERS) AMENDMENT NO. 2469

(Ordered to lie on the table.)

Mr. CHAFEE (for himself, Mr. HARKIN, and Mr. GRAHAM) submitted an amendment intended to be proposed by them to the bill, S. 1415, supra; as follows:

In section 402, strike subsection (b), and insert the following:

(b) ANNUAL BASE PAYMENTS.—Each calendar year beginning after the required payment date under subsection (a)(3), the tobacco product manufacturers shall make total payments into the Fund for each calendar year in the following applicable base amounts, subject to adjustment as provided in section 403:

(1) For year 1—$14,400,000,000.

(2) For year 2—$21,600,000,000.

(3) For year 3, and each subsequent year, an amount equal to the amount of the annual base payment for the preceding year, prior to any adjustment as provided for in section 403, increased by the greater of 3 percent or the annual increase in the CPI.

For purposes of this subsection, the CPI for any calendar year is the average of the Consumer Price Index for all urban consumers published by the Department of Labor. If any increase determined under this subsection is not a multiple of $1,000, the increase shall be rounded to the nearest multiple of $1,000.

Strike section 403 and insert the following:

SEC. 403. VOLUME ADJUSTMENT.

Beginning with calendar year 2000, the applicable base amount shall be adjusted for changes in volume of domestic sales by multiplying the applicable base amount by the ratio of the actual volume for the calendar year to the base volume. For purposes of this subsection, the term ''base volume'' means 80 percent of the number of units of taxable domestic removals and taxed imports of cigarettes in calendar year 1997, as reported to the Secretary of the Treasury. For purposes of this section, the term ''actual volume'' means the number of adjusted units as defined in section 402(d)(3)(A).

ENZI AMENDMENTS NOS. 2470–2471

(Ordered to lie on the table.)

Mr. ENZI submitted an amendment intended to be proposed by him to the bill, S. 1415, supra; as follows:

AMENDMENT NO. 2470

Strike subtitle B of title IV, and insert the following:

Subtitle B—Use of Funds

SEC. 451. USE OF FUNDS.

Notwithstanding any other provision of this Act, amounts contained in the National Tobacco Settlement Trust Fund in a fiscal year shall be made available as follows:

(1) 50 percent of such amounts shall be transferred in such fiscal year to the Federal Hospital Insurance Trust Fund established under section 1817 of the Social Security Act (42 U.S.C. 1395i).

(2) 25 percent of such amounts shall be transferred in such fiscal year to the States through the medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(3) 25 percent of such amounts shall be provided to the States in such fiscal year through block grants for the development and administration of programs to restrict youth access to tobacco products and illegal drugs as provided for in regulations promulgated by the Secretary.

AMENDMENT NO. 2471

At the end of the amendment, add the following:

SEC. ___. LIMITATIONS ON EXPENDITURES AND OBLIGATIONS.

Notwithstanding any other provision of this Act—

(1) any expenditure required by this Act shall be made from the National Tobacco Trust Fund;

(2) the Federal Government shall only be obligated to make expenditures as authorized by this Act, including any payment to any person or government, as provided in advance in appropriations Acts;

(3) amounts appropriated to make expenditures authorized by this Act in a fiscal year may not exceed the amounts deposited in the National Tobacco Trust Fund in the preceding fiscal year; and

(4) amounts provided in a fiscal year authorized by this Act shall be reduced on a pro rata basis in that fiscal year to offset any excess in those amounts over amounts deposited in the National Tobacco Trust Fund in the preceding fiscal year.

COATS AMENDMENT NO. 2472

(Ordered to lie on the table.)

Mr. COATS submitted an amendment intended to be proposed by him to the bill, S. 1415, supra; as follows:

At the appropriate place in title XIV, insert the following:

SEC. ___. LIMIT ON ATTORNEYS' FEES.

(a) FEE ARRANGEMENTS.—Subsection (f) shall apply to attorneys' fees provided for or in connection with action of the type described in subsection (c) under any—

(1) court order;

(2) settlement agreement;

(3) contingency fee arrangement;

(4) arbitration procedure;

(5) alternative dispute resolution procedure (including mediation);

(6) retainer agreements; or

(7) other arrangement providing for the payment of attorneys' fees.

(b) REQUIREMENTS.—No award of attorneys' fees under any action to which this Act applies shall be made under this Act until the attorneys involved have—

(1) provided to the Congress a detailed time accounting with respect to the work performed in relation to the legal action involved; and

(2) made public disclosure of the time accounting under paragraph (1) and any fee arrangements entered into, or fee arrangements made, with respect to the legal action involved.

(c) APPLICATION.—This section shall apply to fees paid or to be paid, under any arrangement described in subsection (a), to attorneys—

(1) who acted on behalf of a State or political subdivision of a State in connection with any past litigation of an action maintained by a State against one or more tobacco companies to recover tobacco-related medicaid expenditures;

(2) who acted on behalf of a State or political subdivision of a State in connection with any future litigation of an action maintained by a State against one or more tobacco compares to recover tobacco-related medicaid expenditures;

(3) who act at some future time on behalf of a State or political subdivision of a State in connection with any past litigation of an action maintained by a State against one or more tobacco companies to recover tobacco-related medicaid expenditures;

(4) who act at some future time on behalf of a State or political subdivision of a State in connection with any future litigation of an action maintained by a State against one or more tobacco companies to recover tobacco-related medicaid expenditures;

(5) who acted on behalf of a plaintiff class in civil actions to which this Act applies that are brought against participating or nonparticipating tobacco manufacturers;

(6) who act at some future time on behalf of a plaintiff class in civil actions to which this Act applies that are brought against participating or nonparticipating tobacco manufacturers;

(7) who acted on behalf of a plaintiff in civil actions to which this Act applies that are brought against participating or nonparticipating tobacco manufacturers;

(8) who act at some future time on behalf of a plaintiff in civil actions to which this Act applies that are brought against participating or nonparticipating tobacco manufacturers;

(9) who expended efforts that in whole or in part resulted in or created a model for programs in this Act;

(10) who acted on behalf of a defendant in any of the matters set forth in paragraphs (1) through (9); or

(11) who act at some future time on behalf of a defendant in any of the matters set forth in paragraphs (l) through (9).

(d) REPORT.—

(1) IN GENERAL.—Each attorney whose fees for services already rendered are subject to subsection (a) shall, within 60 days of the date of the enactment of this Act, submit to Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a comprehensive record of the time and expenses for which the fees are to be paid. Such record shall be subject to section 1001(a) of title 18, United States Code.

(2) FUTURE ACTION.—Each attorney whose fees for services rendered in the future are subject to subsection (a) shall, within 60 days of the completion of the attorney's services, submit to Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a comprehensive record of the time and expenses for which the fees are to be paid. Such record shall be subject to section 1001(a) of title 18, United States Code.

(e) SEVERABILITY.—If any provision of this section or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this section and the application of the provisions of such to any person or circumstance shall not be affected thereby.

(f) GENERAL LIMITATION.—Notwithstanding any other provision of law, for each hour spent productively and at risk, separate from the reimbursement of actual out-of-pocket expenses as approved by the court in any action to which this section applies, any attorneys' fees or expenses paid to attorneys for matters described in subsection (c) shall not exceed $_____ per hour.

(g) EFFECTIVE DATE AND USE OF FUNDS.—

(1) EFFECTIVE DATE.—This section shall take effect on the date on which the Secretary makes use of amounts appropriated under section 1161.

(2) USE OF FUNDS.—Any funds remaining in the National Tobacco Trust Fund as a result of the implementation of this section shall be used as provided for in section 1161.

HOLLINGS AMENDMENTS NOS. 2473–2475

(Ordered to lie on the table.)

Mr. HOLLINGS submitted three amendments intended to be proposed by him to the bill, S. 1415, supra; as follows:

AMENDMENT NO. 2473

On page 58, strike lines 8 through line 23, and insert the following:

''(3) SECRETARY MAY NOT BAN CLASS OF PRODUCT OR ELIMINATE NICOTINE CONTENT WITHOUT CONGRESSIONAL AUTHORITY.—The Secretary may not, under this Act or any other provision of law, issue a regulation establishing a performance standard (or take other action)—

''(A) eliminating all cigarettes, all smokeless tobacco products, or any similar class of tobacco products; or

''(B) requiring the reduction of nicotine yields of a tobacco product to zero.

If the Secretary determines that such action should be taken, the Secretary shall so notify the Congress, with an explanation of the reasons therfor, and a request for legislative authority explicitly modifying, repealing, or overriding the preceding sentence.''

AMENDMENT NO. 2474

On page 216, strike lines 11 through 18, and insert the following:

This title shall not apply to any State that, by law, provides that it shall not apply to that State.

AMENDMENT NO. 2475

After section 1134, insert the following:

SEC. 1135. IMPORTATION OF TOBACCO PRODUCTS.

(a) FINDINGS.—The Congress finds that—

(1) if the price of cigarettes increases, there may be an increasing incentive to import tobacco leaf of substandard quality;

(2) the importation of substandard tobacco leaf could cause increased health problems, and possibly expose United States-grown tobacco leaf to infestation from abroad; and

(3) imported tobacco leaf must be reviewed in a uniform and consistent fashion to ensure the quality and uniform treatment of imports of tobacco leaf.

(b) REQUIREMENTS.—

(1) IN GENERAL.—No tobacco leaf not a product of the United States may be introduced into interstate commerce in the United States unless it is—

(A) imported through the Port of Omaha, Nebraska;

(B) held in customs custody for not less than 6 years; and

(C) entered under single-entry bond.

(2) AUTOMATED ENTRY.—Tobacco leaf not a product of the United States is not eligible for automated entry under the laws and procedures of the United States relating to the importation of such products.

(3) SUSPENSION OF DRAWBACK FOR DRASTIC REDUCTION IN TOBACCO COMPANIES' PURCHASE OF TOBACCO LEAF.—If for any marketing year the aggregate volume of tobacco leaf that United States tobacco product manufacturers purchase under the tobacco marketing program conducted by the Secretary of Agriculture under sections 320A and 320B of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314g and 1314h) (or under the law of any State or compact of States) is less than 85 percent of the aggregate volume of tobacco leaf the manufacturers purchased in the preceding marketing year, no drawback shall be allowed with respect to the duties paid on imported tobacco leaf and related products for a period of 24 months beginning on the first day of such marketing year.

SNOWE AMENDMENTS NOS. 2476–2477

(Ordered to lie on the table.)

Ms. SNOWE submitted two amendments intended to be proposed by her to the bill, S. 1415, supra; as follows:

AMENDMENT NO. 2476

On page 408, between lines 5 and 6, insert the following:

Subtitle A—Provisions Relating to the Protocol and Liability''.

On page 444, after line 14, insert the following:

Subtitle B—Codification of Marketing and Advertising Restrictions

SEC. 1421. FINDINGS.

To demonstrate the need for restrictions on the marketing and advertising of tobacco products, and to demonstrate that the restrictions contained in this subtitle are constitutional and meet the requirements of the *Central Hudson* case that the asserted governmental interest is substantial, directly advances the governmental interest, and is no more extensive than is necessary to serve that governmental interest, Congress makes the following findings:

(1) The sale of tobacco to minors is illegal in the United States. Therefore, forms of marketing and advertising that appeal to children must be restricted accordingly.

(2) Substantial restrictions on tobacco marketing and advertising are necessary to protect the public health, reduce the illegal sale and purchase of tobacco products by minors, and reduce the cost of tobacco-related illnesses on Federal and State health care programs.

(3) As recognized in *New York v. Ferber*, protecting the physical and psychological well-being of children is a compelling, not merely a substantial, interest of the government.

(4) The cost of tobacco on public health care programs is substantial as evidenced by a 1995 study by Columbia University that found that the estimated cost of tobacco on the medicare and medicaid programs was $25,500,000,000 and $8,200,000,000 respectively. Therefore, reducing these costs, which absorb substantial public resources, by reducing the utilization of tobacco would serve a substantial government interest.

(5) According to the 1994 Surgeon General's Report, nearly 90 percent of all adults who have ever been regular smokers began smoking at or before the age of 18, and, according to a Robert Wood Johnson Foundation Survey, the average smoker begins smoking at age 13 and is hooked by age 14½. Therefore, reducing the attractiveness of tobacco to children will reduce the likelihood that a child ever tries tobacco, and ensure that the long-term costs of tobacco-related illnesses will be averted.

(6) Marketing and advertising plays a significant role in attracting teens to tobacco and determining the brands that they use. According to the Centers for Disease Control and Prevention, 86 percent of children who buy their own cigarettes choose one of the 3 most heavily advertised brands (Marlboro (60 percent), Camel (13.3 percent), or Newport (12.7 percent)). In contrast, most adult smokers opt for generic or ''value category'' cigarette brands that rely on little, if any, image advertising.

(7) Tobacco industry documents and memorandums make clear that the industry considers children a key market, studied the smoking habits of children, and developed products and marketing campaigns that are directly intended to attract children to the purchase and use of their products.

(8) According to a 1995 study by The Journal of the National Cancer Institute, tobacco marketing has a greater influence in spurring children to take up smoking than exposure to parents or peers who smoke, and must be restricted accordingly.

(9) Children are more sensitive to tobacco advertising than adults, as evidenced by a 1996 study in the Journal of Marketing that found that children are 3 time more sensitive than adults to cigarette advertising.

(10) Tobacco advertising in magazines and periodicals influences the decision of children to use tobacco, as cited in the proceedings of the Food and Drug Administration and its supporting documents, In addition,

children who report seeing cigarette advertising in magazines are more likely to experiment with tobacco.

(11) Cartoon images in advertising greatly enhance the appeal of tobacco to children, as evidenced by the ''Joe Camel'' marketing campaign. According to the Centers for Disease Control and Prevention, when advertising for the ''Joe Camel'' campaign rose from $27,000,000 to $43,000,000 between 1989 and 1993, Camel's market share among youth increased by more than 50 percent while it's share among adults was unchanged. Therefore, because cartoon advertising has been demonstrated to be a direct appeal to minors and not adults, such images should be banned.

(12) Children as young as 3 to 6 years of age can recognize a character associated with smoking at the same rate as they recognize cartoons and fast food characters.

(13) Human and animal images in tobacco advertising, and the themes that these images portray, have a profound impact on children, as evidenced by the ''Marlboro Man'' and the ''Marlboro Horses''. The image of independence and freedom conveyed by these images has led to Marlboro cigarettes capturing nearly 60 percent of the youth market even though the brand accounts for only 12.7 percent of cigarette advertising overall. Therefore, images portraying human and animal images should be restricted to adult-only venues.

(14) Event sponsorships by tobacco companies increase the likelihood that children will use tobacco as these events connect the product to individuals and activities that are admired and respected by children.

(15) According to a report in the American Journal of Public Health, the observation of tobacco marketing in stores is a significant predictor of a child's likelihood of experimenting with tobacco, increasing the probability by 38 percent. Therefore, in-store marketing should be restricted accordingly.

(16) Tobacco promotions greatly enhance the likelihood that children will use tobacco products, as evidenced by a November 1996 study in the American Journal of Public Health. This study found that a child who was simply aware of tobacco promotions was twice as likely to use tobacco as a child who was not. In addition, it found that a child who is aware of tobacco promotion, has knowledge of an adolescent friend with promotional items, and participates in a promotional activity is 9.3 time more likely to use tobacco.

(17) A 1998 study of teenagers in the Journal of the American Medical Association showed that tobacco industry promotional activities influenced previously non-susceptible non-smokers to become susceptible or to experiment with smoking.

(18) Restrictions on the number and placement of point-of-sale advertisements in stores and other outlets that are permissible for children to enter are necessary to reduce the appeal of tobacco products to children, while ensuring that consumers who can legally purchase these products are able to receive useful information.

(19) As demonstrated in the Food and Drug Administration rule, billboards and other forms of outdoor advertising that are located near schools and playgrounds can affect the decision of children to use tobacco products. Therefore, bans on these forms of advertising near these facilities, and within distances that are frequently traveled by children to access these facilities, would be a narrowly-tailored method of fulfilling the government interest, while still allowing information to be provided in this format to consumers who can legally purchase these products at other locations that are less-frequently viewed by children.

(20) Through advertisements during, and sponsorship of, sporting events, tobacco has become strongly associated with sports and has become portrayed as an integral part of sports and the healthy lifestyle associated with rigorous sporting activity.

(21) Because children are influenced by the images, habits, and mannerisms depicted by actresses and actors in movies and other forms of print and film media, tobacco companies should not be permitted to receive payments for the inclusion of logos, symbols, or mottoes in these types of venues if they will be viewed by children under the age of 18 without the supervision of a parent or guardian.

(22) Because children are influenced by the behavior of musical and other live entertainers whom they admire, payments by tobacco companies to live entertainers or their agents should be restricted at events in which individuals under the age of 18 are permitted to attend, and a substantial number of these individuals would reasonably be expected to attend.

(23) To ensure that advertising and marketing efforts are not deceptive or misleading, descriptors such as ''light'' and ''low tar'' should be accompanied by a disclaimer that the product is not less hazardous than any other tobacco product.

(24) Restrictions on the placement of advertisements in buses, subways, and other forms of public transportation that are reasonably expected to be utilized by a significant number of children on a daily basis will ensure that children are not exposed to such advertising for an extended period of time during a commute, and will reduce the susceptibility of children to tobacco advertising accordingly.

SEC. 1422. ADVERTISING PROVISIONS.

(a) IN GENERAL.—A tobacco product may not be sold or distributed in the United States—

(1) if its advertising or labeling (including the package)—

(A) contains a cartoon character;

(B) except as provided in subsection (b), contains a human image or animal image;

(C) appears in an enclosed stadia during events that are conducted with a reasonable expectation that 5 percent or more of the attendees will be under the age of 18 years;

(D) appears within 5000 feet of any elementary or secondary school, playground, or public park containing playground equipment;

(E) appears in public transportation, including buses, subways, and trains, that is reasonably expected to be utilized by 5 percent or more of passengers under the age of 18 years on an average daily basis; or

(F) contains words such as ''light'' or ''low tar'' and is not accompanied by a disclaimer that words such as ''light'' or ''low tar'' describing the product do not render the product less hazardous than any other tobacco product, in addition to such other requirements as the Secretary may impose;

(2) if a logo, symbol, motto, selling message, recognizable color or pattern of colors, or any other indicia of the tobacco product that would be readily identifiable, and therefore appealing, to individuals under the age of 18 years is contained in a movie, program, or video game that an individual under the age of 18 years is able to attend or utilize without the accompaniment or consent of a parent or adult age 18 years or older for which a direct or indirect payment has been made to ensure its placement; or

(3) if a direct or indirect payment has been made by any manufacturer, distributor, or retailer to any entity for the purpose of promoting the image or use of a tobacco product through print or film media that is recognizable, and therefore appealing, to individuals under the age of 18 years and at which individuals under the age of 18 years are permitted to attend without the accompaniment or consent of a parent or adult age 18 years or older, or through a live performance by an entertainment artist where individuals under the age of 18 years are permitted to attend without the accompaniment of a parent or adult age 18 years or older, and would reasonable expect that 5 percent or more of the audience will be under the age of 18 years.

(b) EXCEPTION.—The prohibition contained in subsection (a)(1)(B) shall not apply to a tobacco product advertisement that appears in an adult-only facility, or in any publication which the manufacturer, distributor, or retailer demonstrates to the Secretary is a newspaper, magazine, periodical, or other publication whose readers under the age of 18 years constitute 15 percent or less of the total readership as measured by competent and reliable survey evidence, and that is read by less than 2,000,000 persons under the age of 18 years as measured by competent and reliable survey evidence.

SEC. 1423. POINT-OF-SALE RESTRICTIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no manufacturer, distributor, or retailer shall engage in point-of-sale advertising of any tobacco product in any retail establishment (other than an establishment that sells only tobacco products) in which an individual under the age of 18 is present, or permitted to enter, at any time.

(b) EXCEPTION.—

(1) IN GENERAL.—A retailer may place 1 point-of-sale advertisement in or at each such location for its brand or the contracted house retailer or private label brand of its wholesaler.

(2) DISPLAY AREA.—The display area of any point-of-sale advertisement permitted under paragraph (1) (either individually or in the aggregate) shall not be larger than 576 square inches and shall consist of black letters on white background or another recognized typography.

(3) LIMITATION.—A point-of-sale advertisement permitted under paragraph (1) shall not be attached to or located within 2 feet of any display fixture on which candy is displayed for sale.

(c) AUDIO AND VIDEO.—Any audio or video format permitted under regulations promulgated by the Secretary may be distributed at the time of sale of a tobacco product to individuals over the age of 18 years, but no such format may be played or shown in or at any location where tobacco products are offered for sale and individuals under the age of 18 years are permitted.

(d) DEFINITION.—As used in this section, the terms ''point-of-sale advertisement'' and ''point-of-sale advertising'' mean all printed or graphical materials bearing the brand name (alone or in conjunction with any other word), logo, symbol, motto, selling message, or any other indicia of product identification identical or similar to, or identifiable with, those used for any brand of cigarettes or smokeless tobacco, which, when used for its intended purpose, can reasonable be anticipated to be seen by customers at a location where tobacco products are offered for sale.

SEC. 1424. STATUTORY ADVERTISING RESTRICTIONS.

(a) AUTHORITY OF SECRETARY.—The provisions of this subtitle shall in no way affect the authority of the Secretary to regulate tobacco as prescribed in any other provision of this Act or an amendment made by this Act.

(b) AUTHORITY OF FEDERAL TRADE COMMISSION.—The provisions of this subtitle shall in no way affect the authority of the Federal

Trade Commission to regulate tobacco as prescribed in any other provision of this Act or an amendment made by this Act.

(c) SEVERABILITY.—If any provision of this subtitle or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this subtitle and the application of the provisions of such to any person or circumstance shall not be affected thereby.

AMENDMENT NO. 2477

On page 408, between lines 5 and 6, insert the following:

Subtitle A—Provisions Relating to the Protocol and Liability''.

On page 444, after line 14, insert the following:

Subtitle B—Codification of Marketing and Advertising Restrictions

SEC. 1421. FINDINGS.

To demonstrate the need for restrictions on the marketing and advertising of tobacco products, and to demonstrate that the restrictions contained in this subtitle are constitutional and meet the requirements of the *Central Hudson* case that the asserted governmental interest is substantial, directly advances the governmental interest, and is no more extensive than is necessary to serve that governmental interest, Congress makes the following findings:

(1) The sale of tobacco to minors is illegal in the United States. Therefore, forms of marketing and advertising that appeal to children must be restricted accordingly.

(2) Substantial restrictions on tobacco marketing and advertising are necessary to protect the public health, reduce the illegal sale and purchase of tobacco products by minors, and reduce the cost of tobacco-related illnesses on Federal and State health care programs.

(3) As recognized in *New York v. Ferber*, protecting the physical and psychological well-being of children is a compelling, not merely a substantial, interest of the government.

(4) The cost of tobacco on public health care programs is substantial as evidenced by a 1995 study by Columbia University that found that the estimated cost of tobacco on the medicare and medicaid programs was $25,500,000,000 and $8,200,000,000 respectively. Therefore, reducing these costs, which absorb substantial public resources, by reducing the utilization of tobacco would serve a substantial government interest.

(5) According to the 1994 Surgeon General's Report, nearly 90 percent of all adults who have ever been regular smokers began smoking at or before the age of 18, and, according to a Robert Wood Johnson Foundation Survey, the average smoker begins smoking at age 13 and is hooked by age 14½. Therefore, reducing the attractiveness of tobacco to children will reduce the likelihood that a child ever tries tobacco, and ensure that the long-term costs of tobacco-related illnesses will be averted.

(6) Marketing and advertising plays a significant role in attracting teens to tobacco and determining the brands that they use. According to the Centers for Disease Control and Prevention, 86 percent of children who buy their own cigarettes choose one of the 3 most heavily advertised brands (Marlboro (60 percent), Camel (13.3 percent), or Newport (12.7 percent)). In contrast, most adult smokers opt for generic or ''value category'' cigarette brands that rely on little, if any, image advertising.

(7) Tobacco industry documents and memorandums make clear that the industry considers children a key market, studied the smoking habits of children, and developed products and marketing campaigns that are directly intended to attract children to the purchase and use of their products.

(8) According to a 1995 study by The Journal of the National Cancer Institute, tobacco marketing has a greater influence in spurring children to take up smoking than exposure to parents or peers who smoke, and must be restricted accordingly.

(9) Children are more sensitive to tobacco advertising than adults, as evidenced by a 1996 study in the Journal of Marketing that found that children are 3 time more sensitive than adults to cigarette advertising.

(10) Tobacco advertising in magazines and periodicals influences the decision of children to use tobacco, as cited in the proceedings of the Food and Drug Administration and its supporting documents, In addition, children who report seeing cigarette advertising in magazines are more likely to experiment with tobacco.

(11) Cartoon images in advertising greatly enhance the appeal of tobacco to children, as evidenced by the ''Joe Camel'' marketing campaign. According to the Centers for Disease Control and Prevention, when advertising for the ''Joe Camel'' campaign rose from $27,000,000 to $43,000,000 between 1989 and 1993, Camel's market share among youth increased by more than 50 percent while it's share among adults was unchanged. Therefore, because cartoon advertising has been demonstrated to be a direct appeal to minors and not adults, such images should be banned.

(12) Children as young as 3 to 6 years of age can recognize a character associated with smoking at the same rate as they recognize cartoons and fast food characters.

(13) Human and animal images in tobacco advertising, and the themes that these images portray, have a profound impact on children, as evidenced by the ''Marlboro Man'' and the ''Marlboro Horses''. The image of independence and freedom conveyed by these images has led to Marlboro cigarettes capturing nearly 60 percent of the youth market even though the brand accounts for only 12.7 percent of cigarette advertising overall. Therefore, images portraying human and animal images should be restricted to adult-only venues.

(14) Event sponsorships by tobacco companies increase the likelihood that children will use tobacco as these events connect the product to individuals and activities that are admired and respected by children.

(15) According to a report in the American Journal of Public Health, the observation of tobacco marketing in stores is a significant predictor of a child's likelihood of experimenting with tobacco, increasing the probability by 38 percent. Therefore, in-store marketing should be restricted accordingly.

(16) Tobacco promotions greatly enhance the likelihood that children will use tobacco products, as evidenced by a November 1996 study in the American Journal of Public Health. This study found that a child who was simply aware of tobacco promotions was twice as likely to use tobacco as a child who was not. In addition, it found that a child who is aware of tobacco promotion, has knowledge of an adolescent friend with promotional items, and participates in a promotional activity is 9.3 time more likely to use tobacco.

(17) A 1998 study of teenagers in the Journal of the American Medical Association showed that tobacco industry promotional activities influenced previously non-susceptible non-smokers to become susceptible or to experiment with smoking.

(18) Restrictions on the number and placement of point-of-sale advertisements in stores and other outlets that are permissible for children to enter are necessary to reduce the appeal of tobacco products to children, while ensuring that consumers who can legally purchase these products are able to receive useful information.

(19) As demonstrated in the Food and Drug Administration rule, billboards and other forms of outdoor advertising that are located near schools and playgrounds can affect the decision of children to use tobacco products. Therefore, bans on these forms of advertising near these facilities, and within distances that are frequently traveled by children to access these facilities, would be a narrowly-tailored method of fulfilling the government interest, while still allowing information to be provided in this format to consumers who can legally purchase these products at other locations that are less-frequently viewed by children.

(20) Through advertisements during, and sponsorship of, sporting events, tobacco has become strongly associated with sports and has become portrayed as an integral part of sports and the healthy lifestyle associated with rigorous sporting activity.

(21) Because children are influenced by the images, habits, and mannerisms depicted by actresses and actors in movies and other forms of print and film media, tobacco companies should not be permitted to receive payments for the inclusion of logos, symbols, or mottoes in these types of venues if they will be viewed by children under the age of 18 without the supervision of a parent or guardian.

(22) Because children are influenced by the behavior of musical and other live entertainers whom they admire, payments by tobacco companies to live entertainers or their agents should be restricted at events in which individuals under the age of 18 are permitted to attend, and a substantial number of these individuals would reasonably be expected to attend.

(23) To ensure that advertising and marketing efforts are not deceptive or misleading, descriptors such as ''light'' and ''low tar'' should be accompanied by a disclaimer that the product is not less hazardous than any other tobacco product.

(24) Restrictions on the placement of advertisements in buses, subways, and other forms of public transportation that are reasonably expected to be utilized by a significant number of children on a daily basis will ensure that children are not exposed to such advertising for an extended period of time during a commute, and will reduce the susceptibility of children to tobacco advertising accordingly.

SEC. 1422. ADVERTISING PROVISIONS.

(a) IN GENERAL.—A tobacco product may not be sold or distributed in the United States—

(1) if its advertising or labeling (including the package)—

(A) contains a cartoon character;

(B) except as provided in subsection (b), contains a human image or animal image;

(C) appears in an enclosed stadia during events that are conducted with a reasonable expectation that 5 percent or more of the attendees will be under the age of 18 years;

(D) appears within 5000 feet of any elementary or secondary school, playground, or public park containing playground equipment;

(E) appears in public transportation, including buses, subways, and trains, that is reasonably expected to be utilized by 5 percent or more of passengers under the age of 18 years on an average daily basis; or

(F) contains words such as ''light'' or ''low tar'' and is not accompanied by a disclaimer

that words such as ''light'' or ''low tar'' describing the product do not render the product less hazardous than any other tobacco product, in addition to such other requirements as the Secretary may impose;

(2) if a logo, symbol, motto, selling message, recognizable color or pattern of colors, or any other indicia of the tobacco product that would be readily identifiable, and therefore appealing, to individuals under the age of 18 years is contained in a movie, program, or video game that an individual under the age of 18 years is able to attend or utilize without the accompaniment or consent of a parent or adult age 18 years or older for which a direct or indirect payment has been made to ensure its placement; or

(3) if a direct or indirect payment has been made by any manufacturer, distributor, or retailer to any entity for the purpose of promoting the image or use of a tobacco product through print or film media that is recognizable, and therefore appealing, to individuals under the age of 18 years and at which individuals under the age of 18 years are permitted to attend without the accompaniment or consent of a parent or adult age 18 years or older, or through a live performance by an entertainment artist where individuals under the age of 18 years are permitted to attend without the accompaniment of a parent or adult age 18 years or older, and would reasonable expect that 5 percent or more of the audience will be under the age of 18 years.

(b) EXCEPTION.—The prohibition contained in subsection (a)(1)(B) shall not apply to a tobacco product advertisement that appears in an adult-only facility, or in any publication which the manufacturer, distributor, or retailer demonstrates to the Secretary is a newspaper, magazine, periodical, or other publication whose readers under the age of 18 years constitute 15 percent or less of the total readership as measured by competent and reliable survey evidence, and that is read by less than 2,000,000 persons under the age of 18 years as measured by competent and reliable survey evidence.

SEC. 1423. POINT-OF-SALE RESTRICTIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no manufacturer, distributor, or retailer shall engage in point-of-sale advertising of any tobacco product in any retail establishment (other than an establishment that sells only tobacco products) in which an individual under the age of 18 is present, or permitted to enter, at any time.

(b) EXCEPTION.—

(1) IN GENERAL.—A retailer may place 1 point-of-sale advertisement in or at each such location for its brand or the contracted house retailer or private label brand of its wholesaler.

(2) DISPLAY AREA.—The display area of any point-of-sale advertisement permitted under paragraph (1) (either individually or in the aggregate) shall not be larger than 576 square inches and shall consist of black letters on white background or another recognized typography.

(3) LIMITATION.—A point-of-sale advertisement permitted under paragraph (1) shall not be attached to or located within 2 feet of any display fixture on which candy is displayed for sale.

(c) AUDIO AND VIDEO.—Any audio or video format permitted under regulations promulgated by the Secretary may be distributed at the time of sale of a tobacco product to individuals over the age of 18 years, but no such format may be played or shown in or at any location where tobacco products are offered for sale and individuals under the age of 18 years are permitted.

(d) DEFINITION.—As used in this section, the terms ''point-of-sale advertisement'' and ''point-of-sale advertising'' mean all printed or graphical materials bearing the brand name (alone or in conjunction with any other word), logo, symbol, motto, selling message, or any other indicia of product identification identical or similar to, or identifiable with, those used for any brand of cigarettes or smokeless tobacco, which, when used for its intended purpose, can reasonable be anticipated to be seen by customers at a location where tobacco products are offered for sale.

SEC. 1424. STATUTORY ADVERTISING RESTRICTIONS.

(a) AUTHORITY OF SECRETARY.—The provisions of this subtitle shall in no way affect the authority of the Secretary to regulate tobacco as prescribed in any other provision of this Act or an amendment made by this Act.

(b) AUTHORITY OF FEDERAL TRADE COMMISSION.—The provisions of this subtitle shall in no way affect the authority of the Federal Trade Commission to regulate tobacco as prescribed in any other provision of this Act or an amendment made by this Act.

(c) SEVERABILITY.—If any provision of this subtitle or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this subtitle and the application of the provisions of such to any person or circumstance shall not be affected thereby.

SEC. 1425. EFFECTIVE DATE.

The provisions of this subtitle shall become effective on the date that is 120 days after the enactment of the Act.

SEC. 1426. SUNSET PROVISION.

The provisions of this subtitle shall cease to apply beginning on the date on which all tobacco manufacturers to which the Act applies have entered into the Protocol.

SNOWE (AND JEFFORDS) AMENDMENT NO. 2478

(Ordered to lie on the table.)

Ms. SNOWE (for herself and Mr. JEFFORDS) submitted an amendment intended to be proposed by them to the bill, S. 1415, supra; as follows:

On page 194, after line 8, after the period add the following: ''The net revenues credited to the trust fund under section 401(b)(3) and allocated to this account shall be used for smoking prevention and counter-advertising programs as provided for in clauses (i) and (ii) of paragraph (2)(C), with not less than 50 percent of such revenues being used for State and community-based prevention activities under section 1981C(b) of the Public Health Service Act.''.

SNOWE (AND OTHERS) AMENDMENT NO. 2479

(Ordered to lie on the table.)

Ms. SNOWE (for herself, Mr. SMITH of Oregon, and Mr. ROBB) submitted an amendment intended to be proposed by them to the bill, S. 1415, supra; as follows:

On page 121, strike lines 7 through 13, and insert the following:

(III) OTHER.—Other programs including—

(aa) the required completion by individuals under 18 years of age of a mandatory, State approved anti-smoking, anti-drug and anti-alcohol class, prior to such individual receiving a drivers permit or license;

(bb) the mandatory suspension of the drivers permit or license of an individual under 18 years for the possession of, purchase of, or attempting to purchase tobacco products; and

(cc) the imposition of fines, community service requirements, or other programs as determined appropriate by the State.

ALLARD AMENDMENT NO. 2480

(Ordered to lie on the table.)

Mr. ALLARD submitted an amendment intended to be proposed by him to the bill, S. 1415, supra; as follows:

On page 210, between lines 18 and 19, insert the following:

SEC. 456. ACTION BY STATE LEGISLATURE.

Amounts made available to a State under this Act shall be subject to appropriation by the State legislature, consistent with the terms and conditions required under this Act.

DOMENICI AMENDMENTS NOS. 2481–2489

(Ordered to lie on the table.)

Mr. DOMENICI submitted nine amendments intended to be proposed by him to the bill, S. 1415, supra; as follows:

AMENDMENT NO. 2481

Beginning on page 200, strike line 6 and all that follows through line 19 on page 201, and insert the following:

(b) USE OF FUNDS.—A State may use amounts received under this section as the State determines appropriate to support an effective anti-teen smoking and anti-drug use program.

SEC. ___. LIMITATION ON ATTORNEYS FEES.

Notwithstanding any other provision of this Act, amounts paid by a State to attorneys acting on behalf of the State or political subdivision of the State in connection with the past or future settlemtn of an action maintained by the State against 1 or more tobacco companies to recover tobacco-related medicaid expenditures, or for efforts that in whole or in part resulted in or created a model for programs in this Act, or for other causes of action to which the settlement agreement dated June 20, 1997 would apply, shall not exceed the lesser of—

(1) an amount equal to $2,000 per hour for each hour spent productively and at risk; or

(2) an amount equal to 10 percent of the amount which the State receives under section 451(a) for the fiscal year involved.

AMENDMENT NO. 2482

At the appropriate place in title XIV, insert the following:

SEC. ___. LIMITATION ON ATTORNEYS FEES.

Notwithstanding any other provision of this Act, amounts paid by a State to attorneys acting on behalf of the State or political subdivision of the State in connection with the past or future settlement of an action maintained by the State against 1 or more tobacco companies to recover tobacco-related medicaid expenditures, or for efforts that in whole or in part resulted in or created a model for programs in this Act, or for other causes of action to which the settlement agreement dated June 20, 1997 would apply, shall not exceed the lesser of—

(1) an amount equal to $2,000 per hour for each hour spent productively and at risk; or

(2) an amount equal to 10 percent of the amount which the State receives under section 451(a) for the fiscal year involved.

AMENDMENT NO. 2483

On page 199, after line 23, add the following:

(f) VETERANS ACCOUNT.—

(1) IN GENERAL.—There is established within the trust fund a separate account, to be known as the Veterans Account. Of the net revenues credited to the trust fund under section 401(b)(1), $1,000,000,000 for each fiscal year shall be allocated to the Veterans Account.

(2) AUTHORIZATION OF APPROPRIATIONS.—Amounts in the Veterans Account shall be available to the extent and in the amounts provided in advance in appropriations acts, to remain available until expended, only for purposes of enabling the Department of Veterans Affairs to provide care and services under chapter 17 of title 38, United States Code.

On page 199, after line 23, add the following:

(f) VETERANS ACCOUNT.—

(1) IN GENERAL.—There is established within the trust fund a separate account, to be known as the Veterans Account. Of the net revenues credited to the trust fund under section 401(b)(1), $1,000,000,000 for each fiscal year shall be allocated to the Veterans Account.

(2) AUTHORIZATION OF APPROPRIATIONS.—Amounts in the Veterans Account shall be available to the extent and in the amounts provided in advance in appropriations acts, to remain available until expended, only for purposes of enabling the Department of Veterans Affairs to provide care and services under chapter 17 of title 38, United States Code.

AMENDMENT NO. 2484

Beginning on page 192, line 6, strike all through page 199, line 23, and insert the following:

SEC. 451. ALLOCATION ACCOUNTS.

(a) STATE LITIGATION SETTLEMENT ACCOUNT.—

(1) IN GENERAL.—There is established within the Trust Fund a separate account, to be known as the State Litigation Settlement Account. Of the net revenues credited to the Trust Fund under section 401(b)(1) for each fiscal year, 20 percent of the amounts designated for allocation under the settlement payments shall be allocated to this account. Such amounts shall be reduced by the additional estimated Federal expenditures that will be incurred as a result of State expenditures under section 452, which amounts shall be transferred to the miscellaneous receipts of the Treasury. If, after 10 years, the estimated 25-year total amount projected to received in this account will be different than amount than $196,500,000,000, then beginning with the eleventh year the 20 percent share will be adjusted as necessary, to a percentage not in excess of 25 percent and not less than 15 percent, to achieve that 25-year total amount.

(2) AUTHORIZATION OF APPROPRIATIONS.—Amounts in the State Litigation Settlement Account shall be available to the extent and only in the amounts provided in advance in appropriations Acts, to remain available until expended.

(3) DISTRIBUTION FORMULA.—The Secretary of the Treasury shall consult with the National Governors Association, the National Association of Attorneys General, and the National Conference of State Legislators on a formula for the distribution of amounts in the State Litigation Settlement Account and report to the Congress within 90 days after the date of enactment of this Act with recommendations for implementing a distribution formula.

(4) USE OF FUNDS.—A State may use amounts received under this subsection as the State determines appropriate, consistent with the other provisions of this Act.

(5) FUNDS NOT AVAILABLE AS MEDICAID REIMBURSEMENT.—Funds in the account shall not be available to the Secretary as reimbursement of Medicaid expenditures or considered as Medicaid overpayments for purposes of recoupment.

(b) PUBLIC HEALTH ALLOCATION ACCOUNT.—

(1) IN GENERAL.— There is established within the trust fund a separate account, to be known as the Public Health Account. Eleven percent of the net revenues credited to the trust fund under section 401(b)(1) and 50 percent of the net revenues credited to the trust fund under section 401(b)(3) shall be allocated to this account.

(2) AUTHORIZATION OF APPROPRIATIONS.—Amounts in the Public Health Account shall be available to the extent and only in the amounts provided in advance in appropriations Acts, to remain available until expended, only for the purposes of:

(A) CESSATION AND OTHER TREATMENTS.—Of the total amounts allocated to this account, not less than 25 percent, but not more than 35 percent are to be used to carry out smoking cessation activities under part D of title XIX of the Public Health Service Act, as added by title II of this Act.

(B) INDIAN HEALTH SERVICE.—Of the total amounts allocated to this account, not less than 3 percent, but not more than 7 percent are to be used to carry out activities under section 453.

(C) EDUCATION AND PREVENTION.—Of the total amounts allocated to this account, not less than 50 percent, but not more than 65 percent are to be used to carry out—

(i) counter-advertising activities under section 1982 of the Public Health Service Act as amended by this Act;

(ii) smoking prevention activities under section 223;

(iii) surveys under section 1991C of the Public Health Service Act, as added by this Act (but, in no fiscal year may the amounts used to carry out such surveys be less than 10 percent of the amounts available under this subsection); and

(iv) international activities under section 1132.

(D) ENFORCEMENT.—Of the total amounts allocated to this account, not less than 17.5 percent nor more than 22.5 percent are to be used to carry out the following:

(i) Food and Drug Administration activities.

(I) The Food and Drug Administration shall receive not less than 15 percent of the funds provided in subparagraph (D) in the first fiscal year beginning after the date of enactment of this Act, 35 percent of such funds in the second year beginning after the date of enactment, and 50 percent of such funds for each fiscal year beginning after the date of enactment, as reimbursements for the costs incurred by the Food and Drug Administration in implementing and enforcing requirements relating to tobacco products.

(II) No expenditures shall be made under subparagraph (D) during any fiscal year in which the annual amount appropriated for the Food and Drug Administration is less than the amount so appropriated for the prior fiscal year.

(ii) State retail licensing activities under section 251.

(iii) Anti-Smuggling activities under section 1141.

(c) HEALTH AND HEALTH-RELATED RESEARCH ALLOCATION ACCOUNT.—

(1) IN GENERAL.— There is established within the trust fund a separate account, to be known as the Health and Health-Related Research Account. Of the net revenues credited to the trust fund under section 401(b)(1), 11 percent shall be allocated to this account.

(2) AUTHORIZATION OF APPROPRIATIONS.—Amounts in the Health and Health-Related Research Account shall be available to the extent and in the amounts provided in advance in appropriations acts, to remain available until expended, only for the following purposes:

(A) $750,000 shall be made available in fiscal year 1999 for the study to be conducted under section 1991 of the Public Health Service Act.

(B) National Institutes of Health Research under section 1991D of the Public Health Service Act, as added by this Act. Of the total amounts allocated to this account, not less than 75 percent, but not more than 80 percent shall be used for this purpose.

(C) Centers for Disease Control under section 1991C of the Public Health Service Act, as added by this Act, and Agency for Health Care Policy and Research under section 1991E of the Public Health Service Act, as added by this Act, authorized under sections 2803 of that Act, as so added. Of the total amounts allocated to this account, not less than 12 percent, but not more than 18 percent shall be used for this purpose.

(D) National Science Foundation Research under section 454. Of the total amounts allocated to this account, not less than 1 percent, but not more than 1 percent shall be used for this purpose.

(E) Cancer Clinical Trials under section 455. Of the total amounts allocated to this account, $750,000,000 shall be used for the first 3 fiscal years for this purpose.

(d) FARMERS ASSISTANCE ALLOCATION ACCOUNT.—

(1) IN GENERAL.— There is established within the trust fund a separate account, to be known as the Farmers Assistance Account. Of the net revenues credited to the trust fund under section 401(b)(1) in each fiscal year—

(A) 8 percent shall be allocated to this account for the first 10 years after the date of enactment of this Act; and

(B) 2 percent shall be allocated to this account for each subsequent year until the account has received a total of $28,500,000,000.

(2) AUTHORIZATION OF APPROPRIATIONS.—Amounts in the Farmers Assistance Account shall be available to the extent and in the amounts provided in advance in appropriations acts, to remain available until expended for the purposes of section 1012.

(e) MEDICARE PRESERVATION ACCOUNT.—There is established within the trust fund a separate account, to be known as the Medicare Preservation Account. Amounts in the trust fund shall be allocated to this account as follows:

(1) 50 percent of the net revenues credited to the trust fund under section 401(b).

(2) In any year, the net amounts credited to the trust fund for payments under section 402(b) are greater than the net revenues originally estimated under section 401(b), 50 percent of the amount of any such excess.

(3) Beginning in the eleventh year beginning after the date of enactment of this Act, 6 percent of the net revenues credited to the trust fund under section 401(b)(1).

(f) TRANSFER OF REVENUES TO FEDERAL HOSPITAL INSURANCE TRUST FUND.—Section 1817(a) of the Social Security Act (42 U.S.C. 1395i(a)) is amended by striking ''and'' at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting ''; and'', and by inserting after paragraph (2) the following:

''(3) the amounts allocated to the Medicare Preservation Account of the National Tobacco Trust Fund.''

AMENDMENT NO. 2485

At the appropriate place, insert the following:

SEC. ___. EXPEDITED JUDICIAL REVIEW.

(a) EXPEDITED REVIEW.—

(1) IN GENERAL.—Any individual adversely affected by—

(A) a penalty for a violation of the lookback provisions of subtitle A of title II;

(B) an assessment for an initial or annual payment under section 403;

(C) any restrictions on marketing and labeling under this Act (or an amendment made by this Act) either foreign or domestic; or

(D) any licensing fee under section 1121;

may bring an action, in the United States District Court for the District of Columbia, for declaratory judgment and injunctive relief on the ground that such provision or its application to such individual violates the Constitution.

(2) DELIVERY OF COPY.—A copy of any complaint in an action brought under paragraph (1) shall be promptly delivered to the Secretary of the Senate and the Clerk of the House of Representatives, and each House of Congres shall have the right to intervene in such action.

(3) RIGHT OF INTERVENTION.—Nothing in this section or in any other law shall infringe upon the right of the House of Representatives to intervene in an action brought under paragraph (1) without the necessity of adopting a resolution to authorize such intervention.

(b) APPEAL TO SUPREME COURT.—Notwithstanding any other provision of law, any order of the United States District Court for the District of Columbia which is issued pursuant to an action brought under paragraph (1) of subsection (a) shall be reviewable by appeal directly to the Supreme Court of the United States. Any such appeal shall be taken by a notice of appeal filed within 10 calendar days after such order is entered; and the jurisdictional statement shall be filed within 30 calendar days after such order is entered. No stay of an order issued pursuant to an action brought under paragraph (1) of subsection (a) shall be issued by a single Justice of the Supreme Court.

(c) EXPEDITED CONSIDERATION.—It shall be the duty of the District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter brought under subsection (a).

(d) ADJUSTMENT OF INDUSTRY PAYMENTS.—

(1) IN GENERAL.—Except as provided in paragraph (2) and notwithstanding section 402(b), the amount of the annual payments required of a manufacturer under such section for a fiscal year shall be equal to the product of $0.75 and the number of packages of cigarettes sold in the previous year by such manufacturer.

(2) INCREASE IN AMOUNT.—Paragraph (1) shall cease to apply on the earlier of—

(A) the date on which a final ruling has been made as to the constitutionality of all of the provisions described in subsection (a)(1); or

(B) the date that is 3 years after the date of enactment of this Act.

AMENDMENT NO. 2486

Beginning on page 192, line 6, strike all through page 199, line 23, and insert the following:

SEC. 451. ALLOCATION ACCOUNTS.

(a) STATE LITIGATION SETTLEMENT ACCOUNT.—

(1) IN GENERAL.—There is established within the Trust Fund a separate account, to be known as the State Litigation Settlement Account. Of the net revenues credited to the Trust Fund under section 401(b)(1) for each fiscal year, 20 percent of the amounts designated for allocation under the settlement payments shall be allocated to this account. Such amounts shall be reduced by the additional estimated Federal expenditures that will be incurred as a result of State expenditures under section 452, which amounts shall be transferred to the miscellaneous receipts of the Treasury. If, after 10 years, the estimated 25-year total amount projected to received in this account will be different than amount than $196,500,000,000, then beginning with the eleventh year the 20 percent share will be adjusted as necessary, to a percentage not in excess of 25 percent and not less than 15 percent, to achieve that 25-year total amount.

(2) AUTHORIZATION OF APPROPRIATIONS.—Amounts in the State Litigation Settlement Account shall be available to the extent and only in the amounts provided in advance in appropriations Acts, to remain available until expended.

(3) DISTRIBUTION FORMULA.—The Secretary of the Treasury shall consult with the National Governors Association, the National Association of Attorneys General, and the National Conference of State Legislators on a formula for the distribution of amounts in the State Litigation Settlement Account and report to the Congress within 90 days after the date of enactment of this Act with recommendations for implementing a distribution formula.

(4) USE OF FUNDS.—A State may use amounts received under this subsection as the State determines appropriate, consistent with the other provisions of this Act.

(5) FUNDS NOT AVAILABLE AS MEDICAID REIMBURSEMENT.—Funds in the account shall not be available to the Secretary as reimbursement of Medicaid expenditures or considered as Medicaid overpayments for purposes of recoupment.

(b) PUBLIC HEALTH ALLOCATION ACCOUNT.—

(1) IN GENERAL.— There is established within the trust fund a separate account, to be known as the Public Health Account. Eleven percent of the net revenues credited to the trust fund under section 401(b)(1) and 50 percent of the net revenues credited to the trust fund under section 401(b)(3) shall be allocated to this account.

(2) AUTHORIZATION OF APPROPRIATIONS.—Amounts in the Public Health Account shall be available to the extent and only in the amounts provided in advance in appropriations Acts, to remain available until expended, only for the purposes of:

(A) CESSATION AND OTHER TREATMENTS.—Of the total amounts allocated to this account, not less than 25 percent, but not more than 35 percent are to be used to carry out smoking cessation activities under part D of title XIX of the Public Health Service Act, as added by title II of this Act.

(B) INDIAN HEALTH SERVICE.—Of the total amounts allocated to this account, not less than 3 percent, but not more than 7 percent are to be used to carry out activities under section 453.

(C) EDUCATION AND PREVENTION.—Of the total amounts allocated to this account, not less than 50 percent, but not more than 65 percent are to be used to carry out—

(i) counter-advertising activities under section 1982 of the Public Health Service Act as amended by this Act;

(ii) smoking prevention activities under section 223;

(iii) surveys under section 1991C of the Public Health Service Act, as added by this Act (but, in no fiscal year may the amounts used to carry out such surveys be less than 10 percent of the amounts available under this subsection); and

(iv) international activities under section 1132.

(D) ENFORCEMENT.—Of the total amounts allocated to this account, not less than 17.5 percent nor more than 22.5 percent are to be used to carry out the following:

(i) Food and Drug Administration activities.

(I) The Food and Drug Administration shall receive not less than 15 percent of the funds provided in subparagraph (D) in the first fiscal year beginning after the date of enactment of this Act, 35 percent of such funds in the second year beginning after the date of enactment, and 50 percent of such funds for each fiscal year beginning after the date of enactment, as reimbursements for the costs incurred by the Food and Drug Administration in implementing and enforcing requirements relating to tobacco products.

(II) No expenditures shall be made under subparagraph (D) during any fiscal year in which the annual amount appropriated for the Food and Drug Administration is less than the amount so appropriated for the prior fiscal year.

(ii) State retail licensing activities under section 251.

(iii) Anti-Smuggling activities under section 1141.

(c) HEALTH AND HEALTH-RELATED RESEARCH ALLOCATION ACCOUNT.—

(1) IN GENERAL.— There is established within the trust fund a separate account, to be known as the Health and Health-Related Research Account. Of the net revenues credited to the trust fund under section 401(b)(1), 11 percent shall be allocated to this account.

(2) AUTHORIZATION OF APPROPRIATIONS.—Amounts in the Health and Health-Related Research Account shall be available to the extent and in the amounts provided in advance in appropriations acts, to remain available until expended, only for the following purposes:

(A) $750,000 shall be made available in fiscal year 1999 for the study to be conducted under section 1991 of the Public Health Service Act.

(B) National Institutes of Health Research under section 1991D of the Public Health Service Act, as added by this Act. Of the total amounts allocated to this account, not less than 75 percent, but not more than 80 percent shall be used for this purpose.

(C) Centers for Disease Control under section 1991C of the Public Health Service Act, as added by this Act, and Agency for Health Care Policy and Research under section 1991E of the Public Health Service Act, as added by this Act, authorized under sections 2803 of that Act, as so added. Of the total amounts allocated to this account, not less than 12 percent, but not more than 18 percent shall be used for this purpose.

(D) National Science Foundation Research under section 454. Of the total amounts allocated to this account, not less than 1 percent, but not more than 1 percent shall be used for this purpose.

(E) Cancer Clinical Trials under section 455. Of the total amounts allocated to this account, $750,000,000 shall be used for the first 3 fiscal years for this purpose.

(d) FARMERS ASSISTANCE ALLOCATION ACCOUNT.—

(1) IN GENERAL.— There is established within the trust fund a separate account, to be known as the Farmers Assistance Account. Of the net revenues credited to the trust fund under section 401(b)(1) in each fiscal year—

(A) 8 percent shall be allocated to this account for the first 10 years after the date of enactment of this Act; and

(B) 2 percent shall be allocated to this account for each subsequent year until the account has received a total of $28,500,000,000.

(2) AUTHORIZATION OF APPROPRIATIONS.—Amounts in the Farmers Assistance Account shall be available to the extent and in the amounts provided in advance in appropriations acts, to remain available until expended for the purposes of section 1012.

(e) MEDICARE PRESERVATION ACCOUNT.—There is established within the trust fund a separate account, to be known as the Medicare Preservation Account. If, in any year, the net amounts credited to the trust fund

for payments under section 402(b) are greater than the net revenues originally estimated under section 401(b), 50 percent of the amount of any such excess shall be credited to the Medicare Preservation Account. Beginning in the eleventh year beginning after the date of enactment of this Act, 6 percent of the net revenues credited to the trust fund under section 401(b)(1) shall be allocated to this account. Funds credited to this account shall be transferred to the Medicare Hospital Insurance Trust Fund.

(f) RATE REDUCTION ACCOUNT.—

(1) IN GENERAL.—There is established within the trust fund a separate account, to be known as the Rate Reduction Account. Fifty percent of the net revenues credited to the trust fund under section 401(b) shall be allocated to this account.

(2) APPROPRIATION.—Amounts so allocated are hereby appropriated to the general fund of the Treasury for the purposes of providing the revenue offset for the amendments made by section 451A of this Act.

SEC. 451A. REDUCTION OF 15 AND 28 PERCENT RATES.

(a) IN GENERAL.—The tables contained subsections (a) through (e) of section 1 of the Internal Revenue Code of 1986 (relating to tax imposed) are amended by striking ''15%'' and ''28%'' each place they appear and insert ''14.8%'' and ''27.65%'', respectively.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

AMENDMENT NO. 2487

At the appropriate place insert the following:

SEC. ___. INCREASE AND SIMPLIFICATION OF DEPENDENT CARE TAX CREDIT.

(a) INCREASE IN MAXIMUM CREDIT RATE.—Section 21(a)(2) of the Internal Revenue Code of 1986 (defining applicable percentage) is amended to read as follows:

''(2) APPLICABLE PERCENTAGE DEFINED.—For purposes of paragraph (1), the term 'applicable percentage' means 50 percent reduced (but not below 20 percent) by 1 percentage point for each $1,000, or fraction thereof, by which the taxpayers's adjusted gross income for the taxable year exceeds $30,000.''.

(b) ELIMINATION OF HOUSEHOLD MAINTENANCE TEST.—Paragraph (1) of section 21(e) of the Internal Revenue Code of 1986 (relating to special rules) is repealed.

(c) INFLATION ADJUSTMENT FOR CERTAIN AMOUNTS.—Section 21(e) of the Internal Revenue Code of 1986 (relating to special rules), as amended by subsection (c), is amended by adding at the end the following:

''(12) INFLATION ADJUSTMENTS.—

''(A) IN GENERAL.—In the case of any taxable year beginning after 1999, the $30,000 amount referred to in subsection (a)(2) and the dollar amounts referred to in subsection (c) and paragraph (11) of this subsection shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting 'calendar year 1998' for 'calendar year 1992' in subparagraph (B) thereof.

''(B) ROUNDING.—If any dollar amount after being increased under subparagraph (A) is not a multiple of $10, such dollar amount shall be rounded to the nearest multiple of $10.''.

(d) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 1998.

(e) APPROPRIATION.—Notwithstanding any other provision of this Act, from amounts credited to the National Tobacco Trust Fund but not appropriated by this Act, there is appropriated to the general fund in the Treasury an amount equal to the reduction in revenues to the Treasury resulting from the amendments made by this section.

AMENDMENT NO. 2488

On page 199, after line 23, add the following:

(f) TERMINATION OF ACCOUNTS.—

(1) IN GENERAL.—The accounts established under subsections (a), (b), (c), and (d) shall terminate on the date that is 10 years after the date of enactment of this Act.

(2) USE OF FUNDS.—Any amounts in the accounts terminated under paragraph (1) that remain unobligated on the termination date described in such paragraph, and any amounts contained in the trust fund in a fiscal year after the termination of such accounts, shall be used as follows:

(A) 50 percent of such amounts shall be used to offset tax cuts.

(B) 50 percent of such amounts shall be transferred to the Medicare Preservation Account established under subsection (e).

AMENDMENT NO. 2489

At the appropriate place in the bill, insert the follows:

SEC. . WINDFALL PROFIT EXCISE TAX ON CERTAIN EXCESSIVE ATTORNEY FEES.

(a) IN GENERAL.—Subtitle D of the Internal Revenue Code of 1986 (relating to miscellaneous excise taxes) is amended by inserting after chapter 44 the following:

''SEC. 4986. IMPOSITION OF TAX.

''(a) IN GENERAL.—There is hereby imposed on any taxpayer who receives a windfall profit on any taxable award of attorney fees a tax equal to the applicable percentage of such windfall profit.

''(b) DEFINITIONS.—For purposes of this section—

''(1) TAXABLE AWARD OF ATTORNEY FEES.—The term 'taxable award of attorney fees' means that portion of the award of attorney fees with respect to a judgment in or settlement of any litigation by a State or class-action plaintiffs against a tobacco manufacturer or a group of tobacco manufacturers for damages relating to tobacco-related diseases, conditions, or addiction which exceeds any court approved expenses relating to such litigation.

''(2) WINDFALL PROFIT.—The term 'windfall profit' means that portion of a taxable award of attorney fees which exceeds 5 percent of the amount any such judgment or settlement or which exceeds $1,000 per hour.

''(3) APPLICABLE PERCENTAGE.—The applicable percentage is—

''(A) 20 percent with respect to that portion of the windfall profit exceeding 5 percent but not 10 percent of the amount of such judgment or settlement or which exceed $1,000 per hour but not $1,500 per hour, and

''(B) 40 percent with respect to that portion of such windfall profit exceeding 10 percent of such amount or which exceed $1,500 per hour.

''(c) ADMINISTRATIVE PROVISIONS.—

''(1) WITHHOLDING.—In the case of any windfall profit which is wages (within the meaning of section 3401) the amount deducted and withheld under section 3402 shall be increased by the amount of the tax imposed by this section on such windfall profit.

''(2) OTHER ADMINISTRATIVE PROVISIONS.—For purposes of subtitle F, any tax imposed by this section shall be treated as a tax imposed by subtitle A.''

(b) CONFORMING AMENDMENT.—The table of chapters of subtitle D of such Code is amended by inserting after the item relating to chapter 44 the following:

''CHAPTER 45. Windfall profit tax on certain attorney fees.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to awards received after December 31, 1997.

GORTON AMENDMENTS NOS. 2490–2491

(Ordered to lie on the table.)

Mr. GORTON submitted two amendments intended to be proposed by him to the bill, S. 1415, supra; as follows:

AMENDMENT NO. 2490

At the appropriate place in the pending amendment, add the following:

SEC. 604. STATE TOBACCO TAX COMPLIANCE

(a) IN GENERAL.—An Indian tribe, tribal corporation, or individual member of an Indian tribe engaged in tobacco retailing shall collect all applicable tobacco excise and sales taxes lawfully imposed by the State, within the exterior boundaries of which the purchase occurs, on nonmembers of the Indian tribe as a consequence of the purchase of tobacco products by the nonmember from the Indian tribe, tribal corporation, or individual member.

(b) REMITTANCE TO TREASURY DEPARTMENT.—To the extent that all such taxes are not collected and not remitted to the appropriate State by the Indian tribe, tribal corporation, or individual member of an Indian tribe (or, in the manner provided by State law, by any other person), the tribe, tribal corporation, or individual member shall remit such taxes to the Treasury of the United States, which shall, in turn, remit such taxes to the State in which the purchase by the nonmember took place. The Secretary of the Treasury of the United States shall promulgate regulations within 120 days to enforce this section.

(c) EXEMPTION UNDER STATE LAW.—Subsections (a) and (b) shall not apply if (1) the State's laws provide that Indian tribes or tribal corporations are not obligated to remit excise and sales taxes to the State on the condition that such tribe or tribal corporation imposes and collects tobacco excise and sales taxes on purchases of tobacco products by non-members that are equal to or greater than the applicable excise and sales taxes lawfully imposed by the State on the purchase of tobacco products within the State's exterior borders; or (2) the State's laws exempt or waive the application of such taxes. Nothing in this section is intended to prohibit a State from enacting a law consistent with the provisions of this section.

(d) TRIBAL-STATE AGREEMENTS.—Subsections (a) and (b) shall not apply to Indian tribes or tribal corporations if the tribe or tribal corporation has an agreement with the State, within which the purchase of tobacco products by nonmembers occurs, on the collection and allocation of excise and sales taxes on the purchase of tobacco products by nonmembers. Nothing in this section prohibits a tribe and a State from entering into such an agreement after the date of enactment of this Act.

AMENDMENT NO. 2491

At the appropriate place in the pending amendment, add the following:

SEC. 604. STATE TOBACCO TAX COMPLIANCE.

An Indian tribe or tribal corporation shall collect any excise or sales tax imposed by a State, within the exterior borders of which the sale occurs, on non-members of the Indian tribe as a consequence of the purchase of tobacco products by the non-member from the Indian tribe or tribal corporation. The Indian tribe or tribal corporation shall remit such taxes collected to the Treasury of the United States, which shall, in turn, remit the taxes to the State in which they were collected.

LUGAR (AND McCONNELL) AMENDMENTS NOS. 2492–2502

(Ordered to lie on the table.)

Mr. LUGAR (for himself and Mr. MCCONNELL) submitted 11 amendments to be proposed by them to the bill, S. 1415, supra; as follows:

AMENDMENT NO. 2492

Strike section 1024.

AMENDMENT NO. 2493

Strike title X.

AMENDMENT NO. 2494

Strike section 1021(d)(4)(E).

AMENDMENT NO. 2495

Strike section 1021(d)(13).

AMENDMENT NO. 2496

Strike title X (relating to long-term economic assistance for farmers).

AMENDMENT NO. 2497

Strike title X and insert the following:

TITLE X—PAYMENTS TO TOBACCO FARMERS

SEC. 1001. BUDGETARY TREATMENT.

Subtitle A of title XV constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide payments to States and eligible persons in accordance with subtitle A of title XV.

SEC. 1002. BUYOUT PAYMENTS TO OWNERS.

(a) IN GENERAL.—Notwithstanding, and in lieu of, section 1514, the Secretary of Agriculture shall make buyout payments for each of the 1999 through 2001 marketing years for each kind of tobacco involved to an owner that owns quota at the time of entering into a tobacco transition contract.

(b) ALLOCATION.—Of the total amount of buyout payments made under subsection (a)—

(1) 46 percent shall be made for the 1999 marketing year;

(2) 27 percent shall be made for the 2000 marketing year; and

(3) 27 percent shall be made for the 2001 marketing year.

(c) COMPENSATION FOR LOST VALUE.—The payment shall constitute compensation for the lost value to the owner of the quota.

(d) PAYMENT CALCULATION.—Under this section, the total amount of the buyout payment made to an owner shall be determined by multiplying—

(1) $8.00; by

(2) the average annual quantity of quota owned by the owner during the 1995 through 1997 crop years.

SEC. 1003. TRANSITION PAYMENTS TO PRODUCERS.

(a) IN GENERAL.—Notwithstanding, and in lieu of, section 1515, the Secretary of Agriculture shall make transition payments for each of the 1999 through 2001 marketing years for each kind of tobacco produced, to a producer that—

(1) produced the kind of tobacco for each of the 1995 through 1997 crops; and

(2) entered into a tobacco transition contract.

(b) ALLOCATION.—Of the total amount of transition payments made under subsection (a)—

(1) 46 percent shall be made for the 1999 marketing year;

(2) 27 percent shall be made for the 2000 marketing year; and

(3) 27 percent shall be made for the 2001 marketing year.

(c) TRANSITION PAYMENTS LIMITED TO LEASED QUOTA.—A producer shall be eligible for transition payments only for the portion of the production of the producer that is subject to quota that is leased (as defined in section 1503(5) of this Act) during the 3 crop years described in subsection (a)(1).

(d) COMPENSATION FOR LOST REVENUE.—The payments shall constitute compensation for the lost revenue incurred by a tobacco producer for a kind of tobacco.

(e) PRODUCTION HISTORY; PRODUCTION.—

(1) PRODUCTION HISTORY.—The Secretary shall base a transition payment made to a producer on the average quantity of tobacco subject to a marketing quota that is produced by the producer for each of the 1995 through 1997 crops.

(2) PRODUCTION.—The producer shall have the burden of demonstrating to the Secretary the production of tobacco for each of the 1995 through 1997 crops.

(f) PAYMENT CALCULATION.—Under this section, the total amount of the transition payment made to a producer shall be determined by multiplying—

(1) $4.00; by

(2) the average quantity of the kind of tobacco produced by the producer for each of the 1995 through 1997 crops.

SEC. 1004. EFFECTIVE DATE.

This title takes effect on the day after the date of enactment of this Act.

AMENDMENT NO. 2498

Strike title X and insert the following:

TITLE X—TOBACCO TRANSITION

SEC. 1001. SHORT TITLE.

This title may be cited as the ''Tobacco Transition Act''.

SEC. 1002. PURPOSES.

The purposes of this title are—

(1) to authorize the use of binding contracts between the United States and tobacco quota owners and tobacco producers to compensate them for the termination of Federal programs that support the production of tobacco in the United States;

(2) to make available to States funds for economic assistance initiatives in counties of States that are dependent on the production of tobacco; and

(3) to terminate Federal programs that support the production of tobacco in the United States.

SEC. 1003. DEFINITIONS.

In this title:

(1) ASSOCIATION.—The term ''association'' means a producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers.

(2) BUYOUT PAYMENT.—The term ''buyout payment'' means a payment made to a quota owner under section 1014 for each of the 1999 through 2001 marketing years.

(3) CONTRACT.—The term ''contract'' or ''tobacco transition contract'' means a contract entered into under section 1012.

(4) GOVERNOR.—The term ''Governor'' means the chief executive officer of a State.

(5) LEASE.—The term ''lease'' means—

(A) the rental of quota on either a cash rent or crop share basis;

(B) the rental of farmland to produce tobacco under a farm marketing quota; or

(C) the lease and transfer of quota for the marketing of tobacco produced on the farm of a lessor.

(6) MARKETING YEAR.—The term ''marketing year'' means—

(A) in the case of Flue-cured tobacco, the period beginning July 1 and ending the following June 30; and

(B) in the case of each other kind of tobacco, the period beginning October 1 and ending the following September 30.

(7) OWNER.—The term ''owner'' means a person that, at the time of entering into a tobacco transition contract, owns quota provided by the Secretary.

(8) PRICE SUPPORT.—The term ''price support'' means a nonrecourse loan provided by the Commodity Credit Corporation through an association for a kind of tobacco.

(9) PRODUCER.—The term ''producer'' means a person that for each of the 1995 through 1997 crops of tobacco (as determined by the Secretary) that were subject to quota—

(A) leased quota;

(B) shared in the risk of producing a crop of tobacco; and

(C) marketed the tobacco subject to quota.

(10) QUOTA.—The term ''quota'' means the right to market tobacco under a basic marketing quota or acreage allotment allotted to a person under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.).

(11) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(12) STATE.—The term ''State'' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

(13) TOBACCO.—The term ''tobacco'' means any kind of tobacco for which—

(A) a marketing quota is in effect;

(B) a marketing quota is not disapproved by producers; or

(C) price support is available.

(14) TOBACCO PRODUCT MANUFACTURER.—The term ''tobacco product manufacturer'' has the meaning given the term ''manufacturer of tobacco products'' in section 5702 of the Internal Revenue Code of 1986.

(15) TRANSITION PAYMENT.—The term ''transition payment'' means a payment made to a producer under section 1015 for each of the 1999 through 2001 marketing years.

(16) TRUST FUND.—The term ''Trust Fund'' means the Tobacco Community Revitalization Trust Fund established by section 1011.

(17) UNITED STATES.—The term ''United States'', when used in a geographical sense, means all of the States.

Subtitle A—Tobacco Production Transition

CHAPTER 1—TOBACCO TRANSITION CONTRACTS

SEC. 1011. TOBACCO COMMUNITY REVITALIZATION TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund to be known as the ''Tobacco Community Revitalization Trust Fund'', consisting of amounts paid into the Trust Fund under subsection (d).

(b) ADMINISTRATION.—The Trust Fund shall be administered by the Secretary of the Treasury.

(c) USE.—Funds in the Trust Fund shall be available for making—

(1) buyout payments;

(2) transition payments;

(3) rural economic assistance block grants under section 1021;

(4) payments to carry out sections 106A and 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–1, 1445–2);

(5) payments to reimburse the Commodity Credit Corporation for net losses under section 1032(f)(3); and

(4) payments for tobacco related administrative costs and subsidies described in section 1052.

(d) TRANSFER FROM NATIONAL TOBACCO SETTLEMENT TRUST FUND.—The Secretary of the Treasury shall transfer from the National Tobacco Settlement Trust Fund to the Trust Fund such amounts as the Secretary of Agriculture determines are necessary to carry out this title.

(e) TERMINATION.—The Trust Fund shall terminate effective September 30, 2024.

SEC. 1012. OFFER AND TERMS OF TOBACCO TRANSITION CONTRACTS.

(a) OFFER.—The Secretary shall offer to enter into a tobacco transition contract with each owner and producer.

(b) TERMS.—

(1) OWNERS.—In exchange for a payment made under section 1014, an owner shall agree to relinquish the quota owned by the owner.

(2) PRODUCERS.—In exchange for a payment made under section 1015, a producer shall agree to relinquish the value of the quota leased by the producer.

(c) RIGHT TO GROW TOBACCO.—Each owner or producer that enters into a contract shall have the right to continue the production of tobacco for each of the 1999 and subsequent crops of tobacco.

SEC. 1013. ELEMENTS OF CONTRACTS.

(a) DEADLINES FOR CONTRACTING.—

(1) COMMENCEMENT.—To the maximum extent practicable, the Secretary shall commence entering into contracts under this chapter not later than 90 days after the date of enactment of this Act.

(2) DEADLINE.—The Secretary may not enter into a contract under this chapter after June 30, 1999.

(b) DURATION OF CONTRACT.—The term of a contract shall—

(1) begin on the date that is the beginning of the 1999 marketing year for a kind of tobacco; and

(2) terminate on the date that is the end of the 2001 marketing year for the kind of tobacco.

(c) TIME FOR PAYMENT.—A buyout payment or transition payment shall be made not later than the date that is the beginning of the marketing year for a kind of tobacco for each year of the term of a tobacco transition contract of an owner or producer.

SEC. 1014. BUYOUT PAYMENTS TO OWNERS.

(a) IN GENERAL.—The Secretary shall make buyout payments in 3 equal installments, 1 installment for each of the 1999 through 2001 marketing years for each kind of tobacco involved, to an owner that owns quota at the time of entering into a tobacco transition contract.

(b) COMPENSATION FOR LOST VALUE.—The payment shall constitute compensation for the lost value to the owner of the quota.

(c) PAYMENT CALCULATION.—Under this section, the total amount of the buyout payment made to an owner shall be determined by multiplying—

(1) $8.00; by

(2) the average annual quantity of quota owned by the owner during the 1995 through 1997 crop years.

SEC. 1015. TRANSITION PAYMENTS TO PRODUCERS.

(a) IN GENERAL.—The Secretary shall make transition payments in 3 equal installments, 1 installment for each of the 1999 through 2001 marketing years for each kind of tobacco produced, to a producer that—

(1) produced the kind of tobacco for each of the 1995 through 1997 crops; and

(2) entered into a tobacco transition contract.

(b) TRANSITION PAYMENTS LIMITED TO LEASED QUOTA.—A producer shall be eligible for transition payments only for the portion of the production of the producer that is subject to quota that is leased during the 3 crop years described in subsection (a)(1).

(c) COMPENSATION FOR LOST REVENUE.—The payments shall constitute compensation for the lost revenue incurred by a tobacco producer for a kind of tobacco.

(d) PRODUCTION HISTORY; PRODUCTION.—

(1) PRODUCTION HISTORY.—The Secretary shall base a transition payment made to a producer on the average quantity of tobacco subject to a marketing quota that is produced by the producer for each of the 1995 through 1997 crops.

(2) PRODUCTION.—The producer shall have the burden of demonstrating to the Secretary the production of tobacco for each of the 1995 through 1997 crops.

(e) PAYMENT CALCULATION.—Under this section, the total amount of the transition payment made to a producer shall be determined by multiplying—

(1) $4.00; by

(2) the average quantity of the kind of tobacco produced by the producer for each of the 1995 through 1997 crops.

CHAPTER 2—RURAL ECONOMIC ASSISTANCE BLOCK GRANTS

SEC. 1021. RURAL ECONOMIC ASSISTANCE BLOCK GRANTS.

(a) IN GENERAL.—From funds in the Trust Fund, the Secretary shall use $200,000,000 for each of fiscal years 1999 through 2003 to provide block grants to tobacco-growing States to assist areas of such a State that are economically dependent on the production of tobacco.

(b) PAYMENTS BY SECRETARY TO TOBACCO-GROWING STATES.—

(1) IN GENERAL.—The Secretary shall use the amount available for a fiscal year under subsection (a) to make block grant payments to the Governors of tobacco-growing States.

(2) AMOUNT.—The amount of a block grant paid to a tobacco-growing State shall be based on—

(A) the number of counties in the State in which tobacco production is a significant part of the county's economy; and

(B) the level of economic dependence of the counties on tobacco production.

(c) GRANTS BY STATES TO ASSIST TOBACCO-GROWING AREAS.—

(1) IN GENERAL.—A Governor of a tobacco-growing State shall use the amount of the block grant to the State under subsection (b) to make grants to counties or other public or private entities in the State to assist areas that are dependent on the production of tobacco, as determined by the Governor.

(2) AMOUNT.—The amount of a grant paid to a county or other entity to assist an area shall be based on—

(A) the ratio of gross tobacco sales receipts in the area to the total farm income in the area; and

(B) the ratio of all tobacco related receipts in the area to the total income in the area.

(3) USE OF GRANTS.—A county or other entity that receives a grant under this subsection may use the grant in a manner determined appropriate by the county or entity (with the approval of the State) to assist producers and other persons that are economically dependent on the production of tobacco, including use for—

(A) on-farm diversification, alternatives to the production of tobacco, and risk management;

(B) off-farm activities such as education, retraining, and development of non-tobacco related jobs; and

(C) assistance to tobacco warehouse owners or operators.

(d) TERMINATION OF AUTHORITY.—The authority provided by this section terminates October 1, 2003.

Subtitle B—Tobacco Price Support and Production Adjustment Programs

CHAPTER 1—TOBACCO PRICE SUPPORT PROGRAM

SEC. 1031. INTERIM REFORM OF TOBACCO PRICE SUPPORT PROGRAM.

(a) PRICE SUPPORT RATES.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended to read as follows:

"SEC. 106. TOBACCO PRICE SUPPORT RATES.

''The price support rate for each kind of tobacco for which quotas have been approved shall be reduced by—

''(1) for the 1999 crop, 25 percent from the 1998 support rate for a kind of tobacco;

''(2) for the 2000 crop, 10 percent from the 1999 support rate for a kind of tobacco; and

''(3) for the 2001 crop, 10 percent from the 2000 support rate for a kind of tobacco.''.

(b) NO NET COST TOBACCO FUND AND ACCOUNT.—

(1) NO NET COST TOBACCO FUND.—Section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445–1) is amended to read as follows:

"SEC. 106A. NO NET COST TOBACCO FUND.

''(a) DEFINITIONS.—In this section:

''(1) ASSOCIATION.—The term 'association' means a producer-owned cooperative marketing association that has entered into a loan agreement with the Corporation to make price support available to producers of a kind of tobacco.

''(2) CORPORATION.—The term 'Corporation' means the Commodity Credit Corporation, an agency and instrumentality of the United States within the Department of Agriculture through which the Secretary makes price support available to producers.

''(3) NET GAINS.—The term 'net gains' means the amount by which the total proceeds obtained from the sale by an association of a crop of tobacco pledged to the Corporation for a price support loan exceeds the principal amount of the price support loan made by the Corporation to the association on the crop, plus interest and charges.

''(4) NO NET COST TOBACCO FUND.—The term 'No Net Cost Tobacco Fund' means the capital account established within each association under this section.

''(5) PURCHASER.—The term 'purchaser' means any person that purchases in the United States, either directly or indirectly for the account of the person or another person, Flue-cured or burley tobacco.

''(6) TOBACCO.—The term 'tobacco' means any kind of tobacco for which—

''(A) a marketing quota is in effect;

''(B) a marketing quota is not disapproved by producers; or

''(C) price support is available.

''(7) TRUST FUND.—The term 'Trust Fund' means the National Tobacco Settlement Trust Fund established in the Treasury of the United States consisting of amounts that are appropriated or credited to the Trust Fund from the tobacco settlement approved by Congress.

''(b) PRICE SUPPORT PROGRAM; LOANS.—The Secretary—

''(1) may carry out the tobacco price support program through the Corporation; and

''(2) shall, except as otherwise provided by this section, continue to make price support available to producers through loans to associations that, under agreements with the Corporation, agree to make loan advances to producers.

''(c) ESTABLISHMENT OF FUND.—

''(1) IN GENERAL.—Each association shall establish within the association a No Net Cost Tobacco Fund.

''(2) AMOUNT.—There shall be transferred from the Trust Fund to each No Net Cost Tobacco Fund such amount as the Secretary determines will be adequate to reimburse the Corporation for any net losses that the Corporation may sustain under its loan agreements with the association, based on—

''(A) reasonable estimates of the amounts that the Corporation has lent or will lend to the association for price support for the 1982 and subsequent crops of tobacco, except that for the 1986 and subsequent crops of burley tobacco, the Secretary shall determine the amount of assessments without regard to

any net losses that the Corporation may sustain under the loan agreements of the Corporation with the association for the 1983 crop of burley tobacco; and

''(B) the proceeds that will be realized from the sales of tobacco that are pledged to the Corporation by the association as security for loans.

''(d) ADMINISTRATION.—The Secretary shall—

''(1) require that the No Net Cost Tobacco Fund established by each association be kept and maintained separately from all other accounts of the association and be used exclusively, as prescribed by the Secretary, for the purpose of ensuring, insofar as practicable, that the Corporation, under its loan agreements with the association with respect to 1982 and subsequent crops of tobacco, will suffer no net losses (including recovery of the amount of loans extended to cover the overhead costs of the association), after any net gains are applied to net losses of the Corporation under paragraph (3), except that, notwithstanding any other provision of law, the association may, with the approval of the Secretary, use funds in the No Net Cost Tobacco Fund, including interest and other earnings, for—

''(A) the purposes of reducing the association's outstanding indebtedness to the Corporation associated with 1982 and subsequent crops of tobacco and making loan advances to producers as authorized; and

''(B) any other purposes that will be mutually beneficial to producers and purchasers and to the Corporation;

''(2) permit an association to invest the funds in the No Net Cost Tobacco Fund in such manner as the Secretary may approve, and require that the interest or other earnings on the investment shall become a part of the No Net Cost Tobacco Fund;

''(3) require that loan agreements between the Corporation and the association provide that the Corporation shall retain the net gains from each of the 1982 and subsequent crops of tobacco pledged by the association as security for price support loans, and that the net gains will be used for the purpose of—

''(A) offsetting any losses sustained by the Corporation under its loan agreements with the association for any of the 1982 and subsequent crops of tobacco; or

''(B) reducing the outstanding balance of any price support loan made by the Corporation to the association under the loan agreements for 1982 and subsequent crops of tobacco; and

''(4) effective for the 1986 and subsequent crops of tobacco, if the Secretary determines that the amount in the No Net Cost Tobacco Fund or the net gains referred to in paragraph (3) exceeds the total amount necessary for the purposes specified in this section, suspend the transfer of amounts from the Trust Fund to the No Net Cost Tobacco Fund under this section.

''(e) NONCOMPLIANCE.—

''(1) IN GENERAL.—If any association that has entered into a loan agreement with the Corporation with respect to any of the 1982 or subsequent crops of tobacco fails or refuses to comply with this section (including regulations promulgated under this section) or the terms of the agreement, the Secretary may terminate the agreement or provide that no additional loan funds may be made available under the agreement to the association.

''(2) PRICE SUPPORT.—If the Secretary takes action under paragraph (1), the Secretary shall make price support available to producers of the kind or kinds of tobacco, the price of which had been supported through loans to the association, through such other means as are authorized by this Act or the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.).

''(f) TERMINATION OF AGREEMENT OR ASSOCIATION.—If, under subsection (e), a loan agreement with an association is terminated, or if an association having a loan agreement with the Corporation is dissolved, merges with another association, or otherwise ceases to operate, the No Net Cost Tobacco Fund or the net gains referred to in subsection (d)(3) shall be applied or disposed of in such manner as the Secretary may approve or prescribe, except that the net gains shall, to the extent necessary, first be applied or used for the purposes specified in this section.

''(g) REGULATIONS.—The Secretary shall issue such regulations as are necessary to carry out this section.''.

(2) NO NET COST TOBACCO ACCOUNT.—Section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2) is amended to read as follows:

''SEC. 106B. NO NET COST TOBACCO ACCOUNT.

''(a) DEFINITIONS.—In this section:

''(1) AREA.—The term 'area', when used in connection with an association, means the general geographical area in which farms of the producer-members of the association are located, as determined by the Secretary.

''(2) ASSOCIATION.—The term 'association' has the meaning given the term in section 106A(a)(1).

''(3) CORPORATION.—The term 'Corporation' has the meaning given the term in section 106A(a)(2).

''(4) NET GAINS.—The term 'net gains' has the meaning given the term in section 106A(a)(3).

''(5) NO NET COST TOBACCO ACCOUNT.—The term 'No Net Cost Tobacco Account' means an account established by and in the Corporation for an association under this section.

''(6) PURCHASER.—The term 'purchaser' has the meaning given the term in section 106A(a)(5).

''(7) TOBACCO.—The term 'tobacco' means any kind of tobacco for which—

''(A) a marketing quota is in effect;

''(B) a marketing quota is not disapproved by producers; or

''(C) price support is available.

''(8) TRUST FUND.—The term 'Trust Fund' has the meaning given the term in section 106A(a)(7).

''(b) PRICE SUPPORT PROGRAM; LOANS.—Notwithstanding section 106A, the Secretary shall, on the request of any association, and may, if the Secretary determines, after consultation with the association, that the accumulation of the No Net Cost Tobacco Fund for the association under section 106A is, and is likely to remain, inadequate to reimburse the Corporation for net losses that the Corporation sustains under its loan agreements with the association—

''(1) continue to make price support available to producers through the association in accordance with loan agreements entered into between the Corporation and the association; and

''(2) establish and maintain in accordance with this section a No Net Cost Tobacco Account for the association in lieu of the No Net Cost Tobacco Fund established within the association under section 106A.

''(c) ESTABLISHMENT OF ACCOUNT.—

''(1) IN GENERAL.—A No Net Cost Tobacco Account established for an association under subsection (b)(2) shall be established within the Corporation.

''(2) AMOUNT.—There shall be transferred from the Trust Fund to each No Net Cost Tobacco Account such amount as the Secretary determines will be adequate to reimburse the Corporation for any net losses that the Corporation may sustain under its loan agreements with the association, based on—

''(A) reasonable estimates of the amounts that the Corporation has lent or will lend to the association for price support for the 1982 and subsequent crops of tobacco, except that for the 1986 and subsequent crops of burley tobacco, the Secretary shall determine the amount of assessments without regard to any net losses that the Corporation may sustain under the loan agreements of the Corporation with the association for the 1983 crop of burley tobacco; and

''(B) the proceeds that will be realized from the sales of a kind of tobacco that are pledged to the Corporation by the association as security for loans.

''(3) ADMINISTRATION.—On the establishment of a No Net Cost Tobacco Account for an association, any amount in the No Net Cost Tobacco Fund established within the association under section 106A shall be applied or disposed of in such manner as the Secretary may approve or prescribe, except that the amount shall, to the extent necessary, first be applied or used for the purposes specified in that section.

''(d) USE.—Amounts deposited in a No Net Cost Tobacco Account established for an association shall be used by the Secretary for the purpose of ensuring, insofar as practicable, that the Corporation under its loan agreements with the association will suffer, with respect to the crop involved, no net losses (including recovery of the amount of loans extended to cover the overhead costs of the association), after any net gains are applied to net losses of the Corporation under subsection (g).

''(e) EXCESS AMOUNTS.—If the Secretary determines that the amount in the No Net Cost Tobacco Account or the net gains referred to in subsection (g) exceed the total amount necessary to carry out this section, the Secretary shall suspend the transfer of amounts from the Trust Fund to the No Net Cost Tobacco Account under this section.

''(f) TERMINATION OF AGREEMENT OR ASSOCIATION.—In the case of an association for which a No Net Cost Tobacco Account is established under subsection (b)(2), if a loan agreement between the Corporation and the association is terminated, if the association is dissolved or merges with another association that has entered into a loan agreement with the Corporation to make price support available to producers of a kind of tobacco, or if the No Net Cost Tobacco Account terminates by operation of law, amounts in the No Net Cost Tobacco Account and the net gains referred to in subsection (g) shall be applied to or disposed of in such manner as the Secretary may prescribe, except that the net gains shall, to the extent necessary, first be applied to or used for the purposes specified in this section.

''(g) NET GAINS.—The provisions of section 106A(d)(3) relating to net gains shall apply to any loan agreement between an association and the Corporation entered into on or after the establishment of a No Net Cost Tobacco Account for the association under subsection (b)(2).

''(h) REGULATIONS.—The Secretary shall issue such regulations as are necessary to carry out this section.''.

(3) CONFORMING AMENDMENTS.—

(A) Section 314(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314(a)) is amended in the first sentence—

(i) by striking ''(1)''; and

(ii) by striking '', or (2)'' and all that follows through ''106B(d)(1) of that Act''.

(B) Section 320B(c)(1) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314h(c)(1)) is amended by inserting after ''1445–2)'' the following: ''(as in effect before the effective date of the amendments made by section 1031(b) of the Tobacco Transition Act)''.

(c) ADMINISTRATIVE COSTS.—Section 1109 of the Agriculture and Food Act of 1981 (Public Law 97–98; 7 U.S.C. 1445 note) is repealed.

(d) CROPS.—

(1) IN GENERAL.—Except as provided in paragraph (2), this section and the amendments made by this section shall apply with respect to the 1998 through 2001 marketing years.

(2) PRICE SUPPORT RATES.—Subsection (a) and the amendments made by subsection (a) shall apply with respect to the 1999 through 2001 crops of the kind of tobacco involved.

SEC. 1032. TERMINATION OF TOBACCO PRICE SUPPORT PROGRAM.

(a) PARITY PRICE SUPPORT.—Section 101 of the Agricultural Act of 1949 (7 U.S.C. 1441) is amended—

(1) in the first sentence of subsection (a), by striking ''tobacco (except as otherwise provided herein), corn,'' and inserting ''corn'';

(2) by striking subsections (c), (g), (h), and (i);

(3) in subsection (d)(3)—

(A) by striking '', except tobacco,''; and

(B) by striking ''and no price support shall be made available for any crop of tobacco for which marketing quotas have been disapproved by producers;''; and

(4) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

(b) TERMINATION OF TOBACCO PRICE SUPPORT AND NO NET COST PROVISIONS.—Sections 106, 106A, and 106B of the Agricultural Act of 1949 (7 U.S.C. 1445, 1445–1, 1445–2) are repealed.

(c) DEFINITION OF BASIC AGRICULTURAL COMMODITY.—Section 408(c) of the Agricultural Act of 1949 (7 U.S.C. 1428(c)) is amended by striking ''tobacco,''.

(d) REVIEW OF BURLEY TOBACCO IMPORTS.—Section 3 of Public Law 98–59 (7 U.S.C. 625) is repealed.

(e) POWERS OF COMMODITY CREDIT CORPORATION.—Section 5 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c) is amended by inserting ''(other than tobacco)'' after ''agricultural commodities'' each place it appears.

(f) TRANSITION PROVISIONS.—

(1) LIABILITY.—The amendments made by this section shall not affect the liability of any person under any provision of law as in effect before the effective date of this section.

(2) TOBACCO INVENTORIES.—The Secretary shall issue regulations that require the orderly sale of tobacco inventories held by associations.

(3) NET LOSSES TO THE COMMODITY CREDIT CORPORATION.—

(A) TRANSFER.—The Secretary of the Treasury shall annually transfer from the Trust Fund to the Commodity Credit Corporation an amount that the Secretary of Agriculture determines will be adequate to reimburse the Corporation for net losses sustained under price support loan agreements with associations.

(B) AMOUNT.—The Secretary of Agriculture shall base the determination of the amount to be transferred under subparagraph (A) on a reasonable estimate of—

(i) the outstanding balance due on price support loans; and

(ii) the proceeds that will be realized from the sales of tobacco that are pledged to the Corporation as security for price support loans.

(g) CROPS.—

(1) IN GENERAL.—Except as provided in paragraph (2), this section and the amendments made by this section shall apply with respect to the 2002 and subsequent crops of the kind of tobacco involved.

(2) NET LOSSES TO THE COMMODITY CREDIT CORPORATION.—Subsection (f)(3) shall apply with respect to the 2002 and subsequent marketing years until—

(A) all price support loans for each kind of tobacco are repaid to the Commodity Credit Corporation; and

(B) the Commodity Credit Corporation has been reimbursed for all net losses sustained as a result of price support loans provided through the 2001 crop of the kind of tobacco involved.

CHAPTER 2—TOBACCO PRODUCTION ADJUSTMENT PROGRAMS

SEC. 1041. TERMINATION OF TOBACCO PRODUCTION ADJUSTMENT PROGRAMS.

(a) DECLARATION OF POLICY.—Section 2 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1282) is amended by striking ''tobacco,''.

(b) DEFINITIONS.—Section 301(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1301(b)) is amended—

(1) in paragraph (3)—

(A) by striking subparagraph (C); and

(B) by redesignating subparagraph (D) as subparagraph (C);

(2) in paragraph (6)(A), by striking ''tobacco,'';

(3) in paragraph (7), by striking the following:

''tobacco (flue-cured), July 1—June 30;

''tobacco (other than flue-cured), October 1–September 30;'';

(4) in paragraph (10)—

(A) by striking subparagraph (B); and

(B) by redesignating subparagraph (C) as subparagraph (B);

(5) in paragraph (11)(B), by striking ''and tobacco'';

(6) in paragraph (12), by striking ''tobacco,'';

(7) in paragraph (14)—

(A) in subparagraph (A), by striking ''(A)''; and

(B) by striking subparagraphs (B), (C), and (D);

(8) by striking paragraph (15);

(9) in paragraph (16)—

(A) by striking subparagraph (B); and

(B) by redesignating subparagraph (C) as subparagraph (B); and

(10) by redesignating paragraphs (16) and (17) as paragraphs (15) and (16), respectively.

(c) PARITY PAYMENTS.—Section 303 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1303) is amended in the first sentence by striking ''rice, or tobacco,'' and inserting ''or rice,''.

(d) MARKETING QUOTAS.—Part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.) is repealed.

(e) ADMINISTRATIVE PROVISIONS.—Section 361 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1361) is amended by striking ''tobacco,''.

(f) ADJUSTMENT OF QUOTAS.—Section 371 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1371) is amended—

(1) in the first sentence of subsection (a), by striking ''peanuts, or tobacco'' and inserting ''or peanuts''; and

(2) in the first sentence of subsection (b), by striking ''peanuts or tobacco'' and inserting ''or peanuts''.

(g) REPORTS AND RECORDS.—Section 373 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1373) is amended—

(1) by striking ''peanuts, or tobacco'' each place it appears in subsections (a) and (b) and inserting ''or peanuts''; and

(2) in subsection (a)—

(A) in the first sentence, by striking ''all persons engaged in the business of redrying, prizing, or stemming tobacco for producers,''; and

(B) in the last sentence, by striking ''$500;'' and all that follows through the period at the end of the sentence and inserting ''$500.''.

(h) REGULATIONS.—Section 375(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1375(a)) is amended by striking ''peanuts, or tobacco'' and inserting ''or peanuts''.

(i) EMINENT DOMAIN.—Section 378 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1378) is amended—

(1) in the first sentence of subsection (c), by striking ''cotton, tobacco, and peanuts'' and inserting ''cotton and peanuts''; and

(2) by striking subsections (d), (e), and (f).

(j) BURLEY TOBACCO FARM RECONSTITUTION.—Section 379 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379) is amended—

(1) in subsection (a)—

(A) by striking ''(a)''; and

(B) in paragraph (6), by striking '', but this clause (6) shall not be applicable in the case of burley tobacco''; and

(2) by striking subsections (b) and (c).

(k) ACREAGE-POUNDAGE QUOTAS.—Section 4 of the Act entitled ''An Act to amend the Agricultural Adjustment Act of 1938, as amended, to provide for acreage-poundage marketing quotas for tobacco, to amend the tobacco price support provisions of the Agricultural Act of 1949, as amended, and for other purposes'', approved April 16, 1965 (Public Law 89–12; 7 U.S.C. 1314c note), is repealed.

(l) BURLEY TOBACCO ACREAGE ALLOTMENTS.—The Act entitled ''An Act relating to burley tobacco farm acreage allotments under the Agricultural Adjustment Act of 1938, as amended'', approved July 12, 1952 (7 U.S.C. 1315), is repealed.

(m) TRANSFER OF ALLOTMENTS.—Section 703 of the Food and Agriculture Act of 1965 (7 U.S.C. 1316) is repealed.

(n) ADVANCE RECOURSE LOANS.—Section 13(a)(2)(B) of the Food Security Improvements Act of 1986 (7 U.S.C. 1433c–1(a)(2)(B)) is amended by striking ''tobacco and''.

(o) TOBACCO FIELD MEASUREMENT.—Section 1112 of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203) is amended by striking subsection (c).

(p) LIABILITY.—The amendments made by this section shall not affect the liability of any person under any provision of law as in effect before the effective date under subsection (q).

(q) CROPS.—This section and the amendments made by this section shall apply with respect to the 1999 and subsequent crops of the kind of tobacco involved.

Subtitle C—Funding

SEC. 1051. TRUST FUND.

(a) REQUEST.—The Secretary of Agriculture shall request the Secretary of the Treasury to transfer from the Trust Fund amounts authorized under sections 1014, 1015, 1021, 1032, and 1052 and the amendments made by section 1031 to the account of the Commodity Credit Corporation.

(b) TRANSFER.—On receipt of such a request, the Secretary of the Treasury shall transfer amounts requested under subsection (a).

(c) USE.—The Secretary of Agriculture shall use the amounts transferred under subsection (b) to carry out the activities described in subsection (a).

(d) TERMINATION OF AUTHORITY.—The authority provided under this section shall expire on September 30, 2024.

SEC. 1052. TOBACCO RELATED ADMINISTRATIVE COSTS AND SUBSIDIES.

(a) IN GENERAL.—For each of fiscal years 1999 through 2024, the Secretary shall—

(1) estimate the costs to the Federal Government relating to tobacco that involve—

(A) agricultural extension;

(B) handling, sampling, grading, inspecting, and weighing;

(C) crop insurance; and

(D) administering the tobacco price support program; and

(2) use funds transferred from the Trust Fund to the Commodity Credit Corporation to cover the costs estimated under paragraph (1).

(b) ADJUSTMENTS.—At the end of each of fiscal years 1999 through 2024, the Secretary shall—

(1) use funds transferred from the Trust Fund to the Commodity Credit Corporation in any amount by which the amount of funds transferred under subsection (a)(2) for the fiscal year is less than the actual costs described in subsection (a)(1) for the fiscal year; or

(2) transfer funds from the Commodity Credit Corporation to the Trust Fund in any amount by which the amount of funds transferred for the fiscal year under subsection (a)(2) is more than the actual costs described in subsection (a)(1) for the fiscal year.

SEC. 1053. COMMODITY CREDIT CORPORATION.

The Secretary may use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this title and the amendments made by this title.

Subtitle D—Miscellaneous

SEC. 1061. LIABILITY FOR OBLIGATIONS OF TOBACCO PRODUCT MANUFACTURERS.

A person that owns or produces tobacco, or owns or operates a tobacco warehouse, shall not be liable for—

(1) any action or legal penalty or obligation of a manufacturer of a tobacco product under this Act; or

(2) any financial penalty or payment owed by a manufacturer of a tobacco product under this Act.

SEC. 1062. FDA REGULATION OF TOBACCO PRODUCTION AND FARMS.

Notwithstanding any other provision of law, an officer, employee, or agent of the Food and Drug Administration shall not—

(1) regulate the production of a crop of tobacco by a person; or

(2) enter the farm of a person that owns or produces tobacco without the consent of the person.

AMENDMENT NO. 2499

In lieu of the matter proposed to be inserted for title X, insert the following:

TITLE X—PAYMENTS TO TOBACCO FARMERS

SEC. 1001. BUDGETARY TREATMENT.

Subtitle A of title XV constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide payments to States and eligible persons in accordance with subtitle A of title XV.

SEC. 1002. BUYOUT PAYMENTS TO OWNERS.

(a) IN GENERAL.—Notwithstanding, and in lieu of, section 1514, the Secretary of Agriculture shall make buyout payments for each of the 1999 through 2001 marketing years for each kind of tobacco involved to an owner that owns quota at the time of entering into a tobacco transition contract.

(b) ALLOCATION.—Of the total amount of buyout payments made under subsection (a)—

(1) 46 percent shall be made for the 1999 marketing year;

(2) 27 percent shall be made for the 2000 marketing year; and

(3) 27 percent shall be made for the 2001 marketing year.

(c) PAYMENT CALCULATION.—Under this section, the total amount of the buyout payment made to an owner shall be determined by multiplying—

(1) $8.00; by

(2) the average annual quantity of quota owned by the owner during the 1995 through 1997 crop years.

SEC. 1003. TRANSITION PAYMENTS TO PRODUCERS.

(a) IN GENERAL.—Notwithstanding, and in lieu of, section 1515, the Secretary of Agriculture shall make transition payments for each of the 1999 through 2001 marketing years for each kind of tobacco produced, to a producer that—

(1) produced the kind of tobacco for each of the 1995 through 1997 crops; and

(2) entered into a tobacco transition contract.

(b) ALLOCATION.—Of the total amount of transition payments made under subsection (a)—

(1) 46 percent shall be made for the 1999 marketing year;

(2) 27 percent shall be made for the 2000 marketing year; and

(3) 27 percent shall be made for the 2001 marketing year.

(c) TRANSITION PAYMENTS LIMITED TO LEASED QUOTA.—A producer shall be eligible for transition payments only for the portion of the production of the producer that is subject to quota that is leased (as defined in section 1503(5) of this Act) during the 3 crop years described in subsection (a)(1).

(d) PRODUCTION HISTORY; PRODUCTION.—

(1) PRODUCTION HISTORY.—The Secretary shall base a transition payment made to a producer on the average quantity of tobacco subject to a marketing quota that is produced by the producer for each of the 1995 through 1997 crops.

(2) PRODUCTION.—The producer shall have the burden of demonstrating to the Secretary the production of tobacco for each of the 1995 through 1997 crops.

(e) PAYMENT CALCULATION.—Under this section, the total amount of the transition payment made to a producer shall be determined by multiplying—

(1) $4.00; by

(2) the average quantity of the kind of tobacco produced by the producer for each of the 1995 through 1997 crops.

SEC. 1004. EFFECTIVE DATE.

This title takes effect 2 days after the date of enactment of this Act.

AMENDMENT NO. 2500

In lieu of the matter proposed to be inserted for title X, insert the following:

TITLE X—PAYMENTS TO TOBACCO FARMERS

SEC. 1001. BUDGETARY TREATMENT.

Subtitle A of title XV constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide payments to States and eligible persons in accordance with subtitle A of title XV.

SEC. 1002. BUYOUT PAYMENTS TO OWNERS.

(a) IN GENERAL.—Notwithstanding, and in lieu of, section 1514, the Secretary of Agriculture shall make buyout payments for each of the 1999 through 2001 marketing years for each kind of tobacco involved to an owner that owns quota at the time of entering into a tobacco transition contract.

(b) ALLOCATION.—Of the total amount of buyout payments made under subsection (a)—

(1) 46 percent shall be made for the 1999 marketing year;

(2) 27 percent shall be made for the 2000 marketing year; and

(3) 27 percent shall be made for the 2001 marketing year.

(c) COMPENSATION FOR LOST VALUE.—The payment shall constitute compensation for the lost value to the owner of the quota.

(d) PAYMENT CALCULATION.—Under this section, the total amount of the buyout payment made to an owner shall be determined by multiplying—

(1) $8.00; by

(2) the average annual quantity of quota owned by the owner during the 1995 through 1997 crop years.

SEC. 1003. TRANSITION PAYMENTS TO PRODUCERS.

(a) IN GENERAL.—Notwithstanding, and in lieu of, section 1515, the Secretary of Agriculture shall make transition payments for each of the 1999 through 2001 marketing years for each kind of tobacco produced, to a producer that—

(1) produced the kind of tobacco for each of the 1995 through 1997 crops; and

(2) entered into a tobacco transition contract.

(b) ALLOCATION.—Of the total amount of transition payments made under subsection (a)—

(1) 46 percent shall be made for the 1999 marketing year;

(2) 27 percent shall be made for the 2000 marketing year; and

(3) 27 percent shall be made for the 2001 marketing year.

(c) TRANSITION PAYMENTS LIMITED TO LEASED QUOTA.—A producer shall be eligible for transition payments only for the portion of the production of the producer that is subject to quota that is leased (as defined in section 1503(5) of this Act) during the 3 crop years described in subsection (a)(1).

(d) COMPENSATION FOR LOST REVENUE.—The payments shall constitute compensation for the lost revenue incurred by a tobacco producer for a kind of tobacco.

(e) PRODUCTION HISTORY; PRODUCTION.—

(1) PRODUCTION HISTORY.—The Secretary shall base a transition payment made to a producer on the average quantity of tobacco subject to a marketing quota that is produced by the producer for each of the 1995 through 1997 crops.

(2) PRODUCTION.—The producer shall have the burden of demonstrating to the Secretary the production of tobacco for each of the 1995 through 1997 crops.

(f) PAYMENT CALCULATION.—Under this section, the total amount of the transition payment made to a producer shall be determined by multiplying—

(1) $4.00; by

(2) the average quantity of the kind of tobacco produced by the producer for each of the 1995 through 1997 crops.

AMENDMENT NO. 2501

Strike title X in the Committee amendment and insert the following:

TITLE X—PAYMENTS TO TOBACCO FARMERS

SEC. 1001. BUDGETARY TREATMENT.

Subtitle A of title XV constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide payments to States and eligible persons in accordance with subtitle A of title XV.

SEC. 1002. BUYOUT PAYMENTS TO OWNERS.

(a) IN GENERAL.—Notwithstanding, and in lieu of, section 1514, the Secretary of Agriculture shall make buyout payments for each of the 1999 through 2001 marketing years for each kind of tobacco involved to an owner that owns quota at the time of entering into a tobacco transition contract.

(b) ALLOCATION.—Of the total amount of buyout payments made under subsection (a)—

(1) 46 percent shall be made for the 1999 marketing year;

(2) 27 percent shall be made for the 2000 marketing year; and

(3) 27 percent shall be made for the 2001 marketing year.

(c) COMPENSATION FOR LOST VALUE.—The payment shall constitute compensation for the lost value to the owner of the quota.

(d) PAYMENT CALCULATION.—Under this section, the total amount of the buyout payment made to an owner shall be determined by multiplying—

(1) $8.00; by

(2) the average annual quantity of quota owned by the owner during the 1995 through 1997 crop years.

SEC. 1003. TRANSITION PAYMENTS TO PRODUCERS.

(a) IN GENERAL.—Notwithstanding, and in lieu of, section 1515, the Secretary of Agriculture shall make transition payments for each of the 1999 through 2001 marketing years for each kind of tobacco produced, to a producer that—

(1) produced the kind of tobacco for each of the 1995 through 1997 crops; and

(2) entered into a tobacco transition contract.

(b) ALLOCATION.—Of the total amount of transition payments made under subsection (a)—

(1) 46 percent shall be made for the 1999 marketing year;

(2) 27 percent shall be made for the 2000 marketing year; and

(3) 27 percent shall be made for the 2001 marketing year.

(c) TRANSITION PAYMENTS LIMITED TO LEASED QUOTA.—A producer shall be eligible for transition payments only for the portion of the production of the producer that is subject to quota that is leased (as defined in section 1503(5) of this Act) during the 3 crop years described in subsection (a)(1).

(d) COMPENSATION FOR LOST REVENUE.—The payments shall constitute compensation for the lost revenue incurred by a tobacco producer for a kind of tobacco.

(e) PRODUCTION HISTORY; PRODUCTION.—

(1) PRODUCTION HISTORY.—The Secretary shall base a transition payment made to a producer on the average quantity of tobacco subject to a marketing quota that is produced by the producer for each of the 1995 through 1997 crops.

(2) PRODUCTION.—The producer shall have the burden of demonstrating to the Secretary the production of tobacco for each of the 1995 through 1997 crops.

(f) PAYMENT CALCULATION.—Under this section, the total amount of the transition payment made to a producer shall be determined by multiplying—

(1) $4.00; by

(2) the average quantity of the kind of tobacco produced by the producer for each of the 1995 through 1997 crops.

SEC. 1004. EFFECTIVE DATE.

This title takes effect on the day after the date of enactment of this Act.

AMENDMENT NO. 2502

In lieu of the matter proposed to be inserted for title X, insert the following:

TITLE X—PAYMENTS TO TOBACCO FARMERS

SEC. 1001. BUDGETARY TREATMENT.

Subtitle A of title XV constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide payments to States and eligible persons in accordance with subtitle A of title XV.

SEC. 1002. BUYOUT PAYMENTS TO OWNERS.

(a) IN GENERAL.—Notwithstanding, and in lieu of, section 1514, the Secretary of Agriculture shall make buyout payments for each of the 1999 through 2001 marketing years for each kind of tobacco involved to an owner that owns quota at the time of entering into a tobacco transition contract.

(b) ALLOCATION.—Of the total amount of buyout payments made under subsection (a)—

(1) 46 percent shall be made for the 1999 marketing year;

(2) 27 percent shall be made for the 2000 marketing year; and

(3) 27 percent shall be made for the 2001 marketing year.

(c) COMPENSATION FOR LOST VALUE.—The payment shall constitute compensation for the lost value to the owner of the quota.

(d) PAYMENT CALCULATION.—Under this section, the total amount of the buyout payment made to an owner shall be determined by multiplying—

(1) $8.00; by

(2) the average annual quantity of quota owned by the owner during the 1995 through 1997 crop years.

SEC. 1003. TRANSITION PAYMENTS TO PRODUCERS.

(a) IN GENERAL.—Notwithstanding, and in lieu of, section 1515, the Secretary of Agriculture shall make transition payments for each of the 1999 through 2001 marketing years for each kind of tobacco produced, to a producer that—

(1) produced the kind of tobacco for each of the 1995 through 1997 crops; and

(2) entered into a tobacco transition contract.

(b) ALLOCATION.—Of the total amount of transition payments made under subsection (a)—

(1) 46 percent shall be made for the 1999 marketing year;

(2) 27 percent shall be made for the 2000 marketing year; and

(3) 27 percent shall be made for the 2001 marketing year.

(c) TRANSITION PAYMENTS LIMITED TO LEASED QUOTA.—A producer shall be eligible for transition payments only for the portion of the production of the producer that is subject to quota that is leased (as defined in section 1503(5) of this Act) during the 3 crop years described in subsection (a)(1).

(d) COMPENSATION FOR LOST REVENUE.—The payments shall constitute compensation for the lost revenue incurred by a tobacco producer for a kind of tobacco.

(e) PRODUCTION HISTORY; PRODUCTION.—

(1) PRODUCTION HISTORY.—The Secretary shall base a transition payment made to a producer on the average quantity of tobacco subject to a marketing quota that is produced by the producer for each of the 1995 through 1997 crops.

(2) PRODUCTION.—The producer shall have the burden of demonstrating to the Secretary the production of tobacco for each of the 1995 through 1997 crops.

(f) PAYMENT CALCULATION.—Under this section, the total amount of the transition payment made to a producer shall be determined by multiplying—

(1) $4.00; by

(2) the average quantity of the kind of tobacco produced by the producer for each of the 1995 through 1997 crops.

MURKOWSKI AMENDMENTS NOS. 2503–2504

(Ordered to lie on the table.)

Mr. MURKOWSKI submitted two amendments intended to be proposed by him to the bill, S. 1415, supra; as follows:

AMENDMENT NO. 2503

At the end of title VI, add the following:

SEC. ___. COLLECTION OF STATE TOBACCO EXCISE AND SALES TAXES FROM INDIAN TRIBES.

(a) IN GENERAL.—An Indian tribe, tribal corporation, or individual member of an Indian tribe engaged in tobacco retailing shall collect all lawfully-imposed, non-discriminatory tobacco excise and sales taxes imposed by a State, within the exterior boarders of which the purchase occurs, on nonmembers of the Indian tribe as a consequence of the purchase of tobacco products by the nonmember from the Indian tribe, tribal corporation, or individual member of an Indian tribe.

(b) ENFORCEMENT.—

(1) IN GENERAL.—To that extent that all such taxes are not collected and remitted to the appropriate State by the Indian tribe, tribal corporation, or individual member of an Indian tribe (or, in the manner provided by State law, by any other person), such tribe, corporation, or individual shall remit such taxes to the Treasury of the United States, which shall, in turn, remit such taxes to the State in which the purchase by the nonmember took place.

(2) AUTHORITY OF SECRETARY OF THE TREASURY.—The Secretary of the Treasury of the United States shall—

(A) have the authority to enforce the requirements of subsection (a) and to administer the collection of tobacco excise and sales taxes under subsection (b)(1);

(B) issue regulations to implement subsection (b)(1) within 180 days of enactment; and

(C) specify in such regulations such return information to accompany remittance of the taxes due under subsection (b)(1) and the time period (not to exceed 180 days) for return of such taxes to the appropriate State.

(c) PRESERVATION OF STATE LAW AND TRIBAL-STATE AGREEMENTS.—Subsections (a) and (b) shall not apply to Indian tribes or tribal corporations if—

(1) the law of a State provides that Indian tribes or tribal corporations are not obligated to collect and remit such State's tobacco excise and sales taxes to the State provided that the tribe or tribal corporation imposes and collects tobacco excise and sales taxes on the purchase of tobacco products by nonmembers that are equal to or greater than the tobacco excise and sales taxes imposed by the State on the sale of tobacco products within the State's exterior borders; or

(2) the Indian tribe or tribal corporation has entered into an agreement with a State, within which the purchase of tobacco products by an nonmember occurs, on the collection and allocation of the State's tobacco excise and sales taxes on the purchase of tobacco products by nonmembers from the Indian tribe or tribal corporation, and such agreement provides that the Indian tribe or tribal corporation imposes and collects tobacco excise and sales taxes on the purchase of tobacco products by nonmembers that are equal to or greater than the tobacco excise and sales taxes imposed by the State on the sale of tobacco products within the State's exterior borders.

(d) EFFECTIVE DATE.—This section shall apply to sales occurring after the date of enactment of this Act.

AMENDMENT NO. 2504

At the end of title VI, add the following:

SEC. ___. UNIFORMITY OF TOBACCO PRODUCT SALES PRICES.

(a) IN GENERAL.—Notwithstanding any other provision of law, if with respect to the sale by an Indian tribe, tribal corporation, or individual member of an Indian tribe of any tobacco product on Indian lands, the price at which such product is sold to a non-Indian exceeds such price to an Indian, there is imposed a fee equal to such excess on such sale to an Indian.

(b) DETERMINATION OF EXCESS.—For purposes of subsection (a), the excess shall be determined without regard to any State tax on the sale of tobacco products if such tax is collected and remitted to the State by such

tribe, tribal corporation, or individual member.

(c) ENFORCEMENT THROUGH REMITTANCE OF FEE.—The fee imposed under this section shall be remitted at least quarterly by such tribe, tribal corporation, or individual member to the Treasury of the United States, unless such tribe or tribal corporation has provided the Secretary with proper certification that such fee shall not be used to provide a refund or rebate to Indians who purchase tobacco products on such Indian lands.

(d) EFFECTIVE DATE.—This section shall apply to sales occurring after the date of enactment of this Act.

LIEBERMAN AMENDMENT NO. 2505

(Ordered to lie on the table.)

Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill, S. 1415, supra; as follows:

In title XIV, §1412(c)(2), insert on p. 435, line 23, after ''this title:'' ''Such mechanism shall, to the greatest extent possible, ensure that in the event the liability cap is met in any calendar year, compensatory damage awards registered with the Secretary shall be given priority for payment over registered punitive damage awards.''

KENNEDY AMENDMENTS NOS. 2506–2507

(Ordered to lie on the table.)

Mr. KENNEDY submitted two amendments intended to be proposed by him to the bill, S. 1415, supra; as follows:

AMENDMENT NO. 2506

Strike section 405, and insert the following:

SEC. 405. TAX TREATMENT OF PAYMENTS.

(a) IN GENERAL.—Payments made under section 402 shall not be considered to be ordinary and necessary business expenses for purposes of chapter 1 of the Internal Revenue Code of 1986 and shall not be deductible under the Internal Revenue Code of 1986.

(b) FULL PAYMENT BY MANUFACTURERS.—

(1) DETERMINATION.—For each calendar year, the Secretary of the Treasury shall determine whether and by what amount—

(A) the amount paid to the Internal Revenue Service for such calendar year by manufacturers of tobacco products; exceeds

(B) the amount that would have been paid by such manufactures for such calendar year in absence of the application of subsection (a).

(2) TRANSFER.—With respect to a calendar year, the Secretary of the Treasury shall transfer to the National Tobacco Trust Fund an amount equal to the excess determined for such calendar year under paragraph (1).

AMENDMENT NO. 2507

Strike section 405, and insert the following:

SEC. 405. TAX TREATMENT OF PAYMENTS.

(a) IN GENERAL.—Payments made under section 402 shall not be considered to be ordinary and necessary business expenses for purposes of chapter 1 of the Internal Revenue Code of 1986 and shall not be deductible under the Internal Revenue Code of 1986.

(b) FULL PAYMENT BY MANUFACTURERS.—

(1) DETERMINATION.—For each calendar year, the Secretary of the Treasury shall determine whether and by what amount—

(A) the amount paid to the Internal Revenue Service for such calendar year by manufacturers of tobacco products; exceeds

(B) the amount that would have been paid by such manufactures for such calendar year in absence of the application of subsection (a).

(2) TRANSFER.—With respect to a calendar year, the Secretary of the Treasury shall transfer to the National Tobacco Trust Fund an amount equal to the excess determined for such calendar year under paragraph (1).

CRAIG AMENDMENTS NOS. 2508–2509

(Ordered to lie on the table.)

Mr. CRAIG submitted two amendments intended to be proposed by him to the bill, S. 1415, supra; as follows:

AMENDMENT NO. 2508

Beginning on page 192, strike line 8 and all that follows through line 2 on page 193, and insert the following:

(1) AMOUNTS.—

(A) IN GENERAL.—There is established within the Trust Fund a separate account, to be known as the State Litigation Settlement Account. Of the net revenues credited to the Trust Fund under section 401(b)(1) for each fiscal year, at least 62 percent of the amounts designated for allocation under the settlement payments shall be allocated to this account. If, after 10 years, the estimated 25-year total amount projected to received in this account will be different than amount than $340,200,000,000, then beginning with the eleventh year the 62 percent share will be adjusted as necessary to achieve that 25-year total amount. Notwithstanding section 452(b) or any other provision of this Act, amounts received by a State under this subsection may be used as the State determines appropriate.

(B) STATE LOSS OF REVENUE ADJUSTMENTS.—

(i) IN GENERAL.—Amounts provided to a State under this subsection for a fiscal year shall take into account the decrease in the amount of revenue that the State received during the previous fiscal year as a result of a decrease in the demand for tobacco products in the State based on the enactment of this Act.

(ii) DETERMINATIONS.—The Joint Committee on Taxation established under section 8001 of the Internal Revenue Code of 1986 shall make determinations under clause (i) relating to the amount by which the revenues of a State have decreased during a fiscal year as a result of the enactment of this Act.

AMENDMENT NO. 2509

Beginning on page 179, strike lines 21 and all that follows through line 4 on page 180, and insert the following:

(c) NET REVENUES AND ADJUSTMENTS FOR LOSS OF REVENUES BY STATES.—

(1) NET REVENUES.—For purposes of subsection (b), the term ''net revenues'' means the amount estimated by the Congressional Budget Office based on the excess of—

(A) the amounts received in the Treasury under subsection (b), over

(B) an amount equal to—

(i) the decrease in the taxes imposed by chapter 1 and chapter 52 of the Internal Revenue Code of 1986, and other offsets, resulting from the amounts received under subsection (b); and

(ii) the increase in direct and indirect Federal spending as a result of the enactment of this Act (including increases in cost of living adjustments resulting from an increase in the Consumer Price Index as a result of required tobacco product price increases).

(2) STATE LOSS OF REVENUE ADJUSTMENTS.—

(A) IN GENERAL.—Amounts provided to a State under section 451 for a fiscal year shall be increased by an amount equal to the decrease in the amount of revenue that the State received during the previous fiscal year as a result of a decrease in the demand for tobacco products in the State based on the enactment of this Act.

(B) DETERMINATIONS.—The Joint Committee on Taxation established under section 8001 of the Internal Revenue Code of 1986 shall make determinations under subparagraph (A) relating to the amount by which the revenues of a State have decreased during a fiscal year as a result of the enactment of this Act.

(C) FUNDING.—Amounts in the Trust Fund shall be made available to carry out this paragraph.

DOMENICI AMENDMENTS NOS. 2510–2511

(Ordered to lie on the table.)

Mr. DOMENICI submitted two amendments intended to be proposed by him to the bill, S. 1415, supra; as follows:

AMENDMENT NO. 2510

At the appropriate place, insert the following:

SECTION 1. PERMANENT EXTENSION OF RESEARCH CREDIT.

(a) IN GENERAL.—Section 41 of the Internal Revenue Code of 1986 (relating to credit for increasing research activities) is amended by striking subsection (h).

(b) CONFORMING AMENDMENT.—Section 45C(b)(1) of the Internal Revenue Code of 1986 is amended by striking subparagraph (D).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after June 30, 1998.

SEC. 2. MODIFICATIONS OF CREDIT FOR QUALIFIED RESEARCH EXPENSES.

(a) FIXED-BASE PERCENTAGE.—Subparagraph (A) of section 41(c)(3) of the Internal Revenue Code of 1986 (defining fixed-base percentage) is amended to read as follows:

''(A) IN GENERAL.—Except as otherwise provided in this paragraph, the fixed-base percentage is the percentage which the aggregate qualified research expenses of the taxpayer for taxable years beginning in the base period is of the aggregate gross receipts of the taxpayer for such taxable years. For purposes of the preceding sentence, the base period for any taxable year is any period of 4 consecutive taxable years elected by the taxpayer from the 10 immediately preceding taxable years.''

(b) START-UP COMPANIES.—

(1) FIXED-BASE PERCENTAGE.—

(A) IN GENERAL.—Clause (i) of section 41(c)(3)(B) of such Code (relating to start-up companies) is amended to read as follows:

''(i) TAXPAYERS TO WHICH SUBPARAGRAPH APPLIES.—The fixed-base percentage shall be determined under this subparagraph if the taxpayer did not have both gross receipts and qualified research expenses in each of the 10 taxable years described in subparagraph (A).''

(B) MAXIMUM PERCENTAGE NOT TO APPLY.—Section 41(c)(3)(C) of such Code (relating to maximum fixed-base percentage) is amended by adding at the end the following: ''This subparagraph shall not apply to a taxpayer to which subparagraph (B) applies.''

(C) CONFORMING AMENDMENTS.—Section 41(c)(3)(B)(ii) of such Code is amended—

(i) by striking ''1st 5 taxable years beginning after December 31, 1993'' and inserting ''1st 5 taxable years in the 10-year period described in subparagraph (A)'', and

(ii) by inserting ''and'' at the end of subclause (V), by striking '', and'' at the end of subclause (VI), and by striking subclause (VII).

(2) REPEAL OF MINIMUM BASE AMOUNT FOR START-UP COMPANIES.—Section 41(c)(2) of the

Internal Revenue Code of 1986 (relating to minimum base amount) is amended by adding at the end the following: ''This paragraph shall not apply to a taxpayer to which paragraph (3)(B) applies.''

(c) REPEAL OF LIMITATION ON CONTRACT RESEARCH EXPENSES.—Section 41(b)(3) of the Internal Revenue Code of 1986 (defining contract research expenses) is amended—

(1) by striking ''65 percent of'' in subparagraph (A), and

(2) by striking subparagraph (C).

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

(2) TRANSITION RULE.—In the case of a taxpayer's 1st 5 taxable years beginning after December 31, 1998, the taxpayer may elect to have section 41 of the Internal Revenue Code of 1986 applied without regard to the amendments made by subsections (a) and (b).

SEC. 3. MODIFICATIONS OF BASIC RESEARCH CREDIT.

(a) EXPANSION OF CREDIT TO RESEARCH DONE WITH NATIONAL LABORATORIES AND FEDERAL RESEARCH CENTERS.—Section 41(e)(6) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

''(E) NATIONAL LABORATORIES AND RESEARCH CENTERS.—Any organization which is—

''(i) a national laboratory specified by the Secretary of Energy as being under contract with the Department of Energy, or

''(ii) a federally funded research and development center (within the meaning of section 2367 of title 10, United States Code).''

(b) BASIC RESEARCH.—Section 41(e)(7) of the Internal Revenue Code of 1986 (relating to definitions and special rules) is amended by adding at the end the following new subparagraph:

''(F) SPECIFIC COMMERCIAL OBJECTIVE.—For purposes of subparagraph (A), research shall not be treated as having a specific commercial objective if—

''(i) all results of such research are to be published in such a manner as to be available to the general public prior to their use for a commercial purpose, or

''(ii) such research is done for a consortium of domestic corporations which represent substantially all of the domestic corporations conducting business within the sector to which the research relates.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

AMENDMENT NO. 2511

On page ____, after line ____, insert the following:

SEC. ___. DEDICATION OF FUNDS TO MEDICARE AFTER FISCAL YEAR 2008.

(a) EXPIRATION OF AUTHORITY.—Notwithstanding any other provision of this Act, the following shall expire on September 30, 2008:

(1) All authority provided in this Act to obligate and expend funds from the National Tobacco Trust Fund.

(2) All obligations of the Federal Government to make any payment to any person or government under this Act.

(3) All provisions in this Act which result, directly or indirectly, in an increase in direct spending by the Federal Government.

(b) TRANSFER OF FUNDS.—After September 30, 2008, the following amounts shall be transferred to the Federal Hospital Insurance Trust Fund (part A):

(1) The net revenues resulting from—

(A) amounts paid under section 402;

(B) amounts equal to the fines or penalties paid under section 402, 403, or 405, including interest thereon; and

(C) amounts equal to penalties paid under section 202, including interest thereon.

(2) The unobligated balances in the National Tobacco Trust Fund.

ROTH AMENDMENTS NOS. 2512–2515

(Ordered to lie on the table.)

Mr. ROTH submitted four amendments intended to be proposed by him to the bill, S. 1415, supra; as follows:

AMENDMENT NO. 2512

Beginning on page 161, strike line 16 and all that follows through page 162, line 2.

On page 162, after line 23, add the following:

(b) ELIMINATION OF LIMITATION ON MEDICAID COVERAGE OF SMOKING CESSATION AGENTS.—Section 1927(d)(2) of the Social Security Act (42 U.S.C. 1396r–8(d)(2)) is amended by striking subparagraph (E) and redesignating subparagraphs (F) through (J) as subparagraphs (E) through (I), respectively.

On page 192, beginning with line 15, strike ''Such'' and all that follows through the period on line 19.

On page 193, strike lines 7 through 25 and insert the following:

(3) DISTRIBUTION FORMULA.—

(A) IN GENERAL.—Except as provided in paragraph (5), amounts in the State Litigation Settlement Account shall be available, without further appropriations, to make payments to each State in the amount determined under subparagraph (B). The Secretary shall transfer amounts available under this subsection to each State as amounts are credited to the State Litigation Settlement Account without undue delay.

(B) AMOUNT.—Except as provided in paragraph (4), the amount of any payment to a State under subparagraph (A) for any calendar year shall be equal to the percentage of the amounts transferred to the State Litigation Settlement Account for such calendar year determined in accordance with the following table:

''States:	Percentage:
Alabama	1.231000
Alaska	0.400000
American Samoa	0.007850
Arizona	1.701000
Arkansas	0.949000
California	8.653000
Colorado	0.985000
Connecticut	1.541000
Delaware	0.400000
District of Columbia	0.472000
Florida	4.745000
Georgia	2.722000
Guam	0.005704
Hawaii	0.800000
Idaho	0.400000
Illinois	3.911000
Indiana	1.483000
Iowa	0.928000
Kansas	0.800000
Kentucky	1.656000
Louisiana	1.715000
Maine	0.800000
Maryland	1.418000
Massachusetts	3.783000
Michigan	3.569000
Minnesota	1.240000
Mississippi	1.693000
Missouri	1.693000
Montana	0.400000
Nebraska	0.400000
Nevada	0.400000
New Hampshire	0.400000
New Jersey	3.737000
New Mexico	0.800000
New York	12.751000
North Carolina	1.967000
North Dakota	0.400000
Northern Mariana Islands	0.001270
Ohio	4.185000
Oklahoma	0.800000
Oregon	1.346000
Pennsylvania	4.400000
Puerto Rico	0.416015
Rhode Island	0.800000
South Carolina	1.085000
South Dakota	0.400000
Tennessee	2.837000
Texas	5.901000
United States Virgin Islands	0.004413
Utah	0.400000
Vermont	0.400000
Virginia	1.342000
Washington	1.718000
West Virginia	0.778000
Wisconsin	1.832000
Wyoming	0.400000.

(C) APPLICATION OF MEDICAID COST RECOVERY RULES.—Subject to section 1903(d)(7) of the Social Security Act, a State may use amounts received under this paragraph as the State determines appropriate.

(4) MINIMUM PAYMENTS TO SETTLEMENT STATES.—

(A) IN GENERAL.—In the case of the State of Florida, Minnesota, Mississippi, or Texas, the payment under paragraph (3)(A) for any calendar year shall be equal to the greater of—

(i) the amount of the payment determined under paragraph (3)(B), or

(ii) the aggregate payments which, but for paragraph (5), would have been received by such State for such calendar year under the settlement, judgment, or other agreement with respect to which payments were waived under paragraph (5).

(B) REALLOCATION OF AMOUNTS FOR OTHER STATES.—If the amount determined under subparagraph (A)(ii) exceeds the amount determined under subparagraph (A)(i) for 1 or more States for any calendar year, the amount of the payments under paragraph (3)(A) to all States to which subparagraph (A) does not apply shall be ratably reduced by the aggregate amount of such excess for all 4 States.

(5) WAIVER OF PAYMENTS FROM STATE LITIGATION.—

(A) IN GENERAL.—No payment shall be made from the State Litigation Settlement Account to any State unless such State agrees to waive its rights to receive funds after the date of the enactment of this Act under any settlement, entry of a court judgment, or other agreement, that resolves litigation by the State against a tobacco manufacturer or a group of tobacco manufacturers for expenditures of the State for tobacco-related diseases or conditions.

(B) REDISTRIBUTION OF WAIVED PAYMENTS.—If a waiver is not in effect under this paragraph with respect to a State for a calendar year, any payments out of the State Litigation Settlement Account which would otherwise have been made to such State shall be reallocated to all other States receiving such payments for such calendar year in the same proportion as the payments received by any State bear to all such payments.

(C) WAIVER.—Any waiver under subparagraph (A) shall be made before the date which is 1 year after the date of the enactment of this section and, once made, is irrevocable.

(6) BUDGETARY TREATMENT.—This subsection constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide payments to States in accordance with the provisions described in paragraph (3).

(7) DEFINITION OF STATE.—In this subsection, the term ''State'' means each of the 50 States, the District of Columbia, Puerto Rico, Guam, American Samoa, the United States Virgin Islands, and the Northern Mariana Islands.

(8) APPLICATION OF MEDICAID COST RECOVERY RULES.—Section 1903(d) of the Social Security Act (42 U.S.C. 1396b(d)) is amended by adding at the end the following:

''(7)(A) Except as provided under subparagraph (B), the provisions of this subsection relating to the treatment of overpayments, and any other cost recovery rules applicable to payments made under this title, shall apply to the portion of any of the following amounts that is used for expenditures under or related to the State plan (or a waiver of such plan) under this title:

''(i) Payments from the State Litigation Settlement Account established under section 9512(d) of the Internal Revenue Code of 1986.

''(ii) Payments received as a result of litigation by the State against a tobacco manufacturer or a group of tobacco manufacturers based on expenditures of the State for tobacco-related diseases or conditions that is resolved through a settlement, entry of a court judgment, or otherwise.

''(B) Upon receipt of certification by the chief executive officer of a State that the State shall not use payments described in clauses (i) or (ii) of subparagraph (A) for expenditures under or related to the State plan (or a waiver of such plan) under this title, the Secretary shall waive the application of the provisions of this subsection relating to the treatment of overpayments, and any other cost recovery rules applicable to payments made under this title, to such payments.''

Beginning on page 200, strike line 1 and all that follows through page 206, line 19.

AMENDMENT NO. 2513

Beginning on page 203, strike line 21 and all that follows through page 206, line 15, and insert the following:

(f) INCREASE IN LIMITATION ON EXPENDITURES UNDER CHILDREN'S HEALTH INSURANCE PROGRAM.—Section 2105(c)(2)(A) of the Social Security Act (42 U.S.C. 1397ee(c)(2)(A)) is amended by striking ''10'' and inserting ''15''.

AMENDMENT NO. 2514

On page 210, between lines 18 and 19, insert the following:

SEC. 456. REPEAL.

(a) REPEAL.—Section 8401 of the Transportation Equity Act for the 21st Century is repealed.

(b) EFFECTIVE DATE.—The repeal made by subsection (a) shall take effect as if included in the enactment of the Transportation Equity Act for the 21st Century.

(c) OFFSET.—The amount in the Trust Fund established under section 401 that is in excess of the amount that is required to offset the direct spending in this Act shall be reduced by an amount equal to the amount necessary to fund the increase in the amounts specified for allocation under section 2003(c) of the Social Security Act (42 U.S.C. 1397b(c)) as a result of the repeal made by subsection (a).

AMENDMENT NO. 2415

On page 210, between lines 18 and 19, insert the following:

SEC. 456. AUTHORITY FOR STATE INNOVATION UNDER THE MEDICAID PROGRAM.

Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended by adding at the end the following:

''(aa)(1) Notwithstanding any other provision of this title, a State may, subject to paragraph (2), contract with 1 or more private entities to administer and integrate the procedures for determining eligibility for medical assistance (including presumptive eligibility for such assistance, in the case of pregnant women and children, in accordance with sections 1920 and 1920A) under the State plan (or a waiver of such plan).

''(2) A contract entered into under the authority of paragraph (1) shall provide that appeals of eligibility determinations shall be heard and decided in accordance with the requirements of the State plan (or a waiver of such plan) and this title.''.

ROTH (AND OTHERS) AMENDMENT NO. 2516

(Ordered to lie on the table.)

Mr. ROTH (for himself, Mrs. BOXER, Mr. GRASSLEY, Mr. DOMENICI, Mr. NICKLES, Mr. GRAHAM, Mr. COATS, Mr. BOND, Mr. ALLARD, and Mr. ABRAHAM) submitted an amendment intended to be proposed by them to the bill, S. 1415, supra; as follows:

At the appropriate place, insert:

SEC. ___. DEDUCTION FOR HEALTH INSURANCE COSTS FOR INDIVIDUALS NOT ELIGIBLE TO PARTICIPATE IN EMPLOYER-SUBSIDIZED HEALTH PLANS.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions) is amended by redesignating section 222 as section 223 and by inserting after section 221 the following new section:

''SEC. 222. HEALTH INSURANCE COSTS.

''(a) IN GENERAL.—In the case of an individual, there shall be allowed as a deduction an amount equal to 100 percent of the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, his spouse, and dependents.

''(b) LIMITATIONS.—

''(1) OTHER COVERAGE.—Subsection (a) shall not apply to any taxpayer for any calendar month for which the taxpayer is eligible to participate in any subsidized health plan maintained by any employer (or former employer) of the taxpayer or of the spouse of the taxpayer. The preceding sentence shall be applied separately with respect to—

''(A) plans which include coverage for qualified long-term care services (as defined in section 7702B(c)) or are qualified long-term care insurance contracts (as defined in section 7702B(b)), and

''(B) plans which do not include such coverage and are not such contracts.

''(2) LONG-TERM CARE PREMIUMS.—In the case of a qualified long-term care insurance contract (as defined in section 7702B(b)), only eligible long-term care premiums (as defined in section 213(d)(10)) shall be taken into account under subsection (a).

''(3) MEDICARE PREMIUMS.—Subsection (a) shall not apply to amounts paid as premiums under part B of title XVIII of the Social Security Act.

''(c) SPECIAL RULES.—For purposes of this section—

''(1) COORDINATION WITH MEDICAL DEDUCTION, ETC.—Any amount paid by a taxpayer for insurance to which subsection (a) applies shall not be taken into account in computing the amount allowable to the taxpayer as a deduction under section 213(a).

''(2) DEDUCTION NOT ALLOWED FOR SELF-EMPLOYMENT TAX PURPOSES.—The deduction allowable by reason of this section shall not be taken into account in determining an individual's net earnings from self-employment (within the meaning of section 1402(a)) for purposes of chapter 2.

''(3) CONTINUATION COVERAGE.—Coverage shall not be treated as subsidized for purposes of subsection (b)(1) if—

''(A) such coverage is continuation coverage (within the meaning of section 4980B(f)) required to be provided by the employer, and

''(B) the taxpayer or the taxpayer's spouse is required to pay a premium for such coverage in an amount not less than 100 percent of the applicable premium (within the meaning of section 4980B(f)(4)) for the period of such coverage.''

(b) CONFORMING AMENDMENTS.—

(1) Subsection (l) of section 162 of such Code is hereby repealed.

(2) Subsection (a) of section 62 of such Code is amended by inserting after paragraph (17) the following new paragraph:

''(18) HEALTH INSURANCE COSTS OF CERTAIN INDIVIDUALS.—The deduction allowed by section 222.''

(3) The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking the last item and inserting the following new items:

''Sec. 222. Health insurance costs.

''Sec. 223. Cross reference.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

LANDRIEU AMENDMENTS NOS. 2517–2520

(Ordered to lie on the table.)

Ms. LANDRIEU submitted four amendments intended to be proposed by her to the bill, S. 1415, supra; as follows:

AMENDMENT NO. 2517

On page 182, strike lines 11 through 23, and insert the following:

(b) ANNUAL PAYMENTS.—Each calender year beginning after the required payment date under subsection (a)(3) the participating tobacco product manufacturers shall make total payments into the Fund for each calendar year in the following applicable base amounts, subject to adjustment as provided in section 403.

(1) For year 1, an amount equal to the product of $0.65 and the total number of units of tobacco products that were sold in the United States in the previous year.

(2) For year 2, an amount equal to the product of $1.25 and the total number of units of tobacco products that were sold in the United States in the previous year.

(3) For year 3, and each subsequent year, an amount equal to the amount paid in the prior year adjusted in accordance with section 403.

AMENDMENT NO. 2518

On page 141, between lines 12 and 13, insert the following:

''(f) TOBACCO ILLNESS ASSISTANCE PROGRAM.—The Secretary shall establish a program to provide assistance and compensation to individuals (and entities providing services to such individuals) suffering from tobacco-related illnesses and conditions. Under such program the Secretary shall ensure that assistance is targeted at individuals who are determined to be uninsured or underinsured and who can demonstrate financial hardship.

AMENDMENT NO. 2519

On page 193, line 16, add at the end the following: ''Such formula shall take into account factors that include—

''(1) the number of smokers in each State;

''(2) the number of cases of cancer in each State;

''(3) the per capita income in each State; and

''(4) the number of teen smokers in each State.''.

AMENDMENT NO. 2520

On page 199, after line 23, add the following:

(f) FEDERAL EMPLOYEES CHILD CARE ACCOUNT.—

(1) IN GENERAL.—There is established within the trust fund a separate account, to be known as the Federal Employees Child Care Account. Of the net revenue credited to the trust fund under section 401(b)(1) in each fiscal year, $10,000,000 shall be allocated to this account.

(2) USE OF FUNDS.—Amounts in the account under paragraph (1) shall be made available to the Director of the Office of Personnel Management for the purpose of ensuring the availability of affordable child care for Federal employees. Such funds shall be provided to such individuals on the basis of a sliding scale to be developed by the Director taking into consideration total family income and the Federal pay scales.

(3) AUTHORIZATION OF APPROPRIATIONS.—Amounts allocated to the account under paragraph (1) shall be available to the extent and in the amounts provided in advance in appropriations acts, to remain available until expended, only for the purpose described in paragraph (2).

DURBIN (AND DEWINE) AMENDMENT NO. 2521

(Ordered to lie on the table.)

Mr. DURBIN (for himself and Mr. DEWINE) submitted an amendment intended to be proposed by them to the bill, S. 1415, supra; as follows:

In title II, strike subtitle A and insert the following:

Subtitle A—Performance Objectives to Reduce Underage Use

SEC. 201. FINDINGS.

Congress finds the following:

(1) Reductions in the underage use of tobacco products are critically important to the public health.

(2) Achieving this critical public health goal can be substantially furthered by increasing the price of tobacco products to discourage underage use if reduction targets are not achieved and by creating financial incentives for manufacturers to discourage youth from using their tobacco products.

(3) When reduction targets in underage use are not achieved on an industry-wide basis, the price increases that will result from an industry-wide assessment will provide an additional deterrence to youth tobacco use.

(4) Manufacturer-specific incentives that will be imposed if reduction targets are not met by a manufacturer provide a strong incentive for each manufacturer to make all efforts to discourage youth use of its brands and insure the effectiveness of the industry-wide assessments.

SEC. 202. PURPOSES AND GOALS.

(a) PURPOSE.—It is the purpose of this subtitle to ensure that, in the event that other measures contained in this Act prove to be inadequate to produce substantial reductions in tobacco use by minors, tobacco companies will pay additional assessments. These additional assessments are designed to lower youth tobacco consumption in a variety of ways, including by triggering further increases in the price of tobacco products, by encouraging tobacco companies to work to meet statutory targets for reductions in youth tobacco consumption, and by providing support for further reduction efforts.

(b) GOALS.—As part of a comprehensive national tobacco control policy, the Secretary, working in cooperation with State, Tribal, and local governments and the private sector, shall take all actions under this Act necessary to ensure that the required performance objectives for percentage reductions in underage use of tobacco products set forth in this title are achieved.

SEC. 203. ANNUAL PERFORMANCE SURVEYS.

(a) ANNUAL PERFORMANCE SURVEY.—Beginning not later than 1999 and annually thereafter the Secretary shall conduct a survey, in accordance with the methodology in subsection (e)(1), to determine for each type of tobacco product—

(1) the percentage of all children who used such type of tobacco product within the past 30 days; and

(2) the percentage of children who identify each brand of each type of tobacco product as the usual brand of the type smoked or used within the past 30 days.

(b) USE OF PRODUCT.—A child shall be considered to have used a manufacturer's tobacco product if the child identifies the manufacturer's tobacco product as the usual brand of tobacco product smoked or used by the child within the past 30 days.

(c) SEPARATE TYPES OF PRODUCTS.—For purposes of this subtitle cigarettes and smokeless tobacco shall be considered separate types of tobacco products.

(d) CONFIDENTIALITY OF DATA.—The Secretary may conduct a survey relating to tobacco use involving minors. If the information collected in the course of conducting the annual performance survey results in the individual supplying the information, or described in the information, being identifiable, the information may not be used for any purpose other than the purpose for which it was supplied unless that individual (or that individual's guardian) consents to its use for such other purposes. The information may not be published or released in any other form if the individual supplying the information, or described in the information, is identifiable unless that individual (or that individual's guardian) consents to its publication or release in other form.

(e) METHODOLOGY.—

(1) IN GENERAL.—The survey required by subsection (a) shall—

(A) be based on a nationally representative sample of young individuals;

(B) measure use of each type of tobacco product within the past 30 days;

(C) identify the usual brand of each type of tobacco product used within the past 30 days; and

(D) permit the calculation of the actual percentage reductions in underage use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of the tobacco products of a manufacturer) based on the point estimates of the percentage of young individuals reporting use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of the tobacco products of a manufacturer) from the annual performance survey.

(2) CRITERIA FOR DEEMING POINT ESTIMATES CORRECT.—Point estimates under paragraph (1)(D) are deemed conclusively to be correct and accurate for calculating actual percentage reductions in underage use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of the tobacco products of a manufacturer) for the purpose of measuring compliance with percent reduction targets and calculating surcharges provided that the precision of estimates (based on sampling error) of the percentage of children reporting use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of the tobacco products of a manufacturer) is such that the 95 percent confidence interval around such point estimates is no more than plus or minus 1 percent.

(3) SURVEY DEEMED CORRECT, PROPER, AND ACCURATE.—A survey using the methodology required by this subsection is deemed conclusively to be proper, correct, and accurate for purposes of this Act.

(4) SECRETARY MAY ADOPT DIFFERENT METHODOLOGY.—The Secretary by notice and comment rulemaking may adopt a survey methodology that is different than the methodology described in paragraph (1) if the different methodology is at least as statistically precise as that methodology.

SEC. 204. PERFORMANCE OBJECTIVES.

(a) BASELINE LEVEL.—The baseline level for each type of tobacco product, and for each manufacturer with respect to each type of tobacco product, is the percentage of children determined to have used such tobacco product in the first annual performance survey (in 1999).

(b) INDUSTRY-WIDE NON-ATTAINMENT ASSESSMENTS.—For the purpose of determining industry-wide non-attainment assessments, the performance objective for the reduction of the percentage of children determined to have used each type of tobacco product is the percentage in subsection (d) as measured from the baseline level for such type of tobacco product.

(c) PERFORMANCE OBJECTIVES FOR EXISTING MANUFACTURERS.—Each existing manufacturer shall have as a performance objective the reduction of the percentage of children determined to have used each type of such manufacturer's tobacco products by at least the percentage specified in subsection (d) as measured from the baseline level for such manufacturer for such product.

(d) REQUIRED PERCENTAGE REDUCTIONS.—The reductions required in this subsection are as follows:

(1) In the case of cigarettes—

(A) with respect to the third and fourth annual performance surveys, 20 percent;

(B) with respect to the fifth and sixth annual performance surveys, 40 percent;

(C) with respect to the seventh, eighth, and ninth annual performance surveys, 55 percent; and

(D) with respect to the 10th annual performance survey and each annual performance survey thereafter, 67 percent.

(2) In the case of smokeless tobacco—

(A) with respect to the third and fourth annual performance surveys, 12.5 percent;

(B) with respect to the fifth and sixth annual performance surveys, 25 percent;

(C) with respect to the seventh, eighth, and ninth annual performance surveys, 35 percent; and

(D) with respect to the 10th annual performance survey and each annual performance survey thereafter, 45 percent.

(e) PERFORMANCE OBJECTIVE RELATIVE TO THE DE MINIMIS LEVEL.—If the percentage of children determined to have used a type of the tobacco products of an existing manufacturer in an annual performance survey is equal to or less than the de minimis level, the manufacturer shall be considered to have achieved the applicable performance objective.

(f) PERFORMANCE OBJECTIVES FOR NEW MANUFACTURERS.—Each new manufacturer shall have as its performance objective maintaining the percentage of children determined to have used each type of such manufacturer's tobacco products in each annual performance survey at a level equal to or less than the de minimis level for that year.

(g) DE MINIMIS LEVEL.—The de minimis level shall be 1 percent of children for the applicable year.

SEC. 205. MEASURES TO HELP ACHIEVE THE PERFORMANCE OBJECTIVES.

(a) ANNUAL DETERMINATION.—Beginning in 2001, and annually thereafter, the Secretary shall, based on the annual performance surveys conducted under section 203, determine if the performance objectives for each type of tobacco product under section 204 has been

achieved and if each manufacturer has achieved the applicable performance objective under section 204.

(b) INDUSTRY-WIDE NON-ATTAINMENT ASSESSMENTS.—

(1) INDUSTRY-WIDE NON-ATTAINMENT PERCENTAGE.—The Secretary shall determine the industry-wide non-attainment percentage, if any, for cigarettes and for smokeless tobacco for each calendar year.

(2) NON-ATTAINMENT ASSESSMENT FOR CIGARETTES.—For each calendar year in which the performance objective under section 204(b) is not attained for cigarettes, the Secretary shall assess a surcharge on cigarette manufacturers as follows:

If the non-attainment percentage is:	The surcharge is:
Not more than 5 percentage points	$40,000,000 multiplied by the non-attainment percentage
More than 5 but not more than 20 percentage points	$200,000,000, plus $120,000,000 multiplied by the non-attainment percentage in excess of 5 but not in excess of 20 percentage points
More than 20 percentage points	$2,000,000,000

(3) NON-ATTAINMENT ASSESSMENT FOR SMOKELESS TOBACCO.—For each year in which the performance objective under section 204(b) is not attained for smokeless tobacco, the Secretary shall assess a surcharge on smokeless tobacco product manufacturers as follows:

If the non-attainment percentage is:	The surcharge is:
Not more than 5 percentage points	$4,000,000 multiplied by the non-attainment percentage
More than 5 but not more than 20 percentage points	$20,000,000, plus $12,000,000 multiplied by the non-attainment percentage in excess of 5 but not in excess of 20 percentage points
More than 20 percentage points	$200,000,000

(4) STRICT LIABILITY; JOINT AND SEVERAL LIABILITY.—Liability for any surcharge imposed under this subsection shall be—

(A) strict liability; and

(B) joint and several liability—

(i) among all cigarette manufacturers for surcharges imposed under paragraph (2); and

(ii) among all smokeless tobacco manufacturers for surcharges imposed under paragraph (3).

(5) SURCHARGE LIABILITY AMONG MANUFACTURERS.—A tobacco product manufacturer shall be liable under this subsection to one or more other manufacturers if the plaintiff tobacco product manufacturer establishes by a preponderance of the evidence that the defendant tobacco product manufacturer, through its acts or omissions, was responsible for a disproportionate share of the non-attainment surcharge as compared to the responsibility of the plaintiff manufacturer.

(6) EXEMPTIONS FOR SMALL MANUFACTURERS.—

(A) ALLOCATION BY MARKET SHARE.—The Secretary shall allocate the assessments under this subsection according to each manufacturer's share of the domestic cigarette or domestic smokeless tobacco market, as appropriate, in the year for which the surcharge is being assessed, based on actual Federal excise tax payments.

(B) EXEMPTION.—In any year in which a surcharge is being assessed, the Secretary shall exempt from payment any tobacco product manufacturer with less than 1 percent of the domestic market share for a specific category of tobacco product unless the Secretary finds that the manufacturer's products are used by underage individuals at a rate equal to or greater than the manufacturer's total market share for the type of tobacco product.

(c) MANUFACTURER-SPECIFIC SURCHARGES.—

(1) IN GENERAL.—If the Secretary determines that the required percentage reduction in use of a type of tobacco product has not been achieved by a manufacturer for a year, the Secretary shall impose a surcharge on such manufacturer under this paragraph.

(2) CIGARETTES.—For each calendar year in which a cigarette manufacturer fails to achieve the performance objective under section 204(c), the Secretary shall assess a surcharge on that manufacturer in an amount equal to the manufacturer's share of youth incidence for cigarettes multiplied by the following surcharge level:

If the non-attainment percentage for the manufacturer is:	The surcharge level is:
Not more than 5 percentage points	$80,000,000 multiplied by the non-attainment percentage
More than 5 but not more than 24.1 percentage points	$400,000,000, plus $240,000,000 multiplied by the non-attainment percentage in excess of 5 but not in excess of 24.1 percentage points
More than 24.1 percentage points	$5,000,000,000

(3) SMOKELESS TOBACCO.—For each calendar year in which a smokeless tobacco product manufacturer fails to achieve the performance objective under section 204(c), the Secretary shall assess a surcharge on that manufacturer in an amount equal to the manufacturer's share of youth incidence for smokeless tobacco products multiplied by the following surcharge level:

If the non-attainment percentage for the manufacturer is:	The surcharge level is:
Not more than 5 percentage points	$8,000,000 multiplied by the non-attainment percentage
More than 5 but not more than 24.1 percentage points	$40,000,000, plus $24,000,000 multiplied by the non-attainment percentage in excess of 5 but not in excess of 24.1 percentage points
More than 24.1 percentage points	$500,000,000

(4) MANUFACTURER'S SHARE OF YOUTH INCIDENCE.—For purposes of this subsection, the term ''manufacturer's share of youth incidence'' means—

(A) for cigarettes, the percentage of all youth smokers determined to have used that manufacturer's cigarettes; and

(B) for smokeless tobacco products, the percentage of all youth users of smokeless tobacco products determined to have used that manufacturer's smokeless tobacco products.

(5) DE MINIMIS LEVELS.—If a manufacturer is a new manufacturer or the manufacturer's baseline level for a type of tobacco product is less than the de minimis level, the non-attainment percentage (for purposes of paragraph (2) or (3)) shall be equal to the number of percentage points by which the percentage of children who used the manufacturer's tobacco products of the applicable type exceeds the de minimis level.

(d) SURCHARGES TO BE ADJUSTED FOR INFLATION.—

(1) IN GENERAL.—Beginning with the fourth calendar year after the date of enactment of this Act, each dollar amount in the tables in subsections (b)(2), (b)(3), (c)(2), and (c)(3) shall be increased by the inflation adjustment.

(2) INFLATION ADJUSTMENT.—For purposes of paragraph (1), the inflation adjustment for any calendar year is the percentage (if any) by which—

(A) the CPI for the preceding calendar year; exceeds

(B) the CPI for the calendar year 1998.

(3) CPI.—For purposes of paragraph (2), the CPI for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor.

(4) ROUNDING.—If any increase determined under paragraph (1) is not a multiple of $1,000, the increase shall be rounded to the nearest multiple of $1,000.

(e) METHOD OF SURCHARGE ASSESSMENT.—The Secretary shall assess a surcharge for a specific calendar year on or before May 1 of the subsequent calendar year. Surcharge payments shall be paid on or before July 1 of the year in which they are assessed. The Secretary may establish, by regulation, interest at a rate up to 3 times the prevailing prime rate at the time the surcharge is assessed, and additional charges in an amount up to 3 times the surcharge, for late payment of the surcharge.

(f) BUSINESS EXPENSE DEDUCTION.—In order to maximize the financial deterrent effect of the assessments and surcharges established in this section, any such payment shall not be deductible as an ordinary and necessary business expense or otherwise under the Internal Revenue Code of 1986.

(g) APPEAL RIGHTS.—The amount of any surcharge is committed to the sound discretion of the Secretary and shall be subject to judicial review by the United States Court of Appeals for the District of Columbia Circuit, based on the arbitrary and capricious standard of section 706(2)(A) of title 5, United States Code. Notwithstanding any other provisions of law, no court shall have authority to stay any surcharge payments due the Secretary under this Act pending judicial review.

(h) RESPONSIBILITY FOR AGENTS.—In any action brought under this subsection, a tobacco product manufacturer shall be held responsible for any act or omission of its attorneys, advertising agencies, or other agents that contributed to that manufacturer's responsibility for the surcharge assessed under this section.

SEC. 206. DEFINITIONS.

In this subtitle:

(1) CHILDREN.—The term ''children'' means individuals who are 12 years of age or older and under the age of 18.

(2) CIGARETTE MANUFACTURERS.—The term ''cigarette manufacturers'' means manufacturers of cigarettes sold in the United States.

(3) EXISTING MANUFACTURER.—The term ''existing manufacturer'' means a manufacturer which manufactured a tobacco product on or before the date of the enactment of this title.

(4) NEW MANUFACTURER.—The term ''new manufacturer'' means a manufacturer which begins to manufacture a type of tobacco product after the date of the enactment of this title.

(5) NON-ATTAINMENT PERCENTAGE.—The term ''non-attainment percentage'' means the number of percentage points yielded—

(A) for a calendar year in which the percent incidence of underage use of the applicable type of tobacco product is less than the baseline level, by subtracting—

(i) the percentage by which the percent incidence of underage use of the applicable type of tobacco product in that year is less than the baseline level, from

(ii) the required percentage reduction applicable in that year; and

(B) for a calendar year in which the percent incidence of underage use of the applicable type of tobacco product is greater than the baseline level, adding—

(i) the percentage by which the percent incidence of underage use of the applicable type of tobacco product in that year is greater than the baseline level; and

(ii) the required percentage reduction applicable in that year.

(6) SMOKELESS TOBACCO PRODUCT MANUFACTURERS.—The term ''smokeless tobacco product manufacturers'' means manufacturers of smokeless tobacco products sold in the United States.

DURBIN AMENDMENTS NOS. 2522–2524

(Ordered to lie on the table.)

Mr. DURBIN submitted three amendments intended to be proposed by him to the bill, S. 1415, supra; as follows:

AMENDMENT NO. 2522

In section 1404(a)(1)(B), strike ''on mass transit vehicles'' and insert ''on or in mass transit vehicles and systems''.

AMENDMENT NO. 2523

In the amendment made by section 221, insert after the part heading the following:

''SEC. 1980. DEFINITION.

''In this part and part E, the term 'tobacco product' has the meaning given such term in section 201(kk) of the Federal Food, Drug and Cosmetic Act, and shall include cigars, smokeless tobacco, and cigarettes.

AMENDMENT NO. 2524

At the appropriate place, insert the following:

SEC. ___. CONGRESSIONAL ACCOUNTABILITY.

(a) APPLICATION OF LAWS.—Section 102 of the Congressional Accountability Act of 1995 (2 U.S.C. 1302) is amended by adding at the end the following:

''(12) Section 502 of the National Tobacco Policy and Youth Smoking Reduction Act.''.

(b) PROCEDURES.—Title II of the Congressional Accountability Act of 1995 (2 U.S.C. 1311 et seq.) is amended—

(1) by redesignating parts E and F as parts F and G, respectively; and

(2) by inserting after part D the following:

''PART E—TOBACCO SMOKE EXPOSURE REDUCTION REQUIREMENTS

''SEC. 222. RIGHTS AND PROTECTIONS UNDER THE NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT.

''(a) REDUCTION OF EXPOSURE.—

''(1) RIGHTS AND PROTECTIONS.—Each responsible entity shall comply with section 502 of the National Tobacco Policy and Youth Smoking Reduction Act.

''(2) DEFINITION.—For the purpose of this section and the application of such section 502 under this section—

''(A) the term 'public facility' means a building owned by or leased to an entity of the legislative branch of the Federal Government, that is not a building or portion excluded under section 501(2)(B) of the National Tobacco Policy and Youth Smoking Reduction Act; and

''(B) the term 'responsible entity' means an employing office, the General Accounting Office, the Government Printing Office, the Library of Congress, and any other entity of the legislative branch.

''(b) REMEDY.—The remedy for a violation of subsection (a) shall be such order enjoining the violation or such civil penalty as would be appropriate if issued under subsection (b) or (e) of section 503 of the National Tobacco Policy and Youth Smoking Reduction Act.

''(c) PROCEDURES.—

''(1) HEARINGS AND REVIEW.—After providing notice as described in section 503(c) of the National Tobacco Policy and Youth Smoking Reduction Act, an aggrieved person may file a complaint alleging a violation of subsection (a) with the Office against the responsible entity. The complaint shall be submitted to a hearing officer for decision pursuant to subsection (b) through (h) of section 405, subject to review by the Board pursuant to section 406.

''(2) JUDICIAL REVIEW.—A party aggrieved by a final decision of the Board under paragraph (1) may file a petition for review with the United States Court of Appeals for the Federal Circuit pursuant to section 407.

''(d) REGULATIONS TO IMPLEMENT SECTION.—

''(1) IN GENERAL.—The Board shall, pursuant to section 304, issue regulations to implement this section.

''(2) AGENCY REGULATIONS.—The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) except to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

''(3) OFFICE RESPONSIBLE FOR CORRECTION.—The regulations issued under paragraph (1) shall include a method of identifying, for purposes of this section and for different categories of violations of subsection (a), the office responsible for correction of a particular violation.

''(e) EFFECTIVE DATE.—Subsections (a) through (c) shall be effective on January 1, 1999.''.

(c) CONFORMING AMENDMENTS.—

(1) The table of contents of the Congressional Accountability Act of 1995 is amended by striking the items relating to parts E and F of title II of such Act and inserting the following:

PART E—TOBACCO SMOKE EXPOSURE REDUCTION REQUIREMENTS

Sec. 222. Rights and protections under the National Tobacco Policy and Youth Smoking Reduction Act.

PART F—GENERAL

Sec. 225. Generally applicable remedies and limitations.

PART G—STUDY

Sec. 230. Study and recommendations regarding General Accounting Office, Government Printing Office, and Library of Congress.

(2) Section 407(a)(1)(C) of the Congressional Accountability Act of 1995 (2 U.S.C. 1407(a)(1)(C)) is amended by inserting before the comma the following: '', or a party aggrieved by a final decision of the Board under section 222(c)''.

(3) Section 414 of such Act (2 U.S.C. 1414) is amended by inserting ''222,'' after ''220,''.

(4) Section 415(c) of such Act (2 U.S.C. 1415(c)) is amended—

(A) in the subsection heading, by striking ''AND ACCESS'' and inserting ''ACCESS, AND TOBACCO SMOKE EXPOSURE REDUCTION''; and

(B) by striking ''or 215'' and inserting ''215, or 222''.

BINGAMAN AMENDMENT NO. 2525

(Ordered to lie on the table.)

Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill, S. 1415, supra; as follows:

At the end of section 451, add the following:

(f) VETERANS COMPENSATION ACCOUNT.—

(1) IN GENERAL.—There is established within the trust fund a separate account, to be known as the Veterans Compensation Account. Of the net revenues credited to the trust fund under section 401(b)(1), $10,000,000,000 shall be allocated to this account over the 5-fiscal year period beginning on the date of enactment of this Act.

(2) AUTHORIZATION OF APPROPRIATIONS.—Amounts in the Veterans Compensation Account shall be available to the extent and in the amounts provided in advance in appropriations acts, to remain available until expended, only for purposes of enabling the Department of Veterans Affairs to provide disability payments to former military personnel who became addicted to tobacco while on active duty and who have sustained a disability for tobacco-related illnesses.

MURRAY AMENDMENT NO. 2526

(Ordered to lie on the table.)

Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill, S. 1415, supra; as follows:

At the end of section 501(2), add the following:

(D) CHILD CARE PROVIDERS.—The term ''public facility'' includes any residence or facility at which a licensed or certified child care provider provides child care services, regardless of whether the residence or facility serves 10 or more individuals each day.

CONRAD AMENDMENTS NOS. 2527–2529

(Ordered to lie on the table.)

Mr. CONRAD submitted three amendments intended to be proposed by him to the bill, S. 1415, supra; as follows:

AMENDMENT NO. 2527

On page 124, line 8, strike ''5'' and insert ''50''.

AMENDMENT NO. 2528

On page 125, strike lines 4 through 8, and insert the following:

''an amount equal to 40 percent of the amount determined under section 1933 of the Public Health Service Act (42 U.S.C. 300x–33) for the State for the fiscal year from the amounts otherwise payable under this Act.''.

AMENDMENT NO. 2529

On page 195, between lines 17 and 18, insert the following flush sentence:

''Not less than $500,000,000 of the amounts made available under this subparagraph shall be used each year to carry out counter-advertising activities under clause (i).''.

KERREY AMENDMENT NO. 2530

(Ordered to lie on the table.)

Mr. KERREY submitted an amendment intended to be proposed by him to the bill, S. 1415, supra; as follows:

Strike title XV and insert the following:

TITLE XV—TOBACCO TRANSITION

SEC. 1501. DEFINITIONS.

In this title:

(1) GOVERNOR.—The term ''Governor'' means the chief executive officer of a State.

(2) LEASE.—The term ''lease'' means—

(A) the rental of quota on either a cash rent or crop share basis;

(B) the rental of farmland to produce tobacco under a farm marketing quota; or

(C) the lease and transfer of quota for the marketing of tobacco produced on the farm of a lessor.

(3) OWNER.—The term ''owner'' means a person that, on the date of enactment of this Act, owns quota provided by the Secretary.

(4) PRODUCER.—The term ''producer'' means a person that for each of the 1995 through 1997 crops of tobacco (as determined by the Secretary) that were subject to quota—

(A) leased quota or farmland;

(B) shared in the risk of producing a crop of tobacco; and

(C) marketed the tobacco subject to quota.

(5) QUOTA.—The term ''quota'' means the right to market tobacco under a basic marketing quota or acreage allotment allotted to a person under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.).

(6) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(7) STATE.—The term ''State'' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

(8) TOBACCO.—The term ''tobacco'' means any kind of tobacco for which—

(A) a marketing quota is in effect;

(B) a marketing quota is not disapproved by producers; or

(C) price support is available.

Subtitle A—Payments for Lost Value of Tobacco Crops

SEC. 1511. PAYMENTS FOR LOST VALUE OF TOBACCO CROPS.

(a) IN GENERAL.—For each of fiscal years 1999 through 2005, the Secretary shall make payments for the lost value of tobacco crops to owners and producers from funds made available from the National Tobacco Trust Fund established by section 401.

(b) AMOUNT.—

(1) OWNERS.—The amount of the payment made to an owner for a fiscal year under this section shall equal 30 percent of the value of the tobacco produced under a tobacco farm marketing quota or farm acreage allotment established owned by the owner under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for the 1997 crop year.

(2) PRODUCERS.—The amount of the payment made to a producer for a fiscal year under this section shall equal 15 percent of the value of the tobacco produced by the producer under a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for the 1997 crop year.

Subtitle B—Rural Economic Assistance Block Grants

SEC. 1521. RURAL ECONOMIC ASSISTANCE BLOCK GRANTS.

(a) IN GENERAL.—From funds made available from the National Tobacco Trust Fund established by section 401, the Secretary shall use $200,000,000 for each of fiscal years 1999 through 2003 to provide block grants to tobacco-growing States to assist areas of such a State that are economically dependent on the production of tobacco.

(b) PAYMENTS BY SECRETARY TO TOBACCO-GROWING STATES.—

(1) IN GENERAL.—The Secretary shall use the amount available for a fiscal year under subsection (a) to make block grant payments to the Governors of tobacco-growing States.

(2) AMOUNT.—The amount of a block grant paid to a tobacco-growing State shall be based on, as determined by the Secretary—

(A) the number of counties in the State in which tobacco production is a significant part of the county's economy; and

(B) the level of economic dependence of the counties on tobacco production.

(c) GRANTS BY STATES TO ASSIST TOBACCO-GROWING AREAS.—

(1) IN GENERAL.—A Governor of a tobacco-growing State shall use the amount of the block grant to the State under subsection (b) to make grants to counties or other public or private entities in the State to assist areas that are dependent on the production of tobacco, as determined by the Governor.

(2) AMOUNT.—The amount of a grant paid to a county or other entity to assist an area shall be based on—

(A) the ratio of gross tobacco sales receipts in the area to the total farm income in the area; and

(B) the ratio of all tobacco related receipts in the area to the total income in the area.

(3) USE OF GRANTS.—A county or other entity that receives a grant under this subsection may use the grant in a manner determined appropriate by the county or entity (with the approval of the State) to assist producers and other persons that are economically dependent on the production of tobacco, including use for—

(A) on-farm diversification, alternatives to the production of tobacco, and risk management;

(B) off-farm activities such as education, retraining, and development of non-tobacco related jobs; and

(C) assistance to tobacco warehouse owners or operators.

(d) TERMINATION OF AUTHORITY.—The authority provided by this section terminates September 30, 2003.

Subtitle C—Tobacco Price Support and Production Adjustment Programs

SEC. 1531. TERMINATION OF TOBACCO PRICE SUPPORT PROGRAM.

(a) PARITY PRICE SUPPORT.—Section 101 of the Agricultural Act of 1949 (7 U.S.C. 1441) is amended—

(1) in the first sentence of subsection (a), by striking ''tobacco (except as otherwise provided herein), corn,'' and inserting ''corn'';

(2) by striking subsections (c), (g), (h), and (i);

(3) in subsection (d)(3)—

(A) by striking '', except tobacco,''; and

(B) by striking ''and no price support shall be made available for any crop of tobacco for which marketing quotas have been disapproved by producers;''; and

(4) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

(b) TERMINATION OF TOBACCO PRICE SUPPORT AND NO NET COST PROVISIONS.—Sections 106, 106A, and 106B of the Agricultural Act of 1949 (7 U.S.C. 1445, 1445–1, 1445–2) are repealed.

(c) DEFINITION OF BASIC AGRICULTURAL COMMODITY.—Section 408(c) of the Agricultural Act of 1949 (7 U.S.C. 1428(c)) is amended by striking ''tobacco,''.

(d) REVIEW OF BURLEY TOBACCO IMPORTS.—Section 3 of Public Law 98–59 (7 U.S.C. 625) is repealed.

(e) POWERS OF COMMODITY CREDIT CORPORATION.—Section 5 of the poration Charter Act (15 U.S.C. 714c) is amended by inserting ''(other than tobacco)'' after ''agricultural commodities'' each place it appears.

(f) TRANSITION PROVISIONS.—

(1) LIABILITY.—The amendments made by this section shall not affect the liability of any person under any provision of law as in effect before the effective date of this section.

(2) TOBACCO STOCKS AND LOANS.—The Secretary shall issue regulations that require—

(A) the orderly disposition of tobacco stocks; and

(B) the repayment of all tobacco price support loans by not later than 1 year after the effective date of this section.

(g) CROPS.—This section and the amendments made by this section shall apply with respect to the 1999 and subsequent crops of the kind of tobacco involved.

SEC. 1532. TERMINATION OF TOBACCO PRODUCTION ADJUSTMENT PROGRAMS.

(a) DECLARATION OF POLICY.—Section 2 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1282) is amended by striking ''tobacco,''.

(b) DEFINITIONS.—Section 301(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1301(b)) is amended—

(1) in paragraph (3)—

(A) by striking subparagraph (C); and

(B) by redesignating subparagraph (D) as subparagraph (C);

(2) in paragraph (6)(A), by striking ''tobacco,'';

(3) in paragraph (7), by striking the following:

''tobacco (flue-cured), July 1—June 30;

''tobacco (other than flue-cured), October 1–September 30;'';

(4) in paragraph (10)—

(A) by striking subparagraph (B); and

(B) by redesignating subparagraph (C) as subparagraph (B);

(5) in paragraph (11)(B), by striking ''and tobacco'';

(6) in paragraph (12), by striking ''tobacco,'';

(7) in paragraph (14)—

(A) in subparagraph (A), by striking ''(A)''; and

(B) by striking subparagraphs (B), (C), and (D);

(8) by striking paragraph (15);

(9) in paragraph (16)—

(A) by striking subparagraph (B); and

(B) by redesignating subparagraph (C) as subparagraph (B); and

(10) by redesignating paragraphs (16) and (17) as paragraphs (15) and (16), respectively.

(c) PARITY PAYMENTS.—Section 303 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1303) is amended in the first sentence by striking ''rice, or tobacco,'' and inserting ''or rice,''.

(d) MARKETING QUOTAS.—Part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.) is repealed.

(e) ADMINISTRATIVE PROVISIONS.—Section 361 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1361) is amended by striking ''tobacco,''.

(f) ADJUSTMENT OF QUOTAS.—Section 371 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1371) is amended—

(1) in the first sentence of subsection (a), by striking ''peanuts, or tobacco'' and inserting ''or peanuts''; and

(2) in the first sentence of subsection (b), by striking ''peanuts or tobacco'' and inserting ''or peanuts''.

(g) REPORTS AND RECORDS.—Section 373 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1373) is amended—

(1) by striking ''peanuts, or tobacco'' each place it appears in subsections (a) and (b) and inserting ''or peanuts''; and

(2) in subsection (a)—

(A) in the first sentence, by striking ''all persons engaged in the business of redrying, prizing, or stemming tobacco for producers,''; and

(B) in the last sentence, by striking ''$500;'' and all that follows through the period at the end of the sentence and inserting ''$500.''.

(h) REGULATIONS.—Section 375(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1375(a)) is amended by striking ''peanuts, or tobacco'' and inserting ''or peanuts''.

(i) EMINENT DOMAIN.—Section 378 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1378) is amended—

(1) in the first sentence of subsection (c), by striking ''cotton, tobacco, and peanuts'' and inserting ''cotton and peanuts''; and

(2) by striking subsections (d), (e), and (f).

(j) BURLEY TOBACCO FARM RECONSTITUTION.—Section 379 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379) is amended—

(1) in subsection (a)—

(A) by striking ''(a)''; and

(B) in paragraph (6), by striking '', but this clause (6) shall not be applicable in the case of burley tobacco''; and

(2) by striking subsections (b) and (c).

(k) ACREAGE-POUNDAGE QUOTAS.—Section 4 of the Act entitled ''An Act to amend the Agricultural Adjustment Act of 1938, as amended, to provide for acreage-poundage marketing quotas for tobacco, to amend the tobacco price support provisions of the Agricultural Act of 1949, as amended, and for other purposes'', approved April 16, 1965 (Public Law 89–12; 7 U.S.C. 1314c note), is repealed.

(l) BURLEY TOBACCO ACREAGE ALLOTMENTS.—The Act entitled ''An Act relating to burley tobacco farm acreage allotments under the Agricultural Adjustment Act of 1938, as amended'', approved July 12, 1952 (7 U.S.C. 1315), is repealed.

(m) TRANSFER OF ALLOTMENTS.—Section 703 of the Food and Agriculture Act of 1965 (7 U.S.C. 1316) is repealed.

(n) ADVANCE RECOURSE LOANS.—Section 13(a)(2)(B) of the Food Security Improvements Act of 1986 (7 U.S.C. 1433c–1(a)(2)(B)) is amended by striking ''tobacco and''.

(o) TOBACCO FIELD MEASUREMENT.—Section 1112 of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203) is amended by striking subsection (c).

(p) LIABILITY.—The amendments made by this section shall not affect the liability of any person under any provision of law as in effect before the effective date under subsection (q).

(q) CROPS.—This section and the amendments made by this section shall apply with respect to the 1999 and subsequent crops of the kind of tobacco involved.

Subtitle D—Miscellaneous

SEC. 1541. TOBACCO PRODUCERS MARKETING CORPORATION.

(a) ESTABLISHMENT.—There is established a corporation to be known as the ''Tobacco Producers Marketing Corporation'', which shall be a federally chartered instrumentality of the United States.

(b) DUTIES.—The Corporation negotiate with buyers of tobacco produced in the United States on behalf of producers of the tobacco that elect to be represented by the Corporation (referred to in this section as ''participating producers'').

(c) BOARD OF DIRECTORS.—

(1) IN GENERAL.—The powers of the Corporation shall be vested in a Board of Directors.

(2) MEMBERS.—The Board of Directors shall composed of members elected by participating producers.

(3) MEMBERSHIP QUALIFICATIONS.—A member of the Board shall not hold any Federal, State, or local elected office or be a Federal officer or employee.

(4) CHAIRPERSONS.—The chairperson of the Board shall be elected by members of the Board.

(5) EXECUTIVE DIRECTOR.—

(A) APPOINTMENT.—The Board shall appoint an Executive Director.

(B) DUTIES.—The Executive Director shall be the chief executive officer of the Corporation, with such power and authority as may be conferred by the Board.

(C) COMPENSATION.—The Executive Director shall receive basic pay at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(6) OFFICERS.—The Board shall establish the offices and appoint the officers of the Corporation, including a Secretary, and define the duties of the officers in a manner consistent with this section.

(7) MEETINGS.—

(A) IN GENERAL.—The Board shall meet at least 3 times each fiscal year at the call of a Chairperson or at the request of the Executive Director.

(B) LOCATION.—The location of a meeting shall be subject to approval of the Executive Director.

(C) QUORUM.—A quorum of the Board shall consist of a majority of the members.

(8) TERM; VACANCIES.—

(A) TERM.—The term of office of a member of the Board elected under paragraph (2) shall be 4 years.

(B) VACANCIES.—A vacancy on the Board shall be filled in the same manner as the original appointment was made.

(9) COMPENSATION.—

(A) IN GENERAL.—A member of the Board shall receive, for each day (including travel time) that the member is engaged in the performance of the functions of the Board, compensation at a rate not to exceed the daily equivalent of the annual rate in effect for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(B) EXPENSES.—A member of the Board shall be reimbursed for travel, subsistence, and other necessary expenses incurred by the member in the performance of the duties of the member.

(10) CONFLICT OF INTEREST; FINANCIAL DISCLOSURE.—

(A) CONFLICT OF INTEREST.—Except as provided in subparagraph (C), a member of the Board shall not vote on any matter concerning any application, contract, or claim, or other particular matter pending before the Corporation, in which, to the knowledge of the member, the member, spouse, or child of the member, partner of the member, or organization in which the member is serving as officer, director, trustee, partner, or employee, or any person or organization with which the member is negotiating or has any arrangement concerning prospective employment, has a financial interest.

(B) VIOLATIONS.—Violation of subparagraph (A) by a member of the Board shall be cause for removal of the member, but shall not impair or otherwise affect the validity of any otherwise lawful action by the Corporation in which the member participated.

(C) EXCEPTIONS.—

(i) IN GENERAL.—Except as provided in clause (ii), the prohibitions contained in subparagraph (A) shall not apply if—

(I) a member of the Board advises the Board of the nature of the particular matter in which the member proposes to participate, and if the member makes a full disclosure of the financial interest, prior to any participation; and

(II) the Board determines, by majority vote, that the financial interest is too remote or too inconsequential to affect the integrity of the member's services to the Corporation in that matter.

(ii) VOTE.—The member involved shall not vote on the determination under clause (i)(II).

(D) FINANCIAL DISCLOSURE.—A Board member shall be subject to the financial disclosure requirements of subchapter B of chapter XVI of title 5, Code of Federal Regulations (or any corresponding or similar regulation or ruling), applicable to a special Government employee (as defined in section 202(a) of title 18, United States Code).

(11) BYLAWS.—The Board shall adopt, and may from time to time amend, any bylaw that is necessary for the proper management and functioning of the Corporation.

(12) PERSONNEL.—The Corporation may select and appoint officers, attorneys, employees, and agents, who shall be vested with such powers and duties as the Corporation may determine.

(d) GENERAL POWERS.—In addition to any other powers granted to the Corporation under this section, the Corporation—

(1) shall have succession in its corporate name;

(2) may adopt, alter, and rescind any bylaw and adopt and alter a corporate seal, which shall be judicially noticed;

(3) may enter into any agreement or contract with a person or private or governmental agency;

(4) may lease, purchase, accept a gift or donation of, or otherwise acquire, use, own, hold, improve, or otherwise deal in or with, and sell, convey, mortgage, pledge, lease, exchange, or otherwise dispose of, any property or interest in property, as the Corporation considers necessary in the transaction of the business of the Corporation;

(5) may sue and be sued in the corporate name of the Corporation, except that—

(A) no attachment, injunction, garnishment, or similar process shall be issued against the Corporation or property of the Corporation; and

(B) exclusive original jurisdiction shall reside in the district courts of the United States, and the Corporation may intervene in any court in any suit, action, or proceeding in which the Corporation has an interest;

(6) may independently retain legal representation;

(7) may provide for and designate such committees, and the functions of the committees, as the Board considers necessary or desirable;

(8) may indemnify officers of the Corporation, as the Board considers necessary and desirable, except that the officers shall not be indemnified for an act outside the scope of employment;

(9) may, with the consent of any board, commission, independent establishment, or executive department of the Federal Government, including any field service, use information, services, facilities, officials, and employees in carrying out this section, and pay for the use, which payments shall be transferred to the applicable appropriation account that incurred the expense;

(10) may obtain the services and fix the compensation of any consultant and otherwise procure temporary and intermittent services under section 3109(b) of title 5, United States Code;

(11) may use the United States mails on the same terms and conditions as the Executive agencies of the Federal Government;

(12) shall have the rights, privileges, and immunities of the United States with respect to the right to priority of payment with respect to debts due from bankrupt, insolvent, or deceased creditors;

(13) may collect or compromise any obligations assigned to or held by the Corporation, including any legal or equitable rights accruing to the Corporation;

(14) shall determine the character of, and necessity for, obligations and expenditures of the Corporation and the manner in which the obligations and expenditures shall be incurred, allowed, and paid, subject to provisions of law specifically applicable to Government corporations;

(15) may make final and conclusive settlement and adjustment of any claim by or against the Corporation or a fiscal officer of the Corporation;

(16) may sell assets, loans, and equity interests acquired in connection with the financing of projects funded by the Corporation; and

(17) may exercise all other lawful powers necessarily or reasonably related to the establishment of the Corporation to carry out this title and the powers, purposes, functions, duties, and authorized activities of the Corporation.

SEC. 1542. ASSISTANCE FOR PRODUCERS EXPERIENCING LOSSES OF FARM INCOME.

(a) IN GENERAL.—Notwithstanding any other provision of this title, from amounts made available to carry out this title, the Secretary shall use $250,000,000 for each of fiscal years 1999 through 2004 to establish a program to indemnify eligible producers that have experienced, or are experiencing, catastrophic losses in farm income, as determined by the Secretary.

(b) GROSS INCOME AND PAYMENT LIMITATIONS.—In carrying out this section, the Secretary shall, to the maximum extent practicable, use gross income and payment limitations established for the Disaster Reserve Assistance Program under section 813 of the Agricultural Act of 1970 (7 U.S.C. 1427a).

SEC. 1543. SAVINGS.

Except as provided in section 1542, any savings derived as a result of this title shall be used for tobacco use prevention and cessation initiatives.

BOND AMENDMENTS NOS. 2531–2532

(Ordered to lie on the table.)

Mr. BOND submitted two amendments intended to be proposed by him to the bill, S. 1415, supra; as follows:

AMENDMENT NO. 2531

(1) Title II, Subtitle B add the following:

SEC. 231. (B)(2)(D)(ii)(III) Strike the section in its entirety and add the following: ''A system of graduated sanctions for underage youths who possess, purchase or attempt to purchase tobacco products, the sanction for the first offense shall be no less than a requirement of community service and the sanction for the second offense shall be no less than a requirement of community service or a fine.''

(2) SEC. 232. Add the following:

SEC. 232(b)(3) have a law that provides for a system of graduated sanctions for underage youths who possess, purchase or attempt to purchase tobacco products, the sanction for the first offense shall be no less than a requirement of community service and the sanction for the second offense shall be no less than a requirement of community service or a fine.''

(3) Title II, Subtitle C, SEC. 261 add the following:

SEC. 1981A(4) A state receiving or expending, or if any of the state's agencies receives or expends, under this subtitle funds from the Tobacco Settlement Trust Fund, that state shall establish to the Secretary that it has laws or regulations that include such measures as fines, suspension of driver's license privileges, or community service requirements, for underage youths who possess, purchase or attempt to purchase tobacco products.

AMENDMENT NO. 2532

Title II, Subtitle B, SEC. 231. State Retail Licensing and Enforcement Block Grants. Add the following:

SEC. 231(a) After ''to carry out the provisions of this section.'' add the following: $100,000,000 of the annual appropriation shall be used for block grants to state and local law enforcement agencies to assist in providing the resources necessary for law enforcement to enforce sanctions on underage youths who possess, purchase or attempt to purchase tobacco products and enforce the remaining provisions of this title.

SHELBY AMENDMENTS NOS. 2533–2534

(Ordered to lie on the table.)

Mr. SHELBY submitted two amendments intended to be proposed by him to the bill, S. 1415, supra; as follows:

AMENDMENT NO. 2533

On page 441, line 5, insert before the period the following: '', including the success of the claimant in prior related litigation that contributed materially and directly to the result obtained''.

AMENDMENT NO. 2534

On page 440, line 25, insert before the period the following: '', both in the litigation in which the award is sought, and to the extent, if any, that the result of such litigation has the effect of making available documentary evidence that materially and directly contributes to a successful result in other pending or subsequent litigation involving the same or similar issues involving different litigants''.

HATCH AMENDMENTS NOS. 2535–2539

(Ordered to lie on the table.)

Mr. HATCH submitted five amendments intended to be proposed by him to the bill, S. 1415, supra; as follows:

AMENDMENT NO. 2535

On page 58, strike lines 8 through 23, and insert the following:

''(3) PROCEDURE FOR GENERAL PROHIBITION OF TOBACCO PRODUCTS AND ELIMINATION OF NICOTINE.—

''(A) NONDELEGATION.—The Secretary may not delegate the authority provided under this section to promulgate a regulation that results in a general prohibition of cigarettes or smokeless tobacco or the reduction of nicotine yields of a tobacco product to zero.

''(B) CONGRESSIONAL REVIEW.—In accordance with section 801 of title 5, United States Code, Congress shall review, and may disapprove, any rule of the Secretary establishing, amending, or revoking a tobacco product health risk reduction standard, except that with respect to a standard that results in a general prohibition of cigarettes or smokeless tobacco or the reduction of nicotine yields of a tobacco product to zero, such standard shall only take effect following the date of enactment of a joint resolution of approval of such standard. The provisions of section 802 of title 5, United States Code, relating to certain disapproval resolutions shall apply to the consideration of any joint resolution of approval under this subsection.

AMENDMENT NO. 2536

On page 28, between lines 2 and 3, insert the following:

''(d) APPLICATION OF FDA RULE.—The provisions of the final regulations promulgated by the Secretary in the rule dated August 28, 1996 (61 Fed. Reg. 44615-18) shall be given effect as follows:

''(1)(A) The regulations codified in sections 897.1, 897.2, 897.3, 897.10, 897.12, 897.14, and 897.16(b) through (d) of title 21, Code of Federal Regulations, shall be deemed to have been promulgated by the Secretary pursuant to chapter IX of the Federal Food, Drug and Cosmetic Act (as added by section 103 of this Act).

''(B) The Secretary shall promulgate a regulation under section 701(a) of the Federal Food, Drug and Cosmetic Act to—

''(i) transfer the regulations referred to in subparagraph (A) to the appropriate part of the Code of Federal Regulations; and

''(ii) make such other amendments to such regulations if the Secretary determines that such amendments are necessary to conform such regulations to the provisions of this Act.

''(2) Any portion or provision of the final regulations not specifically referred to in paragraph (1) shall be considered null and void.

AMENDMENT NO. 2537

Beginning on page 67, strike line 4 and all that follows through line 6 on page 79.

AMENDMENT NO. 2538

Beginning on page 42, strike line 10 and all that follows through line 20 on page 43.

AMENDMENT NO. 2539

On page 52, strike lines 3 through 16, and insert the following:

''(a) PERFORMANCE STANDARDS.—

''(1) ADOPTION.—

''(A) IN GENERAL.—Within 24 months after the date of enactment of this chapter, the Secretary, in accordance with the regulatory policies and principles set forth in Executive Order No. 12866 (including the policies and principles set forth in the January 11, 1996 Office of Management and Budget guidance document entitled, 'Economic Analysis of Federal Regulations Under Executive Order 12866'), shall adopt performance standards for tobacco products that maximize the net benefits to the public health.

''(B) OBJECTIVE.—Performance standards under subparagraph (A) shall have as their major objective reducing the overall health risks to the public. Such performance standards shall take into account—

''(i) the increased or decreased likelihood that existing consumers of tobacco products will stop using such products;

''(ii) the increased or decreased risk of likelihood that existing users of tobacco products will reduce their use of such products; and

''(iii) the increased or decreased likelihood that those who do not use tobacco products will start using such products.

''(C) CONSIDERATIONS.—In establishing performance standards under subparagraph (A), the Secretary shall identify, make available for public comment, and consider relevant factors including the following:

''(i) Whether the proposed standard will result in a reduction in the health risks associated with the use of the tobacco product, constituent, or component.

''(ii) Whether the proposed standards will result in a significant increase in the number of individuals seeking tobacco product cessation or withdrawal treatments, including an assessment of the effectiveness, availability, and accessibility of such treatments.

''(iii) Whether the proposed standard will result in any possible countervailing effects on the health of adolescent tobacco users, adult tobacco users, or nontobacco users, such as the creation of a significant demand for, and supply of, contraband tobacco products specifically including increased consumption of tobacco products that do not meet the requirements of this chapter.

''(iv) Whether the proposed standard is technologically feasible for commercial manufacturing.

''(v) Whether the proposed standard is likely to be accepted by and affordable to adult consumers of tobacco products.

Nothing in this subparagraph shall be construed as requiring the Secretary to make a finding on each of the individual considerations described in this subparagraph. The issuance of performance standards requires the balancing of many considerations and other factors and performance standards shall not be invalidated solely on the basis of the Secretary's evaluation of any of the individual considerations described in this subparagraph.

''(2) TECHNICAL PROVISION.—In implementing this Act, any reference to 'appropriate for the protection of public health' in this section, and sections 906(d)(1) and 910, shall be deemed to be a reference to 'maximize the net benefits to the public health'.

DODD AMENDMENT NO. 2540

(Ordered to lie on the table.)

At the end of section 452, add the following:

(___) ASSISTANCE FOR CHILDREN.—A State shall use not less than $1,250,000,000 of the amount described in subsection (b)(2) for each fiscal year to carry out activities under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.).

KERRY (AND OTHERS) AMENDMENT NO. 2541

(Ordered to lie on the table.)

Mr. KERRY (for himself, Mr. CHAFEE, Mr. CAMPBELL, Mr. KENNEDY, Mr. DODD, Mr. WELLSTONE, Mr. JOHNSON, Mrs. BOXER, Mr. SPECTER, Ms. LANDRIEU, Mr. DURBIN, and Mr. GRAHAM) submitted an amendment intended to be proposed by them to the bill, S. 1415, supra; as follows:

At the End of Section 452, add the following:

(___) ASSISTANCE FOR CHILDREN.—A State shall use not less than 50 percent of the amount described in subsection (b)(2) for each fiscal year to carry out activities under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.).

JEFFORDS (AND BINGAMAN) AMENDMENT NO. 2542

(Ordered to lie on the table.)

Mr. JEFFORDS (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by them to the bill, S. 1415, supra; as follows:

On page 159, line 8, strike ''such sums as may be necessary'' and all that follows through line 11, and insert ''not less than 5 percent of such funds in fiscal year 1999, 10 percent of such funds in fiscal year 2000, 15 percent of such funds in fiscal year 2001, and 20 percent of such funds in fiscal year 2002 and each subsequent fiscal year, shall be used to expand existing support for epidemiological, behavioral, psychopharmacological, psychobiological, psychophysiological, health services and social science research related to the prevention and treatment of tobacco addiction. Research described in this paragraph shall include research on the effect of nicotine on the brain and behavior.''.

On page 159, line 13, strike ''may'' and insert ''shall''.

On page 160, line 18, strike ''may'' and insert ''shall''.

On page 161, between lines 15 and 16, insert the following:

''(h) RESEARCH AND COLLABORATION.—The Director may conduct and support neurobiological, biomedical, biochemical, or other biological research related to tobacco addiction, and shall encourage collaboration between such research and research conducted under subsection (c), except that research described in this subsection shall not be included in determining whether the requirement of subsection (c) has been satisfied with respect to a fiscal year.''.

JEFFORDS AMENDMENT NO. 2543

(Ordered to lie on the table.)

Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill, S. 1415, supra; as follows:

On page 194, line 8, add after the period the following: ''Each agency authorized to receive funds under this subsection shall consult with the committees of the House or Representatives and the Senate with jurisdiction over each such agency to establish, consistent with the Government Performance and Responsibility Act of 1993—

''(A) goals and performance measures for activities under this Act within the jurisdiction of each such agency; and

''(B) annual financial accountings of the allocation and expenditure of funds appropriated to each such agency as authorized under this subsection.''.

On page 194, line 10, add after ''be'' the following: ''authorized to be appropriated for each of the fiscal years 1999 through 2008, and such authorization shall expire after such period. Such amounts shall be''.

On page 197, line 8, add after the period the following: ''Each agency authorized to receive funds under this subsection shall consult with the committees of the House or Representatives and the Senate with jurisdiction over each such agency to establish, consistent with the Government Performance and Responsibility Act of 1993—

''(A) goals and performance measures for activities under this Act within the jurisdiction of each such agency; and

''(B) annual financial accountings of the allocation and expenditure of funds appropriated to each such agency as authorized under this subsection.''.

On page 197, line 11, add after ''be'' the following: ''authorized to be appropriated for each of the fiscal years 1999 through 2008, and such authorization shall expire after such period. Such amounts shall be''.

ASHCROFT AMENDMENTS NOS. 2544–2553

(Ordered to lie on the table.)

Mr. ASHCROFT submitted 10 amendments intended to be proposed by him to the bill, S. 1415, supra; as follows:

AMENDMENT NO. 2544

In section 452, beginning on page 200, strike line 8 and all after, through page 202, line 14.

AMENDMENT NO. 2545

Strike lines 7–11, page 161.

AMENDMENT NO. 2546

Strike lines 1–5, page 154.

AMENDMENT NO. 2547

Strike lines 14–20, page 196.

AMENDMENT NO. 2548

Strike section 1107.

AMENDMENT NO. 2549

Strike section 1104.

AMENDMENT NO. 2550

Strike section 405.

AMENDMENT NO. 2551

On page 180, line 10, after the period add the following: ''Amounts credited to the Trust fund under subsection (b) may be used to fund anti-illegal drug programs in States and other programs that target illegal drugs.''.

AMENDMENT NO. 2552

At the appropriate place, insert the following:

SEC. ___. METHAMPHETAMINE PENALTY INCREASES.

(a) CONTROLLED SUBSTANCES ACT.—Section 401(b)(1) of the Controlled Substances Act (21 U.S.C. 841(b)(1)) is amended—

(1) in subparagraph (A)(viii)—

(A) by striking ''100 grams'' and inserting ''50 grams''; and

(B) by striking ''1 kilogram'' and inserting ''500 grams''; and

(2) in subparagraph (B)(viii)—

(A) by striking ''10 grams'' and inserting ''5 grams''; and

(B) by striking ''100 grams'' and inserting ''50 grams''.

(b) CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.—Section 1010(b) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)) is amended—

(1) in paragraph (1)(H)—

(A) by striking ''100 grams'' and inserting ''50 grams''; and

(B) by striking ''1 kilogram'' and inserting ''500 grams''; and

(2) in paragraph (2)(H)—

(A) by striking ''10 grams'' and inserting ''5 grams''; and

(B) by striking ''100 grams'' and inserting ''50 grams''.

AMENDMENT NO. 2553

On page _____, strike lines ___ through ___, and insert the following:

SEC. _____. MODIFICATION OF SYNAR AMENDMENT.

Section 1926 of the Public Health Service Act (42 U.S.C. 300x–26) is amended—

(1) in subsection (a)(1), to read as follows:

''(1) IN GENERAL.—Subject to paragraph (2), for fiscal year 1999 and subsequent fiscal years, the Secretary may make a grant under section 1921 only if the State involved has in effect a law providing that it is unlawful for—

''(A) any manufacturer, retailer, or distributor of tobacco products, or for any individual to sell or distribute any such product to any individual under the age of 18; and

''(B) any individual under the age of 18 to purchase or possess any such product.''; and

(2) in subsection (b)(1), by adding at the end the following: ''In enforcing such law the State shall ensure that penalties for violations of such law are at least as stringent as penalties applied for the illegal distribution or possession of alcohol to or by minors.''.

SEC. _____. INCREASED PENALTIES FOR DRUG OFFENSES INVOLVING MINORS.

(a) INCREASED PENALTIES FOR DISTRIBUTING DRUGS TO MINORS.—Section 418 of the Controlled Substances Act (21 U.S.C. 859) is amended—

(1) in subsection (a), by striking ''one year'' and inserting ''10 years''; and

(2) in subsection (b), by striking ''one year'' and inserting ''20 years''.

(b) INCREASED PENALTY FOR DRUG TRAFFICKING IN OR NEAR A SCHOOL OR OTHER PROTECTED LOCATION.—Section 419 of the Controlled Substances Act (21 U.S.C. 860) is amended—

(1) in subsection (a), by striking ''one year'' and inserting ''10 years''; and

(2) in subsection (b), by striking ''three years'' each place that term appears and inserting ''20 years''.

(c) INCREASED PENALTIES FOR USING MINORS TO DISTRIBUTE DRUGS.—Section 420 of the Controlled Substances Act (21 U.S.C. 861) is amended—

(1) in subsection (b), by striking ''one year'' and inserting ''10 years''; and

(2) in subsection (c), by striking ''one year'' and inserting ''20 years''.

SEC. ___. DISTRICT OF COLUMBIA.

(a) INCREASED PENALTIES FOR SALE TO MINORS.—Section 1120 of title 22 of the District of Columbia Code is amended by striking subsection (d) and inserting the following:

''(d)(1) Upon finding that a licensee has violated subsection (a) or (b) of this section, the Mayor shall—

''(A) on the first violation, fine the licensee not less than $1,000 and not more than $2,000,

or suspend the license for 10 consecutive days;

''(B) on the second violation, fine the licensee not less than $2,000 and not more than $4,000 and suspend the license for 20 consecutive days; and

''(C) on the third violation and each subsequent violation, fine the licensee not less than $4,000 and not more than $10,000 and suspend the license for 30 consecutive days, or revoke the license.

''(2) In the event of revocation or suspension of the license pursuant to this subsection the Mayor shall post a notice in a conspicuous place on the exterior of the premises stating the reason for the revocation or suspension. The notice shall remain posted through the prescribed dates. The licensee shall immediately notify the Mayor if the notice is removed or defaced. Failure of the licensee to notify the Mayor may result in the extension of the prescribed period of revocation or suspension.''.

(b) PENALTIES FOR PURCHASE BY MINORS.—Section 1120 of title 22 of the District of Columbia Code is amended—

(1) in the caption, by inserting ''or purchase of tobacco by'' after ''to''; and

(2) in subsection (a)—

(A) by inserting ''(1)'' after ''(a)''; and

(B) by adding at the end the following:

''(2)(A) No person who is under 18 years of age shall possess or purchase any cigarette or other tobacco product.

''(B)(i) Any person under 21 years of age who falsely represents his or her age for the purpose of procuring a cigarette or other tobacco product shall be deemed guilty of a misdemeanor and be fined not more than $300 for each offense, and in default in the payment of the fine shall be imprisoned for not longer than 30 days.

''(ii) A civil fine may be imposed as an alternative sanction for any infraction of this subsection, or any rules or regulations issued under the authority of this subsection, pursuant to sections 6–2701 to 6–2723 (''Civil Infractions Act''). Adjudication of any infraction of this section shall be pursuant to sections 6–2701 to 6–2723.

''(C) In addition to the penalties provided in subparagraph (B), any person who violates any provision of this subsection shall be subject to the following additional penalties:

''(i) Upon the first violation, shall have his or her driving privileges in the District suspended for a period of 90 consecutive days.

''(ii) Upon the second violation, shall have his or her driving privileges in the District suspended for a period of 180 days.

''(iii) Upon the third violation and each subsequent violation, shall have his or her driving privileges in the District suspended for a period of 1 year.''.

McCAIN AMENDMENT NO. 2554

(Ordered to lie on the table.)

Mr. McCAIN submitted an amendment intended to be proposed by him to the bill, S. 1415, supra; as follows:

On page 106, strike lines 7 through 11, and insert the following:

(3) SURVEY METHODOLOGY SCOPE OF REVIEW.—A survey using the methodology required by this subsection shall be subject to judicial review only by the United States Court of Appeals for the District of Columbia Circuit, based on the standard set forth in section 706(2)(A) of title 5, United States Code.

On page 188, line 4, strike ''**ADJUSTMENTS.**'' and insert ''**ADJUSTMENTS; LIMITATIONS**.''.

On page 188, line 5, strike ''The'' and insert ''(a) IN GENERAL.—The''.

On page 188, strike line 8.

On page 188, move the matter appearing in lines 9 through 22 2 ems to the left.

On page 188, line 9, strike ''(A) IN GENERAL.—Beginning'' and insert ''(1) ADJUSTMENT.—Beginning''.

On page 188, beginning in line 15, strike ''CPI, adjusted (for calendar year 2002 and later years) by the volume adjustment under paragraph (2).'' and insert ''CPI.''.

On page 188, line 18, strike ''(B)'' and insert ''(2)''.

On page 188, beginning in line 18, strike ''subparagraph (A),'' and insert ''paragraph (1),''.

On page 188, beginning with line 23, strike through line 16 on page 189 and insert the following:

(b) LIMITATION BASED ON ANNUAL INCREASE IN PRICE-PER-PACK.—Notwithstanding the amount set forth in paragraph (1), (2), (3), (4) or (5) of section 402(b) and the amount determined under paragraph (6) of that section, the amount of the payment required under section 402(b) for any calendar year from cigarette manufacturers shall not exceed an amount which, when divided by the number of packs of cigarettes sold during the calendar year, will be equal to—

(1) 65 cents in year 1;

(2) 70 cents in year 2;

(3) 80 cents in year 3;

(4) $1.00 in year 4; or

(5) $1.10 in year 5 and thereafter.

(c) PRICE-PER-PACK LIMITATION APPLIES TO SMOKELESS TOBACCO PRODUCTS.—Under regulations prescribed by the Secretary, the price-per-pack limitation set forth in subsection (b) shall be applied to units of smokeless tobacco at equivalent per-unit prices, taking into account applicable ad valorem taxes.

(d) ADJUSTMENT.—Beginning with the second calendar year after the date of enactment of this Act, the amounts set forth in subsection (b) shall be adjusted as provided in subsection (a)(1).

STEVENS AMENDMENT NO. 2555

(Ordered to lie on the table.)

Mr. STEVENS submitted an amendment intended to be proposed by him to the bill, S. 1415, supra; as follows:

On page 20, line 21, strike ''and includes'' and insert in lieu thereof ''and, except for the purposes of carrying out this Act in Alaska, also includes''.

On page 220, strike lines 16 and 17 and insert in lieu therof, ''modifying it to address population factors, land base factors, and, except in Alaska, jurisdiction factors.''.

On page 224, line 8, immediately after the word ''Act'' insert '', except that regional health entities (as that term is used in section 325 of Public Law 105–83) shall be the only entities eligible to receive such grants in Alaska under this paragraph.''.

On page 224, line 13, insert immediately before the period ''and, in Alaska, such regional health entities shall be required to utilize such grants, to the maximum extent possible, to support programs operated by community health aides within the service populations of such entities''.

On page 224, line 18, strike ''smoking'' and insert in lieu thereof ''tobacco use''.

On page 225, strike lines 14–22 and insert in lieu thereof:

(C) USE OF HEALTH CARE FUNDS.—Amounts made available to the Indian Health Service under this paragraph shall be—

(I) made available to Indian tribes pursuant to the provisions of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.), except in Alaska where such amounts shall, notwithstanding any other provision of law, be made available pursuant to such Act only to the Consortium (as that term is used in section 325 of Public Law 105–83) which shall be eligible to enter into contracts, compacts, or other funding agreements under such Act without further resolutions of the Regional Corporations, Village Corporations, tribes and/or villages represented by the members of the Consortium; and

(II) used to reduce tobacco consumption, promote smoking cessation, and to fund health care activities, including—

On page 225, line 23, strike ''(i)'' and insert in lieu thereof ''(I)''.

On page 226, line 1, strike ''(ii)'' and insert in lieu thereof ''(II)''.

On page 226, line 3, strike ''(iii)'' and insert in lieu thereof ''(III)''.

On page 226, line 6, strike ''(iv)'' and insert in lieu thereof ''(IV)''.

On page 226, line 8, strike ''(v)'' and insert in lieu thereof ''(V)''.

INOUYE AMENDMENT NO. 2556

(Ordered to lie on the table.)

Mr. INOUYE submitted an amendment intended to be proposed by him to the bill, S. 1415, supra; as follows:

On page 402, strike lines 15–25 and insert in lieu thereof the following:

If the Congress enacts legislation to provide for the payment of asbestos claims, then unobligated amounts in the National Tobacco Trust Fund established by title IV of this Act may be made available, as provided by appropriations Act, to make those payments.

MACK AMENDMENT NO. 2557

(Ordered to lie on the table.)

Mr. MACK submitted an amendment intended to be proposed by him to the bill, S. 1415, supra; as follows:

On page 210, between lines 18 and 19, insert the following:

SEC. 456. STATE SETTLEMENTS.

(a) IN GENERAL.—Notwithstanding any other provision of law, or of this Act, amounts received by a State as a result of the resolution by such State of tobacco-related civil actions through settlement or court judgment with tobacco product manufacturers shall not be available to the Secretary as reimbursement of Medicaid expenditures or considered as Medicaid overpayments for purposes of recoupment.

HUTCHISON (AND MACK) AMENDMENTS NOS. 2558–2559

(Ordered to lie on the table.)

Mrs. HUTCHISON (for herself and Mr. MACK) submitted two amendments intended to be proposed by them to the bill, S. 1415, supra; as follows:

AMENDMENT NO. 2558

On page 210, between lines 18 and 19, insert the following:

SEC. 456. NO REDUCTION OF STATE FUNDS.

Notwithstanding any other provision of this Act, payments under this Act to a State that, as of the date of enactment of this Act, has resolved tobacco-related civil actions through settlement or court judgment with tobacco product manufacturers, shall not be less than the State would have otherwise received under the State settlement or judgment.

AMENDMENT NO. 2559

On page 210, between lines 18 and 19, insert the following:

SEC. 456. STATE OPT-IN.

(a) IN GENERAL.—A State that, as of the date of enactment of this Act, has resolved tobacco-related civil actions through settlement or court judgment with tobacco product manufacturers, shall not be eligible to receive funds under section 452 unless the State provides notice in writing to the Secretary affirmatively electing to receive such funds and comply with the requirements of such section.

HUTCHISON AMENDMENTS NOS. 2560–2561

(Ordered to lie on the table.)

Mrs. HUTCHISON submitted two amendments intended to be proposed by her to the bill, S. 1415, supra; as follows:

AMENDMENT NO. 2560

On page 210, between lines 18 and 19, insert the following:

SEC. 456. STATE SETTLEMENTS.

(a) IN GENERAL.—Notwithstanding any other provision of law, or of this Act, amounts received by a State as a result of the resolution by such State of tobacco-related civil actions through settlement or court judgment with tobacco product manufacturers shall not be available to the Secretary as reimbursement of Medicaid expenditures or considered as Medicaid overpayments for purposes of recoupment.

(b) USE OF FUNDS.—Amounts received by a State under a settlement described in subsection (a) may be used in any manner that the State determines appropriate, consistent with State law.

AMENDMENT NO. 2561

On page 442, between lines 4 and 5, insert the following:

(d) OFFSET OF STATE LIABILITY FOR FEES.—In the case of a State that has pursued an independent civil action against tobacco product manufacturers, and that may be liable for attorneys fees, the total amount of any determination of attorneys fees to be paid by such manufacturers through arbitration under this section shall be applied as a dollar-for-dollar offset against any potential State liability for attorneys fees.

TORRICELLI AMENDMENTS NOS. 2562–2563

(Ordered to lie on the table.)

Mrs. TORRICELLI submitted two amendments intended to be proposed by him to the bill, S. 1415, supra; as follows:

AMENDMENT NO. 2562

At the appropriate place, insert the following:

SEC. ___. MICHAEL GILLICK CHILDHOOD CANCER RESEARCH STUDY.

(a) FINDINGS.—Congress finds that—

(1) during the period from 1979 to 1995, Ocean County, New Jersey, had a significantly higher rate of childhood brain cancer than the rest of the United States, including a rate of brain and central nervous system cancer that was nearly 75 percent above the rate of other States;

(2) during the period from 1979 to 1995—

(A) there were 350 cases of childhood cancer in Ocean County, of which 90 cases were in Dover Township, and of those 24 were in Toms River alone;

(B) the rate of brain and central nervous system cancer of children under 20 in Toms River was nearly 3 times higher than expected, and among children under 5 was 7 times higher than expected; and

(C) Dover Township, which would have had a nearly normal cancer rate if Toms River were excluded, had a 1.3 times higher cancer rate than the rest of the State and an 1.5 times higher leukemia rate than the rest of the State; and

(3)(A) according to New Jersey State cancer registry data from 1979 to 1995, a population the size of Toms River should have 14 children under age 20 with cancer; and

(B) Toms River currently has 24 children under the age of 20 with cancer.

(b) STUDY.—Section 104(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604(i)) is amended by adding at the end the following:

''(19) MICHAEL GILLICK CHILDHOOD CANCER RESEARCH STUDY.—

''(A) IN GENERAL.—The Administrator of ATSDR shall conduct dose-reconstruction modeling and an epidemiological study of childhood cancer in Dover Township, New Jersey.

''(B) GRANT TO THE STATE OF NEW JERSEY.—The Administrator of ATSDR may make 1 or more grants to the State of New Jersey to carry out paragraph (1).

''(C) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this paragraph—

''(i) $2,000,000 for fiscal year 1999; and

''(ii) $1,000,000 for fiscal year 2000.''.

AMENDMENT NO. 2563

On page 201, between lines 19 and 20, insert the following:

(3) MEDICAID CHILDREN'S ENROLLMENT PERFORMANCE BONUS.—

(A) SET ASIDE OF FUNDS.—Notwithstanding the preceding paragraphs of this subsection, 8 percent of the amount received under this section in a fiscal year shall not be used by a State unless the State satisfies the requirements of subparagraphs (B) and (C).

(B) DEMONSTRATION OF IMPLEMENTATION OF OUTREACH STRATEGIES.—A State shall demonstrate to the satisfaction of the Secretary that the State has a commitment to reach and enroll children who are eligible for but not enrolled under the State plan through effective implementation of each of the following outreach activities:

(i) STREAMLINED ELIGIBILITY PROCEDURES.—

(I) IN GENERAL.—The State uses streamlined procedures described in subclause (II) for determining the eligibility for medical assistance of, and enrollment in the State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) of—

(aa) children in families with incomes that do not exceed the effective income level (expressed as a percent of the poverty line) that has been specified under such State plan (including under a waiver authorized by the Secretary or under section 1902(r)(2) of such Act (42 U.S.C. 1396a(r)(2))) for the child to be eligible for medical assistance under section 1902(l)(2) or 1905(n)(2) (as selected by a State) of such Act (42 U.S.C. 1396a(l)(2), 1396d(n)(2)) for the age of such child; and

(bb) children determined eligible for such assistance, and enrolled in the State plan under title XIX of the Social Security Act, in accordance with the requirements of paragraphs (1) and (2) of section 1931(b) of such Act (42 U.S.C. 1396u–1(b)).

(II) PROCEDURES DESCRIBED.—The streamlined procedures described in this subclause include—

(aa) using shortened and simplified applications for the children described in subclause (I);

(bb) eliminating the assets test for determining the eligibility of such children; and

(cc) allowing applications for such children to be submitted by mail or telephone.

(ii) CONTINUOUS ELIGIBILITY FOR CHILDREN.—The State provides (or demonstrates to the satisfaction of the Secretary that, not later than fiscal year 2001, the State shall provide) for 12-months of continuous eligibility for children in accordance with section 1902(e)(12) of the Social Security Act (42 U.S.C. 1396a(e)(12)).

(iii) PRESUMPTIVE ELIGIBILITY FOR CHILDREN.—The State provides (or demonstrates to the satisfaction of the Secretary that, not later than fiscal year 2001, the State shall provide) for making medical assistance available to children during a presumptive eligibility period in accordance with section 1920A of the Social Security Act (42 U.S.C. 1396r–1a).

(iv) OUTSTATIONING AND ALTERNATIVE APPLICATIONS.—The State complies with the requirements of section 1902(a)(55) of the Social Security Act (42 U.S.C. 1396a(a)(55)) (relating to outstationing of eligibility workers for the receipt and initial processing of applications for medical assistance and the use of alternative application forms).

(v) SIMPLIFIED VERIFICATION OF ELIGIBILITY REQUIREMENTS.—The State demonstrates to the satisfaction of the Secretary that the State uses only the minimum level of verification requirements as are necessary for the State to ensure accurate eligibility determinations under the State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(C) REPORT ON NUMBER OF ENROLLMENTS RESULTING FROM OUTREACH.—A State shall annually report to the Secretary on the number of full year equivalent children that are determined to be eligible for medical assistance under the State plan under title XIX of the Social Security Act and are enrolled under the plan as a result of—

(i) having been provided presumptive eligibility in accordance with section 1920A of such Act (42 U.S.C. 1396r–1a);

(ii) having submitted an application for such assistance through an outstationed eligibility worker; and

(iii) having submitted an application for such assistance by mail or telephone.

(D) PROCEDURE FOR REDISTRIBUTION OF UNUSED SET ASIDES.—The Secretary shall determine an appropriate procedure for the redistribution of funds set aside under this paragraph for a State for a fiscal year that are not used by the State during that fiscal year because the State did not satisfy the requirements of subparagraphs (B) and (C) to States that have satisfied such requirements for such fiscal year and have fully expended the amount of State funds so set aside.

(E) OFFSET OF FEDERAL EXPENDITURES.—The amount allocated to the State Litigation Settlement Account for a fiscal year shall, in addition to any reductions required under the third sentence of section 451(a), be further reduced by the additional estimated Federal expenditures that will be incurred as a result of increased State expenditures resulting from the application of this paragraph.

(F) APPLICATION OF RESTRICTION ON SUBSTITUTION OF SPENDING.—The provisions of subsection (c) of this section apply to this paragraph in the same manner and to the same extent as such provisions apply to the program described in paragraph (2)(G) of this subsection.

WARNER AMENDMENTS NOS. 2564–2566

(Ordered to lie on the table.)

Mr. WARNER submitted three amendments intended to be proposed by him to the bill, S. 1415, supra; as follows:

AMENDMENT NO. 2564

Strike Section 1031.

AMENDMENT NO. 2565

Strike Title II.

AMENDMENT NO. 2566

Strike Subtitle A of Title XI.

JEFFORDS AMENDMENT NO. 2567

(Ordered to lie on the table.)

Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill, S. 1415, supra; as follows:

On page 198, strike lines 3 through 10 and insert the following: ''added by this Act, authorized under sections 2803 of that Act, as so added. Of the total amounts allocated to this account, not less than 12 percent, but not more than 18 percent shall be used for this purpose.

(D) Agency for Health Care Policy and Research under section 1991E of the Public Health Service Act, as added by this Act. Of the total amounts allocated to this account, not less than 1 percent, but not more than 3 percent shall be used for this purpose.''.

THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

ABRAHAM (AND OTHERS) AMENDMENT NO. 2568

(Ordered to lie on the table.)

Mr. ABRAHAM (for himself, Mr. FEINGOLD, Mr. DEWINE, Mr. ASHCROFT, Mrs. SNOWE, and Mr. MACK) intended to be proposed by them to the bill (S. 2057) to authorize appropriations for the fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the appropriate place in the bill, insert the following section:

SEC. . EXPRESSING THE SENSE OF THE CONGRESS THAT THE PRESIDENT OF THE UNITED STATES SHOULD RECONSIDER HIS DECISION TO BE FORMALLY RECEIVED IN TIANANMEN SQUARE BY THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA.

(a) FINDINGS.—Congress makes the followings findings:

(1) Nine years ago on June 4, 1989, thousands of Chinese students peacefully gathered in Tiananmen Square to demonstrate their support for freedom and democracy;

(2) It was with horror that the world witnessed the response of the Government of the People's Republic of China as tanks and military units marched into Tiananmen Square;

(3) Chinese soldiers of the People's Republic of China were ordered to fire machine guns and tanks on young, unarmed civilians;

(4) ''Children were killed holding hands with their mothers,'' according to a reliable eyewitness account;

(5) According to the same eyewitness account, ''students were crushed by armored personnel carriers'';

(6) More than 2,000 Chinese pro-democracy demonstrators died that day, according to the Chinese Red Cross;

(7) Hundreds continue to languish in prisons because of their belief in freedom and democracy;

(8) Nine years after the massacre on June 4, 1989, the Government of the People's Republic of China has yet to acknowledge the Tiananmen Square massacre; and

(9) By being formally received in Tiananmen Square, the President would bestow legitimacy on the Chinese government's horrendous actions of 9 years ago:

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that the President should reconsider his decision to be formally received in Tiananmen Square until the Government of the People's Republic of China acknowledges the Tiananmen Square massacre, pledges that such atrocities will never happen again, and releases those Chinese students still imprisoned for supporting freedom and democracy that day.

ADDITIONAL STATEMENTS

TRIBUTE TO GENERAL BERNARD A. SCHRIEVER

● Mr. BENNETT. Mr. President, I rise today to pay tribute to General Bernard A. Schriever, a modern-day pioneer whose legendary contributions to our nation's defense will be appropriately recognized on Friday, June 5, 1998, when Falcon Air Force Base will be renamed in his honor. General Schriever, a retired four-star general, is widely regarded as the father of the ICBM.

General Schriever was born in Bremen, Germany, on September 14, 1910. His family immigrated to the United States when he was seven years old, and he became a naturalized citizen at age 13 and finished his early schooling in San Antonio, Texas. His flying career began in the late 1920s, as a mail-carrier flying between my home state of Utah and Wyoming. In 1931, he received a Bachelor of Science degree from Texas A&M, and a reserve appointment in the Field Artillery. He earned his wings as a second lieutenant in the Army Air Corps Reserve in June 1933.

After obtaining his Master's degree in Aeronautical Engineering from Stanford University in 1942, he gained rapid promotions and positions of increasing responsibility during World War II. He was Chief of Staff of the 5th Air Force Service Command and later Commander of the Advanced Headquarters for the Far Eastern Air Force Service Command. After the war he became the Chief of the scientific Liaison Section at Headquarters USAF and held other scientific evaluation jobs as they pertained to military weaponry.

Beginning in 1954 when he assumed command of the Air Force Ballistic Missile Division and later with the Air Research and Development Command, General Schriever pushed forward research and development on all technical phases of the Atlas, Titan, Thor and Minuteman ballistic missiles. He also provided for the launching sites and equipment, tracking facilities, and ground support equipment necessary to the deployment of these systems.

With the expansion of the Air Research and Development Command, he became Commander of the newly created Air Force Systems Command (AFSC). Among the many creative programs he conceived and directed at AFSC was Project Forecast I, completed in 1964, which enlisted the best scientific and technological minds of that period in the projection of the aerospace world for the future.

After retiring from the Air Force on August 31, 1966, with more than 33 years of active military service, General Schriever became a consultant to government and industry where he could most effectively use his knowledge and experience pursuing technology and its management into military operational capabilities.

General Schriever has had several important government advisory assignments since his retirement in 1966, including: by Executive Order, Chairman, President's Advisory Commission on Management Improvement (PACMI); member, National Commission on Space; member, President's Foreign Intelligence Advisory Board; member, Strategic Defense Initiative (SDI) Technical Advisory Committee; Chairman, SDI Institute, and various ad hoc advisory committees and panels involving national security (DoD) and space (NASA).

General Schriever has been awarded four honorary Doctor of Science degrees, one honorary Doctor of Aeronautical Science degree, one honorary Doctor of Engineering degree, and one honorary Doctor of Laws degree, by various colleges and universities, including Utah State University. Inducted into Aviation Hall of Fame in 1980. Elected Honorary Fellow AIAA, recipient of James Forrestal Award 1986. Member of NAE. He received the National Air and Space Museum Trophy for Lifetime Achievement in November 1996.

General Schriever remains very active even today, and continues to serve on several important advisory boards to government, industry, and education. He currently chairs the Guidance Council for the Space Dynamics Lab at Utah State University in my home state. Several years ago, I was honored to have General Schriever participate as the featured speaker at my annual conference, SpaceTalk.

General Schriever's patriotism, intelligence, and vision have served our country well. The United States is more secure thanks to his many contributions and achievements. Thank you, General Schriever, for your dedication to the nation's well-being. I congratulate you and wish you continued success.●

RACE FOR THE CURE

● Mr. LEAHY. Mr. President, fifteen years ago the first Susan G. Komen Breast Cancer Foundation Race For The Cure was held in Dallas. This year, at least 500,000 participants in more than 85 communities nationwide will host 5–K runs and 1-mile fitness run/

walks to raise money for national breast cancer research efforts and local breast cancer initiatives.

I am proud to be honorary co-chair for this year's Vermont Race For The Cure, along with my distinguished colleague, Senator JEFFORDS. The race will be held in Manchester on July 26. Last year our race was a wonderful community event, with more than 2,300 Vermonters running or walking in the race and with others joining in support through pledges and by cheering racers on. That effort led to $84,000 in grants for nine projects throughout Vermont to support breast cancer treatment, education and survivor support.

The Race For The Cure is an important and successful effort to raise private funds for breast cancer screening, education, and treatment to reduce and one day eliminate this terrible disease. One woman somewhere in the United States is diagnosed with breast cancer every three minutes and one of its victims dies from the disease every twelve minutes. One in eight women will suffer from breast cancer in her lifetime, and it is the leading cause of death for women between the ages of 35 to 54.

The private contributions raised by the Race For The Cure are a vital complement to the efforts of those of us in Congress who strive each year to secure federal funding to fight breast cancer.

We in Congress have made it clear that we plan to continue to increase research funding at the National Institutes of Health.

And just yesterday, the Senate Appropriations Committee voted to guarantee at least $135 million for Fiscal Year 1999 for the Department of Defense breast cancer research program. This program continues to spawn far-reaching innovations in medical research, and the seven-year total allocated under this program will rise to $872 million, if this provision is enacted this year.

Seven years ago, working with the breast cancer survivor community, several of us launched this crusade to earmark a portion of the defense budget for this breast cancer research program, and over the years it has become a crucial supplement to other federally and privately sponsored research efforts.

Working together on these initiatives, and by supporting such private efforts as the annual Race For The Cure, we are drawing closer, year by year, to the day when we can eliminate the destruction and the pain of breast cancer from the lives of our wives, mothers and sisters.●

RECOGNITION OF OSSABAW ISLAND FOUNDATION AND IMPORTANCE OF WORKING TO PRESERVE NATURAL HABITATS

● Mr. CLELAND. Mr. President, I rise today to recognize the Ossabaw Island Foundation and the Georgia Commissioner of Natural Resources for their efforts to preserve Ossabaw Island, Georgia's first Heritage Preserve.

Georgia's high rate of population and economic growth have created statewide expansion into previously uninhabited areas. Efforts to preserve and protect endangered natural areas is vital to the well being of Georgia's environment.

Ossabaw Island is one of the few remaining barrier islands on the Atlantic Coast. The fragile ecosystems of the island should be preserved so that natural areas along the coast will work to protect estuaries, wildlife, marshes, and coastal shorelines. If Ossabaw Island remains in its natural state, it will provide needed protection for the mainland from Atlantic storms, permit the functioning of marshes which provide water and air purification essential to habitation of Georgia's mainland, and provide conditions not tainted by human intervention for environmental research.

I would like to commend the Ossabaw Island Foundation, a public/private partner with the State of Georgia's Department of Natural Resources, for diligently serving as a voice for the preservation of the island. The Foundation has worked to incorporate educational and cultural programs in the island's historical buildings and to provide appropriate access and utilization of the Ossabaw Heritage Preserve.

Through the efforts of the Board of Trustees of the Foundation, Ossabaw Island was included on the National Trust for Historic Preservation's Eleven Most Endangered Properties List of 1995. The island was also listed on the National Register of Historic Places by the United States Department of the Interior in 1996.

The importance of preserving natural habitats is a common belief among the members of the Senate. We must not allow the natural beauty and resourcefulness of our nation to be sacrificed for lesser purposes. The benefits of protecting and preserving areas of natural habitat range from aesthetic to practical and must not be ignored.

Mr. President, I ask that you and my colleagues join me in recognizing the partnership and hard work of the Georgia Commissioner of Natural Resources and the Board of Trustees of the Ossabaw Island Foundation. Their combined efforts have protected and will continue to protect and ensure a beautiful environment on Georgia's Ossabaw Island for many years to come.●

NATIONAL SMALL BUSINESS WEEK

● Mr. KERRY. Mr. President, I would like to express my support and admiration to small business owners and entrepreneurs during the first week of June, otherwise known as National Small Business Week. It is appropriate that during this week of recognition that we honor the many contributions entrepreneurs have made to strengthen our communities and our national economy.

As the Ranking Democrat of the Small Business Committee, I have followed the dramatic growth of thousands of small businesses and have worked to champion their success by increasing access to capital, expanding Women's Business Centers, improving business education and technical assistance, and reducing capital gains taxes. Under Democratic Leadership, the Small Business Administration now annually guarantees about $10 billion in loans to small businesses, and has increased loans to women business-owners by 86 percent.

Small businesses are changing the face of the economy by creating jobs and bringing prosperity to small towns and cities across the country. Nationwide, small businesses represent 99.7 percent of all employers and provide 67 percent of workers with their first jobs. Smaller firms are also more likely to be flexible and hire workers from many segments of the economy, including younger workers, older workers, women, minorities, and people interested in working part time.

In the state of Massachusetts, we have two outstanding business owners that deserve special recognition. Cassie Farmer, President and Roberta Adams, Vice President/Treasurer of New World Securities Associates, Inc, have been named State Small Business Persons of the Year by the Small Business Administration, and have been honored this week here in Washington.

Ms. Farmer and Ms. Adams began their security business just eight years ago with fifteen employees, one patrol car, and a few clients. They invested their personal savings to get the company off the ground. By 1997, their company has grown to employ 240 people with annual sales of $5 million. The Dorchester-based company is not only the largest employer within the Dorchester/Roxbury/Mattapan area, but is also the largest women/minority owned security company in Massachusetts. I congratulate them on their success.●

JESS AND SELMA KAUFMAN CELEBRATE GOLDEN ANNIVERSARY

● Mr. GLENN. Mr. President, I rise today to recognize and congratulate Jess and Selma Kaufman on the celebration of their 50th wedding anniversary on June 20.

Jess served in the United States Navy during World War II and was wounded at the Battle of Guadalcanal. On June 20, 1948, Selma Bruckner and Jess Kaufman were married in Brooklyn, New York. Now retired and living in Stratford, Connecticut, their marriage has been blessed by their children David, Susan and Steven.

Successful marriages represent real commitment and serious work, yet the rewards are among the greatest delights of life. We share your joy in the years accomplished, and wish you many more rich and fulfilling years of happiness together.

Annie and I are delighted to extend our congratulations to the Kaufmans on their 50th wedding anniversary!●

TRIBUTE TO ALFRED HEALY, M.D.

● Mr. HARKIN. Mr. President, on June 30, 1998, Alfred Healy, M.D., professor emeritus of pediatrics and special education at the University of Iowa, in Iowa City, Iowa will conclude a distinguished 41-year career of clinical service, teaching, research, and administration of innovative programs supporting individuals with developmental disabilities. His career at the University of Iowa includes 21 years of directing three entities: the Division of Developmental Disabilities in the Department of Pediatrics, the University Hospital School of the University of Iowa Hospitals and Clinics, and the Iowa University Affiliated Program. He also provided leadership to numerous national and international programs promoting the independence, productivity, and community inclusion of people with disabilities.

Dr. Healy gained firsthand knowledge of physical disabilities as a young teenager, during his recovery from two prolonged episodes of rheumatic fever that later severely restricted his participation in sports and other physical activities. Seeking other ways to participate in athletics, he earned his bachelor's degree in physical education in 1956 from the University of Notre Dame while concurrently serving as Assistant Athletic Trainer for all Notre Dame athletic teams.

A Master of Arts Degree in physical education followed in 1957 from the University of Iowa, where for three years he served as a teacher at the Iowa Hospital School for Severely Handicapped Children, assisting children with cerebral palsy, the residuals of poliomyelitis, and other physical disabilities in their rehabilitation process. This experience led him to pursue a medical degree, which he earned from the University of Iowa in 1963. Following residency training in pediatrics and fellowship training in disabilities, he joined the pediatric faculty at Iowa in 1967, achieving full professorship in 1980. In 1977 he was appointed director of the Division of Developmental Disabilities, the renamed University Hospital School, and also of the Iowa University Affiliated Program.

As a professor of pediatrics, he served as director of the Division of Developmental Disabilities, and over the years he supervised the training of countless numbers of medical students, physical and occupational therapy students, pediatric and family practice residents, and community physicians. Of the fourteen physician fellows trained under Dr. Healy's leadership, nine are now sharing their expertise and understanding of the interdisciplinary process with another generation of trainees in other university training programs. As a professor of special education, Dr. Healy has taught several courses relating to disabilities on an on-going basis each year for the College of Education.

As director of University Hospital School, Dr. Healy has provided clinical care in both inpatient and outpatient settings to thousands of infants, children and adults with physical disabilities. He presided over the transition of University Hospital School from a residential school, founded prior to the passage of P.L. 94–142, to its current role as a tertiary level diagnosis and evaluation center supporting community education and human service programs throughout Iowa. The hallmark of Dr. Healy's administration of University Hospital School has been his commitment to the interdisciplinary process as the most effective response to meeting the clinical needs of individuals with disabilities.

As director of the Iowa University Affiliated Program, Dr. Healy expanded the breadth of University Hospital School programs to also emphasize preservice training, community education, technical assistance to state and local agencies, and information sharing programs. Most of these activities were implemented through grants and contracts that were awarded in no small part because of his leadership. Current examples include the statewide Iowa Program for Assistive Technology, the Iowa COMPASS information and referral service, the Iowa Telemedicine Project from the National Library of Medicine, the Iowa Prevention of Disabilities Policy Council, and the Maternal and Child Health funded Iowa Leadership in Neurodevelopmental and related Disabilities Project.

Dr. Healy has also participated in a wide range of national and international initiatives. Responding to a request from the American Academy of Pediatrics in 1978, Dr. Healy secured federal funding, and then served as chair of the National Advisory Committee, for the $3.9 million, four-year New Directions training course for pediatricians that dealt with Public Law 94–142. In 1986, also on behalf of the Academy of Pediatrics, he secured funding, and chaired the National Advisory Committee for the $3.2 million, four-year Project BRIDGE training program for pediatricians and therapists that focused on the use of the interdisciplinary process in early intervention for children with physical and other disabilities. This led the academy to award him the Ross Award for Lifetime Accomplishment in Pediatric Education in 1986.

Following service in a number of committee and task force roles, Dr. Healy was elected president of the American Association of University Affiliated Programs in 1984, and was presented their ''Distinguished Service Award'' in 1995. He served as president of the American Academy for Cerebral Palsy and Developmental Medicine in 1989. He served two three-year terms as a member of the American Academy of Pediatrics National Committee for Children with Disabilities, followed by two three-year terms as chairman. These offices provided many opportunities to significantly influence federal legislation and funding for programs serving children with physical and other disabilities, and he provided verbal testimony on eight occasions to various committees of the U.S. Congress. In addition, he served as a member of the federal Social Security Administration panel selected to devise a federal response to the U.S. Supreme Court Zebley versus Sullivan decision regarding SSI benefits, which affected hundreds of thousands of children with physical and other disabilities in America.

On the international level, Dr. Healy has provided consultations to Ireland, Saudi Arabia, and Russia regarding ways to improve their national programs for children with physical and other disabilities. He was also instrumental in helping to establish a University Affiliated Program in Dublin, Republic of Ireland, and he has now completed two trips to Belfast, Northern Ireland, to assist Queens and Ulster Universities in establishing similar programs.

During the four decades of his career, Dr. Healy has seen, and contributed to, unprecedented changes in society's response to people with disabilities. According to Dr. Healy, the most rewarding aspect of his work has been participating in a dynamic systems change that now affirms that people with disabilities, and their families, must be at the center of service planning, setting goals, and identifying the means to achieve them. He repeatedly acknowledges that his greatest teachers have been individuals with disabilities and their families. My colleagues are particularly pleased, I know, to join me in expressing profound appreciation for the career of this remarkable American—clinician, teacher, researcher, and leader.●

MEASURE READ THE FIRST TIME—H.R. 3433

Mr. LOTT. Mr. President, on behalf of the Democratic leader I make the following request. I understand that H.R. 3433, received earlier today from the House, is at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The assistant legislative clerk read as follows:

A bill (H.R. 3433) to amend the Social Security Act to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide beneficiaries with disabilities meaningful opportunities to work, to extend Medicare coverage for such beneficiaries, and to make additional miscellaneous amendments relating to Social Security.

Mr. LOTT. I now ask for its second reading, and object to my own request.

The PRESIDING OFFICER. Objection is heard. The bill will be read the second time on the next legislative day.

UNANIMOUS-CONSENT AGREEMENT

Mr. LOTT. Mr. President, I ask unanimous consent that if and when the Environment and Public Works Committee reports legislation that amends, modifies, deletes, or in any way affects transit provisions contained in section 135 of title 23, United States Code, it be referred to the Committee on Banking, Housing, and Urban Affairs for a period of not to exceed 20 session days of the Senate, solely for the purpose of considering such provisions, and that if not reported by the Committee on Banking, Housing, and Urban Affairs by that time, it be discharged and placed on the Senate calendar.

I further ask that if and when the Banking Committee reports legislation that amends, modifies, deletes, or in any way affects highway transportation provisions contained within section 135 of title 23, United States Code, it be referred to the Committee on Environment and Public Works for a period not to exceed 20 session days of the Senate, solely for the purpose of considering such provisions, and that if not reported by the Environment and Public Works Committee by that time, it be discharged and placed on the Senate Calendar.

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

DEADBEAT PARENTS PUNISHMENT ACT OF 1998

Mr. LOTT. I ask unanimous consent the Senate proceed to consideration of Calendar No. 369, H.R. 3811.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3811) to establish felony violations for the failure to pay legal child support obligations, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. DEWINE. Mr. President, I rise today in support of final passage of the Deadbeat Parents Punishment Act authored by my distinguished colleague, Senator HERB KOHL from Wisconsin. Senator KOHL has worked tirelessly to strengthen our child support laws, and I have been happy to lend my support to this effort.

The House bill we pass today mirrors the Senate-passed version that we sponsored earlier this session. I believe children should not have to suffer twice for the decisions of their parents to divorce; once when they decide to divorce, and again when one of the parents evades the financial responsibility to care for them.

Let me tell you just one story from my home state of Ohio. Marcia Walsh, the mother of seven children, became one of the working poor when she and her husband divorced, and he neglected his child support order. He left Ohio, leaving Marcia to support seven children, ages 6 to 15, on food stamps and a $14,000-a-year night job. When Marcia turned to our federal Child Enforcement Program, she discovered a failed program whose collection rate is only about 19.4 percent.

Mr. President, people like Marcia and her children deserve better than that.

Our bill will help address situations like theirs, in two ways. First, the Deadbeat Parents Punishment Act gives federal law enforcement an incentive to bring more of these cases against deadbeats by making this offense a felony. Second, this legislation would make movement from state to state to avoid child support payments a crime. Today, nonpayment of child support is a class B misdemeanor, and the Federal Bureau of Investigation is frustrated at having to chase deadbeats for just a class B misdemeanor. Federal prosecutors are equally discouraged about trying misdemeanor cases.

It is currently not a crime to move to another state to avoid having to pay child support. Under this bill, not paying child support for two years, owing more than $10,000 in back child support, or going to another state to avoid child support payments would be penalized by a fine or two years in jail, or both. If the parent flees the state where the child resides, and owes more than $5,000, the same penalty described above would apply.

Mr. President, making sure parents live up to their financial responsibilities for their children is a very important national priority. We have serious laws in this country protecting life and property—it's highly appropriate that we protect with equal seriousness the interests of our most precious national resource, America's children.

I thank Senator KOHL for his work on this important bill.

Mr. KOHL. Mr. President, I rise today to express my support for the final passage of our Deadbeat Parents Punishment Act and to commend Senator DEWINE, cosponsor of the Senate version which we passed last November, along with Chairman HYDE and Congressman HOYER for their commitment to promoting the welfare of children and to strengthening our child support laws. In sum, this measure sends a clear message to the deadbeat parents of America: pay up or go to jail.

Mr. President, when the original Child Support Recovery Act of 1990 was first enacted, Senator SHELBY and I hoped to make a real impact on the non-payment of support orders. And we did make some progress. Over 200 more cases of nonpayment were prosecuted. Over 50 went to jail. Of the 150-some remaining cases, many were dropped when the defendant agreed to pay the support arrears. And some very high profile cases prosecuted under this law have also made some potential deadbeats think twice before not paying. But for some deadbeats the threat of a misdemeanor sentence still isn't enough to keep them paying. Many would rather ''risk it.'' They know that if they get caught for a first offense—no matter how big their debt and no matter how long they went without paying—they aren't facing a felony conviction.

Now, Mr. President, we are not trying to throw people into jail. We'd rather they paid their child support on time and in full. And many parents—mothers and fathers—do just that. But some need a little extra incentive to fulfill their responsibilities. The threat of a year in prison and a felony conviction on their records, contained in this bill, provides that much needed incentive.

It has been estimated that if delinquent parents fully paid up their child support, approximately 800,000 women and children could be taken off the welfare rolls. In fact, Mr. President, since our original legislation was signed into law in 1992, collections have increased by nearly 50 percent, from $8 billion to $11.8 billion. Moreover, a new national database has helped identify 60,000 delinquent fathers—over half of whom owed money to women on welfare.

Although we should be proud of these efforts, they are merely a point of departure, not a final destination, It seems to me that in passing this legislation, we all recognize that we can not simply stop and rest on our laurels. We must continue to work on behalf of children and families. We must give police and prosecutors the tools they need to make a real impact on the nonpayment of child support. And today, we have taken that next step, we have done these things, and we have continued this important work. I look forward to the President's signing this bill into law, which will help ensure that deadbeats across the country sign more child support checks.

Mr. LOTT. Mr. President, I would like to notify the Senate that this is the bill that is commonly referred to as the Deadbeat Parents Punishment Act, and I appreciate the cooperation that we received on both sides of the aisle today to get this legislation through, because it is clearly something that should be passed. We should have felony violations for failure to pay legal child support obligations. I am glad to move the legislation.

I ask unanimous consent the bill be considered read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed at the appropriate place in the RECORD.

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

The bill (H.R. 3811) was ordered to a third reading, was read the third time, and passed.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nomination on the Executive Calendar: No. 624. I further ask unanimous consent that the nomination be confirmed; that the motion to reconsider be laid upon the table; that any statements relating to the nomination of Judge Richard Roberts, to be a U.S. District Judge for the District of Columbia, appear at the appropriate place in the RECORD; that the President be immediately notified of the Senate's action; and that the Senate then return to legislative session.

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

The nomination was considered and confirmed, as follows:

THE JUDICIARY

Richard W. Roberts, of the District of Columbia, to be United States District Judge for the District of Columbia.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

ORDERS FOR TUESDAY, JUNE 9, 1998

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Tuesday, June 9. I further ask unanimous consent that on Tuesday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate resume consideration of Coverdell amendment No. 2451 pending to the tobacco legislation.

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

Mr. LOTT. The minority leader filed a cloture motion yesterday, Thursday, June 4, and a second cloture motion was filed today by our minority colleagues. Therefore, I ask unanimous consent that the first cloture vote occur on Tuesday, June 9, at 2:15 p.m., and the mandatory quorum under rule XXII be waived. I further ask unanimous consent that all second-degree amendments must be filed by 12:30 p.m. on Tuesday.

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

PROGRAM

Mr. LOTT. Mr. President, for the information of all Senators, the Senate will not be in session on Monday, and we will resume the pending drug amendment at 9:30 a.m. on Tuesday. It is my hope that a vote will occur on the drug amendment prior to the scheduled cloture vote at 2:15 p.m. on Tuesday. That means it will have to occur before the luncheons that day. Rollcall votes could occur then Tuesday morning, one after 9:30 a.m. and then a second one at 2:15 p.m. I will consult with the minority leader, of course, further with respect to the scheduling of the second cloture vote, assuming the first cloture vote is not invoked, and that vote will occur then I believe on Wednesday.

The Senate could also consider any other legislative or executive items that may be cleared for action on Tuesday. In fact, we hope to have another Executive Calendar nomination or two that we will be able to get cleared.

ADJOURNMENT UNTIL 9:30 A.M., TUESDAY, JUNE 9, 1998

Mr. LOTT. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 3:31 p.m., adjourned until Tuesday, June 9, 1998, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate June 5, 1998:

THE JUDICIARY

ROBERT S. RAYMAR, OF NEW JERSEY, TO BE UNITED STATES CIRCUIT JUDGE FOR THE THIRD CIRCUIT, VICE H. LEE SAROKIN, RETIRED.

CONFIRMATION

Executive nomination confirmed by the Senate June 5, 1998:

THE JUDICIARY

RICHARD W. ROBERTS, OF THE DISTRICT OF COLUMBIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF COLUMBIA.