of legal cigarettes will smoke less. Netting these changes out will be interesting, but it must be done to develop a reasonable revenue estimate.

Then there are the jobs that will be lost in the industry all along the production and legal distribution chain.

This means reduced income and payroll tax receipts to the Federal government. The official figures do not include these revenue losses, of course, because that would require a level of dynamic analysis the estimators are unwilling to try, but the revenue losses will be real nonetheless.

Another element thus far ignored is that the cigarette tax increase will reduce projected federal budget surpluses through its effect on the Consumer Price Index (CPI). The CPI includes cigarettes on a tax-inclusive basis.

A per pack tax hike of $1.10 will cause an estimated one-time and permanent increase in the CPI of just under four-tenths of a percentage point. A higher CPI automatically increases federal outlays because many programs, like Social Security, are indexed to the CPI.

Phasing the tax hike in over five years as described in the McCain bill, the Tax Foundation calculates that federal outlays will rise by almost $11 billion over the next five years and by over $29 billion over the next ten years. Similarly, many tax provisions are indexed to the CPI, like the personal exemption, the standard deduction, and the tax brackets.

An increase in the CPI reduces tax receipts for a given amount of gross income. The Tax Foundation estimates that the cigarette-tax induced increase in the CPI would reduce federal income tax receipts by about $8 billion over the next five years, and by almost $19 billion over the next ten years.

Combined with the spending increases, the cigarette tax hike would reduce future budget surpluses by almost $19 billion over the next five years by over $48 billion over the next ten years.

I know that lots of people in this town are jubilant at the prospect of this legislation passing. The plaintiffs' lawyers would become fabulously wealthy; the public health community would get all of its favorite projects generously funded; and, of course, the bureaucrats will get write volumes of new rules.

The ones who won't be so happy are the working class families who have been targeted to pay for it all.

In short, the McCain bill, through its highly regressive tax provisions, inflicts enormous costs on lower- and middle-income families. Let me put this regressive tax in concrete terms. The increased excise tax payments under the McCain bill are projected to total some $577 billion over the next 25 years. This is without the ''look back'' penalties that will add hundreds of billions of dollars to the package.

Where are the cries about regressive taxes? We're all so used to the long speeches about taxes on the poor. Or is that argument just used for convenience? This is the largest tax increase on the poor in years—if not in all time!

It is estimated that, based on projections of the actual increases in the prices of tobacco products, the true cost over the next 25 years will be in the range of $380 billion for families earning less than $30,000 per year.

It will be more than $735 billion for families earning less than $75,000 a year.

These are truly staggering numbers.

After all, 98.5% of cigarettes are legally purchased by adult smokers, and therefore higher excise taxes will unfairly (and regressively) penalize adult consumers who choose to smoke.

So, we're talking about hundreds of billions of dollars in new taxes to *try* to stop 1.5 percent of tobacco users from illegally buying tobacco. Why not just impose penalties on children who try to purchase tobacco? Well, I suppose, because it wouldn't be a jackpot for trial lawyers and Washington bureaucrats. The fact that it might help the children is irrelevant.

Mr. President, I, for one, was not elected to sock the American taxpayer with more taxes. If teens are really our target, we owe it to the taxpayer to first explore other non-price measures to combat youth smoking.

Turning to the bill's reliance on new government programs, I find it highly ironic that we are here debating a bill that will increase the size of the federal bureaucracy when this Congress is supposedly committed to reducing the federal government.

We also need to think long and hard about the bill's Orwellian approach—giving the federal government more power to look over our shoulders regarding the personal choices we make.

I urge my colleagues to learn from experience. Too many times in the past, Washington has raised taxes in the name of one feel-good social program or another.

This legislation is going to result in a massive price increase for the entire smoking population, including the 98 percent of legal adult smokers. I think it is important that my colleagues are aware of all the facts before they vote on it.

We should be concerned that the McCain bill will set a terrible precedent that will haunt us for years to come. If we begin to use the tax code as a coercive means of social engineering, then I submit that there is no end in sight.

Today, smokers will be asked to pay a huge share of their income to the federal government and tomorrow, who will be next?

We were supposedly sent here to see to it that the tax and spend era of big government ends. I'm not sure we're holding up our end of the bargain when we propose to pass legislation along the lines of the bill we're debating today.

This bill perpetuates a tax and spend mentality that our constituents have rejected. It sets us sliding down the slippery slope. It is a bad bill, Mr. President, and we need to move on to other matters.

Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

UNANIMOUS-CONSENT AGREEMENT

Mr. McCONNELL. Madam President, I ask unanimous consent that the Senate continue consideration of S. 1415, for debate only, until 4:30 p.m. today.

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

Mr. HELMS addressed the Chair.

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

VISIT TO THE SENATE BY MEMBERS OF THE PARLIAMENTARY DELEGATION OF THE REPUBLIC OF CHINA ON TAIWAN

Mr. HELMS. Madam President, I appreciate the distinguished Senator from Kentucky and his courtesy in yielding to me. We will not take long. I just could not resist the opportunity to bring this distinguished delegation to the Chamber. We have the parliamentary delegation of the Republic of China on Taiwan, headed by the Honorable Yao Eng-Chi, the official diplomatic representative to the United States.

RECESS

Mr. HELMS. Madam President, I ask unanimous consent that the Senate stand in recess for 3 minutes so Senators may pay their respects to this fine delegation.

There being no objection, the Senate, at 4 p.m., recessed until 4:05 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. FAIRCLOTH).

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The Senate continued with the consideration of the bill.

Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. McCONNELL. Madam President, there has been a lot of discussion over the last 4 weeks about teenagers and smoking. I would like to begin my comments at this moment by asking who might have more influence over teenagers and smoking—Joe Camel or Leonardo DiCaprio? If we continue on this bill—and it is my fervent hope that we will not, as I believe it is not in the best interest of the country—or if it should come back, as those on the other side of the aisle are promising that it will, we will not have another tobacco debate that doesn't deal with the real culprit, which is the influence of Hollywood on our children and their encouragement, after watching fashionable movies, to take up this habit in which none of us believe teenagers should engage.

An overwhelming number of children under the age of 18 regularly view motion pictures and television productions. A lot more of them do that than look at any cigarette advertising. Depiction of the use of tobacco products and illegal narcotics is widespread in motion pictures and in television productions. Such depictions have increased in recent years, as indicated by recent studies that have found, first, that 77 percent of all major motion pictures in 1996 portrayed the use of tobacco. Let me repeat that. Seventy-seven percent of all major motion pictures in 1996 portrayed the use of tobacco. Fifty percent of the top grossing films released between 1990 and 1996 depicted scenes in which the major characters smoked cigarettes; 78 percent of movies, over the last 5 years, include tobacco use, with an average of 11 smoking incidents per hour—11 smoking incidents per hour; 75 percent of movies that included tobacco use showed leading and/or supporting actors smoking.

As Hillary Clinton has explained, every single movie nominated for a 1996 Academy Award in the categories of Best Picture, Best Actor, and Best Actress featured tobacco use by a leading character. The Academy Award nominees for Best Picture in 1996 that featured this activity were: ''The English Patient,'' which was the winner; ''Fargo''; ''Jerry Maguire''; ''Secrets and Lies,'' and ''Shine.'' All of them featured tobacco use by the leading characters.

These depictions often deceptively portrayed the use of tobacco and illegal drugs as healthy, desirable, and socially acceptable. As one would expect after hearing these facts and figures, teenage use of tobacco products and illegal narcotics is on the rise.

Mr. President, I am raising the issue of whether teenagers are more influenced by Joe Camel or by Leonardo DiCaprio. I am not going to ask for a show of hands from the pages that are up here in the front of the Chamber. But I think I know the answer. I suspect anybody in America would know the answer. Clearly, the influence on teenage smoking as a result of depiction of smoking and glamorizing of smoking in movies is a very, very serious problem and considerably more significant than advertising.

The depictions in the movies often deceptively portray the use of tobacco and illegal drugs as healthy, desirable and socially acceptable.

As one would expect after hearing these facts and figures, teenage use of tobacco products and illegal narcotics is on the rise.

Let's think for just a minute about some of the classic moments in cinema history where smoking is glamorized.

Humphrey Bogart in ''Casablanca,'' James Dean in ''Rebel Without a Cause.''

We have here a blowup of ''Rebel Without a Cause.'' Here you see James Dean featured with a cigarette in his hands. That was sort of my generation back in the 1950s.

More recently, Julia Roberts in ''My Best Friend's Wedding,'' Jane Fonda in ''Agnes of God,'' or ''9 to 5,'' Rebecca DeMornay in ''Risky Business,'' Olivia Newton-John and John Travolta in ''Grease,'' which we have blown up again.

Here is Olivia Newton-John featured smoking in ''Grease.''

And who can forget the recent smash hit ''Titanic,'' which I referred to on the floor earlier in this debate. Leonardo DiCaprio who is currently, I am told, the teen idol of America—I see a few smiles on a few pages' faces down here. I think I probably got that right.

Leonardo DiCaprio is ''Smokin' Teen Idol'', and appeared, of course, in ''Titanic,'' the most watched movie of all time, ''Romeo and Juliet,'' ''Marvin's Room,'' ''Basketball Diaries,'' and ''This Boy's Life.''

We know ''Titanic'' is the highest grossing movie of all time at $554 million. If we assume that ticket prices, including matinees, average $6, then we can fairly estimate that over 90 million people have seen this blatant glamorization of smoking. And, unfortunately, a disproportionate share of those 90 million people are our children.

Let's face it. Who is more adored by the girls and idolized by the boys, as I asked earlier—Leonardo DiCaprio or Joe Camel? And in a study sponsored by the American Lung Association, youth watched 50 top box office movies to evaluate smoking. The youth concluded that a significant percentage of the scenes involved tobacco use that was ''sexy, exciting, powerful, sports-related, sophisticated and a means of celebration.''

Mr. President, I think it is time that Hollywood took responsibility. We need to send a message to Hollywood. ''Don't hook our kids on tobacco and illegal drugs.''

Under the first amendment, we cannot and would not seek to deny the right of free speech to anyone. However, as the Senate, we can and should encourage Hollywood to take responsible steps to protect our children. We can make sure that at least the Federal Government does not costar with Hollywood in any movies that glorify or glamorize tobacco.

Let me repeat, we can at least make sure that the Federal Government itself does not costar with Hollywood in any movies that glorify and glamorize tobacco.

Now, Mr. President, had this bill continued, or if it continues—I hope that it will not, but if it does—I will be offering an amendment that would do this. The Federal Government currently grants permits to Hollywood for the production of movies and TV shows, and we have seen in recent years more and more movies, at least in part, depicted on Federal property. The Government has granted Federal film privileges to motion pictures such as ''Top Gun,'' ''Biloxi Blues,'' ''The Hunt for Red October,'' ''In The Line of Fire,'' ''Clear and Present Danger,'' ''True Lies,'' ''Apollo 11,'' ''Apollo 13,'' ''Contact,'' ''Air Force One,'' ''Crimson Tide,'' and ''A Time to Kill.''

The Government currently makes these decisions based on the nature and the message of the proposed production. In other words, the Federal Government itself makes a decision whether or not to allow the use of Federal property, and it made that decision in each of those films. The Department of Defense decides whether to grant Federal filming privileges based on whether a production ''appears to condone or endorse activities . . . that are contrary to U.S. Government policy.''

Let me repeat. The current Department of Defense standard is as follows. They will grant the filming privilege based on whether a production ''appears to condone or endorse activities . . . that are contrary to U.S. Government policy.''

In other words, ''Top Gun'' is OK but ''GI Jane'' is not. So Government agencies are already reviewing scripts and deciding who gets Federal film privileges and who does not. So we ought to make sure our young people and tobacco are not left out of this review process. And the amendment I was going to offer, or would offer if we stay on this subject or come back to it, would simply say that no agency or department of the Federal Government may grant permission for the filming of a movie on Federal property where such movie depicts the use of tobacco or illegal drugs as healthy, desirable, or socially acceptable.

In other words, what I would do by this amendment, if and when I offer it, is require the Federal Government to make a decision about whether it is appropriate for movies filmed on Federal property to depict smoking. And the language should be that no agency or department may grant permission—in other words, we can't do it—for the filming of a movie on Federal property where such movie depicts the use of tobacco or illegal drugs as healthy, desirable, or socially acceptable.

Furthermore, the President has, as we all know, a lot of friends in Hollywood. That is fine. He is free to associate with whoever he chooses. He was just out there this week, I am told. So I would call on the President today to issue an Executive order—all of this could be done by Executive order—mandating that agencies comply with the provisions of the amendment I would have offered. In other words, the President can today or tomorrow issue an Executive order stating that no agency or department may grant permission for the filming of a movie on Federal property where such movie depicts the use of tobacco or illegal drugs as healthy, desirable, or socially acceptable.

Now, finally, Mr. President, had I offered the amendment—and I may well offer it; if we either stay on this bill or

come back to it later, I certainly will—the second part of the amendment would be a sense-of-the-Senate resolution. No one is more sensitive to the first amendment than the Senator from Kentucky, so this could only be done as a sense-of-the-Senate resolution. And this sense-of-the-Senate would go something like this, Mr. President: A parent should have adequate information about the nature and content of motion pictures and television productions.

Part 2 of the sense of the Senate would be: The television and motion picture industries have developed rating systems that help provide such information. Point 3: These rating systems currently provide that motion pictures and television productions restricted to mature audiences should receive the designation of ''R'' and ''TV-MA''—that is, TV-mature audience—respectively.

Such rating systems, Mr. President, however, provide insufficient information about the use of tobacco and illegal narcotics in motion pictures and in television productions.

The sense-of-the-Senate would be this, were I to offer it:

It is the sense of the Senate that the television and motion picture industries should designate motion pictures and television productions with the rating of ''R'' and ''TV-MA,'' respectively, if such pictures or productions depict the use of tobacco or illegal narcotics as healthy, desirable, or socially acceptable.

Mr. President, in conclusion, this is not an amendment I am planning to offer at this time but will offer later if we get back to this issue or stay on it. It would do essentially two things:

No. 1—and this is something the President could do today —is to prevent motion pictures which use Federal property from featuring smoking—and the President could issue an Executive order to do that today—and, secondly, to call on the television and motion picture industry to rate any production that features smoking with an ''R'' or ''TV-MA;'' that is, TV-mature audience.

Mr. President, I thank you for the time and I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the distinguished Senator from Arizona.

Mr. McCAIN. Mr. President, I would like to make a few brief remarks, and then I note the presence of the Democratic leader in the Chamber, and I know that he and others have some comments.

But I think I would like to make a few brief comments now in anticipation that either tonight or tomorrow we will have a cloture vote on this legislation that we are now in our fourth week considering.

First of all, I would like to point out, we have a lot of charges that are hurled at the bill, a lot of exaggeration, and more than a little fiction. Just this morning, one of our colleagues said that the bill has gone from $368.5 billion to $858 billion from the money grab. That is astounding—if it were true, and it is not. The first figure fails to include inflation, look-back penalties, and the second one does in order to make it look outlandishly bigger. First, it used to be too big a bill and too much spending, and now there is a revenue shortfall. We have covered most of the bases, Mr. President. So I congratulate the opponents of the bill and the industry on their memory loss and their creative accounting.

When we decide the fate of this legislation—some have cast this as a vote over whether we believe in taxes or not— it is really a question of whether or not we believe an industry should be allowed to lie to Congress and the American people and get away with it; whether an industry should be able to target kids to addict them to a deadly product and get away with it; whether to allow an industry to manipulate nicotine to better hook its customers and get away with it; whether to allow an industry to quash critical public health findings and get away with it; whether an industry can pay billions of dollars in campaign contributions for protection against their misdeeds and get away with it.

This bill is not about taxes, it is about whether we are going to allow the death march of 418,000 Americans a year who die early from tobacco-related disease and do nothing; whether we are going to continue to heap $50 billion a year in smoking-related health care costs on the American taxpayer, and do nothing. It is about whether we are going to have the will to serve the public interest, or the special interests. So I hope every Senator, before making a decision about how he or she will vote, will be fully informed about what is and what is not in this bill, and whether they want to push the legislation process forward or to let it die.

First of all, briefly, what is in this bill? A major youth smoking reduction program that addresses the single greatest cause of death and disease in America and will help stop one million kids a year from taking up a habit that will kill one-third of them. It stops the $50 billion annual health care tax on Americans, which is nearly $455 per household per year. It has a major provision to address the illegal narcotics problem in America, and additional resources to find treatment and cures for deadly diseases including breast cancer, heart disease, lung disease and many others. It is a $190 billion tax cut. What I do not understand is some on the other side of the aisle who said they favored this bill when it came out of the committee with no tax cuts, now are opposed to a $190 billion tax cut. Nearly 40 percent of the bill now, as it sits, is to reduce taxes, and every penny above the June 20 settlement goes to tax relief.

Mr. President, $3 billion is earmarked for veterans who suffer from smoking-related disease. I have been over this issue before, but the fact is there is only one group of Americans that I know of that the Government encouraged to smoke, and that is the veterans who were conveniently left out of the ISTEA bill, as we so eagerly sought our highways and bridges and other pork barrel projects. Don't the veterans deserve something, Mr. President, in the way of treatment of tobacco-related illness from a Government that encouraged them to take up the habit?

There is a cap on legal fees on tobacco suits so that more money can go to victims and not lawyers. No one in this body believed that we would pass an amendment, for the first time that I know of in this body, that caps legal fees; it caps them from any future bills at $500 an hour. I will admit that is quite a bit of money. But the reality of that impact is that it is an enormous break for both individuals and groups bringing suits against tobacco companies.

It is a chance to settle State cases collectively and efficiently, and an antismuggling campaign that will stop those who today traffic in contraband.

I keep hearing, again, ''giant programs and huge bureaucracies.'' The fact of the matter is there is no guaranteed spending in this bill for asbestos victims and none whatsoever for black lung. Spending on prevention, cessation research, international reimbursement, and for Indian health services, is all subject to appropriations, and there are no new Federal bureaucracies. All the functions will be conducted through existing Federal, State, local and private entities.

I really did not appreciate the resurrection of the old Clinton health care plan bureaucracy chart. I am tempted, with legislation that I see coming before this body which is supported on both sides of the aisle, to make up a chart. But there are no new Federal bureaucracies associated with this legislation.

We have heard that giving the FDA authority over tobacco is an abomination, even though the courts have already upheld FDA's ability to regulate nicotine under their current authority, giving them far more power than this legislation does.

We have heard that retail licensing is absurd, even though 46 States already have tobacco licensing programs, and both the National Governors' Association and convenience stores support their provisions, which is basically the same as alcohol. We have heard the concept of look-backs are absurd, even though the industry itself endorsed the idea last June. And every day, we cite drug statistics on this floor and give them great credence. They are based on the same premise of surveys that we would be using on determining whether we were reducing teenage smoking or not.

We have heard the bill contains Indian largess, and the Craig-Coverdell amendment eliminated the bill's authorization to set aside a percentage of money for Indian health services, although it is interesting to me that we

seem to not understand that Indians, poorest of all our citizens, have a high incidence of tobacco-related illness and the Indian Health Service, like the VA, has spent vast sums of money covering smoking-related illness.

What has caused the change in attitude since we reported this bill out by a 19-to-1 vote through the Commerce Committee? I don't know. I will leave that to others. I do think it is of note that some $50 million or more, the estimate is a minimum of $50 million, has been spent on tobacco company advertising. I think anybody who believes that an advertising campaign of that magnitude does not have an effect, obviously is not aware of the effect of advertising in America.

What happens if we fail to invoke cloture, and after a lot of machinations that we leave this legislation and go on to other issues? I think it is important to point out that what happens is two things: One is that 36 attorneys generals go to court. They have said they will. They have cases pending. And the other is, of course, and most tragically, 3,000 more kids will start smoking every day that we fail to act.

I have heard comments on the floor today, finally, Mr. President, about defining the Republican Party, about how we act on this legislation will define the Republican Party. You know, there may be something to that. There may be something to that. Because maybe we ought to remember the obligations that we incur when we govern America. Maybe we might remember the principles of the founder of our party when we are defining the Republican Party and how we vote on this legislation. We might understand that our obligation, first of all, is to those who cannot care for themselves in our society and that includes our children. Isn't it our obligation, shouldn't it define the Republican Party, that we should do everything we can to handle this scourge, this disease that is rampant throughout young children in America? Does that define the Republican Party, or at least have something to do with the definition of our party? I hope my colleagues might understand what our obligations are.

I did not invent this bill. I did not seek the responsibility for it. But I believe in the strongest possible terms that we need to act. Otherwise we will act, sooner or later, and every day that it is later, more young Americans will die as a result of our inaction.

I yield the floor.

(Applause, Senators rising.)

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

Mr. LOTT. Mr. President, I did not hear all of the remarks of the Senator from Arizona. But I observe the applause that he just received. I join in expressing my appreciation to the Senator from Arizona for the work that he has done in taking this issue up in the Commerce Committee, being willing to deal with it, being willing to deal with the criticism both in this Chamber and other venues for the effort he has made. Also, I thank the Senator from Massachusetts for his cooperation in a number of ways, in the way he worked with Senator MCCAIN.

I do have some requests to ask that have been cleared with Senator DASCHLE, or he is aware of what I am going to ask for. After I make these motions, then I would like to just make some brief comments.

Mr. President, I ask unanimous consent that it be in order for me to file a cloture motion on the committee amendment to the tobacco bill, and at the hour of 5:15 p.m. the Senate proceed to vote on the cloture motion with the mandatory quorum under rule XXII having been waived.

I further ask that the time between now and 5:15 be equally divided between the two leaders or their designees. I further ask, if cloture is invoked, Members have until the close of business today to file first-degree amendments and until 10 a.m. on Thursday to file second-degree amendments.

The PRESIDING OFFICER. Is there objection?

Mr. KERREY. Mr. President, reserving the right to object, may I ask the majority leader, does the majority leader intend to vote for cloture?

Mr. LOTT. Mr. President, I was going to explain that after I had asked these unanimous-consent requests. Since the Senator has asked, there has been a request and efforts made in the past to get cloture, to have cloture filed and have votes. We have had three of those. This is a cloture motion that we will vote on, instead of 2 days from now, go ahead and vote today to see where we are.

It is my intention to vote against cloture. I still think we should not cut off some of the amendments and substitutes that could be offered. We also still have the pending problem of what to do about farmers in this issue. But I think we need to see where we are.

I have, over the past several weeks, been hoping that we could come to some resolution on this matter, but we have spent 78 hours or more now and 56 minutes—I guess it is probably closer to 80 or 82 hours. I don't see how we are going to conclude this just by moving along at the slow pace we have been moving along. I think we need to see where the votes are. This cloture vote will give us that opportunity. I think it is important that we not have this vote occur next Monday or next Tuesday. If we file cloture today or tomorrow, that will be the result. After this cloture vote, then we will make a decision where to go from there.

Mr. KERREY. Mr. President, I will not object, but I wish the proponent of the vote on cloture will vote for the cloture motion. We will then discover where the votes are. I am prepared to move to final passage. There is a lot in the bill I don't like. I agree with what the Senator from Arizona said earlier. I believe it important to enact legislation. There are a lot of lives at stake. I wish you would discover where the votes are by moving to cloture, but also supporting the cloture motion you are going to file.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

CLOTURE MOTION

Mr. LOTT. I now send the cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provision of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the committee substitute to Calendar No. 353, S. 1415, regarding tobacco reform:

Trent Lott, John McCain, James M. Inhofe, Christopher S. Bond, Gordon H. Smith, Robert F. Bennett, Joseph R. Biden, Jr., Ted Stevens, Richard C. Shelby, Mike DeWine, Kent Conrad, John Glenn, Tom Harkin, John F. Kerry, and Frank H. Murkowski.

Mr. LOTT. Mr. President, I further ask unanimous consent that following the cloture vote, if not invoked, Senator STEVENS be recognized to raise a Budget Act point of order, and that the Democratic leader, or his designee, be immediately recognized to make a motion that it be waived, and that that vote occur immediately following the earlier vote without any intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. Reserving the right to object.

Mr. HARKIN. I reserve the right to object to that.

The PRESIDING OFFICER. The Democratic leader is recognized.

Mr. DASCHLE. Mr. President, I want to ask the majority leader two questions.

First, with regard to the cloture motion, he and I have talked about this matter. The motion itself says:

> We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the committee substitute. . .

And it is signed, of course, by 16 Senators, including the distinguished majority leader. If, indeed, it is his position that he will vote against the cloture motion, I am curious as to how he can be signing the cloture motion.

Mr. LOTT. As a matter of fact, Mr. President, the motion has to be filed to get a vote on the cloture process. It doesn't mean that you will vote for cloture, and I don't want any inference to be made here that this is unusual. This is, as Senators on both sides know, done quite often by majority leaders, that they file cloture and on occasion vote against that cloture. So this is

just a process to get us to a vote, to see where the Senate is, to see if the Senate is ready to cut off debate, and there is nothing unusual about that at all.

Mr. DASCHLE. Well, Mr. President, I just say, I have never heard of it before. I think it is highly unusual, but certainly that is the majority leader's prerogative. I just call attention to this interesting juxtaposition of filing cloture and then voting against it.

Another question I have relates to the Budget Act point of order. Is it the majority leader's understanding that those who vote not to waive the budget point of order will then be voting against those amendments that the Senate has adopted, including the amendment on marriage penalty and the amendment on drug enforcement; is that the understanding of the majority leader?

Mr. LOTT. Mr. President, I am sure that a lot of people will read into that vote and other votes any number of things, and I am sure that it will be described by Senators on both sides of the aisle in the way they would like to describe it, maybe even going so far as to impugn the integrity of Senators based on that vote.

But all that means to me, as the Senator says, is that we should not waive the Budget Act. We agreed to the Budget Act; we agreed to the budget last year. That is one of the major problems with this whole bill. The original concept that we try to get some limits on teenage smoking, to stop teenage smoking and drug abuse and to deal with some of the problems caused by smoking, that is one thing, but it has gone far, far afield from that.

I had planned to comment on some of those later, but I will go ahead and mention them now. The micromanaging in this bill, the exceeding of the budget caps—what really has happened here, while we have a good principle that we can all vote on something right now that will deal with teenage smoking if we wanted to and health problems caused by smoking, what has happened is a lot of people have figured out, ''Oh, look, this is a cookie jar, this is a bill we can use to pay for all these programs that we are not going to be able to pay for''——

The PRESIDING OFFICER. May we have order in the Chamber in order that we may hear and understand the majority and minority leaders?

Mr. LOTT. ''For these programs under the strictures of the budget agreement we had just last year.'' The Washington Post outlined it pretty clearly today. It is going to be tough to get the appropriations bills done, to get a budget done this year because of the constraints that we agreed to.

This bill violates the Budget Act in several instances, I think about six different points. At least one of them we are pointing out here today. That is all it means, that you don't want to waive the Budget Act, that we have agreed to pass this bill that started out well-intentioned, but has grown like top seed to the point where we have to decide whether we want to take this cup from our lips and move on or not.

Mr. DASCHLE. Mr. President, reserving the right to object, as I have, I simply ask that there be 5 minutes equally divided between votes so that we might talk about the specific vote and its ramifications prior to the time we cast it. I ask if the majority leader has any problem with that?

Mr. LOTT. I think that would be the way to do it.

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

Mr. BIDEN. Mr. President, reserving the right to object, I am a little confused.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. It is my understanding that the majority leader some 7, 6, 5, 10 days ago, told us that this bill would go nowhere unless we added a Republican provision relating to the marriage penalty. And now he is telling us that it violates the budget because we passed on this floor what he asked us to do.

I want to tell you, I find that incredibly fascinating. I don't find it unusual, I find it fascinating. I have to get this straight. Here is my question, and I will not object if I get an answer: Is one of the reasons why the Republican leader will argue that this is a violation of the budget agreement the fact that this bill now contains a tax expenditure of tens of billions of dollars to correct the marriage penalty, which all the Republicans voted for and told us we had to have? Is that one of the reasons why we violate the Budget Act? I ask that as a question of my friend.

Mr. LOTT. The violation of the Budget Act that I think carries the greatest weight is the exceeding of the caps that were agreed to by category in the budget resolution. That is the major problem with it.

Mr. BIDEN. Mr. President, I will not object, but it is a fascinating place.

Mr. DASCHLE. Mr. President, further reserving the right to object, just for clarification.

The PRESIDING OFFICER. The Chair recognizes the minority leader.

Mr. DASCHLE. There may be some confusion. I ask there be an intervening period of at least 5 minutes prior to the second vote so we can have an opportunity to discuss the ramifications.

Mr. LOTT. So everyone is clear, the cloture vote will occur at 5:15. Following that vote, if not invoked, the Senate will proceed—well, will have 10 minutes equally divided, and then proceed to the second vote on the motion to waive the Budget Act to allow Senator STEVENS and somebody on your side, some designee on your side, to speak on the particular budget point of order.

Therefore, there would be then two back-to-back votes at 5:15, with the 10-minute interval between those two votes.

Mrs. FEINSTEIN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. I thank the Chair.

I would just like to make this comment and really express my profound disappointment. For those of us that are somewhat, relatively new to this body, I think to see a very consequential piece of legislation come a cropper in this way is extraordinarily disappointing. Obviously, what has happened is to kill tobacco reform.

There is no question about how it is being done. There is no search for alternatives. There is no search for where there may be a consensus in this body. And I think there are points where there is consensus. I deeply believe a bill can be put together which can deter teen smoking.

Mr. LOTT. Mr. President, would the Senator yield on that point, because I would like to commend her for some efforts in which she has been involved?

Mrs. FEINSTEIN. May I finish my train of thought for a moment?

That there is the possibility—I watched the McCain bill come out of committee. And then I watched the amendments go on. And then we sat down to do our due diligence and took a look at the impact that the amendments have on the bill. The Gramm and Coverdell amendment took $16.8 billion off of it. The marriage penalty took, I think, around $31 billion off of it. It ate up all but a very small amount of the public health money.

Yet the very party that put these amendments on a tobacco public health bill—drugs, taxes—now is going to kill that bill, and no calling together any kind of opportunity for consensus.

I make no secret that I have been working with the chairman of the Judiciary Committee to try to put something together. It isn't perfect. It took what we saw were points at issue here and put them in a form where we thought there could be concurrence. And yet the way we are going to leave this debate, I have no doubt that the Republican Members of the U.S. Senate are clearly going to kill any form of tobacco reform; they are going to kill campaign-spending reform and they are going to kill tobacco reform. I, for one, who tries very hard to work across the aisle, find that just reprehensible.

Mr. Majority Leader, I would sincerely hope that there would be some leadership to take the remnants of what we can do and put it in a bill to send to the House. I have no other—I tried now——

Mr. LOTT. Would you yield, because I would like to respond to what you are saying there?

Mrs. FEINSTEIN. I would be happy to yield if I could just finish. I have been trying to, as Senator KERRY knows, make a simple amendment to the bill since last week. Can't get in line. Wait, wait, wait. Can't get in line. Then we go into gridlock. And I just find it all a very sorry mess.

Mr. LOTT. Mr. President, if the Senator will yield, I agree with that part of it. It is a sorry mess. We have gotten into gridlock. And there are lots of explanations for that. I don't think we should start blaming one Senator or one side or the other.

But I wanted to commend the Senator from California for the efforts that I was under the impression she had been making with Senator HATCH and others, perhaps on both sides of the aisle, to come up with a bill much different from what is before us—smaller, probably, by $100 billion, with all the components that would really be needed.

I want to remind the Senate that I have given a lot of time and a lot of personal effort and have taken a lot of flak for trying to find a way to get a bill through here that was responsible enough that we could choke it down in a reasonable period of time, and we are not there. And I cannot figure any way to get a bill that would be credible that we could get through here.

In fact, when we have had some critical votes, they went the wrong way. I am not blaming that on one side or the other. There were some votes on our side that were really disturbing to me, that you are really trying to get something.

But what is wrong with this bill now is it has lost sight of the original noble cause of just dealing with the question of teenage smoking and drug abuse, if you want to add that—and I think we should—and some limited effort to address the problems for the States on health problems caused by smoking or research.

But we are talking about a bill very different than what you are talking about. If we could wind up somewhere in the area that you are talking about, I would support that. And I want to note that when this point of order is sustained, or we do not waive the Budget Act, the bill does not disappear. It goes back to the Commerce Committee.

There has also been a suggestion that we consider having a task force to see if we could come up with something that could resurrect this in a way that would be much smaller, to do what we say that we want done, but without these massive micromanaging government controls that we see in this bill.

Most Senators are not happy with this bill. I mean, some don't like it because of, perhaps, the marriage penalty tax, although I think, generally speaking, everybody realizes that is going to happen; it is a good idea.

But we have major problems with it over here. But we are stalled out with no end in sight. Even if we get cloture today, which, you know, I hope we don't, there are about seven other opportunities for cloture motions to be filed.

The Senate, in its unique way, has not reached a consensus here. We have not reached a consensus. It is like Senator McCain has said before: We can guarantee a vote; we can't guarantee a result. And until we find a way we can get together on something that is much smaller, that is targeted and limited, that is not just more Government from Washington, dictates from Washington—I mean, this thing even has requirements in here that not only you can't have smoking in Federal buildings, you can't even have smoking in front of Federal buildings.

Mr. NICKLES. Any building.

Mr. LOTT. Any building.

Mr. DASCHLE. Parliamentary inquiry.

Mr. LOTT. That is just one example. At any rate, I thank you for yielding. I thank you for your effort. Don't give up.

Mr. DASCHLE. Parliamentary inquiry.

Mrs. FEINSTEIN. If I may just finish my statement for a moment, it was my understanding that at the present time the only game in town, so to speak, was the McCain bill, that we could vote out the McCain bill, it would go to conference, and a bill could be written.

Now, Mr. Majority Leader, based on what you are saying, there will be no bill at all that would go to conference; ergo no bill, period. That is what I find very disturbing.

I am prepared to vote for the McCain bill, with the view that it goes to conference, and perhaps some of the ideas that Senator HATCH and I, and others, Senator JEFFORDS, Senator BREAUX, Senator TORRICELLI have—that might prevail in a conference setting. So I will just, most respectfully, urge you to reconsider, vote out this bill. Let us not give up the issue of tobacco reform.

I thank the Chair for your forbearance. I yield the floor.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Reserving the right to object, and I will not, but does the majority leader understand that there will be an opportunity for this body to offer this particular measure, the McCain bill, on any other piece of legislation that is coming down the pike? This may go back to the committee, but it ought to be very clear to this Membership that this issue is not going away and that this body ought to get prepared to consider this legislation on every appropriate measure.

I have no objection.

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Reserving the right to object, 11 years ago, I offered a bill in the House of Representatives to ban smoking on airplanes. I passed that bill by five votes. And since that bill passed, in the 11 years since, I have had any number of Members who came up to me and said, "I voted against you that day, Congressman DURBIN, but I was wrong. And I realize I was wrong. I was on the wrong side of history."

I want to tell you, the folks today who are killing this tobacco bill on the floor are on the wrong side of history. In defending the tobacco companies, they are defending the indefensible. In refusing to protect our children, they are attacking the vulnerable.

We can talk about all the procedural votes that we want to. We can talk about filing motions and voting against them, points of order, and all the rest. The bottom line is, for almost 4 weeks now we have endured countless amendments from those who have no use whatever for this bill, most of which have been adopted, and now the people who offer the amendments successfully are telling us, let's walk away from this, we don't like it after all.

I think the American people will see through this. Although the procedural battle may be won today, ultimately the folks who opposed this tobacco legislation are on the wrong side of history.

Mr. STEVENS. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. I am liable to object unless we get an agreement to get the agreement in order.

I was supposed to have half this time and the other side half the time. Now my half will be less than one-eighth. I don't object. Let's get the agreement.

The PRESIDING OFFICER. Is there objection to the request?

Without objection, it is so ordered.

Mr. STEVENS. Mr. President, what is the parliamentary situation, may I ask, in terms of time?

The PRESIDING OFFICER. The time is equally divided between the two leaders or their designee.

Mr. STEVENS. Between now and what time?

The PRESIDING OFFICER. 5:15.

Mr. DASCHLE. Mr. President, I assume that means there is approximately 12 or 13 minutes per side.

The PRESIDING OFFICER. 12½ minutes.

Mr. DASCHLE. Mr. President, I will designate our manager as the manager of our time, Senator KERRY.

Let me make a couple of brief remarks. Many of our colleagues, obviously, want to speak to this issue.

First of all, our caucus is united, as we have been throughout this debate, on this very important issue. I hope the American people will see it for what it is. We are not deceived, and they shouldn't be either. This will be an effort, this afternoon, to kill this bill. The gun is on the other side. They will shoot it dead. It will be dead if those votes occur this afternoon as we predict they will vote. That is a tragedy. That is a tragedy. Three thousand kids a day start smoking; 1,000 kids a day die early because they started too early. That is what is at stake.

I hope it is more than just a coincidence that, a night after we raised $10 million downtown, they raised $10 million downtown.

We vote today to kill the tobacco bill. I am amazed, really, at the logic of some of our colleagues on the other side. How many colleagues have come to the floor to say we cannot pass this legislation until we include the marriage penalty, until we include the drug amendment, until we include some cap on lawyers' fees. Guess what. We spent the last 4 weeks doing just that: We passed a marriage penalty; we passed a drug enforcement amendment; we passed, now, some limit on legal fees. I will guarantee that virtually every one of our colleagues on the other side, in spite of that, having voted for it, will vote to kill this bill.

It is amazing to me that I have heard even our majority leader say we can't pass this legislation until we address the marriage penalty, that we can't address this bill completely until we have done the drug issue. We have done those, and now we are being told it is too heavy, we can't pass it.

The majority leader just said, ''I can't think of a way to bring this to closure.'' I can. If the Democrats were in the majority, we would bring this bill to closure, because I would vote for cloture. I would vote for cloture this afternoon, and every one of our Democratic colleagues would vote for it as well. We would bring an end to this bill. There is no mystery to it. You get 60 votes. We have more than 40 on this side. All we need is a fraction of the caucus on that side and we would bring this vote to closure. There is no mystery here.

Let me say, as my colleagues have noted, this is not over. This bill may be dead, but tobacco legislation is not dead. We will continue to come back. I will tell my colleagues right now, we will not let this issue die. We will continue to come back. There are, as the Senator from California noted, some principles that ought to unite us as Republicans and Democrats. We ought to be united on stopping kids from smoking. We will continue to pursue other methods, other ways, other legislation, but we will keep at it.

So I hope we can agree on principles. I hope we will all agree that even though that bill may die today, the issue does not die. The issue will continue to live until we are victorious.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the senior Senator from Alaska.

Mr. STEVENS. Mr. President, I am one of the members of the Commerce Committee who voted to report this bill. I think I am one of the Members of the Senate who does not take tobacco contributions. And I have very serious intentions to see to it that there is a bill passed.

But I am also chairman of the Appropriations Committee, and we have 13 bills to pass. We have taken 4 weeks, now, on this bill, and I don't see any hope that it will be finished before the Fourth of July recess, the way things are going. Now, this country has to have a government and it has to have the appropriations bills come out of our committee.

Members of the Senate seem to think that we are sort of the obnoxious people who bother them all the time until the time comes to decide what goes in those bills, and then I have a lot of friends. I am not going to have a lot of friends on what I want to do today, and I am sure there are people who are going to get involved, and unless the chairman of the Budget Committee wishes to make a point of order, I will make a point of order that if cloture does not come into effect—we have known all along, Mr. President, this bill violates the Budget Act.

When I voted to bring it out of the Commerce Committee, I did so on the basis that we thought we could clean it up on the floor and eventually get it to conference, where it would become a bill that we would all be proud of. The trouble is, now it is just too complex and involves too much money.

I decided to get involved when I heard about CBO's latest letter that went to Senator LUGAR, chairman of the Agriculture Committee, and pointed out that over 25 years this bill would be in effect, the cumulative cost of title X is $28 billion and the cumulative cost of title XV is $18 billion. That is just two titles. This bill is totally out of whack with the Budget Act.

When I bring a bill out here for the Appropriations Committee, our whole committee brings it out. We are subject to a point of order if we violate the Budget Act. The beauty of anybody who deals with the legislative process is, you are not subject to points of order until you get to the point that it is so extreme, as this one is, and now it does violate the Budget Act.

I believe that it should go—I have suggested the idea of a task force being created. I agree with what the Senator from Massachusetts said actually. We are going to see something come back here. This concept of trying to deal with tobacco and its impact on society is not gone. But this bill has become too complex and too bulky, too cumbersome. We can't agree even on what amendments to be offered next, and we are not sure what the amendment does from the titles that are already here.

Now, I had hoped that I could stay with my good friend from Arizona and provide support to get this bill to conference. I don't see any hope of going to conference. I am taking the floor to announce that while I am still for a bill that would try to satisfy what the 40 attorneys general tried to do in trying to find some way to settle this matter, I am not for a bill that continues to create more commissions, more boards, more entities, more spending, and does so in the name of spending the money that will come out of the tobacco settlement.

This is a bill to spend money out of the tobacco settlement. It is not a bill to deal with stopping smoking by teenagers, but particularly targeted young women—which is something I have always been appalled by—the targeting of young women by the tobacco industry.

As a practical matter, we spent too much time on our bill. We must get back to our regular, ordinary, drudge work of getting the 13 appropriations bills through the Senate and to the President.

If no one else makes a point of order after the cloture on the vote, if cloture is not invoked, I will make that point of order.

The PRESIDING OFFICER. The Chair recognizes the distinguished Senator from Idaho.

Who yields the time?

Mr. LOTT. I yield 2 minutes to the Senator from Idaho.

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

Mr. CRAIG. Mr. President, I have sensed an effort to express a great deal of outrage here on the floor of the Senate this afternoon. I am outraged that there are a good number of folks who would like to hide behind the idea of teenage smoking to raise more taxes than this Senate will ever have raised with the sweep of one vote and to create more official bureaucracies in big government than we have ever created by one vote. That is exactly what you are tending to do.

Let me tell you where the outrage is. It is outside the beltway. It is the average taxpaying citizen who says, ''By golly, they figured out another way to do it. They balanced the budget. Now they will raise nearly $600 billion in taxes and they will create all kinds of bureaucracies.''

And the latest polls—and they are not biased polls, they are taken across the board—say that this bill will not stop teenage smoking. Why? Because we don't go at it how you go at a teenager. I am all for making tobacco a controlled substance, and I think this Senate is. I want to get tobacco out of the hands of teenagers, and we ought to. We ought to do exactly what the States are doing. If you drink or you attempt to acquire liquor as a teenager, you lose your driver's license.

But we are not saying that. We want to create great schemes; we want to raise hundreds of billions of dollars. I say, let's go get the tobacco companies, but let's talk the right talk about how we deal with teenage smoking. That is what the issue is here.

I am all for pulling this bill down. Maybe we will come to our senses and craft something limited, something directed, and something relatively simple. And the American people will say: I believe they are serious. Right now, the American people are saying—that $30,000 and lower-income group—you are really laying it on us heavy. You are going to take it away from us and you are going to try to give it back? It doesn't make a lot of sense. Then again, for 4 weeks we have not made a

lot of sense. We have postured politically, but we haven't done the right thing for America's teenagers.

The PRESIDING OFFICER. Who yields time?

Mr. KERRY. Mr. President, how much time remains?

The PRESIDING OFFICER. Eight minutes.

Mr. BIDEN. Will the Senator yield me 30 seconds?

Mr. KERRY. First, I yield 1 minute to the Senator from Iowa.

Mr. HARKIN. Mr. President, I agree with the previous speaker. There have been a lot of things not making sense. On Friday, June 5, the majority leader said, ''If we don't add something on the marriage penalty, tax relief, and on drugs, there will not be a bill.'' Two days later, he said, ''This has gone way beyond trying to do something about teenage smoking. Greed has set in. This is about money grubbing; it's about taxing people and spending on a myriad of programs. We have lost our focus.''

That was the same person—in 2 days, two different things. Yes, there has been a lot of confusion around here on this bill. I think it is very clear. If this bill goes down today, Joe Camel wins, and our kids lose—3,000 a day will lose, and Joe Camel wins.

The PRESIDING OFFICER. Who yields time?

Mr. KERRY. I yield 30 seconds to the Senator from Delaware.

Mr. BIDEN. Mr. President, it is clear that the tobacco companies have no shame. My question for this body is: Have we no shame? What are we about to do? Nothing will happen to protect our children when this goes down. Have we no shame at all?

Mr. KERRY. I yield 1 minute to the senior Senator from Massachusetts.

Mr. KENNEDY. Mr. President, this is not the end of this issue. It may very well be the beginning of the issue, because the Democratic Party and the American people are not going to let this effort die. It may very well be that the final vote on this issue is cast on election day.

This is not a whodunit. We know who has done it. It is big tobacco and the Republican Party. They may mug this bill in the Senate of the United States today, but they cannot kill it because it will not die, and we won't let it die.

Mr. ROBB. Mr. President, from the outset I had hoped to be able to vote for a bill that would effectively reduce underage smoking and I still hope to do so during this session of Congress.

I continue to believe that a resolution of the issues surrounding tobacco are in the best interests of all interested parties—not just children, but also the public health community, plaintiffs, tobacco workers, tobacco companies, tobacco farmers and their communities.

After nearly four weeks of Senate debate on this bill, however, the bill currently before us has lost its focus and falls well short of a reasonable resolution of the issues involved here. In fact, it actually undermines the original goals of the legislation. And with as little discernible benefit to the public health in the legislation as it currently stands, I cannot support a bill which unfairly places too heavy a burden on too many people I was sent here to represent.

First, this legislation currently places no limits on the liability of tobacco companies. While I understand the desire of many of my colleagues to punish the companies for their past behavior, the fact of the matter is that a liability cap is needed to entice consent from the companies to modify their speech and limit their advertising and marketing practices.

Second, this legislation now contains tax and spending measures which have nothing to do with the underlying purpose of reducing teen smoking. By approving amendments to add tax relief and anti-drug spending to the bill, we have usurped valuable funds for medical research and public health efforts to combat teen smoking as well as put in jeopardy funds for tobacco farmers, tobacco workers and their communities as they transition into a new era.

Third, this legislation relies on highly regressive taxes to accomplish its goals rather than individual responsibility. If raising the price of cigarettes by $1.10 a pack was the only way to tackle the problem of teen tobacco use, I would not hesitate to assess it. But I don't believe that is the case. In my view, there is too little certainty on the question of what will actually stop teens from smoking to assess such a large and regressive tax on adults. Since only 2% of the cigarettes purchased are actually used by children, I would prefer a much more precise approach than a tax on the other 98%, particularly when that tax disproportionately affects lower income individuals. A much better approach in my view is to enhance marketing and advertising restrictions, toughen retail enforcement, and make adolescents more accountable for the decisions that they make, like taking away their car keys if they use tobacco products.

In sum, Mr. President, I said from the outset that I was not only willing to support a tobacco bill but believed it was in the best interests of the country to resolve these issues. I applaud the President for his leadership on the issue as well as our colleagues who have worked in good faith to create a fair and effective bill. But this bill, as it currently stands, has become a patchwork of initiatives that are entirely unrelated to the issues surrounding tobacco and teen smoking. For this reason, I cannot in good conscience lock in the current provisions of this bill by voting for cloture. I sincerely believe that this body has the ability and the desire to craft a piece of legislation that is both an effective tool in the fight to reduce teen smoking as well as an effective resolution of all issues surrounding tobacco.

I don't intend to give up on resolving these difficult issues and I look forward to working with those colleagues who sincerely want a bill, not just an issue.

I believe we can and will succeed in due course.

With that, Mr. President, I yield the floor.

Mrs. HUTCHISON. Mr. President, I believe the Senate should act on legislation to address the problem of teen tobacco addiction, but am troubled by the tax and spend aspects of the legislation as it now stands. I support an approach that is closer to the agreement reached by the states attorneys-general a year ago this week. That agreement combined tough restrictions on advertising and a commitment by the states to address teen tobacco use.

I have worked with Senator ORRIN HATCH of Utah and other Senators to co-sponsor legislation codifying the attorneys-general agreement. Our legislation is a responsible and credible effort to achieve the goal we all share: ending smoking by underage youth. If we cut off debate on the McCain tobacco legislation, the rules of the Senate would prevent debate on the Hatch bill or any other responsible alternative. I cannot support that. Therefore, I will vote against cloture.

We will have other opportunities during the 105th Congress to consider alternatives to the McCain bill. I intend to work hard to pass legislation that includes voluntary restrictions on industry advertising to young people and a substantial commitment to smoking cessation programs for minors.

Mr. KERRY. Mr. President, I reserve the balance of our time.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. How much time remains on both sides?

The PRESIDING OFFICER. Six minutes remain for the Senator from Oklahoma. Five minutes 50 seconds remain for the Senator from Massachusetts.

Mr. NICKLES. I yield to the Senator from Missouri 2 minutes.

Mr. ASHCROFT. Mr. President, this bill may be about tobacco and about smoking, but I think it is more about a smokescreen. Constantly, it is suggested that this is a bill which penalizes tobacco, but the tax falls upon the American people. There is a specific provision in this bill that requires that the $868 billion assessment goes to the consumer. Sixty percent of those people earn less than $30,000 a year and 44 percent earn less than $10,000 a year.

This is not a hit on the tobacco companies for that money. There is a requirement in the bill that the money be collected from these hard-working, low-income Americans. This is a massive tax on low-income Americans, and it is used to proliferate the bureaucracy of this Government—17 new boards, commissions, and agencies, and hundreds of new functions and responsibilities.

It is time for us to say no. When it comes to a habit that needs to be broken, the tax-and-spend habit of the

U.S. Congress must be broken. Here it is time for Congress to break the habit. That $868 billion in new taxes that will be focused upon hard-working Americans to fund Government programs, including a $350 million annual disbursement to foreign countries to conduct studies of smoking, is not what the American people expect.

This is tax and spend. This is Government bureaucracy. It is time for us to stop and give the American people tax relief instead of the kind of burden that this bill imposes.

I reserve the remainder of the time.

Mr. KERRY. Mr. President, I yield myself 1 minute.

Mr. President, let's understand very clearly what is happening here. To use the word ''tax'' is to use the word that has been the centerpiece of a billion-dollar advertising campaign. If this is a tax, this is the one tax in America that nobody has to pay—nobody—unless you buy a pack of cigarettes. This is a tax that is purely voluntary, and the countertax is the tax that millions of Americans pay for the cost of people who do smoke, who get sick—all of America pays the tax for those who smoke. The tax that our kids pay is a tax called dying—30 percent of those who smoke. And those who started since this debate began are going to die as a result of this habit, and the Senate today is refusing to do something about that.

Now, every time that a Republican bill has come to the floor of the Senate this year, it has been accompanied by a cloture motion that the majority leader joined in and was prepared to set up a structure in order to close debate. This is the first bill that has gone on for 3½ weeks. Not one Democrat amendment—not one—has added a penny to the cost of this bill.

We are going to give a new definition to hypocrisy in the U.S. Senate today, because the very people who brought us the marriage penalty break, who brought us the drug program, the very people who brought us the additions of every penny in this bill are going to come to the floor today and say, point of order, Mr. President, forget about the kids, we are going to turn around and tube the entire tobacco bill no matter what we did before. It was a Republican amendment on each one of those efforts. Not one Democrat amendment has added a penny to this bill. That is critical.

I yield 30 seconds to the Senator from Oregon.

Mr. WYDEN. Mr. President, around this building now there is that army of high-priced tobacco lobbyists who are getting ready to celebrate tonight. It looks like the tobacco industry is going to win a big round in this fight. The children lose. The powerful will beat out the powerless.

But this fight is going to have other rounds. And to those who think that the Senators who are trying to protect the kids are going to give up today, I ask, ''What are you smoking?'' The health of millions of our kids is worth a long, hot summer of debate in this Capitol. Get ready for it, folks.

Mr. KERRY. Mr. President, I reserve the remainder of our time.

Mr. NICKLES. Mr. President, what time remains?

The PRESIDING OFFICER. The Senator from Oklahoma has 4 minutes 5 seconds, and the Senator from Massachusetts has 3 minutes.

Mr. NICKLES. I yield the Senator from Washington 1½ minutes.

Mr. GORTON. Mr. President, a year ago on Saturday, the attorneys general of most of the States of the United States reached an agreement with the tobacco companies. Those attorneys general understood that in order to have real control over tobacco sales and advertising such an agreement needed to be reached. Members of this body have never understood the fundamental fact that without that agreement, the basic restrictions on advertising, on look-backs, and on the like are blatantly unconstitutional.

As a result, we have a bill before us that is unconstitutional, steals the money that the States' attorneys general earned for themselves, and provides no incentives for tobacco companies to operate responsibly.

If we reject it, either we will get out of the hot rhetoric of this body with a small group who came up with a responsible bill, or the States will go ahead themselves. People will be protected. They were protected by the States, in the first place. They will be protected by the States if we fail to act responsibly. This bill is not remotely responsible.

The PRESIDING OFFICER. Who yields time?

Mr. KERRY. Mr. President, let me just point out that the very thing he just called for they voted against, bringing in industry. They came in and took away the cap. Each time there is something they want, they take it away and use it as an excuse to kill the bill.

I yield 35 seconds to the Senator from North Dakota.

Mr. CONRAD. Mr. President, the fact is there are no new bureaucracies in this bill. Those have been taken out. Our friends on the other side talk about taxes. They talk not at all about the taxes that are being imposed on every American to pay for the costs that are imposed on society by the use of this industry's products. This is a defining moment.

The question is, Are we going to protect kids or are we going to protect the profits of the tobacco industry?

The estimates by the experts are that this legislation would save 1 million children's lives. The costs for the reduction in industry profits are $4 billion.

That is the question before the Members of this body. Do we protect our kids' lives or do we protect the profits of the tobacco industry?

The PRESIDING OFFICER (Mr. GORTON). Who yields time?

Mr. NICKLES. Mr. President, I yield the Senator from Tennessee 1 minute.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. Mr. President, I think that the premises on which this legislation began were faulty. And I think they still are.

I think it is basically the premise that in order for us to express our hatred for the tobacco companies and in order for us to express our love for our children, we must pass a tax increase in excess of $800 billion a year over a 25-year period, which is three times our annual defense budget.

That, Mr. President, is a faulty premise. It is based on the faulty premise that we can raise taxes and raise the price of cigarettes to a point that it will discourage youth smoking; we can raise it high enough to do that but not so high as to create a black market. I understand that one out of every five packs of cigarettes sold in the State of California today are black-market cigarettes. It is based upon the premise that if you will raise prices of cigarettes that the youth of America will substantially decrease smoking, even though there is no evidence to indicate that.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KERRY. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. One minute 50 seconds.

Mr. KERRY. I yield 45 seconds to the Senator from California.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, when I was a little girl, my mother used to tell me about my grandfather, who I never met, because he died very young from a smoking-related illness. I heard about how wonderful he was. And my mother, I remember her saying almost every day of my life, ''Don't smoke. Don't smoke.'' Little did I know then that I would have a chance to do something to turn this epidemic around. And what happens tonight? We are sitting here and are going to see those on the other side kill a chance to make a difference by killing a bill that people are going to continue to die from. It is as simple as that.

I just want to say I watched those amendments that were loaded on. Those were amendments from the other side of the aisle, which they said they had to have to vote for a bill. Now they don't even vote for a bill. That shows you the power of the tobacco companies.

Mr. KERRY. Mr. President, I reserve the remainder of our time.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. One minute 33 seconds.

Mr. NICKLES. Mr. President, I urge my colleagues to vote ''no'' on the cloture vote. We have already had three

cloture votes. This is going to be the fourth. This is our fourth week on this legislation. If cloture is invoked, I guess we will probably spend another 2 or 3 weeks on this legislation and not do the work of the Senate.

Why should we get rid of this bill for the time being? I heard one of my colleagues say that there are no new programs in this bill. That is not correct. There are lots of new programs in this bill. We don't have a current international tobacco control awareness program that gets $350 million a year for the next 5 years, and then ''as such sums as are necessary.'' That is in this bill. We presently don't have a tobacco farmer quota payment of $1.6 billion per year that is going to make some tobacco farmers multimillionaires. That is not current law. It would be if this bill became law. We don't have a situation right now that gives advantages to one cigarette company over another one. Under this bill, some companies have an increase in price of at least $1.10. Some have zero. Some we increase the price of smokeless tobacco by 80-some cents; others, only 50-some cents. That is in this bill.

There are lots of reasons to be against this bill. This bill prohibits smoking in buildings that are engaged in international traffic and international trade—far greater than any restriction on any Federal building. This bill goes way too far. If we vote cloture——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. NICKLES. I ask for 1 minute of the leader's time.

The PRESIDING OFFICER. The Senator may proceed.

Mr. NICKLES. If we invoke cloture, we will not have the ability for a substitute. Senator HATCH has a substitute with Senator FEINSTEIN. It will not be offered. The Gramm amendment won't be offered and couldn't be offered.

So I urge my colleagues to vote ''no'' on cloture. If we have a point of order, every dime of this bill is above the budget, the budget the President agreed to with bipartisan Members of Congress last year. Clearly, a budget point of order should be sustained. This bill is above the budget. It breaks the budget. It is a violation of the budget agreement which the President agreed to with Members of Congress.

I urge my colleagues to vote ''no'' on cloture and then to sustain the budget point of order.

I thank my colleagues.

The PRESIDING OFFICER. Who yields time?

Mr. KERRY. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. The Senator from Massachusetts has 1 minute remaining.

Mr. DORGAN. Mr. President, parliamentary inquiry. I ask that the 1 minute be restored to our side of the aisle which was taken from the leader's time on the other side of the aisle.

Mr. KERRY. I ask unanimous consent that I also have 1 minute of our leader's time.

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

Mr. KERRY. I yield the 1 minute remaining of the time in the original agreement to the Senator from North Dakota, and I reserve the remainder of the time for myself.

Mr. DORGAN. Mr. President, there are two lessons that we are learning here today: First, money talks; second, the tobacco companies have money and kids don't.

We have heard people say this is an issue of taxing and spending. Of course it isn't. They are trying to change the subject. The issue is very simple. When the roll is called, the question is, Who do you stand for? Do you stand for the tobacco companies or do you come and stand on the side of kids? If you stand for the tobacco companies, understand this: If enough of you do it, and you prevail, this issue is not over. It is coming back and back and back again, and eventually enough Senators will stand for the interests of kids and the interests of preventing teen smoking in this country. And we will prevail.

Mr. KERRY. Mr. President, let me just say quickly, with respect to the chart that was shown, there are almost no new programs in this. Those were existing programs. Most importantly, there is only one board. The flimflam artistry of this is really political. The Speaker of the House and the House of Representatives do not want a vote on this bill. They fear this bill. NEWT GINGRICH has had a contract out on this bill. And the Republicans on this side, this afternoon, are going to be the ''hit people'' for that contract because they fear voting for this bill. They have said they won't take it up.

Every amendment that came to the floor that has changed this and that has supposedly weighted it down are by the very Members who today will vote against this bill because it is weighted down. This bill is a bill that sought to do what 19 members of the Commerce Committee approved. We didn't raise the tax; that fact was agreed to in raising the price of cigarettes by the companies themselves. That price wasn't even raised on the floor of the Senate. The Democrat amendment failed.

So what we have here is a choice between kids or the tobacco companies—kids or the tobacco companies.

CLOTURE MOTION

The PRESIDING OFFICER. All time on the motion has expired. By unanimous consent, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant 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 debate on the committee substitute to Calendar No. 353, S. 1415, regarding tobacco reform.

Senators Trent Lott, John McCain, Ben Nighthorse Campbell, James Inhofe, Christopher Bond, Gordon Smith, Robert Bennett, Joe Biden, Ted Stevens, Richard Shelby, Mike DeWine, Kent Conrad, John Glenn, Tom Harkin, John Kerry, and Frank Murkowski.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call under the rule is waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the committee substitute amendment to S. 1415, the Universal Tobacco Settlement Act, shall be brought to a close?

The yeas and nays are required under the rule. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Pennsylvania (Mr. SPECTER) is absent because of illness.

The yeas and nays resulted—yeas 57, nays 42, as follows:

[Rollcall Vote No. 161 Leg.]

YEAS—57

Abraham	Dorgan	Lautenberg
Akaka	Durbin	Leahy
Baucus	Feingold	Levin
Bennett	Feinstein	Lieberman
Biden	Frist	McCain
Bingaman	Glenn	Mikulski
Boxer	Graham	Moseley-Braun
Breaux	Grassley	Moynihan
Bryan	Gregg	Murray
Bumpers	Harkin	Reed
Byrd	Hollings	Reid
Chafee	Inouye	Rockefeller
Cleland	Jeffords	Roth
Collins	Johnson	Sarbanes
Conrad	Kennedy	Smith (OR)
D'Amato	Kerrey	Snowe
Daschle	Kerry	Torricelli
DeWine	Kohl	Wellstone
Dodd	Landrieu	Wyden

NAYS—42

Allard	Gorton	McConnell
Ashcroft	Gramm	Murkowski
Bond	Grams	Nickles
Brownback	Hagel	Robb
Burns	Hatch	Roberts
Campbell	Helms	Santorum
Coats	Hutchinson	Sessions
Cochran	Hutchison	Shelby
Coverdell	Inhofe	Smith (NH)
Craig	Kempthorne	Stevens
Domenici	Kyl	Thomas
Enzi	Lott	Thompson
Faircloth	Lugar	Thurmond
Ford	Mack	Warner

NOT VOTING—1

Specter

The PRESIDING OFFICER. On this vote, the ayes are 57, the nays are 42. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Under the previous order, the Senator from Alaska is to be recognized, but the Senate must be in order. Will the Senators in the aisles engaged in conversation take their conversations elsewhere.

The Senator from Alaska.

Mr. STEVENS. Mr. President, I raise a point of order that the tobacco bill violates section 302 of the Budget Act as a result of exceeding the committee's spending allocation.

The bill violates section 302, but I will highlight problems with the substitute.

In my judgment, the substitute is vulnerable to a point of order under section 302(f) of the Congressional Budget Act of 1974, as amended. Section 302(f) provides a point of order against legislation that would cause the spending allocation of the Committee reporting the bill to be exceeded. The bill was reported from the Committee on Commerce, Science and Transportation and the direct spending contained in this bill exceeds that Committee's allocation.

As a matter of fact, the bill and the substitute violate section 302(f) in a multitude of provisions.

For example, the substitute contains a State Litigation Settlement account. Amounts allocated to the account would be automatically appropriated and available for grants to States. Once again, the Appropriations Committee's jurisdiction will be reduced and not subject to annual allocation. CBO estimates new spending of between $5 and $6 billion per year from this account.

The substitute would prohibit the sale of cigarettes in vending machines and provides for paying the owners of cigarette vending machines (other than machines that could be used for other products) an amount equal to the fair-market value of the machines before the prohibition (section 1262). The legislation states that such payments would be subject to appropriation, but other provisions make it likely that the government would be required to make the promised payments even if discretionary appropriations are not provided. CBO estimates new spending of a billion dollars per year from this account over the FY 2000–2002 period.

The PRESIDING OFFICER. Is the Senator making a point of order or is he debating?

Mr. STEVENS. I did make it, yes, against the bill.

The substitute includes two titles that provide spending from a Farmers Assistance Allocation account established in the bill. According to CBO both title X and title XV would provide direct spending authority. CBO estimates that title X would increase direct spending by $18 billion over the 1999–2008 period and that title XV would increase direct spending by a billion dollars in 2009 and by half a billion dollars annually from 2010 through 2023.

The substitute contains additional provisions that would cause additional direct spending. These provisions would require Medicare to pay for a demonstration project of cancer care (section 455), Medicaid to cover tobacco cessation products, (section 221). In addition, the bill would prohibit the Federal Government from recovering any of the payments made to States under this legislation as overpayments of Medicaid costs to the States (section 451(a)(5)).

I believe the point of order is valid. I yield the remainder of the time to the Senator from New Mexico.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

MOTION TO WAIVE THE BUDGET ACT

Mr. DASCHLE. Mr. President, I move to waive the Budget Act for the bill, the committee substitute, and the pending Gramm motion to recommit.

What is the parliamentary order, given our unanimous consent agreement? How much time is on each side?

The PRESIDING OFFICER. Ten minutes equally divided, five minutes to a side, to debate the motion to waive.

Mr. DASCHLE. Mr. President, I ask for the yeas and nays on the motion to waive.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DASCHLE. I yield myself a couple of minutes, and then yield the remainder of the time to the distinguished Senator from Massachusetts and the Senator from New Jersey.

Mr. President, let there be no misunderstanding what it is we are doing here. This is one more effort to kill this bill. If it wasn't dead the first time, they are going to try to ensure that on the second shot it dies. That is what this is about.

I think it would be much better if we just voted it up or down, yes or no. Instead, some of our colleagues on the other side are hiding in the rocks. They want to shoot and kill that bill so nobody knows who it was who killed it.

Well, this will kill it pure and simple, and it is a cynical approach to killing it, because it is an amazing demonstration, in my view, of political juxtaposition here that the very Senators who will vote to kill it by not supporting the waiver on the point of order are the very Senators who offered the amendments on taxes and on drugs and on the other amendments that brought us to this point. The very Senators who said we have to have a tax bill, we have to have a drug bill, we have to have all these other amendments added before we can support this legislation are now going to vote not to waive the point of order to bring the bill down.

So I hope there is no misunderstanding about what is at stake here. We are going to kill this bill tonight. I should say they are going to kill this bill tonight. But they are going to try to use this ruse of saying, now that we have loaded it up, it is too heavy; now that we have loaded it up, we can't afford to carry it further.

Mr. President, that is a disappointment. The fact remains that this bill dies tonight, but the issue will live. And some day in the not too distant future, we will pass tobacco legislation that will rectify what we are doing tonight. This is wrong. I hope nobody misunderstands what this vote is about. They killed the bill tonight by voting not to waive this point of order.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico has time yielded by the Senator from Alaska.

Mr. DOMENICI. I understand the Senator from Alaska has yielded me control of the time, and I will manage the time. I yield myself 2½ minutes at this point.

Mr. President, let me make a point first for everybody here. The Budget Act which was passed, with Republicans voting for it and three Democrats, the budget resolution, did three things that we have already forgotten about.

One, it provided a $15.5 billion increase for NIH over the baseline, over the President's request; $15.5 billion without this bill goes to NIH for cancer research and the kind of things this bill is supposed to do.

Secondly, the budget resolution provided $800 million—eight-tenths of a billion dollars—for teen smoking cessation. The President of the United States asked for less than that.

The same budget resolution provides $5 billion for child care, and we are up here debating a bill to impose over the next 25 years $998 billion worth of new taxes, and we are talking like we haven't done anything in these areas that the very bill before us says we are supposed to do.

Frankly, whether the other side is saying we killed this bill or not, I guarantee you, the bill was subject to a point of order before any of the amendments were attached. So an argument that Republicans added amendments and thus made it subject to a point of order is—it is subject to at least five points of order, and, as a matter of fact, the underlying bill is subject to the worst of all points of order. It kills the bill. That is how bad the bill is in terms of budgets. It kills the bill. We didn't make that point of order. The point of order that was made is one that says it goes back to the committee and they reconsider.

Let me tell you, when you work on budgets and you all vote and you want to restrain Government spending, all the Budget Act says to you, once you made the deal and said this is the budget, if you want to violate it, you can. It does not say you cannot. It says you can. But you need 60 votes.

That is what this argument is about. If you want to say we ought to pass this bill, it violates the Budget Act. It has far more spending than we agreed to spend. And let me tell you, another portion of this just absolutely says, here are the caps, the spending restraints, and we just do not care about them.

The PRESIDING OFFICER. The Senator from New Mexico has used——

Mr. DOMENICI. I yield myself a half a minute.

We say the taxes do not count as taxes—that is what the bill says—and the expenditures do not count as expenditures. Now, how in the world

could that not be subject to the Budget Act if we have any kind of budget restraint at all? So that is the issue. The issue is: Do you proceed with the bill or do you send it back to committee and let them try to fix it so it does not violate the Budget Act, which we spent 20 years developing around here to get our house in order? And all of a sudden, over 25 years, $998 billion worth of new revenues and expenditures are supposed to be forgotten about.

I reserve the balance of my time.

The PRESIDING OFFICER. Who yields time?

Mr. KERRY. Mr. President, how much time is remaining?

The PRESIDING OFFICER. Two minutes 43 seconds.

Mr. KERRY. I yield myself 2 minutes.

Mr. President, since 1995, we have voted to waive the Budget Act 105 times. Now, we have heard debate here on the floor of the Senate for 3½ weeks, and $40 million has been spent telling America there is a tax increase in here. Nineteen members of the Commerce Committee—19 to 1—voted to send this bill to the floor of the Senate with a $1.10 price increase in it. That is the revenue that is raised by this bill.

The Senator from New Mexico does not tell you that every single penny that is contemplated to be spent in this bill is offset—it is offset. It was the Republican leader who put into this bill the Lugar amendment that competes with the Ford amendment, which everybody knows has to be resolved one way or the other before this bill could finally be signed into law.

So this is a charade. This is a charade. We have all learned that you can always find an excuse and a way to use the Budget Act to accomplish your goals.

But if you measure what has happened here, there was an effort by Democrats to raise the price. It failed. That should have helped the bill pass. There was an effort to have a cap on the damages, but it was a Republican Senator who brought the amendment to get rid of it. And more Republicans voted to get rid of that cap restraint than Democrats. Once again, the Republicans had their hand and their way.

Then there was the look-back amendment. It made it tougher on the tobacco companies, holding them accountable in reducing the level of smoking for kids. If you are interested in stopping kids from smoking, that was an amendment that made this bill better.

There was a child care amendment. All it did was restrict spending that was already in the bill. It was no new addition of one penny. It took restricted money, already restricted to the Governors, and it simply restricted within the pot of money that was already restricted somewhat further. No add-on of new money. Not one penny was added on by one Democrat amendment.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. KERRY. How much time remains?

The PRESIDING OFFICER. Forty seconds.

Mr. KERRY. Mr. President, this is a choice between tobacco—and $40 million spent to advertise a tax increase—and a choice between kids; and everybody in the country will understand that.

I yield the balance of the time to the Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that we have the same time available to us on this side as the distinguished Senator from New Mexico had, which would have added about a half a minute or so.

The PRESIDING OFFICER. You have already had more.

Mr. DOMENICI. I have no objection.

The PRESIDING OFFICER. The Chair charged time to the Senator from Alaska and the Senator from New Mexico.

Mr. LAUTENBERG. I ask consent we add a minute to the——

Mr. STEVENS. Mr. President, I would object unless we get time equal to all the time used by—I reserve the right to object.

Mr. LAUTENBERG. Mr. President, what is the present situation in terms of time?

The PRESIDING OFFICER. The situation is, the Senator has about 20 seconds left.

Mr. LAUTENBERG. In 20 seconds, Mr. President, what we have seen tonight is a charade. What they did was spread DDT here. First delay, then destroy, then terminate any action on tobacco. That is the mission. This Budget Act is not—is not—violated. Everything here is paid for. And I hope that we will vote to waive the Budget Act.

The PRESIDING OFFICER. The Senator from New Mexico has 40 seconds.

Mr. DOMENICI. Forty seconds?

The PRESIDING OFFICER. Forty seconds.

Mr. LAUTENBERG. I object. You have 40 seconds left? No objection. You asked for a half minute, and went over.

Mr. DOMENICI. I yield the 40 seconds to Senator NICKLES.

Mr. NICKLES. Mr. President, the question is really, Do we have a budget or not? This bill says the budget does not apply. Read page 181. It says, ''the amount of * * * appropriations shall not be included in the estimates required under section 251 of [the Budget Act]. In other words, all these hundreds of billions of dollars of spending are over and above the budget that we agreed to, that the President agreed to.

This clearly breaks the budget. If we are going to have a budget, we should sustain it. This point of order is well made. And I urge my colleagues to support it and vote against the motion to waive the Budget Act.

The PRESIDING OFFICER. The question occurs on agreeing to the motion to waive the Congressional Budget Act. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

The yeas and nays resulted—yeas 53, nays 46, as follows:

[Rollcall Vote No. 162 Leg.]

YEAS—53

Akaka	Dorgan	Levin
Baucus	Durbin	Lieberman
Bennett	Feingold	McCain
Biden	Feinstein	Mikulski
Bingaman	Glenn	Moseley-Braun
Boxer	Graham	Moynihan
Breaux	Grassley	Murray
Bryan	Harkin	Reed
Bumpers	Inouye	Reid
Byrd	Jeffords	Rockefeller
Chafee	Johnson	Roth
Cleland	Kennedy	Sarbanes
Collins	Kerrey	Smith (OR)
Conrad	Kerry	Snowe
D'Amato	Kohl	Torricelli
Daschle	Landrieu	Wellstone
DeWine	Lautenberg	Wyden
Dodd	Leahy	

NAYS—46

Abraham	Gorton	McConnell
Allard	Gramm	Murkowski
Ashcroft	Grams	Nickles
Bond	Gregg	Robb
Brownback	Hagel	Roberts
Burns	Hatch	Santorum
Campbell	Helms	Sessions
Coats	Hollings	Shelby
Cochran	Hutchinson	Smith (NH)
Coverdell	Hutchison	Stevens
Craig	Inhofe	Thomas
Domenici	Kempthorne	Thompson
Enzi	Kyl	Thurmond
Faircloth	Lott	Warner
Ford	Lugar	
Frist	Mack	

NOT VOTING—1

Specter

The PRESIDING OFFICER. On this vote, the yeas are 53, the nays are 46.

Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the bill falls.

Pursuant to section 312(f) of the Congressional Budget Act, the bill, S. 1415, is recommitted to the Committee on Commerce, Science, and Transportation.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1999

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate now begin consideration of Calendar No. 401, which is Senate bill 2138, the Energy and Water Appropriations bill for fiscal year 1999, for debate only during the remainder of today's session.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report the bill.

The assistant legislative clerk read as follows:.

A bill (S. 2138) making appropriations for energy and water development for the fiscal year ending September 30, 1999, and for other purposes.

The Senate proceeded to consider the bill.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.