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Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. Thurmond).

PRAYER

The guest Chaplain, Dr. D. James Kennedy, Coral Ridge Presbyterian Church, Fort Lauderdale, FL, offered the following prayer:

May we pray.

Almighty and most loving Heavenly Father, we thank Thee for this day. We thank Thee for this Nation, this goodly land in which You have placed us. And I thank You for this Senate which bears the awesome responsibility of guiding and directing the affairs of this Nation. And I pray this day Your blessing upon every Member of this body, upon their wives, or husbands, upon their children, their families. I pray that You would give them Your guidance and Your wisdom and discernment that all that they do may be done for the betterment of our Nation and for the glory of God.

We pray, O Lord, that You will be with them in their efforts this day. Help them in all that they do, and use it all for Your glory.

This prayer I bring in the name of Jesus Christ, my Lord and Savior, Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

SCHEDULE

Mr. ASHCROFT. Mr. President, this morning the Senate will begin a period of morning business until 10:30 a.m. Following morning business, the Senate will resume consideration of the tobacco bill with the Ford amendment pending regarding tobacco farmers. Following disposition of the Ford amendment, it is hoped that further amendments will be offered and debated during today's session.

The Senate may also consider any other legislative or executive items that may be cleared for action.

Therefore, rollcall votes are possible throughout today's session.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak therein for up to 5 minutes each.

Under the previous order, the Senator from Missouri is recognized to speak for up to 20 minutes.

The Senator from Missouri.

Mr. ASHCROFT. Mr. President, I thank you very much.

THE SO-CALLED TOBACCO BILL

Mr. ASHCROFT. Mr. President, today will be a defining day in Washington, DC. It will be a defining day in the Congress of the United States. More specifically, it will be a defining day in the U.S. Senate.

This is a day on which we will make very important decisions, decisions that will reflect whether or not we believe that government—invasive, bigger, stronger, more consumptive government—is something to be fostered and encouraged, or we are going to say that we believe the people have the ability to make good decisions on their own and that we will not promote a government which will take more and more from the people, leaving them with less and less, not only in terms of resources but leaving them with less and less freedom.

We are going to be talking about the so-called tobacco bill today, which unfortunately is more of a smokescreen for a tax increase and big government than it is anything else.

The Democrats have rightly suggested, have appropriately stated, that the fate of this bill really rests in the hands of Republicans. And I believe that those of us who are on the Republican side of this Senate will make decisions, and we will either decide to pass this massive tax increase, to pass and institute this set of bureaucracies, the scale of which has not been seen in a long time in a bill in Washington, DC—we will either decide to pass an invasive sort of intermeddling by the Federal Government in a wide variety of the affairs of individuals, or we will decide that we believe that the appropriate action is not to tax the American people with another $868 billion in tax, is not to create 17 new boards, commissions, and agencies to try to micromanage everything from convenience stores and gas stations up to grocery stores and larger institutions that sell merchandise.

But the Democrats are right in suggesting that the decision will be made on the Republican side of the aisle. We will make a decision about whether or not to go forward with the tobacco bill, the smokescreen for the world's biggest tax increase this year. I don't know of any proposed tax increase this year that can match this proposed tax increase. And the direction we take will be a test of the way in which we lead, and it will be a test of the Republican leadership of the Senate.

Republican leadership has a responsibility to lead to Republican ideals and call us to our highest and best as people, and to give us the opportunity to be responsible as individuals and to shrink the size of government, not to

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

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expand it, to leave resources in the hands of the people, not sweep them into the coffers of government.

Our leadership has called upon DON NICKLES to manage this bill because the leader of the Republicans and the leader of the Senate has recused himself in large measure from this consideration. I thank Senator NICKLES for his outstanding efforts in this respect. I want to commend him for his opposition to this kind of invasion into the lives and pocketbooks of Americans and invasion into the liberties of Americans.

I want to commend him for his understanding that this is a bill about big government and big taxes, not a bill about teen smoking. I think he has understood from the very beginning that lots of things that might be done to curtail teen smoking aren't even mentioned. There is not even a whiff or a hint; there is not even the smoke that would follow the evidence of that kind of item in the bill. This is not a bill that makes the possession of tobacco by teens illegal, or provides incentives to do the same, or makes illegal the possession of tobacco by people in the District of Columbia.

If we are really serious about curtailing teen smoking, we might just say to the teens, ''You can't have it if it is that evil and that inappropriate.'' We have done that with alcohol. We have provided lots of ways in which we provide incentives from the Federal Government for States and others to make sure that young people do not have access to alcohol. That is not a part of this bill.

DON NICKLES has understood this bill, I believe, as a massive tax increase, a big-government explosion, which I think is appropriate in terms of the identification. I want to commend him for his leadership here.

There is a choice to be made in this bill, and the choice is simple: Is the Senate going to return to tax and spend? Is it going to identify itself with the history of the Congress when it was under Democratic control and authority that the way we handle America is to tax more and spend more and tax more and spend more? Are we going to extend the line of taxation and spending beyond where it already is?

It is important to note where we have come. We have not just arrived at a place where we are taxing and spending. We have arrived at a place where we are now taxing and spending more than we have ever taxed and spent in the history of the United States of America. Governments take more of the income of Americans at this time in history than ever before. We have to ask ourselves as we look behind the smokescreen of this so-called tobacco bill to see what the real components are. And we find $868 billion—$868 billion—in new taxes. That is not million dollars, that is billion dollars. This is massive, three-quarters of a trillion dollars plus in new taxes. We have to ask ourselves, do we want to extend tax and spend, or do we want to decide that we don't believe that government, with its invasive micromanaging of the lives of individuals and its invasive confiscation of the resources of the individuals—we have to decide, do we really want that to be the way in which we operate?

This is a defining moment for the Republican-controlled Senate. How will we respond to this question which is squarely before us today? Are we going to be tax-and-spend respecting government, or are we going to say to the American people we protect the people more than we respect government?

We are not going to allow government to come and sweep out of the resources and freedom of American citizens the kind of resources that are provided for in this bill.

I think we need to look forward to an era of lower taxes. I think we need to look forward to an era of smaller government. I think we need to look forward to an era of personal responsibility and freedom rather than government intervention and government spending and government taxes. I think we need to look forward to a time when States and communities make decisions and not when we have dictates and mandates and impositions from Washington, DC.

This is a defining moment. This is a defining moment for us all. If the choice is whether or not we will discontinue consideration, set aside, defeat this massive tax bill, I believe that is exactly what we should do.

Most Americans have an understanding of what is happening here. They may not have had an understanding when we first started this debate, and you will remember, I think, as I do, when this debate was begun, it was suggested that this entire thing would be just sped through the Senate; that we were going to bring it up the first of the week, and it was going to be over with by the time we left for the Memorial Day recess.

I looked at the bill, and I was shocked. I said, Wait a second; $868 billion in new taxes, 52 new powers for HHS in Title I alone, Health and Human Services, one Department, 52 new powers, authorities, and responsibilities; 178 new Federal Government powers, far-reaching powers, some with the ability to define and regulate literally whether you could sell cigarettes on the top of the counter, whether they could be in sight, whether they had to be out of sight. And, of course, with small operations like gas stations, when you have a one-room operation, you are just standing out there in the cold, literally in a little glass box. It is hard to have everything out of sight—all those kinds of things. It really stung me that to try and make that consideration in the span of a week was totally inappropriate, and I came to the floor only to find out that there was a plan to table my motion regarding taxes after less than an hour of real consideration, and it was supposed to be disposed of; we were going to sort of dispose of the financial considerations of an $868 billion tax on the American people in an hour. Then we were going to table it and move on to just slam this into a position to say that it was going to be the fate of the American people to accept it.

That is when I really said to myself, I have to do something to slow this down so that the American people have a chance to see what this is.

Real leadership is more than just reading the initial poll. The spin doctors of this whole tobacco settlement came in to say how this was really going to punish the tobacco companies. Then you got to reading the fine print, and you found out that there is part of this law which forbids the tobacco companies to make the payments themselves. They must, under the law, pass these charges on to the low-income families that use tobacco. And I say low-income families. I mean it is incredible; this $868 billion tax will fall primarily, massively, heavily on individuals who are very low income. According to the best authorities, 59.4 percent of this $868 billion tax will fall on people who make less than $30,000 a year.

You say, Well, what is a little more tax to those people? A little more tax. If the family is a two-pack-a day family, it is going to result in something close to $1,500 a year by the time you figure out all the taxes.

Now, the specific tax that is contained in the bill is $1.10 a pack, but the bipartisan Joint Committee on Tax put it this way: The price will go up from $1.98 to $3.83. Now, if it was just $1.98 plus $1.10, that would take it to $3.08. So what we are talking about is a far bigger increase in the price than just the taxes. And by the time it works its way through the system, the Joint Committee on Tax basically says that individuals will be paying $4.84 a pack as opposed to $1.98 a pack. So we are talking about what is just almost a $3 increase per pack. Now, two packs a day is 700 packs a year, roughly, for the family—700 times 3. By the end of this program, we are talking about over a $2,000 tax per year on a two-pack-a-day family. That is substantial.

Now, who does this fall on? People making less than $30,000 a year. What does this do to their children? What does this do to them? These people are addicted. The whole idea is predicated on addiction. You get this kind of price increase, and you get this kind of revenue only if people are not sensitive to the price, only if they can't quit, only if they maintain their habit. You can't project $868 billion in revenue if you think people are going to quit. So here you have these low-income individuals maybe having as much as $3 per pack by the year 2007, according to the Joint Committee on Tax, $3 per pack extra to pay. That is $1,500 to $2,000 more taken out of the budget of that family, and these are people, 60 percent of them, who earn less than $30,000 a year.

And the most repugnant of the figures that they provide is that 44½ percent of the people paying this tax will earn less than $10,000 a year. This is a tax to fall upon those who are least capable of paying.

When Ronald Reagan was President, he was known to attract to the Republican side of the equation individuals called Reagan Democrats, hard-working people who wanted to help their families, individuals who worked in trades or worked as laborers, who just worked hard. They worked and they earned less than $30,000 a year, but they had values. They wanted to take care of their families. They wanted to be able to provide for them. And here is the question: Today is a defining moment for the Republican Party. Is the Republican Party going to say to those kinds of individuals, if you made a choice to smoke at some time in your life and now you are addicted, we are going to tax you so that it is going to be virtually impossible for you to have the kind of standard of living you previously had, and we are going to do this because you have been victimized by the tobacco companies. We are not punishing the tobacco companies. We are going to make them pass the tax on to you. We are going make sure the statute provides a penalty that you have to be the person who pays the tax.

It is a defining moment for the Republican Party, in my view. I do not want the Republican Party to be defined as more taxes and more spending and more government and less responsibility for individuals and less freedom. It seems to me that there is the potential for us to be defined that way. We are not talking about this $868 billion tax increase in a vacuum. We have a Republican Senate with this bill in its hands as to whether or not we are going to tax people by an additional amount, and we are talking about this in the context of a surplus.

It is stunning to me to think that instead of debating how we can return resources to the American people, we find that we are focusing on a bill on how to take another $868 billion from the American people. And it does define the Republican Party. It defines the Republican Senate. I think this is a day which will define us very clearly.

Are we in favor, when faced with a $39 billion surplus, of taxing people with $868 billion more in taxes, to fall heavily on those who are least capable of paying for it, or are we in favor of saying no more new taxes; that we do not believe in a big tax-and-spend philosophy; that we are against invasive micromanaging, an intermeddling Federal involvement in everything; that we are in favor of personal freedom, personal responsibility, State and local government potentials, and we reject the idea that in the face of a $39 billion surplus we have to go and add to the tax bill of the American people another $868 billion over the course of this legislation.

I think we need to debate how to give people a tax break. We should not be debating how we are going to tax people hundreds and hundreds and hundreds of billions, three-quarters of a trillion dollars more than we have already taxed them.

People talk about the addictive quality of nicotine. I think tax and spend in the Congress is more addicting than nicotine. I think the clear question the American people are going to ask this Senate, they are going to ask the Republicans in the Senate: Did you break the habit? Did you break the tax-and-spend addiction of Government? Did you come to respect people or to protect the bureaucracy? Did you come to say that we are going to let people continue to have freedom, we are going to ask them to be responsible, we are going to let them have their resources and spend their resources on their families? Or did you come to say the Government is so capable, in Washington, that it is going to sweep these resources out of the pockets of Americans?

We simply cannot have the largest proposed increase in Government since the Clinton national health care plan—17 new boards, agencies, commissions. Here are some of the things that are going to happen: Mr. President, $350 million a year is going to be taken from these Americans, hard-working, low-income Americans—$350 million. That averages $7 million per State; large States, small States. It is going to be swept out of their pockets and gone for what?

Mr. President, $350 million a year goes to foreign governments overseas so they can conduct studies on what it costs to smoke overseas. I cannot believe the Republican Party wants to be identified with that kind of expropriation. We take the money out of the pockets of Republicans and Democrats—Americans, low-income workers, and we send it overseas so they can conduct studies about smoking.

This bill contains a special provision that relates to smoking in the Native American population. If you figure reasonable rates of smoking for them, it is $18,000 per Native American that we are going to spend in this program. It does not make sense, to be taking money from low-income Americans in order to do that.

These are just examples of the way this is a lavish bill, of spend and spend and more government and more government. It is only possible if you tax and tax $868 billion for 178 new Federal Government powers.

It is time for Congress to do what we know to be right, what we know to be true, what we know to be noble; that is, to respect the American people, not protect the Government bureaucracy. The majority leader has called this bill too complicated and too expensive. I call upon the majority leader to lead the American people to the right conclusion by leading the Republican Senate to the right identification with the people against big government rather than with the bureaucracy and against the people. We should pull this bill off the Senate floor. It is a massive tax-and-spend bill. Perhaps more addictive than nicotine is the urge of Government to tax and spend and regulate. It is time for us to break the habit.

I call upon our leadership to lead, to lead us to do that which is right for the American people. Mr. President, $868 billion in new taxes are not going to help American families. They are going to distress a number of families to the extent that they lose their independence and their capacity to provide for themselves. If we end up making wards of the State and Federal Government of more low-income families in America, we will have done this Nation a massive disservice. It is time for us to set aside the smokescreen, to identify this bill as tax and spend, and for us to reject it thoroughly.

I call upon our leadership to lead us in that respect.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. SMITH of Oregon). Without objection, it is so ordered.

The PRESIDING OFFICER. Under the previous order, the Senator from Hawaii is recognized to speak for up to 10 minutes.

Mr. AKAKA. Thank you, Mr. President.

(The remarks of Mr. AKAKA pertaining to the introduction of S. 2181 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. AKAKA. Mr. President, I yield back my time.

Mr. THOMAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, I ask unanimous consent to speak in morning business.

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

THE TOBACCO BILL

Mr. THOMAS. Mr. President, I am hopeful that today we will come to some conclusion and come to an end in the tobacco controversy that has gone on for a very long time now. I think there are several things which seem to have a consensus. One is that we should make effective efforts to reduce teenage smoking. After all, that was the beginning. That was the purpose. That, to me, is still the overriding objective of whatever we do in terms of tobacco.

I think there is a consensus that the tobacco companies should be held accountable for the kinds of advertising that they do, for the things they say. The FDA rules should accomplish that.

I think that most people believe we should enforce the laws against the purchase of cigarettes by teenagers.

I think there is also consensus, quite frankly, that we have talked quite long enough about this issue. It is time to come to the snubbing post, and do something about it. I hope we do.

I am discouraged, frankly, with the direction that this bill is moving. It is no longer focused on the real issues for which it came to public attention, teen smoking and public health. Instead, it has become a platform for talking about all kinds of things, such as replacing one tax with another, such as increasing programs over the next 25 years to the tune of maybe $800 billion, programs that will almost surely become entitlements, and when this funding has run out, will have to be replaced by other funding. Those are not the reasons we began to do this.

There are things in the bill that I don't think anyone has even thought about or talked about. For example, $1,700 per year in college tuition for tobacco farmers and their family members, including brothers and sisters and stepbrothers and stepsisters and sons in law and daughters in law. I doubt that is what we talked about. Providing $7.5 billion to help American Indians stop smoking, or about $18,000 per person—those are not the kind of initiatives we had in mind.

Secondly, I am opposed to the tobacco industry's marketing techniques aimed at teens, either through regulation, through law or through public opinion. That should stop. My position has been clear on these issues. But to expand the size of our federal agencies or create new ones—some reports indicate—as many as 17 new agencies will be established by this bill, is not what we had in mind, is not where we began.

Unfortunately, we find promoters of the bill accuse those who are not enthusiastic about it of being against doing something about teenage smoking. That is not true. Everyone is for curbing the use of youth smoking. Everyone wants to do that. So we ought not to be confused by such accusations. After all, one of the real philosophies and overriding efforts in this Congress ought to be to reduce the size of the Federal Government and uphold States rights. Those things are very important. Instead, this bill goes the opposite direction, creating new government boards, guaranteed annual spending increases and a wide range of State mandates—just the opposite in terms of the principals we support.

Fortunately, there will be two alternatives. We will have an opportunity to vote on substitutes if that is the choice of the leadership. One will be offered by Senator GRAMM and Senator DOMENICI. That is sort of a basic bill aimed at the purpose of controlling teenage smoking. Again, that should be our primary purpose. The second one, of course, is sponsored by Senator HATCH and Senator FEINSTEIN which goes back pretty much to the original agreement.

So I am not going to extend the tobacco debate any longer than it already has been for 3½ weeks, but I do just simply want to say that we ought to focus on the issue for which we began. We ought to do something about teen smoking, get away from this idea of bringing in everything that we can possibly think of in terms of taxes, money, and bureaucracy. It is time to deal with the issue and move on. We have a great deal to do before this session ends. We haven't even begun to discuss the appropriations bills. We have the Armed Forces authorization bill to finish. We have sorts of other legislative matters that are just as important.

Mr. President, I simply wanted to express my view in terms of the fact that I think it is time to come to some consensus, to some conclusion, and move forward. I think this can be achieved if we would only focus on the real issue—curbing teenage smoking.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

INDEPENDENT COUNSEL

Mr. TORRICELLI. Mr. President, during the course of the last year as a member of the Judiciary Committee and the Governmental Affairs Committee, I have felt that part of my responsibilities are to follow the investigation of independent counsel Kenneth Starr in some particular detail.

I, like many Americans during the course of this last year, have been troubled about Mr. Starr's investigation and the sensitivity to the rights of individual Americans in any sense of balance or fairness with which he is pursuing his responsibilities. During the course of this year, I have, on six different occasions, written to Attorney General Reno, noting problems with the investigation or particular areas of concern. These have included possible conflicts of interest on the part of Mr. Starr and his deputy, Mr. Ewing, and that Mr. Starr continues to draw a salary from his law firm in excess of $1 million—a law firm that represents important interests, including tobacco companies whose future interests may be at variance with policy positions of the Clinton administration while Mr. Starr is investigating President Clinton.

Second, Mr. Starr's association with people and organizations that appear intent on discrediting President Clinton. These, of course, would include Mr. Scaife, Mr. Starr's association with Pepperdine University, his promise of employment while being funded by an individual who is committed to the destruction of President Clinton personally and politically.

Third, the question of possible witness tampering. This, Mr. President, goes to the question of allegations of payments to David Hale by individuals associated with some of these organizations that may have undermined the credibility of testimony given in the Whitewater investigation.

All these issues for the moment aside, each individually troubling, we are now confronted with a new and potentially more serious question, and that is the apparently purposeful releasing, or to use the vernacular, ''the leaking,'' of the sensitive nonpublic and possible grand jury information by Mr. Starr and his associates. During this investigation, various newspapers and television accounts have repeatedly used ''unnamed sources'' to report information that made it appear likely, if unmistakable, that the Office of Independent Counsel was providing information to reporters that was otherwise protected as a matter of law, if not just department policy.

Now in an exhaustively detailed account, a new publication, Brill's Content, has reviewed the independent counsel investigation of the President and found clear and unmistakable evidence that Mr. Starr and his associates have purposefully leaked information about the investigation of President Clinton. If these reports are true, Mr. Starr's activities are not only a violation of the ethical standards of the legal profession, they are a direct possible violation of rule 6E of the Federal Rules of Criminal Procedure and an obvious violation of Department of Justice guidelines.

This leaking would obviously have been objectionable if undertaken by an individual U.S. attorney or another Department of Justice official. The precedence of the Department of Justice almost certainly would have led to an investigation by the Office of Professional Responsibility with sanctions or firing by the individual responsible. But undertaken by someone in the Office of Independent Counsel, it is, in my judgment, an offense of a far greater nature because the independent counsel has been given unparalleled, even unprecedented powers, to investigate the President of the United States without much of the oversight and accountability that is required of career prosecutors or others in the Justice Department itself.

It obviously poses a direct and fundamental threat to the credibility and effectiveness of the Office of Independent Counsel. Before this goes any further and the Office of Independent Counsel and the statute upon which it rests is further undermined, there is an obvious and overwhelming need for either the Federal courts, in their direct responsibility to oversee this investigation, or Attorney General Reno in her responsibility in the administration of the Department of Justice, to undertake an immediate and thorough investigation of the Office of Independent Counsel, because if these allegations that Kenneth Starr is leaking protected grand jury information are true, then the Office of Independent Counsel is spinning seriously out of control and operating outside of the law.

Mr. President, the evidence today, if not conclusive, is overwhelming. On February 6, 1998, David Kendall, the President's personal attorney, wrote a

15-page letter to the Federal district court detailing dozens of instances of obviously improper disclosure of grand jury information.

In response, Mr. Starr told numerous media outlets that these leaks were not coming from anyone in his office. In a letter to Mr. Kendall, Mr. Starr wrote, ''From the beginning, I have made the prohibition of leaks a principal priority of the office.'' Starr continued, ''It is a firing offense, as well as one that will lead to criminal prosecution.'' Mr. Starr continues, ''I have undertaken an investigation to determine whether, despite my persistent admonition, someone in this office may be culpable.''

Despite calls from the Department of Justice and the Office of Professional Responsibility to investigate, the Attorney General of the United States, Ms. Reno took Kenneth Starr at his word and allowed him to proceed with an internal investigation of his own office. Although Mr. Starr pledged to end these leaks and investigate any wrongdoing, it is obvious that he neither investigated nor changed the conduct of his office, or as now we know, even himself.

This week, Steven Brill in his magazine Content provided even further evidence of these transgressions. Mr. Brill reports that he has personally seen internal memoranda from 3 different national news organizations that cite Mr. Starr's office as the source of many of these stories of grand jury leaks.

He discloses an internal publication of the New York Times, in which its Washington editor is quoted as saying, ''This story was very much driven in the beginning on sensitive information that was coming out of the prosecutor's office. And the sourcing had to be vague because it was * * * given with the understanding that it would not be sourced.''

But if this sourcing, this reporting and analysis was not enough, these disclosures have been confirmed directly by Mr. Starr himself.

On April 15 of this year, Brill reports that Starr acknowledged that he and his office have provided non-public information to reporters. Mr. Starr said, ''I have talked with reporters on background on some occasions, but Jackie [Bennett, his deputy] has been the primary person involved in that. He has spent much of his time talking to individual reporters.''

Mr. President, in his statement, Mr. Starr confirms what many of us have suspected all along: the Office of Independent Counsel has not only violated department guidelines on providing information, but it may have violated Rule 6E of the Federal Rules of Criminal Procedure, and committed a criminal offense in its own investigation.

Mr. President, I need not remind my colleagues of the seriousness of this possible criminal offense by Mr. Starr's office.

It has been a founding principle of Anglo-American law that confidentiality of grand jury investigations is central to the administration of justice.

Mr. Starr has defended his media leaks by saying they were not a Rule 6E violation. He says, ''* * * if you are talking about what witnesses tell FBI agents or us before they testify before the grand jury or about related matters,'' they are not violations.

Mr. President, Mr. Starr's defense may be that he violated the spirit, but not the letter of the law. Tragically, Mr. President, that is not the case under the precedents of this country.

On May 5, 1998, in In Re: Motions of Dow Jones and Company, the Court of Appeals of the District of Columbia—the court which, ironically, has jurisdiction over Mr. Starr's current grand jury investigation—ruled that leaking information about prospective witnesses who might testify at a grand jury, about expected testimony, about negotiations regarding possible immunity, and about the strategy of grand jury proceedings, all violate Rule 6E.

The court wrote, ''Matters occurring before the grand jury'' that cannot be disclosed ''* * * include not only what has occurred and what is occurring, but what also is likely to occur.''

What is therefore so shocking about Mr. Starr's own defense of his activities, his disclosures, is not that there is a precedent to the contrary to which one can be referred, it is that Mr. Starr himself is fully aware of this restriction. They are in the law. He knows them and he violated them.

In one of his impromptu sidewalk press conferences, held February 5 of this year, Mr. Starr told reporters that he could not talk ''* * * about the status of someone who might be a witness [because] that goes to the heart of the grand jury process.''

Exactly, Mr. Starr. Disclosing potential testimony, likely testimony of someone who might appear before a grand jury, is not outside the Federal statute or its precedence; in your own words, Mr. Starr, it goes to the heart of the process and the protection afforded citizens of this country. There is a reason. This being a Nation that is ruled under the precedence of law, there is a reason why this Congress, the Justice Department, and the courts have protected grand jury information.

If Mr. Starr's violation goes unanswered and he is not held accountable, there are consequences for all Americans, in all investigations, by all prosecutors, in all years to follow, because without it we could not guarantee that witnesses would ever feel free to disclose information to an investigator. They would live in fear that it would always potentially be disclosed. We could not ensure that grand jurors would be able to deliberate free from the influence of interested parties who would manipulate their investigation in public debate. We could not preserve the reputation of witnesses called before the grand jury, but found not guilty of any crime.

Mr. Starr's activities are not simply a violation of the rights of President Clinton or grand jury witnesses, they are a violation of the administration of justice in this country.

Mr. President, all crimes in the United States are not equal or serious. But crimes committed by Government in the administration of justice against individual Americans, given the vast and enormous and disparate power of Government in the administration of justice can be the most serious crime of all. It is that to which Mr. Starr stands accused today.

Mr. President, I do not know how Attorney General Janet Reno is dealing with these allegations. One can only imagine, because when the public debate began about possible grand jury leaks and the violations of Federal criminal statutes with regard to disclosing information, Mr. Starr stood silent. He permitted the Attorney General of the United States to allow him to proceed with an internal investigation of these grand jury leaks of his own office when all the time he knew that he was the source of some of the leaks, potentially undermining not only public confidence in the investigation but almost assuredly the confidence of the Attorney General herself.

Mr. President, I don't know what Janet Reno is thinking. But Kenneth Starr made a fool of the Attorney General of the United States having her proceed with Mr. Starr investigating his own transgressions.

This maneuvering, however, to many in this institution will not come as a surprise. The problems with the independent counsel have been coming for some time, and, indeed, almost incredibly Justice Scalia predicted in his dissent in Morrison v. Olson exactly what has now occurred.

A prosecutor so focused on one suspect under the laws of the independent counsel would, and he wrote, and I quote, ''What would normally be regarded as a technical violation * * * may in his or her world assume the proportions of an indictable offense.''

Mr. President, this is exactly what has occurred. Mr. Starr has been transformed from one who is supposed to be an objective prosecutor into a partisan political actor without oversight from the Department of Justice, control of the Federal courts, and no longer even operating within Federal law.

Mr. President, I call upon my colleagues to join me in urging the Attorney General to once again assume her lawful responsibilities in the administration of justice, recognizing that the Office of Independent Counsel cannot operate outside of Federal law. Mr. President, it is high time at last to restore the credibility of this investigation.

ENCRYPTION

Mr. LOTT. Mr. President, I rise today out of concern for our nation's computer and electronic industries. As you are well aware, the Administration's

export policies prohibit American companies from selling state-of-the-art encryption technology abroad without recovery keys and back door access. Encryption is a series of mathematical formulas that scramble and unscramble data and communications. It is used to thwart computer hackers, industrial and foreign espionage agents, and criminals from gaining access to and reading sensitive personal, business, and military communications. The higher the bit-key length, the more difficult it is for unauthorized persons to break the code. Technically advanced encryption ensures that an individual's medical, financial, business, personal records and electronic-mail cannot be accessed without their consent. The Administration is now promoting the deployment of recovery keys so designated third parties would be able to access and share with law enforcement the computer data and communications of American citizens without their knowledge. Currently, government mandated key escrow is not required and is opposed by the computer industry, privacy advocates, legal scholars, and by many members of Congress.

Mr. LEAHY. While current law does not mandate any key recovery, the current Administration, just as past Administrations, uses the export control regime to ''dumb down'' the encryption available for widespread integration into high-tech products intended for both domestic use and for export to foreign customers. Export regulations in place now are being used expressly to coerce the development and use of encryption products capable of giving law enforcement surreptitious access to plaintext by conditioning the export of 56-bit DES encryption on development of key recovery features.

These regulations are scheduled to sunset in December 1998, at which time export of even 56-bit strength encryption will no longer be permitted. I understand that the Administration is already undertaking discussions with industry on what will happen upon sunset of these regulations. I have long contended that taking unilateral steps will not resolve this issue, but instead could delay building the consensus we so urgently need. This issue simply cannot by resolved by Executive fiat.

Mr. ASHCROFT. Mr. President, I have been involved in the debate regarding encryption technology and privacy for more than three years now. In the course of that time I have not seen any real attempt by the White House to resolve this problem. In fact, over the course of that time the Administration has moved further from negotiation by taking increasingly extreme positions on this critical national issue.

Mr. CRAIG. Mr. President, as you have heard, current U.S. policy allows only encryption below the 56-bit key length to be sold abroad. For a long time now, software companies have argued that this level of encryption is so low it provides little security for the information being transmitted over the ''super highway.'' This policy also states that, in the production of encryption stronger than 56-bit, software companies must provide some type of ''backdoor'' access to ensure law enforcement can decode encrypted material.

Addressing this from an economic perspective, customers—especially foreign customers—are unwilling to purchase American encryption products with backdoors and third-party access. This is particularly true since they can buy stronger encryption overseas from either foreign-owned companies or American owned companies on foreign soil without these invasive features.

Mr. WYDEN. Since coming to the Senate, I have worked side-by-side with Senators BURNS, ASHCROFT, LEAHY and others on the critical issue of encryption. Our common goal has been to craft a policy that puts the United States squarely out front of the cryptocurve, rather than locks us permanently behind it. A one-size-fits-all government policy simply won't work in this digital era. We all recognize and acknowledge the legitimate needs of law enforcement and the national security communities, but tying the hands of America's high technology industry in the process will serve neither those needs, nor the national interest in maintaining our competitive edge in the fiercely competitive global marketplace. It's time to move forward with comprehensive encryption reform legislation.

Mr. BURNS. I would like to point out that the government's plan for encryption—whether they call it ''key escrow'' or ''key recovery'' or ''plaintext access''—simply won't work. Eleven of the world's most prominent computer security experts have told us government mandated key recovery won't work because it won't be secure, as explained in a study published this week by the Center for Democracy and Technology. Key escrow also won't work because it will cost billions, as revealed in a recent study published by the Business Software Alliance. We have also been told that the kind of system the Administration wants is not technically feasible. Additionally, constitutional scholars testified that government mandated key escrow, third party recovery probably violates the Bill of Rights.

Mr. LOTT. Even though a national recovery system would be technically unfeasible, costly, and violates an individual's privacy rights, the Administration continues to require key escrow as a precondition for relaxing America's encryption policy. Again, Mr. President, I would point out that state-of-the-art encryption is available in the international marketplace without key recovery and without backdoor access. This backdoor door requirement is simply backward thinking policy. It does not make sense to hold the computer industry hostage to force the creation of such an unworkable system.

Mr. BURNS. The Majority Leader is absolutely right. We do not need experts to tell us key recovery will not work. All that is needed is a little common sense to understand that no one will buy systems with backdoor access. Criminals will not escrow their keys and terrorists will find keyless systems from America's foreign competitors. There is nothing we can do to stop undesirables from using strong, unescrowed encryption.

Mr. LOTT. Even though advanced encryption products are widely available across the globe, the White House continues to stall Congressional and industry attempts to reach a sensible market oriented solution to the nation's outdated encryption export regime. This stonewalling tactic will only cede even more of our nation's technology market to foreign competitors and America will lose forever its ability to sell encryption technology at home and abroad.

It is time to change America's export policy before it is too late. If the Administration will not do what is right, reform its export regime, then Congress must enact encryption reform during this session.

Mr. LEAHY. The Majority Leader is correct that reform of our encryption policy is needed. The Attorney General came to the Hill in March and asked for a legislative moratorium on encryption matters. This request was made because the Administration wanted to talk with the information technology industry about developing means for law enforcement to gain surreptitious access to plaintext scrambled by strong encryption. According to eleven of the world's leading cryptographers in a report reissued on June 8, the technical risks and costs of such backdoors ''will exacerbate, not alleviate, the potential for crime and information terrorism'' for America's computer users and our critical infrastructures.

In the Senate we have a name for debate that delays action on legislative matters. We call it a filibuster. On encryption policy, the Administration has been willing to talk, but not to forge a real solution. That amounts to a filibuster. The longer we go without a sensible policy, the more jobs will be lost, the more we risk eroding our privacy rights on the Internet, and the more we leave our critical infrastructures vulnerable.

Mr. BURNS. We can readily see that the current U.S. policy on encryption jeopardizes the privacy of individuals, the security of the Internet, and the competitiveness of U.S. industry. We have been debating this issue since the Administration's introduction of the ill-fated Clipper chip proposal over five years ago. Yet no substantial change in Administration policy has taken place. It is time for us to take action.

I first introduced comprehensive encryption reform legislation in the

form of the Pro-CODE bill over two years ago, then reintroduced it in this Congress with the cosponsorship of the Majority Leader, Senators ASHCROFT, LEAHY, WYDEN, and others. Along with Senators ASHCROFT, LEAHY, and others, I am also an original cosponsor of the E-PRIVACY bill, which would foster the use of strong encryption and global competitiveness. We have held numerous hearings on the issue. Yet despite the increasingly desperate drumbeat of criticism from industry, individuals, and privacy groups, from across the political spectrum, the Administration's policy has remained fundamentally unchanged.

Mr. LEAHY. Since the hearing I chaired in May 1994 on the Administration's ''Clipper Chip'' proposal, the Administration has taken some steps in the right direction. Clipper Chip is now dead, and the Administration has transferred authority over the export of encryption products from the State Department to the Commerce Department, as called for in legislation I introduced in the last Congress with Senators BURNS, WYDEN and others. Furthermore, the Administration has permitted the export of up to 56-bit DES encryption, at least until the end of this year. But these actions are simply not enough for our high-tech industries to maintain their leading edge in the global marketplace.

Mr. ASHCROFT. Our technology companies need to be able to compete effectively. Without reasonable export laws our technology sector will be seriously harmed. More encryption companies will leave the country so they are free to sell their products around the globe as well as within the United States. Make no mistake, the market will not be denied. Today, robust encryption products from Canada, Japan, Germany and elsewhere are being sold on the world market. You have heard of the companies that are manufacturing and selling encryption. They are Nortel, Nippon and Seimens. These are not upstart companies. They are substantial players on the international scene, and they offer encryption products that are technically and financially competitive with those produced in the U.S.

Mr. LOTT. That's right. In fact, a recent survey conducted by Trusted Information Systems found that hundreds of foreign companies sell over 600 encryption products from 29 countries. It is even possible to download some of the strongest technology available, 128-bit key length encryption, off of the Internet. Clearly, America's policy of restricting the sale of American encryption software and hardware has not impacted the availability and use of this technology throughout the globe.

No one disputes the fact that the development and use of robust encryption worldwide will continue with or without U.S. business participation. What is particularly disturbing to me is that export controls, instead of achieving their intended purpose, have only served to deny America's premier computer industry the opportunity to compete on a level playing field with foreign competitors. Costing our economy and our nation billions of dollars and the loss of countless American jobs in the process. Given the wide availability of encryption technology, continuing to restrict U.S. access to foreign markets makes no sense.

Mr. ASHCROFT. That is absolutely correct. The Administration's encryption policy is, in effect, a tax on American consumers. We owe it to these customers and the innovators in the software industry to reform this encryption policy now. From the birth of the United States, this country has been a world leader in innovation, creativity, entrepreneurship, vision and opportunity. Today all of these American attributes are on display in our technology sector. Whether in telecommunications, or computer hardware or software, the United States has maintained a leadership position because of the opportunities afforded to people with the vision, determination and responsibility to reach for their highest and best. We must work diligently to ensure that ample opportunities are maintained in this country for our technology sector to continue to thrive and innovate. If companies are stifled and cannot compete, then the people, the ideas, the jobs, and the economic growth will simply go elsewhere.

Mr. BURNS. In the computer business these days, they talk about ''Internet time.'' In the Internet industry, where product life cycles can be as low as 6 months, the world changes rapidly. Yet we have been debating this issue for over five years now, while America's sensitive communications go unsecured, our critical information infrastructures go unprotected, and our electronic commerce jobs get shipped overseas. It is time for the Congress to act.

Mr. ASHCROFT. If this issue is not resolved, and resolved soon, we will lose this industry, we will lose our leadership position in technology, and our national security will suffer. We have a choice to make as policy makers—do we allow our companies to compete internationally or do we force them, by our antiquated and ill-conceived government policy, to move overseas. We cannot simply ignore the reality that robust encryption exists in the international marketplace now. Instead, we must allow our companies to compete, and do so now. We cannot allow extraneous issues to stand in the way of remedying the deficiencies with our current approach to encryption. We must recognize that keeping the encryption industry on American shores is the best way to ensure national security. We would not think of allowing all our defense industries to move abroad. By the same token, we should not force the encryption industry abroad through outdated policies. Simply put, strong encryption means a strong economy and a strong country. This concern is just one of the many reasons we need to pass effective encryption legislation this year and just one of the reasons that Senator LEAHY and I recently drafted the E-PRIVACY bill, S. 2067.

Mr. LEAHY. I join with my colleagues from both sides of the aisle in calling for passage of good encryption legislation that promotes computer privacy, fosters the global competitiveness of our high-tech industries, and encourages the widespread use of strong encryption as an online crime prevention and anti-terrorism tool. The E-PRIVACY bill that I have sponsored with Senator ASHCROFT, Senator BURNS and others, satisfies these goals. Prompt Senate consideration of encryption legislation is sorely needed to protect America's economy and security.

Mr. CRAIG. Mr. President, the E-PRIVACY bill seeks to protect individual privacy, while at the same time addressing national security and law enforcement interests. It would also modernize export controls on commercial encryption products.

The E-Privacy Act specifically addresses the concerns of law enforcement. First and foremost, it makes it a crime to intentionally use encryption to conceal incriminating communications or information. It also provides that with an official subpoena, existing wiretap authority can be used to obtain communications decryption keys/assistance from third parties.

Mrs. MURRAY. Mr. President, I want to thank Senator LEAHY, Senator BURNS and Senator ASHCROFT as well as Senator LOTT and Senator DASCHLE for their work and leadership on the issue of encryption. I am proud to be an original cosponsor of S. 2067, the E-PRIVACY Act.

This is my sixth year as a member of the Senate and the sixth year I have advocated for reasonable legislation on encryption. Sadly, the Administration has not been a constructive player in this debate. It is time for the United States to acknowledge that we no longer exclusively control the pace of technology. Purchasers around the world can download software off of the Internet from any country by simply accessing a website. Foreign purchasers have turned to Russian, German, Swiss and other foreign vendors for their encryption needs.

Washington state and American companies deserve the opportunity to compete free from unreasonable government restrictions. Their role in the international marketplace should be determined by their ingenuity and creativity rather than an outdated, ineffectual system of export controls. The time to act is now. I urge the Senate to consider the E-PRIVACY Act at the earliest opportunity.

Mr. BURNS. The basic facts remain the same. People need strong, unescrowed encryption to protect themselves online in the information

age. Law enforcement has legitimate concerns about the spread of this technology, and we must work to provide them the tools and expertise they need to keep up with advances in encryption technology. We cannot stop time, however. The genie is out of the bottle. As Bill Gates, the CEO of Microsoft, recently said, ''Encryption technology is widely available outside the United States and inside the United States, and that's just a fact of life.''

Mr. CRAIG. With the rapid expansion of the ''super highway'' and Internet commerce it is crucial we bring encryption legislation to the forefront. A secure, private and trusted national and global information infrastructure is essential to promote citizens' privacy and economic growth.

Mr. BURNS. As my colleagues recognize, technically advanced and unobtrusive encryption is fundamental to ensuring the kind of privacy Americans will need and desire in the years to come. Congress must choose a future where individuals and companies will have the tools they need to protect their privacy, not a future where people fear the use electronic commerce because they have no security.

I commend the Majority Leader, Senators ASHCROFT, LEAHY, CRAIG, WYDEN, and MURRAY for their vision and bipartisan leadership on this issue. I hope that Congress will be able to move forward with real encryption reform legislation that protects the privacy and security of Americans in the Information Age, before it is too late.

Mr. LOTT. I think it is worth repeating to my colleagues that the Administration's approach to encryption makes no sense. It is not good policy. Continuing to restrict the foreign sale of American encryption technology that is already available abroad, or will soon be available, is anti-business, anti-consumer, anti-jobs, and anti-innovation.

The time for a change in America's export regime is long overdue. Unfortunately, the Administration continues to support its outmoded and competition-adverse encryption control policy. That is why this Congress needs to find a legislative solution to this issue.

If America's export controls are not relaxed now, then Congress places in peril our entire technology industry. Not just those companies that create and market encryption products and services, but virtually every company involved in the development and sale of computer hardware and software. Congress cannot and will not put America's entire technological base at risk for an ineffective and outmoded export policy on encryption.

HEROISM OF RONALD WATERS

Mr. THURMOND. Mr. President, I rise today to pay tribute to a man who nearly lost his life in the pursuit of Justice, Mr. Ronald Waters, of Columbia, South Carolina.

Waters was driving along Interstate 95 in North Carolina around noon on September 23, 1997 when he noticed a North Carolina Highway Patrol car on the side of the road and a Cumberland County Sheriff's car in the median. Upon approaching the scene, he observed one of the officers laying face down next to his patrol car. He then noticed two unidentified men moving between the patrol car and a green Toyota, also parked on the side of the road. Waters called 911 emergency on his cellular phone and informed the operator of the situation. He then pulled off the road to investigate, and upon getting out of his car he heard several gun shots.

The two unidentified men then drove off in the Toyota and Waters followed the suspects, all the while relaying their position to the 911 dispatcher. The two men then exited the interstate and traveled down a dirt road. Waters, out of concern for the victim's families, pulled to the side and waited for their return.

About five minutes later the Toyota returned and Waters drove in the opposite direction, hoping the suspects would assume he was just another motorist. Once they were out of sight he moved towards the entrance ramp of the interstate, mistakenly under the impression that the two men were in front of him. Not seeing them on the ramp, Waters looked in his mirror and noticed that they were parked on the overpass behind him. Waters then pulled off the ramp and stopped, once again informing the dispatcher of their location.

About that time the Toyota began closing in on him at a high rate of speed. As Waters pulled out the two men began to fire at him with an AK–47 assault rifle. The suspects fired several rounds which struck a critical portion of his vehicle, leaving it disabled. Now stranded on the side of the road, Waters watched as the two men pulled up along side him. Then one of the men pointed the assault rifle directly at Waters and pulled the trigger. Waters felt at this point that he would never see his wife or infant son again, but for some unexplained reason, the rifle jammed and would not fire. The two men then sped off, only to be arrested by officers shortly thereafter, due in large part to the constant contact Waters had with the dispatcher in relaying their position to the authorities.

Unfortunately, the two police officers who were shot in this incident, Highway Patrol Trooper Ed Lowry and Cumberland County Sheriff's Deputy David Hathcock, were both killed as a result of gun shot wounds inflicted by the two suspects. While it may not serve to make this tragic loss of life any easier for the victim's families, it certainly goes to show that crime does not pay, and those who commit these atrocities will be apprehended.

This display of courage by Waters exemplifies the characteristics of true heroism, and serves to reassure the many law abiding citizens that good really does triumph over evil. So often acts of selflessness such as this go unnoticed simply because the danger faced is of a lesser degree, but Ronald Waters is one of many who have risked their lives for what they know to be right.

I am pleased to stand before you today, Mr. President, to relay this story of courage and valor personified to its greatest degree. I join the State of South Carolina in honoring Ronald Waters for his adamant service and devotion to Justice, and I thank you for allowing me the time to speak.

Mr. President, I yield the floor.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

ORDER OF PROCEDURE

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Senate stand in recess, subject to the call of the Chair, following 10 minutes of debate of Senator WYDEN.

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

Mr. WYDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. WYDEN. Thank you, Mr. President.

Mr. President, I believe it is very clear that the tobacco industry and their allies will pull out all of the stops to kill legislation that protects our children. It is very clear how the tobacco industry hopes to bring about this legislation's demise. The tobacco lobbyists want to produce a death by distraction. It is very easy to see why the tobacco lobbyists are pursuing this strategy. They cannot derail our cause of protecting children from starting to smoke on the merits. The case for passing legislation to protect our kids is too powerful. It is too strong. It is too moral.

So the tobacco lobby hopes to throw everything but the proverbial kitchen sink into this debate, hope that it doesn't stink the place up too much, and then hope that the American people lose sight of what this is really all about. But the fact is that the American people get it. They know that this is about protecting children. They are not going to fall for this strategy of trying to produce enough distraction that somehow the Senate will have to move on to other issues or somehow some other question will have to be addressed on this floor. I believe that allowing this bill to die by all of these distractions would be one of the most shocking abdications of our public responsibilities that has been seen in years.

If this body stays focused on the goal of protecting children, works through the relevant amendments, and passes this important legislation, this Congress would have a lasting legacy of accomplishment in the cause of keeping our children healthy in the 21st century.

There are a variety of legitimate issues that have come up in this debate. The question of education policy,

of income taxes, a whole host of questions.

I happen to agree with a number of our colleagues on the other side who want to make it tough, for example, to raise taxes. I am one of the Democrats who voted to do that. But this is not the proper bill on which to have a debate about tax policy. This is not the proper vehicle to have a comprehensive discussion about tax reform. This is about tobacco.

I see our friend and colleague, Senator FORD. He and I serve on the Commerce Committee. We produced a bill that came out of committee by 19 to 1 because we stayed focused on the relevant issues. We didn't always agree.

I have enormous respect for Senator FORD. He has done yeoman's work on the question of making sure our farmers get a fair shake. He knows I feel strongly on key issues: for example, making sure that these tobacco companies don't pay for a settlement in this country by targeting youngsters around the globe. But together, and with our colleague, Senator HOLLINGS of South Carolina, we produced what we think is a fair package. There can be further discussion of those issues. But we stayed focused on the question of tobacco. We didn't raise a whole host of other issues that are important to both of us. We stayed focused on the cause of trying to protect children, recognizing that we would have further discussion of that subject here on the floor. But we stayed focused on the topic at hand.

The fight to stop the cigarette industry from marketing to children did not begin this year. But this is the year we have an opportunity to make real progress. I was a Member of the other body and participated in the hearings held by then-Chairman HENRY WAXMAN. The tobacco executives told me under oath that nicotine isn't addictive. The American people didn't believe them. The Surgeon General of the last 20 years didn't believe them. As a result of that hearing, and the documents that have come out over these many years, we have been in a position to make great progress—progress, for example, that lead to that 19-to-1 vote in the Senate Commerce Committee.

So this debate is the culmination of years of work by those who have been trying to promote the cause of better health for the children in our Nation. We are trying to do it in a way that is going to help kids around the world be healthier. For the first time, we are going to say that you have to protect kids in Oregon and in Texas, and across this country. But we are going to get the Government out of the business of trying to help these tobacco companies sell cigarettes overseas to hook kids in Bangkok and Bangladesh.

That is important. But we are up against tremendous lobbying. The tobacco companies have spent millions. Maybe what we need is a ''Million Child March'' on Washington, DC, with families, with health professionals, to show that we are not going to be derailed by these lobbyists. These lobbyists are not going to be allowed to derail the cause of public health in this body. We are going to come back again and again and again in the days ahead.

So this issue is focused on what really counts; that is, protecting children. There is not going to be a death by distraction. There is not going to be a precipitous and unfortunate demise for this bill by virtue of so many other issues coming up and being debated on this floor. We are going to stay focused.

Mr. President, I know of the good work that you have done on this issue. We have fought together on a bipartisan basis to try to protect children in our State. I am looking forward to seeing the kind of spirit that you and I have brought to this issue come to this body as a whole to make sure that we stay focused on the issue of protecting children.

I yield my time, Mr. President.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess, subject to the call of the Chair.

Thereupon, the Senate, at 10:39 a.m., recessed, subject to the call of the Chair;

Whereupon, at 12:30 p.m., the Senate reassembled when called to order by the Presiding Officer (Mr. BURNS).

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

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

Mr. GREGG. Mr. President, I ask unanimous consent that the Senate now resume consideration of the tobacco legislation, S. 1415, for debate only until the hour of 2 p.m. today.

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

The clerk will report.

The bill clerk read as follows:

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

The Senate resumed consideration of the bill.

Pending:

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

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

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

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

Ford amendment No. 2707 (to amendment No. 2437), to provide assistance for eligible producers experiencing losses of farm income during the 1997 through 2004 crop years.

Mr. GREGG. I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

AMENDMENT NO. 2707, AS MODIFIED

Mr. FORD. Mr. President, I send a modification of my amendment that is pending at the desk. The only thing I am doing is changing a section of reference.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (No. 2707), as modified, is as follows:

At the end of the amendment, insert the following:

SEC. . INAPPLICABILITY OF TITLE XV.

The provisions of title XV shall have no force and effect.

SEC. . ASSISTANCE FOR PRODUCERS EXPERIENCING LOSSES OF FARM INCOME.

(a) IN GENERAL.—Notwithstanding any other provision of this Act, from amounts made available under section 1012(3)(A), the Secretary shall use up to $250,000,000 for each of fiscal years 1999 through 2004 to establish a program to indemnify eligible producers that have experienced, or are experiencing, catastrophic losses in farm income during any of the 1997 through 2004 crop years, as determined by the Secretary.

(b) GROSS INCOME AND PAYMENT LIMITATIONS.—In carrying out this section, the Secretary shall, to the maximum extent practicable, use gross income and payment limitations established for the Disaster Reserve Assistance Program under section 813 of the Agricultural Act of 1970 (7 U.S.C. 1427a).

(c) EFFECT ON OTHER PAYMENTS.—The amount available in section 1012(3)(A) for tobacco community economic development grants under section 1023 shall be reduced by any amount appropriated under this section. None of the payments made under this section shall limit or alter in any manner the payments authorized under section 1021 of this Act.

Mr. FORD. I thank the Chair.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, let me speak for a moment to the question of where we appear to be, although no final decision I know has been made by leaders.

But it is clear that at some point today, if events flow the way they have been discussed, the majority of the members of the Republican Party are going to try to kill this bill. And they are going to try to kill this bill either through a cloture motion—depending on what decision is made as to when that vote might be able to take place—

or through a tricky little budget point of order parliamentary procedure that should have, in fact, taken place at the outset when this bill came on the floor. The notion that, 3 and a half weeks into a debate, to try to reduce our kids from smoking, that all of a sudden somebody thinks, ''Oh, my gosh, there is a budget point of order we ought to bring,'' is rather extraordinary in and of itself. There is no way to hide. The old saying is, ''You can run, but you can't hide.'' You can run from the tobacco bill, but you can't hide from the effect of the vote.

The effect of the vote today, or tomorrow, or whenever it occurs, will be either to side with children in order to reduce smoking in this country or to side with the tobacco companies. I know that there are colleagues on the other side of the aisle who are running around with polls that have been taken, and those polls show, ''Gee whiz, some people in the country are beginning to see this bill differently.'' And that is because millions of dollars have been spent by the tobacco companies to present a rather one-sided point of view.

But the fact is that most people in America understand that they want their kids to be able to stop smoking. They want their kids to not be exposed to the increasing number of pressures that are applied to young people with respect to smoking, and they know that in States like Massachusetts, Arizona, California, and others there are very effective outreach efforts that are being made with young people that are reducing smoking.

In the State of Massachusetts, we have seen a reduction of some 30 percent over the last few years because of a very intensive State program which needs more help. The people in the State know that they can change that 30 percent into 70 percent or 80 percent if they have adequate capacity to be able to do that, adequate resources for materials, for outreach, adequate cessation programs, and adequate counteradvertising to the impact of the millions of dollars that the tobacco companies spend. All of these things are critical to the ability of kids to be able to make up their mind.

I think most of us in the Senate understand that kids are most impressionable with respect to something like smoking at the ages of 11, 12, 13, all the way through their teens. No one here disputes the fact that every single analysis shows that 86 percent of all the smokers in America began when they were teenagers. Eighty-six percent of the adults who today are hooked on nicotine, on tobacco, began as teenagers. Ninety percent of the kids in America recognize Joe Camel more than they do—or equivalent to—Mickey Mouse. And the statistics show that of those cigarettes advertised, Newport, Marlboro, and so forth, the brands that have the highest level of advertising, are the brands that kids smoke but not the brands that adults smoke, which tells you a story—that when they become adults, they make a different set of choices than just the bombardment of advertising. But when they are kids, the cigarette they pick up is the cigarette that is most put and shoved in front of them by the advertising. There isn't anybody who doesn't understand.

The Senator from Arizona has talked about the impact on his 13-year-old daughter of movies—the ''Titanic,'' for instance, Leonardo DiCaprio, who spends his whole time in the movie smoking when he isn't fighting water. I mean that is basically the heart of what the Senator from Arizona has said affected his child.

And all across this country, Mr. President, those are the kinds of influences. There isn't a parent in America who doesn't understand that. There isn't a person of reasonable common sense who doesn't understand that.

So why don't we try to do something about affecting the impact of those role models and the impact of the pressures of young people. We have had testimony from a young woman—and she is not alone, this is just one example—who talked about when she was a teenager, she thought it was going to make her look older if she smoked. She thought it was going to make her more acceptable to teenagers who were older than her; she could run in a group that somehow made her feel better. So she started smoking. Today she is in a wheelchair and raising a couple of kids because she developed a smoking-related disease in her lungs. She has had a lung transplant, and she looks older. She tells people of the impact of smoking on her life.

Are we going to just ignore that in the Senate—all of the evidence of what the tobacco companies have done through the years saying they targeted kids? They know they have got to have replacement smokers. Here we have an opportunity to vote, and our colleagues on the other side of the aisle have decided they are going to side with the tobacco companies.

That is what the vote before the Senate will be, plainly and clearly. You cannot make it into some sort of subterfuge. You cannot run and hide by a budget waiver. You cannot create some parliamentary trick. And you certainly cannot duck with one cloture vote and suggest that this issue, which we have spent 3½ weeks on, is going to go away.

Who is for this bill, Mr. President? Well, there are more than 40 Democrats prepared to vote for this bill now. So there will be no question if this bill doesn't move forward as to why it can't move forward. But every single public health group in America is for this bill. The lung and cancer associations are for this bill. All of the surgeon generals of our country are for this bill. Teachers are for this bill. Child care and day care specialists are for this bill. Forty attorneys general across the country want this bill.

Who is opposed? Who is opposed? The tobacco companies. The tobacco companies and some number of Republicans who choose to be with them. That is who is opposed to this bill—the tobacco companies. No one else is spending millions of dollars trying to characterize this bill on a daily basis in the Nation. No one else is out there suggesting that somehow what the tobacco companies agreed to do, which is raise the price of cigarettes, is a tax increase.

I hear these Senators who come to the floor and say, oh, this is a tax increase; we can't do that. That is a phony argument, Mr. President. That is looking for an umbrella to hide under. That is a way of running around and trying to find something to hang your hat on, not wanting to do what most health care advocates—teachers, child care specialists, surgeon generals, attorneys general, and others of this country—want to do. The only beneficiaries if this bill does not go through are the tobacco companies, plain and simple.

The fact is that we have never heard anybody be able to dispute the notion that of the 60,000-plus kids who in the course of this debate have begun smoking, somewhere in the vicinity of 20,000 of them are going to die early. And they are going to die at the expense of every other citizen in America. We have heard a lot of concern by the people who come to the floor and talk about how terrible the raising of a pack of cigarettes is going to be for the blue-collar worker who is going to buy the pack of cigarettes, but no one in the Government is telling them they have to go buy the pack of cigarettes. But that very same person who is buying the pack of cigarettes, or all of those families who do not buy a pack of cigarettes are paying a lot more of their hard-earned tax dollars to cover the costs of those people who get sick—Medicare and Medicaid, Government dollars paid, tax dollars paid out to the tune of $25 billion a year because of people who are sick because of smoking. The cost of smoking is far greater to the average taxpayer than the cost of the rise in the price of cigarettes.

You cannot hide under that one. That is not what is happening here. That is not what this is all about. What we are seeing is a fear by some in the House of Representatives that they might have to actually vote on this bill. What we are seeing here is that NEWT GINGRICH and some of those in the House have put a contract out on this bill. They do not want this bill. They want their friends in the Senate to kill this bill so they do not have to vote on it.

But this bill will not go away. It will not go away for the next months in the election. It will not go away even on the floor of the Senate, because somewhere, sometime, somehow it is going to keep coming back. You cannot run away from a bill that has most of the people in this country believing it is a good bill, who believe it is an important objective.

Now, if it isn't good—I heard one Senator say, ''I can't vote for that bill;

it's all loaded up.'' Who loaded it up? Mostly Republican amendments that have been passed for things that have nothing to do with smoking. There were Republicans who came to the floor and said, ''We have to have a bill that has a tax cut in it; we can't vote for a bill without a tax cut.'' So almost one-third of the money of this bill has now been voted to go to a tax cut. So the Republicans got their tax cut.

Then a Republican came to the floor and said, ''I can't vote for a bill that doesn't have a drug plan in it.'' So we had a big debate and now the bill has a drug plan in it.

And then we have three different attempts to try to curb attorneys' fees. People said, ''I can't vote for a bill that is going to have a whole lot of money that wasn't earned going out to attorneys,'' notwithstanding the fact that not one penny has been paid to attorneys, nor will the money be paid out of the bill because it is being paid by the companies.

But leaving that reality aside, the Senate nevertheless passed a curb on attorneys' fees. So our friends on the Republican side of the aisle are not going to say no to this bill because it does not have a tax cut. They are not going to say no to this bill because it doesn't have a fat and firm clamp on attorneys' fees. They are not going to say no to this bill because it doesn't have a drug plan. They are going to wind up saying no to this bill because that is what the tobacco companies want them to do.

So that is the choice. That will be the choice today—very, very clear—a choice between kids and the tobacco companies. And anybody who suggests, oh, no, I am not for the tobacco companies; I just want to make a good bill, let's make a good bill. Let's vote on the amendments the way we have been doing to make a good bill. And there is not anybody in the Senate who does not understand that this bill is going to go to a conference committee if the House ever voted on it, and it has the ability to be rewritten in that conference committee and to come back to the Senate differently.

In the 14 years I have been here, I have seen plenty of legislation leave this floor where one side or the other disagreed bitterly with some component of it but everybody knew it would be fixed in conference committee. Why is it suddenly they do not want this bill, of all the bills, to go to the conference committee? They do not want to let it be fixed. They do not want to give it the opportunity to come back to the Senate in a shape that might be voted on, because that is not what the tobacco companies want. They do not want a bill. They walked away from all of this. It was fine.

I know there are Senators on the other side of the aisle who were ready to vote for this bill only a few weeks ago, or even a few months ago, when the tobacco companies were part of the process. It was a good idea. Oh, yes, it is inevitable; we are going to do that; we are going to fix it up for our kids.

But all of a sudden after the money has been spent, after all of the flow of those tobacco dollars, there is a different attitude in the Senate about what is possible and what is not possible. I respectfully suggest that no one is able to pull a curtain down over that reality. If people want to fix this bill, we can fix this bill.

Every piece of legislation that came to the floor this year came to the floor with a Republican cloture motion attached to it—every bill. Every bill has had limited debate, except for this bill. Every bill we had to push through here rapidly, except for this bill. This is the one bill where there is one identifiable group that does not want it, and that identifiable group has enlisted soldiers in its army. The question is going to be whether or not the Senate has the courage to stand up and say: We are going to fix this bill; we are going to work on this bill; we can bring this bill together.

We could have had any number of discussions about how to fix any number of difficult components of the bill, but the bottom line reality is that every study shows in order to keep kids from smoking, you have to raise the price of cigarettes. Even the tobacco companies agreed to that. Even the tobacco companies agreed to that.

They came to an agreement in a global settlement, where they agreed to raise the price of cigarettes. But it is only when that rise in the price of cigarettes was geared to be something meaningful, that would actually have an impact on kids smoking, and only when they began to see that there were still going to be some lawsuits they would have to defend, that they began to see the balance differently.

Frankly, there were some of us in the Senate who thought we understood that there was a legitimacy to trying to create that balance and hold it differently. But I think most people in the Senate understand that anything that is to go to the conference committee will come back with an ability to try to find that balance again and find the ability to pass a good piece of legislation.

I know there are some colleagues on the other side of the aisle who are very uncomfortable with what is happening. There are friends of mine, members of the Republican Party, who want to vote for a bill, who want to do something for kids, who want to be able to help out. I know there are some feeling the difficulty of what is happening right now. My hope is that people will simply recognize the reality. This is not an issue that grew up spontaneously within the Democratic caucus. This is not an issue that became the brainchild of some political strategy on behalf of Democrats. This is something that grew up out of kids and parents and teachers and doctors and health care specialists and surgeons general and scientific evidence, and even the tobacco companies' own documents, which gave birth to the notion that raising the price of cigarettes is a critical component of reducing teenage smoking.

I read those documents on the floor of the Senate a number of weeks ago—I guess maybe last week. It is all somewhat of a blur at this point. But the Senate knows the tobacco companies have acknowledged that they lost business when they raised the price of cigarettes. They know, as all evidence shows, that no group in America is more price sensitive, more subject to the pressures of how much cash they have in their pockets and what they spend it on, than young people.

So we have the ability to make a difference. The choice before the Senate is really going to be very clear. My hope, obviously, is that the Senate will act responsibly. If we are not happy with the bill in its current form, notwithstanding the fact that there are 40-plus Democrats prepared to vote for it in its current form, then we should continue to work and continue to be serious, rather than to continue an effort that just wants to kill it for the victory for those individuals and entities who want that victory, rather than putting together a meaningful piece of legislation.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I thank my colleague from Massachusetts for his remarks. I thought maybe it would be useful to come to the floor and just review how we got to where we are, why this legislation is important, and why it matters to American families.

Months ago, I was called by our leader, Senator DASCHLE, and he asked me to head up the task force for Democratic Senators on the issue of tobacco. He did so after the settlement was agreed to in June of last year between the attorneys general, representing about 40 States, and the tobacco industry. That settlement, which was advertised as a settlement of close to $400 billion over a 25-year period, was also a settlement which was designed to not only raise prices to discourage consumption, but was also designed to have countertobacco advertising, smoking cessation, smoking prevention programs—all of it designed, really, to safeguard the public health and to reduce youth smoking.

The focus was on reducing youth smoking, because we all know the vast majority of smokers take it up as teenagers; about 90 percent of smokers start before they are age 19. Nearly half start smoking before the age of 14. As the tobacco industry has revealed in the documents that have come out in the court cases, if somebody is not hooked when they are young, they do not get hooked. That is why the tobacco industry has put such a focus on young people. That is why they have marketed to young people. That is why they have advertised to young people.

Because they know that is the future of their business.

I have read on the floor of the Senate quote after quote of the industry itself that have demonstrated that was the rationale behind the tobacco industry strategy. It was a business strategy: You target young people because people don't start smoking when they are older. They don't start smoking later in life because they have seen enough to know that it is not a very pretty habit, and they also get a sense of the health risk involved.

So this is really a question of trying to encourage young people not to take up the habit. The industry has to get some people to be replacement smokers because they are losing over 400,000 customers a year. They are losing them to death. This is the only legal product sold in America that, when used as intended by its manufacturers, addicts and kills its customers. That is strong language. Those are strong words. But they are the truth.

After accepting Senator DASCHLE's assignment to head up the task force on tobacco, we held about 25 hearings across the country. Many of them were here in Washington. We listened to every point of view from any people who wanted to have a chance to express themselves. We listened to the tobacco industry. We listened to those who are in the distribution chain. We listened to the convenience store owners. We listened to the vending machine operators. We listened to tobacco farmers. We listened to Dr. Koop and Dr. Kessler. And we listened to the public health community: The Cancer Society, the Lung Association, and many more. We listened to those who are advocates of strong legislation. We listened to those who said Government ought not to be involved, let this go through the courts.

We concluded that it was best if the Government did take action, that it was best not to leave it to a free-for-all in the courts that might ultimately bankrupt these companies. Nobody is out here advocating that we stop the use of tobacco products in this country. After all, there are nearly 50 million smokers in America. We have had a bitter experience with prohibition. It does not work. But what could we do that would discourage youth smoking and protect public health?

In holding these hearings and listening to the experts and listening to just common citizens all across the country, over and over they said: Look, you need a comprehensive package. Don't just leave this to the courts. If you do, you wind up perhaps bankrupting these companies. That will not end the use of tobacco products in America. Simply, what will happen is we will wind up with a circumstance in which new companies come and fill in the gap, and the companies that are bankrupted will have no capability to cover the costs that they have imposed on society. Those are very, very significant costs. Those costs are variously estimated at $130 billion of costs being imposed on this society—$130 billion a year.

The legislation before us would require the industry to pay $18 or $20 billion a year when fully phased in. That in no way covers the costs they are imposing on society. But that is not all the people who came before our task force told us. They said: You have to have a comprehensive plan. Yes, you have to raise prices to discourage consumption, but you need to do much more than that. You have to have the Food and Drug Administration have regulatory authority over this product, just like they have regulatory authority over other drugs in this society. But you have to go further than that. You have to have a comprehensive plan of public health. You have to have countertobacco advertising, so people hear a message other than the message they get from the tobacco industry, with the billions of dollars a year they spend in advertising and marketing. And you also have to have smoking cessation and smoking prevention programs to help those who are about to start, to give them a chance not to be hooked; and for those who are addicted, to give them every assistance in stopping.

(Mr. GREGG assumed the chair.)

Mr. CONRAD. Mr. President, obviously, there is more to the program than those elements, because we have to remember how this all started. It started with the States bringing legal actions against the tobacco industry. They are the ones that had the initial settlement with the tobacco industry. So, obviously, the States have to be compensated for the legal actions that they have pending.

In addition, the Federal Government has potential actions against the tobacco industry, because Federal taxpayers are paying for Medicare and Medicaid and veterans' health programs, all of them that have had costs imposed on them because of the use of tobacco products.

Mr. President, it was those concerns that led this Congress to take action. It was those concerns that led the Commerce Committee to consider the legislation sponsored by Senator MCCAIN, and they reported out a bill on a 19-to-1 vote, an overwhelming vote.

In the Senate, we have considered a series of amendments that have somewhat altered the work that they did in the Commerce Committee. We have considered amendments to provide a significant tax reduction in addition to the other provisions that were in the bill. About a third of the money now will go for a tax reduction.

But there is more than that. There has also been amendments added that deal with the question of illegal drug use in this country. The Coverdell amendment that was adopted here on a very strong vote is included in this legislation.

What we now have before us is really a comprehensive package. A lot of people say, ''Gee, this isn't my idea of a perfect bill.'' It is not my idea of a perfect bill either, but we have not yet completed action on it. That is the legislative process—to take a package, to work on it, to offer amendments and to have the votes of Senators dictate the outcome. That is the way it works. So far, that process has gone reasonably well.

Again, we certainly don't have a perfect bill, but it is one which is comprehensive in nature and does offer the prospects of protecting the public health and reducing youth smoking. We have 420,000 people dying every year in this country because of tobacco-related illness. That is a statistic, but it is a statistic that has 420,000 different stories behind it. In hearing after hearing, we heard those stories. We heard the suffering of families and of individuals who have been hooked on tobacco products and have suffered the consequences.

I remember so well a Pierce Fravenheim, big tough guy in Newark, NJ, a former football player, football coach, assistant principal. When he came to testify, you could barely hear him speak. You could barely hear him speak because after a lifetime of smoking, he developed cancer of the larynx. He had undergone a laryngectomy. He told us of the terror he felt when the doctor told him he was going to die unless they did this procedure, and even if they did it, he might not survive.

In a way, he is lucky because he did survive, and he is there to tell the story. He told us how deeply he hoped that others could be dissuaded from taking up the habit, how deeply he hoped that others would not experience the terror he felt when the doctor told him he might die.

There are hundreds and thousands of stories just like Pierce Fravenheim's that we heard as we went around the country listening to people, many of them begging us to pass legislation that would do something to deter others from taking up a habit that would addict them, that would create disease in them and that would ultimately kill them.

Again, nobody is out here proposing that we have prohibition, make the product illegal. Nobody is proposing that. But we are proposing comprehensive legislation to try to do something to lessen the hurt, the pain, the suffering and the loss of life that occurs directly because of the use of these products.

Mr. President, there are those who will take this bill and flyspeck it, and they will have 100 reasons to be against it, maybe several hundred reasons to be against it. That is the nature of a comprehensive bill. I could probably point to dozens of different provisions that I don't particularly like in this bill, but that isn't the question.

The question before this body is whether or not we are going to advance, whether or not we are going to move forward, whether or not we are going to give this legislation a chance

or whether or not we are going to snuff it out right here today on the floor of the U.S. Senate and say, ''No, we give in; the big tobacco industry advocates and defenders win.''

I hope that is not the outcome here today, Mr. President. The tobacco industry does not exactly come to this Chamber with its credibility intact. The tobacco industry came before Congress and said, ''Oh, no, our products don't cause health problems.'' At the time they said it, they knew, and the documents reveal that their products cause serious health problems. And that same industry came before this Congress and said, ''Oh, no, we don't target children; we wouldn't do that. It is illegal to sell to children.''

We now know from the documents of the industry itself that, in fact, they have targeted children. In fact, they have targeted kids as young as 12 years old, and I have shown the charts and the quotes day after day on the floor of the Senate that demonstrate conclusively that they have targeted our kids. This industry has come before the Congress and said, ''We don't have nicotine in there to addict people. It is not addictive.'' And yet, again, their own documents reveal that nicotine is addictive. In fact, their own documents compare it to cocaine and to morphine. These are their words, not my words.

This same industry has come before Congress, and they have told us, ''Look, we have not manipulated nicotine levels to further addict our customers,'' and when you look at the record, when you look at the documents, what you find is that is precisely what they have done.

This industry does not come with a great deal of credibility to this Chamber in arguing on behalf of this legislation. Rather, I should say in opposition to this legislation, because they have made it clear, although they supported a version early on that would have basically taken their settlement and made that into a legislative vehicle, they supported that, but as soon as we started stripping away the special protection that was in that proposed settlement, an amendment by the occupant of the Chair, an amendment that was adopted overwhelmingly in the U.S. Senate and stripped out all the special protection that this industry was seeking, special protection that was unprecedented, special protection never provided any other industry in the history of our country, all of a sudden they said, ''Oh, no, we don't want anything to do with this legislation. If we can't get special, unprecedented protection, we're out of here.'' That is what the tobacco industry said. Now the tobacco industry is in total opposition. And day after day, hour after hour, we hear their adds in the national media opposing this legislation, attacking this legislation.

Mr. President, it is important, I think, for us to understand what is here and what is not. We have, I think, the best indication: The recent polling that has been done that shows the American people strongly support this bill. It is different than saying this legislation is their top priority, because it is not.

The American people have lots of things to be concerned about. They are concerned about their jobs; they are concerned about getting their kids into college and paying for it; they are concerned about having their families safe and secure in their neighborhoods; they are concerned about the health care of their parents and of themselves and of their children.

Mr. President, they are also concerned about doing something to protect their kids from the addiction, disease, and death brought by the use of tobacco products. Most recent polling shows very clearly the American people support this legislation. When they are asked to choose between this legislation and no legislation, they say, ''Pass this bill.'' By 2-to-1 margins they say, ''Pass this bill.''

This is a poll that was just taken by the ENACT Coalition. It shows the voters in the United States support this bill by 66 percent to 32 percent.

It is interesting, because we are going to have a vote, perhaps today, on the question of whether or not we move forward. Some will say, ''Let's just kill the bill.'' That is what the tobacco industry wants. That is their argument. And their defenders and their apologists will be making that argument. The American people say, ''Pass this bill.'' Let us have a chance to protect the public health and reduce youth smoking.

Mr. President, I am very hopeful that my colleagues will let us move to conclusion on this legislation. We are now in the fourth week of consideration on the floor of the Senate—4 weeks. We ought to complete our work. We ought to send this bill to the House of Representatives, give them a chance to do their work, and then go to the conference committee to work out the differences and produce legislation that can be brought back to both Chambers for a final decision. But we should not end the process now. We should not kill this bill before it has even cleared the first hurdle.

Mr. President, I hope my colleagues will say yes to protecting our kids' health and say no to the tobacco industry that has waged a campaign of deception and diversion in an attempt to delay and ultimately derail this bill.

I yield the floor.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I rise in opposition to this bill. And I take offense to some of the comments that were made by some of our colleagues on the other side of the aisle who said, that anybody who wants to kill this bill is an instrument of big tobacco.

That s simply not true. I did not support this deal when the tobacco industry and the administration and attorneys general got together and made a deal. They didn't consult this Senator. I was never in favor of the deal they were in favor of that some people have tried to promote and some people have tried to push, including, this administration. So let me just make that very clear.

Now, I have many reasons to oppose this bill, and I am going to enumerate these. Not one of them has anything to do with the way the tobacco industry wants this Senator to vote. And so people making allegations—I wonder if that can be turned the other way around, but I am not going to do that. I do not impugn people's motives or their integrity. I think people have the right to make decisions on whether or not legislation is good legislation or bad.

I spent a little bit of time studying this legislation. And everybody is entitled to their own opinion. They can brag on the legislation; they can be critical of it. I am going to be critical of it. I have read the legislation.

First, let me just comment on a comment that the President made. It was reported in the Washington Post recently, Monday June 15. This past Monday, President Clinton said his critics contend that ''this [is a] dark scheme in Washington to build some new federal bureaucracy, and it's the biggest load of hooey I ever heard in my life.''

So President Clinton thinks that those of us who are critical of this legislation, who say this is just a big bureaucracy, that that is just a big bunch of hooey—as a matter of fact, ''the biggest load of hooey I ever heard in my life.''

I told my colleagues this is one of the worst pieces of legislation I have seen in my Senate career. The only thing I can think of that was worse was the health care legislation promoted by President and Mrs. Clinton.

Mr. President, this chart that was put together by the Budget Committee, showing where the money was coming from, where the money goes, on Commerce I—and that was the bill that was reported out of the Commerce Committee—shows that the President was incorrect. This is a lot of new government. There are about 30 new programs, spending hundreds of billions of dollars, all above budget, all outside the budget. So I just think the President is incorrect. And I wanted to make that comment. He is entitled to his own opinion, but I think we are entitled to look at the bill and we are entitled to look at the facts.

This is Commerce II. This is the bill that the administration basically had rewritten—the bill. And this is the bill that we have on the floor, although it has been added to. And we have new mandates and new spending, and a tax cut and a drug provision. I don't show those on this chart. But this is the current bill that we have before us.

There is a lot of new government in this. So the President calls its

''hooey.'' My comment is, these just happen to be the facts. That is what this bill has in it. This bill has a lot of money in it. It has a lot of spending in it. And I want to get into that because a lot of people have said, ''Well, this bill, it is really only a $65 billion bill. It only raises taxes by $65 billion.'' And this Senator, for one, has been saying, ''Wait a minute. It's a lot more than that.''

Where does this thing say in this bill, if you look at the bill and look at the language of the bill—and I would encourage my colleagues to do so, and anybody else. I had to ask unanimous consent to get the bill printed. The committee printed the Commerce I. They did not print Commerce II. This is the bill we have before us that is now printed on the Senators' desks.

If they would look at the bill, maybe look at page 183 of the bill, it talks about annual payments. The bill does not say anything about 65 cents a pack; it does not say anything about $1.10 a pack. It does say consumers pay $10 billion the first year, $14 billion the second year, $15 billion the third year, $17 billion the fourth year, and $21 billion in the fifth year, without even considering look-back penalties.

So if you total that, that is all $102 billion. That is what the bill says—$23.6 billion in the fifth year. And after that, those amounts are adjusted by inflation. That is on page 183 of the bill.

If you put those figures in and you adjust them for inflation—it says 3 percent or inflation, whichever is greater. I just plugged in 3 percent. You do that, and you come out with $755 billion over 25 years. What is this nonsense we hear, ''Well, we think it's only $516 billion''? This is $755 billion. That is in the bill. That is what we are considering, not $516 billion.

And then the look-back potential. I show $130 billion of look-back potential. I say ''potential'' because it can be assessed. No one knows exactly how much that will be. But evidently a lot of people felt it should be much more, because this chart is obsolete.

My colleague from Illinois, Senator DURBIN, had an amendment to increase this to $7.7 billion and then index that for inflation. As a matter of fact, if you put the new figures into the chart, this $130 billion goes to a maximum of $241 billion. So you add that to the $755 billion and you get really right at $1 trillion—$1 trillion potential tax on consumers. And I say ''tax on consumers'' advisedly, because this bill mandates that 100 percent of this money be paid for by consumers. It does not say, ''Tobacco companies, you pay this.'' Basically, it says, ''Tobacco companies, you pass this cost on. You pass every dime of this on.''

So I make the point we are talking about, President Clinton may think it is a bunch of hooey, but this is a big government bill.

It has lots of new agencies and hundreds of billions of dollars of new spending. With the new look-back potential, up to $1 trillion in money transferred from consumers to government.

I make those points because I think it is important that we know the facts. Some people say this is not a budget buster, this is responsible, we are raising taxes. This bill doesn't say anything about taxes. It says these funds shall be paid, and 100 percent of the funds shall be passed on to consumers. It is not clear. It is not direct. It is confusing. And it is hard to tell exactly who is taxed how much.

I will give an example. If a person looked at page 186 of the bill, we find out there are exclusions for some companies. To give an example—I looked this up—Marlboro, a Philip Morris brand, would have to pay presumably a price per pack of $1.10 more; this brand, Chesterfield, by the Ligget Group, pays zero. Now, both companies presently pay 24 cents per pack. Both of them do. Under this bill, supposedly, the price per pack on this item goes up $1.10; the price on this item goes up zero. So they will have a $1.10 advantage over all other competitors. Why? Because their sale volume isn't so large? Wait a minute; is that good tax policy? They have the same excise taxes today, but we are going to give a $1.10 advantage to one company versus another company? We do that in this bill? That doesn't make sense.

We did the same thing in other tobacco products. Looking at smokeless tobacco, again if a person looked at page 186, we find out some companies have a significant differential. This product, Copenhagen, is made by U.S. Tobacco Company. This product is Kodiak, made by Conwood Company. Both have a current excise tax of 2.7 cents per product.

This product made by U.S. Tobacco, the new tax increase is 82.5 cents; that is a 3,056-percent increase. This product, the tax increase is 57.8 cents; that is a 2,141-percent increase. This has a 25-cent advantage under this bill. This product has a 25-cent advantage. Why should we be choosing winners and losers in this bill? Is that good tax policy? Is that good consumer policy? We will encourage some people to buy this product over another product, but in the language in this bill on page 186, it gives certain items a competitive advantage over their competitors. Is that right? Is that in this bill? Sure it is in this bill. It is on page 186. I mentioned it on the floor before, and at some point I plan on addressing it if this bill stays on the floor.

So the President said it wasn't a bunch of new government and I showed the charts. There is a lot of new government, tons of new government. There are new taxes that run into almost $1 trillion over 25 years. The money is all off budget, and that bothers me.

Somebody was complaining Republicans may make a budget point of order. We well should. If a person looked at page 181 of the bill, talking about the national trust fund, it says, ''The amount of such appropriations shall not be included in the estimates required under section 251 of the act,'' talking about the Budget Act. So all the appropriations that were mandated out of this trust fund shall not be included in the budget, the budget that the President signed just last year with both Houses, the House and the Senate, and I will say with bipartisan support. We finally did get a budget that was supported by Democrats and Republicans. The President said we will stay by these caps. Even at the State of the Union, we will not spend one dime, not one dime unless we don't cut taxes. We want to save Social Security.

But what he does in this bill is basically ignore the budget. The budget makes no difference. All this spending, hundreds of billions of dollars, are over and above the budget. They don't count towards the cap. They don't count toward the budget. It is over and above. All the taxes are above, all the expenditures are outside the budget realm. So certainly a budget point of order lies against this bill. As a matter of fact, if we don't make a budget point of order, I think we just might as well say we don't have a budget. There is no need to have a budget. There is not a budget.

Why should the conferees, and I am a conferee on the budget for this year's budget, why should we worry about a budget if we are going to pass a bill that has tax increases and expenditures larger than any tax cut that anybody else is talking about in the budget that the President signed last year or in the budget that we are talking about this year? This has a larger tax increase, larger spending increase, than either the budget that was passed last year or the one that is contemplated for this year. So why have a budget, if it will all be outside the budget as stipulated on page 181 of the bill?

So my colleague who earlier said we have taken a poll and now the people by some majority support this bill—they don't know what is in this bill. If you told the people that we are giving one brand of cigarettes an advantage of at least $1.10 over another brand, would they say that is fair? Don't we have a constitutional responsibility to be fair? Or if you are giving one smokeless tobacco product a competitive advantage over another one, does that make sense?

What about some of the other tax provisions—if a person looked at page 104 of the bill, it talks about the look-back assessment. The look-back penalties, which I mentioned in the earlier charts originally, were $2 billion under the settlement, $4 billion under the Commerce Committee bill, Commerce II, the last bill we had on the floor, and then we had an amendment to increase the look-backs to $7.7 billion a year and index those for inflation. Who determines whether there is a look-back penalty or assessment or tax? The Secretary of Health and Human Services.

How does she determine it? She takes a poll; she does a survey. It is in this legislation. She does a survey. I am talking about Secretary Shalala, the Secretary of Health and Human Services. She does a survey, and from the survey she has the power to assess fines, penalties or taxes equal to $7.7 billion a year. That is an unbelievable transfer of authority, of taxation authority, to the Secretary of Health and Human Services.

In her survey, under the legislation, the survey-using methodology required by this subsection is deemed ''conclusively to be proper, correct, and accurate for purposes of this act.'' So her survey is deemed by this act, deemed to be correct, deemed to be accurate. And she has the capability to assess fines and penalties up to $7.7 billion per year, an unbelievable power of taxation by her survey which Congress is deeming to be correct. So they can assess companies $1,000 for whoever answered the survey wrong or inappropriately according to her wishes. Unbelievable power.

Then we passed an amendment, I believe it is Senator REED's amendment, that said we will deny deductibility of advertising to tobacco companies if they don't comply with FDA advertising restrictions. That is now part of this bill. What does that mean? FDA promulgated a long list of rules which, incidentally, I will comment on in a minute. This legislation deems to be law. That is interesting. But in the amendment Senator REED says if they don't comply with FDA advertising restrictions, then they will lose deductions of their advertising. Basically, what we have done now is turned the power to tax over to the FDA. Now, that is unconscionable for those who think the power to tax belongs to Congress, not to a bureaucrat, a bureaucrat that may or may not have an agenda.

And if one thinks that all the FDA regs are accurate and make sense, one of the regs is that you can't have any tobacco sponsorship for sporting events. The Indianapolis 500 comes to mind. An automobile runs around with ''Marlboro'' painted on the side. If you had that, or the driver had ''Marlboro'' on the side, it would be a violation. They would lose deductibility of all their advertising expenses. Or even if you had a hat that said ''Marlboro'' on it, or ''Winston'' or ''Salem'' or whatever, any tobacco product, if you had a hat or T-shirt or car that had that emblem, you are violating the FDA advertising restrictions and therefore you would lose your deductibility.

So we would have tax policy being set, one, by the Secretary of Health and Human Services, and another by FDA. The combination of that is probably the worst tax policy I can imagine. Unbelievable.

On page 99 of the bill, we do something else dealing with FDA regulations, and Congress is a legislative body. We are supposed to legislate. If we want to ban advertising of tobacco products, we should do it. Somebody should introduce a bill to ban advertising. We didn't do that. FDA promulgated some rules restricting tobacco sales, labeling and advertising.

On page 99, it talks about the rules, and it says, ''The code of Federal regulations dealing with tobacco are hereby deemed to be lawful and to have been lawfully promulgated by the secretary under Chapter 9 in Section 701 of the Food and Drug Act.'' Here is a whole list of FDA regulations. This bill deems them to be the law, makes them the law. I am bothered by that. If somebody wants to make it the law, let them try to pass a bill—we are the legislative body, not FDA—not taking a whole section of FDA regs, some of which make no sense whatsoever, some of which are not workable.

Here is one example. One reg deals with checking IDs, identification on people when they purchase tobacco products. Every State in the Nation has a law, and it is against the law to sell tobacco products to teenagers, people less than 18. Some States have higher age limits. They said we need to check that, and the rule said they are going to check the identification of people up to age 27. And if a convenience store, or something, doesn't comply, they are subjected to fines and penalties, which range, for the fifth violation, up to $10,000. Wait a minute, that isn't in the bill. But the bill says they are all deemed to be lawful. So we are making it law by this one paragraph on page 99.

Now, if we stay on this bill, I am going to have an amendment saying, wait a minute, should it be against the law for a convenience store not to check the identification of people up to age 27? The law is 18. You could have a combat veteran of the Persian Gulf who is 26 years old and has four kids, and somebody could be fined up to $10,000 if they don't check his ID. Obviously, he is older than 18. Yet, the FDA reg says you check their identification, and if they are less than 26 or 27 and you didn't check the ID, you are subject to fines and penalties up to $10,000. And we are codifying that; we are deeming that to be lawful. That bothers me. That is crummy legislating. That is not good legislation.

We have another provision that I don't even know many of our colleagues are aware of. They had better become aware of it if, Heaven forbid, this becomes law. This bill prohibits smoking of cigarettes in almost any building in the United States. I will read you the language. It prohibits the ''smoking of cigarettes, cigars, pipes, and any other combustion of tobacco within a facility or on a facility or property within the immediate vicinity of the entrance to the facility.'' I could go on. How is ''facility'' defined? It means ''any building used for purposes that effect interstate or foreign commerce, regularly entered by 10 or more individuals at least one day per week.''

Unbelievable. Unless you have a real small building, you are going to be covered by this ban. So we are banning smoking on almost every single building—certainly every business building in the United States, or significant business building. Are people aware of that? What kind of fines and penalties will be imposed if you don't comply with that? I could go on and on.

My point is, when I heard my colleague say, ''We think the public supports this bill,'' maybe a lot of the public really haven't looked at what is in this bill. There are a couple of sections I will point out just for the information of our colleagues. I heard somebody say, ''You can't be opposed to this bill now on attorney's fees,'' because we passed an amendment by one vote that had a limitation on attorney's fees. They can only make $4,000 an hour for the old cases and, for future cases, $500 an hour. Well, Mr. President, there is language in this bill that is an invitation for litigation that would not stop, that would be probably the most expensive litigation piece I have ever seen. There is a presumption. I will just read this part on page 233 of the bill. It is just a couple of paragraphs, but the paragraphs would cost consumers hundreds of billions of dollars.

General Causation Presumption. In any civil action to which this title applies involving a tobacco claim, there shall be evidentiary presumption that nicotine is addictive and that the diseases identified as being caused by use of tobacco products in the Centers for Disease Control and Prevention Reducing the Health Consequences of Smoking: 25 Years of Progress: A Report of the Surgeon General [back in 1989], The Health Consequences of Smoking: Involuntary Smoking [done in 1986]; and The Health Consequences of Using Smokeless Tobacco [Health Service in 1986], are caused in whole or in part by the use of tobacco products . . .

There is an evidentiary presumption that nicotine is addictive and diseases are identified as being caused by using tobacco products. In other words: Come sue. Come sue for anything. There are three books, and they touch on all kinds of diseases, including diabetes. It can have some little relationship to smoking, and we made a presumption that: tobacco is the fault; come sue. This is an invitation for litigation. Here you go, the trial lawyers will love this. They came out with a big one. They may have snuck it in, I don't know. This is a big invitation to sue. I heard Senator DOMENICI talking about this. I compliment him for raising it on the floor. Other people acted like they didn't know it is in the bill. It is still in the bill. So I make those comments.

I will make a couple of other comments. I see my friend from Kentucky here. I have already related the inequity of some of the taxation provisions in this bill dealing with either cigarettes or other tobacco products. We have currently pending an amendment by my colleague to strike out what some people have referred to as the Lugar provision, and I expect that

there will be an amendment pending to strike out the Ford provision. Both of them deal with compensation for tobacco farmers. I think both are too generous. One has a total cost, over 25 years, of $28 billion; one has a cost of $18 billion. Both would compensate tobacco farmers far in excess of the value of the land—value of the land that you could buy today on the open market, but we would pay several times the value. I think that is a mistake. I am troubled by that provision.

Mr. President, I don't know if this has been entered into the RECORD. I have a letter from the Governors urging opposition to this bill. These are the Governors whose attorneys general originally put together the package that said: Yes, we want to make a deal; we won't sue the tobacco companies if you will give us a couple hundred billion dollars over the next 25 years—about 8 billion a year. If you give us $8 billion a year, collectively, then we will drop our class action suits. They have now looked at this bill and said: Don't pass it. It is not acceptable in its current form.

I happen to agree with the Governors—maybe for different reasons—but I don't think this bill is salvageable. I don't think we should pass it. Does that mean I am against doing something to reduce the teenage consumption and addiction of tobacco and drugs? Absolutely not. I want to do something. I have indicated that I am willing to pass a bill that would be directed, targeted, at reducing teenage consumption and addiction to tobacco. Do you have to spend hundreds of billions to do that, as we have in this legislation before us? The answer is no, absolutely not. As a matter of fact, I think what we are doing is funding an addiction of government to more government and doing very little on tobacco.

If we want to do some things to reduce teenage consumption and addiction to tobacco, let's do it. We have the HHS appropriation bill. We can put in more money for NIH, for cancer research, for money to have programs to discourage drug consumption, tobacco consumption. Let's do that, increase it, and cancel some other programs. We are spending now $1.7 trillion per year. Let's move some of that around and put it into functions that would actually be targeted at our youth, to reduce their addiction and consumption of tobacco. I think that would be a giant step in the right direction.

I think passing this legislation is not really targeted to kids; it is targeted more to government. The President was absolutely wrong when he said those people who oppose this bill and think it is more government, that is a bunch of hooey. I think we did something. We read the bill. This bill is a bunch of hooey. This does not deserve to be passed.

I think this bill is a serious, serious mistake. If our colleagues on the other side of the aisle want to increase tobacco taxes, they can do so. This bill is, in my opinion, one of the worst pieces of legislation this Congress has considered in my legislative career. It should not pass. We should defeat this bill. We should defeat it either in the form of not agreeing to cloture—we have already had three cloture votes. We may well have one more. I hope my colleagues will not vote for cloture. I hope that a budget point of order, if that is made, will be sustained.

This bill is clearly outside the budget. It says so in its language. Do we agree with the budget that we passed last year, or are we just going to ignore it on this issue? We ignored it on the urgent supplemental. We violated the budget on those. There were some emergencies. There were some floods and other emergencies required funding and we have done that for before.

But to ignore the budget on these programs, all of which are in governmental entities, or creating governmental entities for new programs—for example, international tobacco control. That is $350 million a year for the first 5 years, and such sums as necessary for the future years. That is a brand new program. I don't know that we need to fund it. But if we do, let's fund it under the budget. Why have it be outside the budget?

I look at a lot of these other programs. My colleagues were successful in saying, let's spend a couple billion dollars more in child care. We mandated that in this side of the equation. We have the tobacco community grants; opportunity grants. We have got a lot of new spending. I say that spending should be in the budget. It shouldn't be outside the budget.

So I urge my colleagues, let's defeat this bill. Let's come back to something that is responsible, something that is within the realm of the budget agreement.

Mr. President, I ask unanimous consent that a letter from of Governors' Association, as well as an article from the Washington Times on Monday, June 15 that says the tobacco bill is packed with programs and agencies be printed in the RECORD, as well as two charts that I referred to in my speech, one of which is the national tobacco settlement trust fund that shows the total cost of this bill could easily well reach $997 billion. That is $745 billion under the annual industry payments; maximum look-back. Maybe that would happen, part of it would happen; maybe not.

There are some who would say, ''Wait a minute. You didn't take into consideration the volume adjustment.'' The bill said, if volume comes down below 20 percent, there will be some reduction in these industry payments. Maybe tobacco consumption would fall by more than 20 percent. Maybe it wouldn't. I don't know. It is hard to guess. There might be some reduction on that figure. I don't know. For cost analysis purposes, though, I note that the OMB did not figure volume adjustments down within their original proposals. The attorneys general did not in their original proposal. Since it is impossible to do, I haven't done it in mine, either.

I make mention of that for the RECORD, and also ask to have included a chart that shows the disparity between products of companies.

I absolute don't think it is right for us to have different excise taxes on cigarette products because one company sells more than another company. That doesn't make sense to me. We have that throughout this bill. That needs to be remedied. If we stay on the bill, I will have an amendment to do.

So I ask unanimous consent that two charts, a letter, and newspaper articles be printed in the RECORD.

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

NATIONAL GOVERNORS ASSOCIATION,
Washington, DC, June 11, 1998.

Hon. TRENT LOTT,
Majority Leader,
U.S. Senate, Washington, DC.

Hon. THOMAS A. DASCHLE,
Minority Leader,
U.S. Senate, Washington, DC.

DEAR SENATORS LOTT AND DASCHLE: When the Senate began floor consideration of S. 1415, Senator McCain's tobacco settlement legislation, the bill included $196.5 billion over twenty-five years for the states and territories to settle their lawsuits against the tobacco industry. Those state lawsuits made possible the development of comprehensive federal tobacco legislation.

Governors have made clear from the beginning of the Senate's legislative debate that preserving and protecting state settlement funds would be one of our highest priorities. We agreed to support the state financing section of the McCain-Lott manager's amendment, which included some restrictions on the use of half of the state funds, in exchange for a guarantee that the states would receive at least $196.5 billion over twenty-five years This funding level is consistent wit the amount negotiated between the state attorneys general and the tobacco industry in the original June 20, 1997, agreement. At the same time, the amount of money available to the federal government through the tobacco bill has expanded significantly.

Over the past few days, the Senate adopted several amendments that dramatically reduce the amount of money available to the states to settle state lawsuits and restrict state flexibility related to the use of those funds that remain. Some Governors support the goals of the amendments that have been considered by the Senate, but federal priorities should be financed through the federal portion of the bill, rather than through state tobacco settlement funds.

The state funding pool has been reduced dramatically below the level to which Governors agreed. At such low levels, Governors must weight the potential of new state tobacco settlement revenues against the reality that a federal increase in the price per pack of cigarettes will result in an offsetting decrease in state cigarette excise tax revenues.

Accordingly, the nation's Governors are not able to support the state financing section of S. 1415 as amended. Given the experiences of the four states that have negotiated settlements of their individual lawsuits and the original state attorneys general agreement, the bill no longer places appropriate

priority on successfully settling state lawsuits. We urge you to restore the $196.5 billion reserved for the states while the bill is still on the floor of the Senate.

In addition, the states must be free to continue to pursue their own lawsuits against the tobacco industry. We strongly urge the Senate to ensure that the language included in S. 1415, to clarify that state settlement funds are not subject to federal recoupment, is applied to all states, including those that choose not to participate in the federal settlement.

If we, the Executive Committee of the National Governors' Association, can provide you with clarification of our position, please do not hesitate to let us know.

Sincerely,

Gov. George V. Voinovich, State of Ohio; Gov. Roy Romer, State of Colorado; Gov. Bob Miller, State of Nevada; Gov. Michael O. Leavitt, State of Utah; Gov. Howard Dean, M.D., State of Vermont; Gov. Thomas R. Carper, State of Delaware; Gov. Lawton Chiles, State of Florida; Gov. David M. Beasley, State of South Carolina; Gov. Tommy G. Thompson, State of Wisconsin.

[From the Washington Times, June 15, 1998]

TOBACCO BILL IS PACKED WITH PROGRAMS, AGENCIES

(By Nancy E. Roman)

The tobacco bill moving through Congress would spend $350 million per year for the first five years and as much ''as may be necessary'' for each year after that to promote smoking awareness abroad.

The foreign-aid program is one of many new government functions created in a tobacco bill that raises $92 billion over five years by taxing cigarettes by $1.10 per pack, and uses about $65 billion of that over five years to pay for things ranging from child care to college tuition.

The bill would also create new Medicare pilot projects, ban smoking outside public entrances, create new causes for litigation and spend up to $18,000 per American Indian to help them stop smoking.

Under the latest printed version of the tobacco bill, a whopping 480-page to me that few have read, the secretary of health and human services is directed to ''promote efforts to share information and provide education internationally about the health, economic, social and other costs of tobacco use . . .''

Part of the $350 million for each year through 2004 would be used to ''support the development of appropriate governmental control activities in foreign countries.''

The bill would also:

Ban smoking inside—and even outside—of public buildings involved in interstate commerce, including almost all retail facilities except restaurants. The bill prohibits smoking ''within the immediate vicinity of the entrance to the facility.'' The only alternative is for facilities that set up a separate smoking section where the air is ''directly exhausted to the outside.''

Create a right to sue in federal court for individuals who believe that owners of buildings where they work or live violate this provision. Under the bill, individuals must notify the building owner of his or her intention to sue. After 60 days, if the owner has not corrected the situation, the individual may sue. Civil penalties of up to $5,000 per day may be awarded under the bill. That would be a $1.65 million fine for a one-year violation.

Provide up to $1,700 per year in college tuition for tobacco farmers and their family members, including brothers, sisters, stepbrother's, stepsisters, sons-in-law, and daughters-in-law. There are currently two sections of the bill dealing with farmers, and one will have to be struck.

Provide as much as $7.6 billion to help American Indians stop smoking, or about $18,000 per American Indian smoker.

Under the bill, between 3 percent and 7 percent of the public health trust fund, or as much as $7.6 billion, is set aside for smoking-cessation programs for American Indians, as defined by the Department of the Interior.

Under that definition, there are about 1.4 million American Indians, about 406,000 of whom are adult smokers who would qualify. Assuming 39.2 percent of them smoke (the average rate of smoking among American Indians), that would be about $18,800 for each.

The original tobacco bill created about 17 new agencies, boards and commissions.

New functions for government include setting up a national tobacco document depository, creating tobacco smuggling prevention programs and countering advertising programs.

The bill would spend about $13.6 million over five years to consider topics like the effects of smoke on pregnant women and further research on second-hand smoke.

A Senate aide who helped draft the bill said research has demonstrated that smoking damages fetuses and that secondhand smoke is dangerous, but it has not shown how it damages fetuses.

The bill would require states to license retailers that sell tobacco and bar those retailers form selling cigarettes to minors.

All 50 states have already out-lawed selling tobacco to minors. However, this bill requires them to conduct ''monthly random, unannounced inspections of sales or distribution outlets in the state.''

The states must then submit annual reports to the federal government detailing how it enforced the laws, the extent of the success achieved, how the inspections were conducted and the methods used to identify outlets.

One-quarter of the $24.6 billion the state receive under the bill must be spent on child care programs, including those for school-age children.

The bill sets targets to reduce teen smoking—by 15 percent after four years, by 30 percent after six years, by 50 percent after eight years and by 60 percent after 10 years.

Tobacco companies are charged a surcharge if those targets are not met and it is the government that determines whether those targets are met, based on ''prevalence of tobacco products for the industry.''

If the bill passes, the federal government will determine whether the targets have been met.

NATIONAL TOBACCO SETTLEMENT TRUST FUND

[Gross tax increase on consumers in billions of nominal dollars]

Year	Initial payment	Annual industry payments	Maximum potential lookback assessments	Grand total
1999	10.00	14.40		24.40
2000		15.40		15.40
2001		17.70	7.70	25.40
2002		21.40	7.92	29.32
2003		23.60	8.13	31.73
2004		24.31	8.35	32.66
2005		25.04	8.57	33.61
2006		25.79	8.81	34.59
2007		26.56	9.04	35.61
2008		27.36	9.29	36.65
2009		28.18	9.54	37.72
2010		29.03	9.80	38.82
2011		29.90	10.06	39.96
2012		30.79	10.33	41.12
2013		31.72	10.61	42.33
2014		32.67	10.90	43.57
2015		33.65	11.19	44.84
2016		34.66	11.49	46.15
2017		35.70	11.80	47.50
2018		36.77	12.12	48.89
2019		37.87	12.45	50.32
2020		39.01	12.79	51.79
2021		40.18	13.13	53.31
2022		41.38	13.49	54.87
2023		42.62	13.85	56.47
Total 25 years	10.00	745.67	241.36	997.02
Total 5 years	10.00	92.50	23.74	126.24
Total 10 years	10.00	221.55	67.80	299.36

Source: S. 1415 as modified on the Senate floor.

Annual industry payments are adjusted for the greater of 3% or CPI–U beginning in year 6. This estimate does not include potential increases or reductions in industry payments resulting from changes in the volume of tobacco sales.

Lookback assessments would be initiated after year 3 if underage tobacco use is not reduced by specified percentages. The maximum lookback assessment of $4.4 billion is adjusted for inflation. Does not include an estimate for brand-specific lookback assessment.

TOBACCO PRODUCT ANALYSIS

Cigarette manufacturer	Cigarette brands	Share of U.S. market (in percent)	Cigarette tax increase under S. 1415 [1]
Philip Morris (USA)	Marlboro, Benson & Hedges, Merit, Virginia Slims, Parliament, Basic, Cambridge	49.1	$1.10
R.J. Reynolds (USA)	Winston, Doral, Camel, Salem, Vantage Monarch, More, Now, Best Value, Sterling, Magna, Century	24.2	1.10
Brown & Williamson (US subsidiary of BAT Industries, UK)	Lucky Strike, Carlton, Kool	16.1	1.10
Lorillard (USA)	Newport, Kent, Old Gold, True	8.7	1.10
Liggett Group (USA)	L&M, Eve, Chesterfield, Lark	Less than 1	0.00

Smokeless manufacturer	Smokeless brands	Share of U.S. market (in percent)	Moist snuff tax increase under S. 1415 [2]	Other smokeless tax increase under S. 1415 [2]
U.S. Tobacco (USA)	Copenhagen, Skoal, WB Cut, and 13 other brands of moist & dry snuff	37.9	$0.83	$0.39
Conwood (USA)	Levi Garrett, Kodiak, Taylor's Pride, and 34 other brands of chewing tobacco and moist & dry snuff.	23.3	0.58	0.27
Pinkerton (subsidiary of Swedish Match, Sweden)	Red Man, Timber Wolf, and 19 other brands of chewing tobacco and moist snuff	22.0	0.58	0.27

Smokeless manufacturer	Smokeless brands	Share of U.S. market (in percent)	Moist snuff tax increase under S. 1415 [2]	Other smokeless tax increase under S. 1415 [2]
National Tobacco (USA)	Beech-Nut, Big Red, Havana Blossom, Trophy	9.2	0.58	0.27
Swisher (USA)	Mail Pouch, Silver Creek, and 33 other brands of chewing tobacco and moist & dry snuff.	6.8	0.58	0.27
Brown & Williamson (US subsidiary of BAT Industries UK)	Unknown	Less than 1	0.58	0.27
R.C. Owen (USA)	Unknown	Less than 1	0.58	0.27

[1] S. 1415 purports to impose a $1.10 per pack cigarette tax by the year 2003. Subsection 402(f), page 186, exempts cigarettes produced by the Liggett Group as long as their cigarette production does not exceed 3% of the total U.S. production.

[2] Subsection 402(d)(3)(A) provides that a 1.2 ounce package of moist snuff is taxed at 75% of the level of a pack of cigarettes, and a 3 ounce package of other smokeless tobacco products is taxed at 35% of the level of a pack of cigarettes. Further, subsection 402(d)(3)(B) provides the smokeless tobacco products by smaller manufacturers (under 150 million units) are taxed at only 70% of the rate applied to other smokeless tobacco products.

CURRENT LAW TAX RATES: Cigarette = 24 cents per packj; Snuff = 2.7 cents per 1.2 ounce can; Other smokeless tobacco = 2.25 cents per 3 ounce package.

Mr. NICKLES. I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded, and I ask unanimous consent that I might speak for about 10 minutes, probably less, as in morning business.

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

PATIENTS' BILL OF RIGHTS

Mr. ROCKEFELLER. Mr. President, I have come to the Senate floor to talk about, as others have, something of fundamental importance to the people that I represent in my State of West Virginia, and that is equal treatment for all Americans with respect to health care. I am not just talking about Congressmen, and I am not just talking about coal miners or CEOs or custodians, I am talking about all Americans and all the time.

I want to talk about what I think is an urgent need here in Congress to pass legislation on the quality of health care, and that this legislation should apply to every single American. When enough of us recognize these needs, I am convinced we are going to enact legislation, and it is going to be called patient protection. It may have some other name. It may be modified, it may be expanded, who knows? But the need for it is undeniable, and it has to happen. Every single day that passes without the enactment of some kind of patient protection legislation is another day that millions of Americans, thousands of people I represent in West Virginia, are subject to the denial of needed treatments by insurance companies who are looking out for their bottom lines.

Every single day that we as a Congress fail to act on the Patients' Bill of Rights Act, if we want to call it that, is another day that Americans are left vulnerable to health care decisions made by people who are not doctors—in fact, doctors complain about this all the time—but who are, in fact, business professionals. Every day that we do not act, Americans are refused the specialty treatment they need and deserve. I am going to give two examples of this which I think are scary, and which are very real. Make no mistake, if we do not respond and if we do not respond forcefully, more Americans are going to lose confidence in our health care system.

It is interesting to me, having observed health care now for quite a number of years, that it used to be it was only patients, or only consumers of health care who were worried about the cost of health care, the quality of health care, the problems of health care, the paperwork of health care. Now, the people who really are coming on board in this angst are physicians themselves and nurses and people who work in hospitals who have to deal with the realities of what the health care system has become in this country.

West Virginia is no exception. West Virginia may have some more problems than some other States, but we are no exception with regard to the need for patient protection. I constantly run into West Virginians when I am at home who complain to me—not at my invitation, but at theirs—about being denied the treatment they felt they were promised, or that they knew they were promised from plans, health care plans where they thought their premiums entitled them to something called quality health care and fair treatment.

One complaint I hear all too often is being denied specialty care. That is a very big deal. General practitioners can take care of a lot of problems, but sometimes you come to a point where you have to have more. Under most managed care plans, a patient's primary care physician may in fact refer, as the gatekeeper or whatever, a patient to a specialist, if the primary care physician determines that specialty care is necessary. That makes a lot of sense to me. Primary care physicians are in a very good position to do that. That is a professional decision involving going to another professional. However, things may change if the specialist is not on the list often called the plan's network.

Let me explain. Suddenly, someone then comes from the administrative office, or from some other division, and may take over. Suddenly, the patient who, along with the primary care physician, is anxious for that patient to see a specialist because of some health problem, finds out that the executives, not the physician, but the executives in charge of the managed care plan, people who are not doctors, not medical providers, reserve the right to refuse payment for the specialist recommended by his or her original doctor. In fact, this is a frequent occurrence for people who have insurance companies that push their employees to steer patients to only the physicians listed within their plan.

That is not the way it is meant to work. Insurance companies do not always make the best medical choices because they are not trained in that business. They are trained in a different business. Too often motivated by their bottom line, which is understandable, and not often enough motivated by the patient's health care needs, many specialty referrals are refused. Now, I go to my examples and I hope my colleagues will listen.

I think of a little 6-year-old boy from West Virginia who became seriously ill. Concerned, his mother rushed him to the doctor's office, his doctor's office, in fact, where he was quickly diagnosed with diabetes. His primary care physician referred him to an out-of-plan pediatric endocrinologist; a specialist in childhood diseases, that is. That was the referral, to a specialist in childhood diseases. The specialist placed this young child on insulin to control his condition. But when the child's primary care doctor referred him back to the specialist for a follow-up visit—which makes a lot of sense—the referral was denied, stating, ''* * * service available with in-plan endocrinologist.''

That doesn't sound so bad, does it? In other words, go to the in-house, in-plan endocrinologist. So while it sounds like the child could get the care that was needed from the in-plan physician, the reality is that he could not get that health care for a very subtle but basic reason. The in-plan specialist was an adult endocrinologist, not a child endocrinologist, specializing in adult diabetes. But diabetes is not the same in children and adults, and there are different specialties for adults and for children in that field. The treatment is different. There is serious risks of developing future health problems when the childhood diabetes is not dealt with properly by a proper physician. The insurance company in this case was gambling, in effect risking this child's future health for the few dollars they saved by saying: Oh, you have to go to an in-plan doctor.

As bad as that case is—and I wish it were the only one, but it is not—I was recently told the story of a 14-day-old baby girl. Mr. President, 14 days old, this precious little child's health was already jeopardized by her health plan. What do I mean by that? This poor

child was brought to her doctor 14 days after birth because of a urinary tract infection. Treatment of a urinary tract infection at that age requires an evaluation for urinary tract abnormalities. But the referral from the pediatrician to an out-of-plan specialist was denied, again saying services are available in-plan, an in-plan urologist. OK, if she could get the right treatment in-plan, that is what HMOs are for; right?

But she could not. She could not get the help because the urologist the plan would have had her see was, once again, an adult urologist. Am I picking here? Am I just being petty? No. The problem lies in discovering and treating urinary tract abnormalities which is vital to preventing serious and permanent kidney damage, and the appropriate specialist for such a situation is a pediatric urologist.

I have working in my office, thanks to the Robert Wood Johnson Foundation, a pediatric cardiologist. A pediatric cardiologist is different from an adult cardiologist. In other words, an adult and child are different and they require different specialists with different skills. It is a basic and important fact. Simply to say you have a urologist in-house is not to say that if that urologist deals with adult urology problems, that it is sufficient for a 14-day-old baby girl.

This decision by the HMO was based on having an adult urologist, which urologist did not have speciality training in pediatric disorders and, therefore, was not capable of caring sufficiently for an infant. Why? Because keeping her within the plan's network of doctors costs less.

I understand business, and business is important, but this business of quality of health care treatment is very serious and very scary, and that is what we have to focus on when we are thinking about what we are going to do. These are our children, the most helpless and vulnerable of all of American citizens. They have no way of defending themselves. They depend on their parents, they depend on their communities to take care of them, and these people, in turn, depend on us in Congress to ensure that they are not taken advantage of, that games are not played with their health and the health of their children.

The time has come for us to pass a bill which guarantees certain commonsense protections for every single patient in America, young or old, rich or poor. This legislation—which we have the opportunity to pass, an obligation, I think, to enact this year, the Patients' Bill of Rights Act of 1998—will do exactly that.

I am interested in good health care for our people, Mr. President. I don't think it is a game, and I don't think it has anything to do with politics. I think it is a very, very serious consideration.

I thank the Presiding Officer and yield the floor.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from Kentucky.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The Senate continued with the consideration of the bill.

Mr. FORD. Mr. President, I ask unanimous consent that the Senator from Montana, Mr. BAUCUS, be added as a cosponsor of the Ford amendment pending before the Senate.

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

Mr. FORD. I thank the Chair.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, on behalf of the leader, I ask unanimous consent that the Senate now resume consideration of the tobacco legislation, S. 1415, for debate only until the hour of 3 p.m. today.

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

Mr. LUGAR. I thank the Chair. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

PRIVILEGE OF THE FLOOR

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the following members of my staff be given the privilege of the floor for the duration of the debate on the current bill: Hunter Bates, Robin Bowen, David Hovermale, and Kyle Simmons.

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

Mr. MCCONNELL. Mr. President, we have been on the tobacco bill now for four weeks. What is abundantly clear to this Senator is that the best favor we can do for the American people and, in particular, for Kentuckians who are tobacco producers is to defeat this bill. President Clinton and the majority of the Democrats have been pushing this bill for some time, going back to the 1996 campaign. A typical American family today already pays 38.2 percent of its total income in taxes at all levels of government. This tobacco tax bill before us will increase taxes by more than $600 billion, some argue even up to $800 billion over the life of the bill, and 60 percent of that tax will fall on working people who make less than $30,000 a year.

Let me repeat: 60 percent of the taxes that we are raising will fall on Americans making $30,000 per year. Mr. President, more than anything else, what the tobacco bill is about is tax and spend.

The original cause is a noble cause around which I guess virtually all of the Senate is unified, and that is the question of confronting the problem of teenagers and smoking. We know, of course, that only 2 percent of smokers are teenagers. We wish they would not engage in this habit, and we ought to do everything we can to deter that behavior. But this bill, this $600 billion or $700 billion or $800 billion bill, this tax increase targeted at people in America making $30,000 or less is about big government and big spending and big taxes.

A good starting place would be to defeat this bill, which is not in the best interest of the American people and certainly not in the best interest of the people of Kentucky for whom this is a particularly sensitive issue. The biggest beneficiaries of the bill before us, in addition to the Government and literally legions of new agencies, are a number of lawyers who are going to make a substantial amount of money even with the Gorton amendment yesterday.

So a good starting place in discussing this issue is what ought to be done with the overall bill, and it has been the view of this Senator from Kentucky that the appropriate fate for this bill is defeat, the sooner the better.

Should the bill not be defeated, it creates a catastrophe for the Commonwealth of Kentucky. We have over 60,000 farm families who derive some or all of their income from the annual growing of a legal crop.

They are engaged in an honorable activity. They are raising their families, educating their children, obeying the law. And here comes the Federal Government with an effort to destroy this legal industry. And make no mistake about it, this bill is designed to bring the tobacco industry to its knees. And that goal and design is pretty clear, with the amendments that have been passed so far, including providing no immunity from lawsuits whatsoever for the tobacco companies, which, as we all know, was part of the original settlement agreed to last summer—no immunity is going to be provided in this bill for any kind of lawsuit of any sort.

We doubled the so-called look-back provision—clearly, in this Senator's view, an unconstitutional attempt to make the company responsible for anyone who chooses to use its product. I do not know any reputable lawyer, Mr. President, either in or out of the Senate, who thinks that provision is constitutional. And, of course, there are advertising restrictions in this bill. Nobody that I know thinks those can be imposed by the Government either.

The industry pulled out of this a long time ago—several months ago—when they saw what form it was taking. So make no mistake about it, Mr. President, this bill before the Senate, in its current form, is designed to destroy the tobacco industry.

Now, the victims of that are the 60,000 farm families in Kentucky who raise this legal crop every year. And in the wake of this effort to destroy this industry, it has produced a significant debate in our State about what to do.

Now, if El Niño hits, the Federal Government steps in and helps the victims. In this particular instance, the Federal Government itself is causing the disaster. And it seemed to this Senator appropriate, if the Government were going to create this disaster, then the government ought to provide a lifeline or assistance or help to those victims of this Government-made disaster.

And after a good deal of thought over many months, Mr. President, I concluded that if the Government were going to try to destroy this industry, the appropriate response was for the Government to provide assistance to the farm families who grow this legal commodity, and to do it as generously as possible over the shortest period of time.

So it was my conclusion, Mr. President, that the Senator from Indiana—certainly no friend of tobacco, as he himself would readily admit—was prepared to engage in what I thought was a generous act in the context of this impending disaster.

Where I differ with the Senator from Indiana is, I think the tobacco program has served us well. It has served us very well in Kentucky. It has allowed us to hold on to smaller farms a lot longer than we would otherwise have been able to hold on to them, even though, Mr. President, I must confess, in all candor, there has been consolidation even with the program.

When I came to the Senate in January of 1985, the average tobacco grower in Kentucky had about an acre—roughly 2,500 pounds, which is about an acre. Today, the average tobacco grower in Kentucky has 4.5 acres. So you can see that even with the program, consolidation is occurring. Without the program, unquestionably, consolidation would occur very rapidly. And the tragedy of the loss of the program is that the income, which has been divided up among an awful lot of medium- and low-income people, would in all likelihood consolidate into large farms. And I do not applaud that. I would rather keep the tobacco program. And we can keep the tobacco program if we can beat this bill.

So, Mr. President, let me say, the first order for this Senator is to defeat this bill. I have done nothing to promote this bill at any point along the way. I opposed it in 1997, 1998, 2 months ago, last month, a week ago, yesterday, and today. This is a terrible bill for America and a particularly bad bill for Kentucky.

But if it is to become law, the question you have to ask is, What is the best approach for the victims of this law, the tobacco growers of Kentucky? It is my view, in that context, that the Senator from Indiana has it right, that if the Government is trying to destroy this industry, the best thing the Government can do is to provide a generous transition payment to these growers on the way to the free market—not my first choice, but my choice in the context of the bill that President Clinton and the vast majority of Democrats in this body want to see become law.

Mr. President, there are two competing proposals. One proposal, sponsored by my colleague from Kentucky, seeks to hold on to the tobacco program for the next 25 years. If it were not for this bill, we would have a chance of holding on to the tobacco program without any legislation, because this bill is what creates the problem, not that instantly tobacco becomes less controversial. But any time this kind of bill is seriously contemplated in Congress, it seems to me the only solution to that is to provide as generous a compensation as possible for our growers over the shortest period of time, because the program is going to end in the context of this kind of Government pile-on designed to destroy the industry.

So, Mr. President, I stated my case as best I could and, if I may say so, I think pretty well, in a recent op-ed in the Lexington Herald-Leader at home, which I ask unanimous consent to be printed in the RECORD.

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

WE DON'T HAVE 25 YEARS FOR LEAF ACT

(By Mitch McConnell)

One of President Bill Clinton's signature political maneuvers occurred early in his administration when he and Vice President Al Gore declared war on tobacco—portraying Kentucky's leading agricultural commodity as a modern-day plague. The anti-tobacco zealots and an army of greedy plaintiffs' lawyers eager to prey on the tobacco industry created the most serious threat ever arrayed against tobacco farmers.

Disaster has loomed for Kentucky's tobacco farmers since Clinton took office and is now manifested in the form of the $850 billion McCain bill which sailed out of the Senate Commerce Committee 19–1, with Sen. Wendell Ford's support. Thus was the death knell sounded for tobacco.

Liberal Democrats in Congress have eagerly piled on, vowing to slay the tobacco industry generally and the farmers' price-support program in particular. Senator Dick Durbin (D-IL) venomously wails that tobacco is the only government-supported crop ''with a body count,'' and lambasts the tobacco program as ''. . . subsidizing the growth, production, and processing of a product which kills hundreds of thousands . . . .''

Sen. Ted Kennedy (D-MA), the most influential Democrat in the Senate, decries tobacco with characteristic hyperbole, charging the industry with ''the insidious and shameful poisoning of generations of children.'' Durbin and Kennedy sentiment, shared by nearly all their liberal Democrat colleagues, does not auger for any easing up in the war against tobacco. Quite the contrary.

Kentucky's farmers are in this anti-tobacco squad's crosshairs. Senator Ford and I, as always, are unified in our goal of fighting for Kentucky farmers. Regrettably, we disagree over the best means for achieving this protection and security.

Kentucky farmers stand at a critical crossroads, presented with two alternatives for survival. Senate Agriculture Committee Chairman Richard Lugar (R-IN) offers farmers a three-year phase-out of the tobacco program that would provide the average quota owner with meaningful annual transition payments of $26,500 and the freedom to continue to grow tobacco in a free market, forever.

The LEAF Act, proposed by retiring Senator Ford, offers farmers two very different paths: a buyout path or a gamble that the program could continue for another quarter-century. If the average quota owner chooses to go down the Ford buyout path, he would receive a 10-year buyout with annual payments of only $8,000—with the added proviso that he would be barred from growing tobacco for the next 25 years! With such an unpalatable buy-out option, farmers would likely buy into the LEAF Act's contention that the tobacco program could be preserved until the year 2023—even though the government is currently phasing out other agriculture commodity programs like corn, wheat and soybeans.

After extensive consideration and consultation with Kentucky growers, I firmly believe that the Lugar plan is the wiser course because the LEAF Act is ultimately unsustainable—a nice idea, but an unwarranted gamble in what promises to be an increasingly hostile anti-tobacco environment. In short, the Lugar plan is the best option in a bad situation, the optimal approach to ensure that our farming families and their communities are not grievously wounded in the escalating anti-tobacco war being led by Commander-in-Chief Bill Clinton, Vice President Al Gore and their eager lieutenants in the liberal Democratic congressional caucus.

This unprecedented assault on tobacco—a legal product—has permanently altered the political landscape to the extreme detriment of tobacco farmers. As difficult as it is to understand in Kentucky, where tobacco is a way-of-life, the liberals in Washington most closely associate tobacco with a cause of death.

Nevertheless, Senator Ford and I, joined by precious few colleagues, have for years been fighting a rear-guard action in defense of tobacco farmers, staving off the anti-tobacco zealots with every parliamentary maneuver we could muster. But Clinton gave the green light to punish the tobacco industry into extinction; and virtually every governmental and private-sector force—outside of Kentucky and North Carolina—has followed suit.

On the home front, politicians like Scotty Baesler and farm bureaucrats like the Burley Co-op's Rod Kuegel and Danny McKinney are exploiting the tobacco growers' terrible plight with shrill rhetoric, unproductive attacks and politics as usual. Contrary to these attacks, I firmly believe Kentucky farmers understand the political and economic ramifications of the highly-charged anti-tobacco environment. A Herald-Leader poll found that 70 percent of Kentucky farmers who expressed an opinion said that the program would be gone in less than five years. Similarly, the Tobacco Fairness Coalition has reported that 63 percent of growers in Kentucky and Tennessee favor Senator Lugar's front-loaded phase-out of the tobacco program that pays farmers $8 a pound.

The LEAF Act has been criticized from all sides on a number of different issues. Even Sen. Ford's long-time Democratic friends in the Senate have expressed serious doubt about the viability of his plan. Sen. Bob Kerrey (D-NE) recently stated that he is ''troubled by'' the cost of Senator Ford's plan and declared on the Senate floor: ''I have a very difficult time voting for something that has $28 billion for tobacco farmers . . . .''

Moreover, I am terribly troubled by the fact that LEAF discriminates against Kentucky farmers, inexplicably treating them worse than North Carolina farmers. For example, if a Kentucky farmer takes the LEAF

buyout, he is forbidden from growing tobacco for the next 25 years. Since the average age of a Kentucky tobacco farmer is 60, the LEAF buyout is effectively a lifetime ban. On the other hand, a North Carolina quota owner receives a guaranteed buyout under LEAF and is still allowed to continue growing tobacco. This is simply not fair.

Thoughtful newspapers in the heart of tobacco country have surveyed the tobacco landscape and concluded that the tobacco program is mortally wounded. In the words of the Paducah Sun: ''[The] ultimate fate [of the tobacco program] seems sealed. How can [the] program survive indefinitely when the administration, Congress, health groups and public opinion are arrayed so solidly against smoking?''

Or as the Daily News in Bowling Green concluded: ''Hating tobacco is popular. This national mood spells an end—and soon—to federal programs seen as supportive of the 'evil weed.' McConnell has stated the facts. They are hard. But they are the facts.'' The Courier-Journal also acknowledged that my decision to support the Lugar plan was ''a reasonable and defensible course.''

As much as I would like to promise farmers 25 more years of a federal tobacco program, I cannot in good conscience be complicitous in handing out such a false promise to the thousands of Kentucky families whose lives would thereafter hang in the balance and twist in hostile political winds. The combined forces of Clinton, Gore, opportunistic Democrats in Congress and the nation's liberal media, have made tobacco public enemy No. 1. In sum, I simply refuse to sell farmers on the dreamy illusion of a new 25-year tobacco program.

Contrary to the caricature of my position by the politically-motivated and woefully ill-informed former Democrat State Sen. John Berry and his poet brother, my ''sole prerogative'' is to provide certainty and protection to Kentucky's farming families. We should allow our farmers and communities to take the cash-in-hand and not force them into a high-stakes crapshoot. In the words of the Owensboro Messenger-Inquirer: ''This may be the last chance farmers have before it all goes up in smoke.'' Nostalgia for the past may be good for poets, but not for policymakers.

Mr. MCCONNELL. Mr. President, as you can imagine, this is a much discussed issue in Kentucky. Some people think the LEAF Act is the way to go; some people think the Lugar proposal is the way to go. Interestingly enough, a number of newspapers, having surveyed the landscape and having looked at the issue, have concluded that the Senator from Indiana—not, again, thought of as any friend of tobacco—and the Senator from Kentucky, who has spent most of his career fighting, along with the senior Senator from Kentucky, for tobacco, have it right, that in the context of this kind of bill, the only rational response is to try to provide as much compensation as possible.

In fact, the Owensboro Messenger-Inquirer, the daily paper in Owensboro—one of our major cities and one of our major papers—had an editorial on May 24, the headline of which was, ''McConnell may have right idea, Lugar's plan could ultimately benefit tobacco farmers more than Ford's.''

Now, reasonable people can differ about what is the appropriate thing to do in the face of impending disaster. You can go down with the ship or you can go for the lifeboats. And what the Senator from Indiana is doing here is offering a lifeboat; and, interestingly enough, after you get in the lifeboat, you are still free to row.

In other words, under the Lugar proposal, when you go on to the free market, it is indeed free; people are still entitled to grow tobacco, a legal product, if they want to. Under the competing proposal, the LEAF proposal, there is a so-called voluntary buyout, but, candidly, it is not very attractive. If you take the voluntary buyout, it takes you 10 years to get your money. In the first year, the $8 presumably would still be worth $8; in the tenth year, the ag economist on the Senate Agriculture Committee, of which I am a member, says it is worth about $5.13. So your money erodes over a 10-year period.

In addition to that, if you accept the voluntary buyout, you cannot grow tobacco. Even though you are in a free market, the Government tells you, you cannot grow tobacco. And, even more mysterious, under the same LEAF proposal, there is a mandatory buyout for flue-cured tobacco—that kind of tobacco grown in the Carolinas and Virginia—a mandatory buyout. But after it is over, you are free to grow tobacco.

So I think, clearly, the purpose of the LEAF Act was to discourage any exit from the tobacco business. The buyout is not attractive, and it is designed to sort of hitch you up to a declining market created by a Government pile-on.

So, Mr. President, I ask unanimous consent that the editorial in the Owensboro Messenger-Inquirer be printed in the RECORD.

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

[From the Messenger-Inquirer, May 24, 1998]

MCCONNELL MAY HAVE RIGHT IDEA

LUGAR'S PLAN COULD ULTIMATELY BENEFIT TOBACCO FARMERS MORE THAN FORD'S

Tobacco farmers may be upset with U.S. Sen. Mitch McConnell, but ultimately he may be doing them more good than harm.

McConnell did the once unthinkable last week—he sided with Indiana Sen. Richard Lugar on a plan to end the federal tobacco price support system.

McConnell said when he first came to the Senate in 1985, there were seven tobacco-related votes. ''Tobacco was a sleepy, regional issue to which most members of Congress did not pay much attention,'' McConnell said.

The politics of tobacco have changed. In the current Congress there have been 29 tobacco-related votes, McConnell said, including one last summer in which crop insurance for tobacco farmers barely passed.

McConnell cited a statewide poll that found 70 percent of the respondents thought the tobacco support program would be dead in less than five years.

Siding with Lugar is in direct opposition with Kentucky's senior senator Wendell Ford of Owensboro. Ford's plan would continue price supports, offer $8 per pound to cover farmers' losses and would provide $28.5 billion over 25 years to assist tobacco farmers and communities who suffer because of decline in tobacco demand and jobs.

Ford is doing what he is supposed to do—taking care of the concerns of his constituents. In a different way McConnell is doing the same, although tobacco farmers may not yet see it.

Just a few years ago, Ford's plan would have been better for Kentucky tobacco farmers. But tobacco is in trouble, and with Ford leaving Washington at the end of this year, there will be one less experienced voice in favor of the support program.

McConnell recognizes this and is trying to bridge the gap between the two sides on price supports.

McConnell is not simply cozying up to Lugar's initial plan, which we still believe was overly punitive. Lugar's initial plan was to pay those who hold quotas to grow tobacco $8 per pound to get out of the business. Those who wanted to continue to grow would do so under free market conditions, but Lugar proposed transitional payments over three years to wean farmers off the program.

At McConnell's request, the Lugar plan now allows farmers to continue growing tobacco during the phase-out program. And sharecroppers and those who lease quotas to grow tobacco—initially left out of Lugar's plan—would receive $4 per pound during the buyout.

Also new at McConnell's urging was $1 billion over five years for rural communities hit hard by the reduction in tobacco revenue. That money would be invested in education and retraining, and to assist warehouse owners and operators.

We share a legitimate conflict of opinion on this issue with, we expect, many Kentuckians. The global economy has turned to a free market on tobacco, and some would surely claim it wrong for the American government to continue artificially maintaining higher prices.

It would be easier to embrace that position if we lived in Montana, Ohio or New Hampshire. But we live in Kentucky, a farming state in which 25 percent of total farm income is from tobacco sales. Any movement that would ultimately cut prices more than in half for tobacco must be met with concern.

But McConnell obviously feels that this may be the best chance for tobacco farmers to recoup some lucrative prices. It is conceivable tobacco opponents will simply end the price support program in a few years without any sort of transitional buyout.

This makes it imperative that both alternative crops and new markets for tobacco be found for Kentucky farmers. Biosource Technologies is working on exciting research using tobacco in the development of pharmaceuticals.

McConnell is too savvy a politician to make this move without a firm belief that the majority of his constituents favor it. Tobacco is in trouble no matter what McConnell supports. This may be the last chance farmers have before it all goes up in smoke.

Mr. MCCONNELL. And the Paducah Sun, Mr. President, in the far western part of our State, in taking a look at the situation, reached the conclusion that the Senator from Indiana and the junior Senator from Kentucky probably had it right, that in the context of this kind of bill, the rational response is to provide a generous buyout as rapidly as possible on to the free market.

Mr. President, I ask unanimous consent the editorial in the Paducah Sun of May 23 of this year be printed in the RECORD.

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

[From the Paducah Sun, May 23, 1998]

SMOKING BOMB

TOBACCO BUY-OUT A REASONABLE IDEA

Mitch McConnell's tobacco bomb has exploded with stunning force throughout the state he represents. Nearly in unison, Democrats and farm groups have denounced his buyout proposal in the strongest terms, and his fellow Kentucky Republicans are keeping quiet. Conservatives from outside the tobacco belt are criticizing the Kentuckian's plan as too generous. So politically, the senator's idea looks like a loser. As a matter of policy, it is worth a cooler appraisal.

Sen. McConnell has signed onto Indiana colleague Richard Lugar's legislation to close out the federal tobacco support program over three years by buying up the production quotas at $8 a pound. Participation would be mandatory, but in the end, farmers would be free to grow as much leaf as they wished and sell it in an unregulated market.

The alternative by his Democratic counterpart, Sen. Wendell Ford, would give farmers the option of selling their quotas, also for $8 a pound, over 10 years, but those who take the money would have to quit growing the crop. For others, the price subsidies would remain in place.

Gov. Paul Patton, the three Democratic senatorial candidates, the burley tobacco organization, and the Kentucky Farm Bureau all embrace the Ford proposal. So does Republican Rep. Jim Bunning, his party's likely nominee for the U.S. Senate seat this year, which is a fair indication of the political lay of the land in Kentucky.

The competing plans are substantially different, but have at least one major goal in common. Both are designed to cushion the impending blow for tobacco growers in a social and political environment that is increasingly hostile to cigarettes and smoking.

Which proposal is superior as national policy—or better for the growers (which is not necessarily the same thing)—depends largely on the future of the tobacco program.

The Lugar-McConnell plan is premised on the belief that the tobacco subsidy is on its way out no matter what and the best deal for farmers is a short-term cash buyout.

State Democrats are far more optimistic about the leaf program. The accuse Sen. McConnell of premature surrender and seem to resent particularly his break from a previously united front among the Kentucky delegation.

We believe Sen. McConnell has reason on his side. Whether the tobacco price support program lasts another three, five or 10 years is not the main point. Its ultimate fate seems sealed. How can the program survive indefinitely when the administration, Congress, health groups and public opinion are arrayed so solidly against smoking?

Even now, lawmakers mainly are arguing about how punitive the federal legislation will be against the tobacco industry. At last report, the U.S. Senate is prepared to impose a $1.10 per pack tax hike on cigarettes, which incensed Sen. Ted Kennedy because it wasn't $1.50. The contradictory notion—manufacturers bad, growers good—will not wear well forever.

Moreover, tobacco, of all commodities, hardly would be the exception in the overall movement of agriculture away from support programs and toward a market system. Price supports for corn are not surviving; why should tobacco's?

In plain fact, the tobacco program was never defensible in a government that is trying to discourage smoking by every means. Ending it now at least would allow government to purge itself of hypocrisy.

The prospect of handing $80,000 to the typical tobacco farmer who cultivates four acres, as the Lugar-McConnell proposal would do, does not strike us as victimizing him excessively. The out-of-state conservative critics of that bill's generosity may have a point. The payoff would be $20,000 an acre, as compared to about $200 an acre for corn growers.

The relative merits of Sen. McConnell's and Sen. Ford's competing approaches are still up for debate, and much is yet to be decided. We fail to see how the Republican's proposal is so inimical to state or national interest as to justify the furor it has created.

Mr. McCONNELL. Mr. President, the State Journal in Frankfort, our State capital, on May 21 of 1998, essentially agreed, as well as did the Owensboro paper and the Paducah paper, that in this particular situation the buyout proposal offered by the chairman of the Agriculture Committee makes the most sense. I ask unanimous consent that the State Journal editorial be printed in the RECORD.

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

[From the State Journal, May 21, 1998]

MORTAL WOUNDS

U.S. Sen. Mitch McConnell ignited a firestorm in Kentucky this week when he threw his support to Indiana Sen. Richard Lugar's legislation that would end federal price supports on burley tobacco by 2002.

In doing so, McConnell deserted his fellow Kentuckian Sen. Wendell Ford, who is trying desperately to salvage the tobacco price support program as the Senate debates historic legislation targeting the tobacco industry as a whole.

It goes without saying Ford is furious. Tobacco farmers are irate. Agriculture groups are in a frenzy. And Democrats running to replace Ford are on the political warpath.

McConnell says he made the decision to desert Ford's legislation, which McConnell originally co-sponsored, because he saw the handwriting on the wall. Tobacco is so universally despised in Congress that there is no hope the price support program can survive at a time when federal agriculture price support programs are being jettisoned all over the place.

The tobacco price support program, McConnell says, is ''mortally wounded.''

If everyone will calm down and think about it, they will realize that McConnell is right. Tobacco in all its forms is anathema in Congress and much of the nation outside a handful of states where it is grown. The anti-tobacco sentiment has reached a level of zealotry rarely if ever seen involving a single issue.

Ford, McConnell and Kentucky's congressional delegation have waged the good fight, but they are going to lose on the issue of price supports. The issue now must be what they can salvage to help farmers who rely on burley tobacco for their incomes and the communities that rely on those farmers for their prosperity.

The Lugar legislation would pay the owners of tobacco quotas $8 a pound over three years. Tenants and those who lease tobacco quotas would be paid $4 per pound over three years. Tobacco states would receive $1 billion over five years to aid affected communities and to pay for job retraining and crop diversification programs.

Once the support program ends in 2002, farmers could continue growing tobacco, but the price would be subject to a free market.

In that free market, Kentucky burley undoubtedly would be worth far less and, in time, most small growers would get out of the business because it no longer would be profitable.

Whether the Lugar bill is fair compensation to burley growers is open to debate. Certainly, it will take far more than $1 billion to insulate communities and farmers from the potentially devastating economic impact of tobacco's disappearance as a major crop. But Kentuckians need to join the debate, not insist blindly that something ''mortally wounded'' can survive, especially when that something is associated with tobacco.

Mr. MCCONNELL. Mr. President, the Bowling Green Daily News in the heart of our tobacco-growing part of the State—an area of the State represented by Congressman RON LEWIS who is on the House Agriculture Committee, who also endorses the Lugar approach as the only logical thing to do in the context of this bill designed to destroy this industry. The Bowling Green paper, also says that this is a realistic and appropriate response to the kind of catastrophe we are confronting.

I ask unanimous consent that the editorial from the Daily News in Bowling Green of May 21 be printed in the RECORD at this point.

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

[From the Daily News, May 21, 1998]

TOBACCO PLAN IS MERELY REALISTIC

U.S. Sen. Wendell Ford and Democratic Senatorial candidates Scotty Baesler, Charlie Owen and Steve Henry can say it isn't so, but the support system for tobacco is doomed.

It is best to get out quickly while tobacco farmers still have some political capital to expend.

That is what U.S. Sen. Mitch McConnell, R–Ky., and Sen. Richard Lugar, R–Ind., are advocating. McConnell has joined Lugar in promoting a buyout plan that would pay tobacco farmers $18 billion and help tobacco-impacted communities adjust to cessation of the support system.

However politicians from Kentucky and other tobacco-raising states may deplore it, tobacco has become a favorite political kickball, and termination of the support system is inevitable. It is just a matter of time. Surely, Kentucky politicians now raising such a flap over McConnell's ''defection'' know this as well as does he.

No tobacco farmer has to be told that there is a rising swell of anti-tobacco sentiment. Proponents of the system may argue honestly that the program is mostly paid for by farmers, but that argument will fall on deaf ears. Tobacco is politically incorrect.

Facing up to that reality, McConnell and Lugar offer a way out. But there is scant time for debating whether this buyout plan or that buyout plan might prove best for Kentucky farmers. Tobacco has been called to judgment in the court of American public opinion and has been found guilty.

The Lugar-McConnell approach is the best of several poor choices.

It would allow Kentucky farmers to do what many want to do—get out of the frustrating business of raising tobacco with some hope of saving the farm. It would pay tobacco farmers $8 a pound over three years, pay tenants and those who lease their tobacco quotas $4 a pound over three years and provide $1 billion in community assistance for tobacco states. The support system would be eliminated by 2002.

These are not harsh terms given the reality of the nation's anti-tobacco mood. In fact, they probably represent the best conditions that Kentucky tobacco farmers can hope to get.

Few people in Kentucky, including McConnell, want the destruction of the tobacco support system. But it is foolhardy to believe that the tobacco states can muster sufficient political power to long continue the program.

Hating tobacco is popular.

This national mood spells an end—and soon—to federal programs seen as supportive of the ''evil weed.''

McConnell has stated the facts. They are hard. But they are the facts.

Mr. McCONNELL. The Louisville Courier-Journal is conflicted on this issue. David Hawpe, the editor, a twice-a-week columnist, agrees with my senior colleague that the LEAF Act is the way to go, but the editorial page in the same paper, looking at the same issue, comes to the opposite conclusion.

Just reading in part from the Louisville Courier-journal of May 20:

[T]he LEAF Act would be in trouble in any event. This, after all, is a Congress that passed the Freedom to Farm Act, which ended price support programs for such non-controversial crops as wheat, corn and soybeans. Why would lawmakers, especially now, make an exception for tobacco, which is blamed for 400,000 deaths a year?

Of course, some anti-smoking groups have formed an alliance with tobacco farm organizations who support the Tobacco Program on the grounds that cheaper tobacco would lead to more smoking. But the cost of tobacco is a tiny fraction of a pack of cigarettes, and it will get smaller as Congress piles on new taxes.

The grim fact is, the tobacco growers have a stake in people continuing to smoke, while the government, with broad public support, is determined to discourage smoking.

Sooner or later, a way of life in Kentucky [according to the Courier] is going to end, and it is going to be painful. Senator McConnell would get it over quickly. Senator Ford will stretch it out. Neither can save a rural economy based on burley.

That is from the Louisville Courier-Journal on May 20 of this year.

There have been numerous letters to the editors of various papers. I will not read them all, but I think one is interesting in particular. It appeared June 11, 1998, in the Courier-Journal, from H.H. Barlow III, Cave City, KY.

I am a 47-year-old lifelong tobacco farmer in Barren County, the largest tobacco-producing county in tobacco. The media, Senator Wendell Ford and Representative Scotty Baesler [according to this grower] are not telling the whole truth on tobacco.

That is he—the writer of the letter—not I, I say to my senior colleague from Kentucky.

Senator Mitch McConnell has taken a bold step to protect the tobacco farmers of Kentucky by proposing an $8-per-pound buyout that would allow farmers to continue to grow tobacco in the free market. For me and my neighbors who are older and have spent our life raising tobacco, McConnell's proposal gives us a retirement plan and compensation for the loss of income. Most important is that under the McConnell plan, tobacco farmers would receive payments over a 3-year period as opposed to 10 years as Ford has proposed. Payments over 3 years would be significant enough to enable farmers to reduce debt and to invest in retirement or to develop other agricultural enterprises on the farm.

There are seven tobacco states fighting 43 non-tobacco states, and tobacco votes in Congress get closer every year. Ford proposes to establish another government-run program that can be voted out by tobacco opponents at any time, leaving tobacco farmers to bleed a slow death with nothing to show for our quotas. McConnell has risked a lot to be honest about the true future of the tobacco program. You be the judge, but for me and my neighbors, having the buyout money for our quota is like having a bird in hand instead of two in the bush, as Ford and Baesler want.

Another letter appeared in that same edition of The Courier-Journal. This letter was by Ms. Megan Cobb of Henderson, Kentucky. Here are some of the thoughts offered by Ms. Cobb:

As a young, non-smoking Kentuckian, I have been reading the information and misinformation surrounding the tobacco price support issues. Being apolitical, I have no interest in the politics of the issue, but I am concerned that our political candidates . . . are using the issue for their own benefit and really have no concern for the issue itself or the people who are affected.

I will say it takes great courage for our Senator Mitch McConnell to stand up and tell the cold truth. That is, the price support system for most farm products is over for all intents and purposes. And that tobacco, and its production, is going through radical changes not caused by the political process but, rather, by the social process that causes societies to change dramatically.

It is unfortunate that some of our farmers are looking for a scapegoat rather than solutions. It is unfortunate that our Senate candidates are pandering to the issues rather than boldly charting new courses like McConnell. And to say McConnell's position is anti-farm is not only distortion but irresponsible.

So these are just a few of the thoughtful Kentuckians in the heart of tobacco country who have surveyed the landscape and agree with me on this difficult issue.

I also ask unanimous consent a letter to the editor in the Lexington Herald-Leader from Alben B. Mills in London be printed in the RECORD, and another letter in the Courier-Journal from a Larry Bond be printed in the RECORD.

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

MCCONNELL RIGHT ABOUT TOBACCO BUYOUT PLAN

(By Alben B. Mills, London)

As a tobacco farmer, I want to thank Sen. Mitch McConnell, R–Ky., for his courageous stance for a tobacco base buyout. While it may not be the most politically popular position McConnell could have taken, it was the most realistic and responsible solution to the uncertainty that Kentucky burley growers have faced since President Clinton declared war on tobacco. Like McConnell, I will be saddened to see the program go, but I have known for several years that tobacco's days in the federal government were numbered. At least, McConnell's plan will allow my colleagues and me to receive a secured payment for our quotas. I have not enjoyed security in my tobacco farming for a long time, thanks to Clinton and Vice President Al Gore.

Those who say that the program can survive the ever increasing anti-tobacco sentiment in Congress are taking a huge gamble, and they are wagering irresponsibility with the farmer's future. McConnell has made the tough call. He has told us the painful truth that the program is unsalvageable and that we should cut our losses while we still have the chance for fair compensation for our tobacco bases. His opinions have the ring of statesmanship, and the tobacco farming community will be forever indebted to him for his candor. I am grateful to McConnell for placing our interests before his own.

BACKS MCCONNELL'S PLAN

(BY LARRY O. BOND, SANDERS, KY.)

I am very displeased with the attacks made on Sen. Mitch McConnell by the Democrats regrading his stand on the tobacco buyout.

I am a farm owner and have raised tobacco for 21 years. When we went to the no-net program in 1982, we were doomed. Sen. Wendell Ford helped pass that law. By 1985, the tobacco companies had forced so much tobacco into our pool that they broke us. Ford helped negotiate a tobacco company buyout of the pool stocks. Farmers took a cut in an allotment and a cut in price. My tobacco income was reduced by 50 percent. I grew tired of being abused by the tobacco companies, and 1989 was my last crop.

It seems to me that when Ford does the negotiating, the companies get the ''gold,'' and the farmers get the ''shaft.''

The provisions of Ford's LEAF Act have changed several times over the last six months. The language is so complex that it appears to have been written to deliberately confuse the reader. Our experience since 1982 indicates that no tobacco agreement can last unchanged for 10 years.

I believe that when people want to change society it is only fair that they should pay for the change. If Sen. Richard Lugar and McConnell's buyout takes place, I will be satisfied that has happened. Farmers' lives will be radically changed, but at least they won't be completely dispossessed.

I would like to mention a critical point to my city cousins: The Lugar-McConnell buyout pays the farmer $8 a pound for his government allotment, and it goes out of existence. Ford's LEAF Act will pay those who choose to sell $8 per pound for the government allotment; however, those pounds will not cease to exist but will be redistributed to farmers who choose not to sell. Ford will spend America's money and give no benefit to American society. The Ford LEAF Act will not solve any of the problems that face tobacco farmers or society at large.

The three-year Lugar-McConnell plan is easy to understand, will solve the tobacco program problem once and for all, and relieves the government from being responsible for the tobacco farmer. It reimburses the farmer for property that society wants done away with. The farmer can pay down his debts and move on with his life.

McConnell has taken a bold and courageous stand on this issue, and I back him 100 percent. Nothing can shake me from that position.

Mr. McCONNELL. Now, Mr. President, let me just, in conclusion, sum up what the point is here.

What is proposed before the Senate is a bill designed to destroy the tobacco industry. As a matter of fact, one CEO of one of the companies said this bill in this form would put them into bankruptcy. There is no immunity provided for the companies. There is a Draconian look-back provision of certain unconstitutionality, various and assorted advertising restrictions also of dubious constitutionality, and a $1.10 cigarette tax increase over 3 years designed to net for the government some $500 to

$800 billion in revenue, depending on whose estimates you listen to. The net effect of all that is a government designed to destroy this industry.

It is in that context that I believe the appropriate thing for the government to do is to throw a lifeline to the 60,000 hard-working Kentucky tobacco growers who make their living off of this legal crop.

Now, Mr. President, I want to take a few minutes and frame this issue from a larger perspective and walk through how our farmers found themselves in the current predicament.

One of President Clinton's signature political maneuvers occurred early in his administration when he and Vice President GORE declared war on tobacco—portraying Kentucky's leading agricultural commodity as a modern-day plague. The anti-tobacco zealots and an army of greedy plaintiffs' lawyers eager to prey on the tobacco industry created the most serious threat ever arrayed against tobacco farmers. Disaster has loomed for Kentucky's tobacco farmers since Clinton took office and is now manifested in the form of this half-trillion dollar McCain bill which sailed out of the Senate Commerce Committee 19–1, with Senator WENDELL FORD's support. Thus was the death knell sounded for tobacco.

With our tobacco farmers now caught in the crossfire of this war, we are being asked to make a monumental decision. That decision is simply this: despite all we know about tobacco's desperately weakened state—

(1) do we ignore the warning signs and commit ourselves to a path that leads to uncertainty and a diminished standard of living for our farmers, or

(2) do we recognize that change is coming to the farm and there is a better way to prepare for it than by blindly pursuing the policies of the past?

Mr. President, after months of thought, countless conversations with my colleagues, and a continual dialogue with Kentucky growers, I believe there is only one road for us to travel if we decide to pass this monstrous McCain bill. Let me explain why.

The politics of tobacco have changed. Throughout most of American history, we have paid tribute to tobacco and tobacco farmers. Nowhere is this national tribute more evident than right here in our nation's capitol. As I sat in my office this morning, I glanced at the small columns on my fireplace and took note of the tobacco leaves which adorn those columns.

And, then as I left my office and walked to the Senate floor, I passed various pillars here in the Capitol and looked upward to see, once again, the sculpted tobacco leaves bursting forth at the top of these pillars.

No longer do we pay tribute to the golden leaf or the farmer whose sweat and toil produces that leaf. The leaf is now seen as dark and brown and dirty. And, it is targeted for extinction and eradication by virtually every governmental and private-sector force in America.

Although tobacco leaves still adorn the halls of Congress, the leaf is no longer sacred. What was once seen as sacred, is now looked upon with contempt and outright hostility.

When I came to the Senate in 1985, there were only 7 tobacco-related votes. But, the times have changed—dramatically—and for the worse, where our tobacco farmers are concerned.

In the 105th Congress alone, there have been 29 tobacco-related votes—notwithstanding all the votes on the woefully misguided bill currently before the Senate. Twenty-nine votes—even prior to the McCain bill—that is three times more votes than there were when I arrived here in 1985. In fact, we've had more votes on tobacco in the 105th Congress alone than we had in all the years between 1985 and 1996. And each of these votes has the effect of putting a bull's eye on the tobacco farmer's back.

No vote points up tobacco's weakened position more vividly than a vote last summer (Durbin, July 23) to end crop insurance for farmers. Can you imagine? The amendment's sponsor was saying, in effect, ''if you grow corn, wheat, soybeans, etc., you are entitled to insurance. But not if you grow tobacco. Even though you have never sold your product to a minor, or committed any of the transgressions we accuse tobacco companies of, you do not deserve basic protection from natural catastrophe.''

On an issue that blatantly unfair, the vote, shockingly, was 53–47. That's three votes shy of elimination.

Tobacco interests have been under a constant, daily barrage of scorn and derision. Tobacco has become the enemy of choice among politicians. It is the darling of the attack set. Politicians across the political spectrum believe that attacking anything ''tobacco'' pays political dividends. And attack they do.

But these are not precision strikes. These are broadsides against the entire tobacco industry that wreak devastating collateral damage on tobacco farmers.

Let me tell you what Senator FORD's colleagues on the left are saying about the tobacco program and the tobacco farmer.

Here's Senator DURBIN: ''Tobacco growers have to know the party's over.'' And again: ''Uncle Sam ought to get out of the tobacco business. We have no business subsidizing the growth, production, and processing of a product which kills hundreds of thousands of Americans each year.''

And, if the views of the left still aren't clear to you, Mr. President, let me share with you yet another quote from Senator DURBIN: ''There is only one agricultural product in America that has a body count, and it is tobacco. That is why it is different, and that is why it is treated differently.''

And what about Senator LAUTENBERG? He summed the anti-tobacco views of Bill Clinton, AL GORE and the Congressional left by offering this advice to tobacco growers: ''Grow soybeans.''

Now we have gotten to the point where, in the name of stopping teen smoking, we have created a half-trillion-plus dollar bill—more than twice the size of the Pentagon's budget—designed to stop what researchers have told us is 2 percent of all smokers.

And is addressing teen smoking really the goal? The American people don't think so. An April Wall Street Journal poll found that only 20 percent believed this tobacco bill is about stopping teen smoking. A resounding 70 percent say this effort is merely a back door way to go after tobacco and take in more money for the government to spend.

In this mad dash for cash, 124,000 tobacco farm families are caught in the crossfire of political ambition and partisan competition—60,000 of them from Kentucky. They did not start this war. And they should not be casualties. But casualties they will be if we do not act.

Senator FORD—whose work on behalf of all tobacco farmers is well known and rightly applauded—and I agree that these growers should be compensated. After all, they have done nothing wrong. Tobacco is a legal commodity. Whatever the larger arguments may be about Joe Camel, tobacco farmers are not a party to that debate.

So Senator FORD and I agree that they need to be taken care of, we disagree as to how. That disagreement arises from a fundamentally different interpretation of the political and economic terrain in which tobacco grows.

Senator FORD has surveyed the scene and concluded that the federal tobacco program is healthy and will enjoy another 25 years of support from the United States Congress. In his estimation, the best thing to do is continue the program and compensate farmers for the drop in demand that this bill is specifically designed to produce.

Let me repeat. The single greatest danger to Kentucky tobacco farmers is the passage of the McCain bill. You cannot suck more than a half-trillion dollars out of the tobacco industry without also ruining the tobacco farmer in the process.

As for me, I look at the same landscape as Senator FORD and come to the same conclusion that the farmers in my state have reached. In a statewide poll taken by the Lexington Herald-Leader in March, 70 percent of those who expressed an opinion said the program would be dead in less than five years. Let me restate that: 70 percent of farmers think the tobacco program is on its deathbed. Seventy percent of farmers think they will be forced to earn a living doing something else in just five years!

Like me, they look at the constant assault and realize a simple fact. Elected representatives in our country fundamentally reflect the prevailing view of their constituents.

Let me remind us all that the vast majority of Americans polled are against smoking tobacco. A near majority of U.S. Senators think that tobacco farmers don't even deserve our support for basic crop insurance. In the heart of tobacco country, the growers themselves are predicting the program's demise. And, finally, influential members of Congress have publicly declared that the tobacco program must die.

Mr. President, under the McCain bill or any other bill like it, the tobacco program is mortally wounded. It's struggling through the underbrush, hemorrhaging and slowing with every step. The question is not whether the tobacco program will end, it's when it will end if the McCain bill becomes law?

In the face of the deep, widespread unpopularity of tobacco, does anyone seriously think that the government that is trying to kill tobacco TODAY in this very bill will then turn around and support a taxpayer-funded program for a product widely-presumed to be carcinogenic?

Mr. President, it is clear that the vast majority view in this Congress, in tobacco country, and in America generally is that, if the McCain bill passes, the tobacco program will not survive. Knowing these facts, the challenge before us is to make sure tobacco farmers do.

Senator LUGAR's buy-out plan is tobacco growers' best hope to transition to a new farm existence with the resources necessary to make it, or to retire with sufficient funds if they so choose.

Under Chairman LUGAR's approach, quota owners will receive $8 per pound for their tobacco spread out over three years. The average grower in my state farms a little over 4 acres, yielding roughly 10,000 pounds of tobacco annually. That means that the average Kentucky quota owner will receive $80,000 over the next three years in buy-out payments.

In contrast, under the LEAF Act, the average farmer who wants to adapt to the changing world and take a buy-out, will only receive $24,000 pre-tax after three years.

The Lugar plan also invests $1 billion in rural economic assistance over 5 years for those communities hit hardest by the loss of tobacco income. This money will help invest in education, retraining, diversification, and give assistance to tobacco warehouse owners and operators.

Most importantly, under the Lugar plan tobacco growers may continue to grow and sell their product.

Let me repeat, under the Lugar plan every grower may continue to grow if they choose.

That is not the case under the LEAF Act. The LEAF Act specifically forbids Kentucky burley growers from growing tobacco for 25 years. Since the average age of a tobacco grower in my state is 60, that is effectively a lifetime ban on growing tobacco.

But that's not all. Under the LEAF Act, if you are a North Carolina flue-cured quota owner, you get a buy-out and then you get to keep on growing tobacco. That is simply unfair, and on that basis alone I cannot support a system that treats Kentucky growers worse than North Carolina growers.

As we move through this debate, there are other concerns related to the LEAF Act's buy-out funding that I will address, but for now, let me close by saying that I believe the Lugar approach is the best for our people in tobacco country. It provides a generous flow of money over a short time period that allows our growers to invest, retire, diversify, get into a new line of work, or keep on farming tobacco. It provides community investment dollars to help hard hit rural areas. And, it is the best deal I believe we can get for tobacco growers if the McCain bill becomes law.

Let me conclude by summing up the decision before us. The Titanic has come into the harbor for the moment. We have two choices. One, we can send her back into the Atlantic with more lifeboats strapped to her side—but not enough boats to save everyone aboard. Or, we can unload all passengers while she's in safe harbor. I think the choice is clear.

Mr. President, I look forward to this important debate over the best course to follow for our tobacco farmers.

I conclude by saying I sincerely hope that the Senate will find a way to put this bill out of its misery.

I want to particularly commend the senior Senator from Texas for the outstanding work he has done on this bill over the last 3½ weeks. He has been tenacious and effective in pointing out the flaws in this bill conceptually. The whole concept, I say to my friend from Texas, is fatally flawed and no one has pointed that out better than he has. I want to thank him on behalf of the 60,000 farm families in my State that, but for the leadership and tenacity of the senior Senator from Texas, would be destroyed because the ultimate threat to my people is this bill. This is what is designed to destroy their livelihood.

I think until the Senator from Texas decided to put the bit in his teeth and come over here and fight this thing, there was widespread feeling that it was just going to happen. I am hoping we may have reached a point in the Senate where it isn't going to happen. If we can find a way to put this horrible proposal out of its misery, I will always thank the Senator from Texas for his extraordinary leadership and good work in pointing out the fundamental flaws in this proposal.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, we always love it when someone has something nice to say about us, but I am especially grateful when one as thoughtful as the Senator from Kentucky has something nice to say, especially when it is about me. I have been grateful to the Senator from Kentucky for his leadership on many, many tough issues and his comments today, therefore, are doubly appreciated. I thank him for his comments.

I have a little housekeeping before I speak. This has been cleared on both sides. I ask unanimous consent that the Senate continue consideration of S. 1415 for debate only until the hour of 4 p.m. today.

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

Mr. GRAMM. Mr. President, I believe that we are reaching the final hours of the debate, and rather than try to go back and replow ground that we have now plowed over and over again—in fact, we have been on this bill since May 18. Looking at my watch with the date on it, unless I missed a month that has 30 days instead of 31, today is the 17th of June. We have, for a month, debated this issue.

Quite frankly, I would like to say as we enter the final hours of the debate, I am proud of this debate. I am very proud of the Senate. When Jefferson came home from France, where he had been minister to France, as many of my colleagues will recall, while the Constitution was being written, he went to Mount Vernon to visit with General Washington. They were discussing the Constitution and Jefferson said to Washington, ''What is the Senate for if the House of Representatives is to be the body that represents the people, if it is to be the people's House, if it is to be the legislative body?'' ''What is the Senate for?'' Jefferson asked. Washington, who, of course, was a southerner, had poured his tea out of the cup into his saucer to cool, and he explained to Jefferson that the cup would be like the House of Representatives; it would be caught up in the passions of the moment—with Members elected every 2 years—and that passions would flare and the House would justifiably respond to those passions. But the Senate would be the saucer, where the tea would cool before it was consumed. That was the purpose of the Senate, and I think the Senate's rules, which obviously have evolved from that constitutional system, have in this case, as they have on many occasions, served the public well.

I believe this bill will die today. I believe that we will see the bill sent back to committee. Now, another bill on the same subject, within the parameters of reason and responsibility and limited government and within the budget might come alive another day. But I believe that this bill will justifiably come to a legislative end today. I believe that the system has worked well.

This bill, in many ways, reminds me of another bill—the Clinton health care bill. I remember that debate vividly; I was very much involved in it. I remember the President was talking about this bill that ''the public wanted,'' that it was unstoppable. Even those who

were offering substitutes for it were adopting its basic principle. It looked as if it were 200 feet tall, and no one was willing to come forward and even say they were against it. But like the mighty Goliath of old, when someone did step forward with a few small stones and flung the first stone, the giant tumbled. Probably a better analogy would be when someone took a very small pin and just pricked its belly and it went boom; it was a lot of hot air.

The American people were never for the government taking over and running the health care system. And in reality, the American people were never for this bill. Had we been forced to vote on this bill the first day it came to the Senate, it no doubt would have passed by an overwhelming margin. Had we been forced to vote on this bill the first week it came to the Senate, at the end of that debate, it would have passed by a smaller margin. Each day, support for this bill—or fear of it, depending on your perspective—has declined dramatically. Today, it is my hope and my opinion that the bill will be taken from the floor because, in the final analysis, there never was any support for this bill.

I don't know where this bill came from. I don't know whether it was a focus group conducted by the Democratic National Committee, or whether it was a poll. But the bottom line is, the bill never had any real support from the American people. In reality, this bill was always a giant bait and switch. The bait was the tobacco companies. We have heard our colleagues justifiably try, convict, and hang or lynch—depending on your perspective—the tobacco companies, and justifiably so in many cases. But while our colleagues sought to get us to focus on these tobacco companies, the reality of their bill, if you read it, is that it does not impose a penny of taxes on the tobacco companies. In reality, it has an extraordinary provision, and that extraordinary provision is that it makes it illegal for the tobacco companies to not pass through every penny of taxes to the consumer.

So in reality, while the proponents of this bill were forever trying to divert our attention to the tobacco companies—and facts are persistent things—the reality of this bill is that it doesn't tax tobacco companies. The reality of this bill is that it basically taxes blue-collar workers, because smoking—obviously, with many exceptions when you count people, but a very small number of exceptions when you look at averages—smoking in America is basically a blue-collar phenomenon. So our colleagues have vilified the tobacco companies and they created sympathy in the country.

It must be like the old story of this tiger who comes out of the forest and eats people in the village, so they send to the provincial capital for a great warrior to come forward. He comes forth and pulls out his sword and dances around. The tiger comes out, and instead of killing the tiger, which would produce a tremendous eruption of applause, he starts beating the tiger with the side of his sword. Finally, the people become so outraged, they stone the warrior. In a very strange way, the proponents of this bill have so overdone it that they have created some sympathy, as the polls show very clearly, for the tobacco companies—one of the most incredible reversals of public opinion that I, as somewhat of a minor student of it, have observed. But the reality is that with all the talk of the tobacco companies, they pay none of the tax. The tax is borne by blue-collar Americans.

The stubborn facts are that 34 percent of the taxes that will be collected by this bill will be paid for by Americans who make less than $15,000 a year; 47.1 percent of the taxes will be paid for by Americans who make less than $22,000 a year; 59.1 percent of the taxes will be paid for by Americans who make less than $30,000 a year.

So no matter how many times the proponents of this bill vilify the tobacco companies, the cold reality which the American people, as we debated this issue for a month, came to understand was that with all of the things that the tobacco companies did, were verbally convicted of, and punished for right here on the floor of the Senate, was that they weren't being taxed; we were taxing blue-collar Americans. That is the first thing that Americans came to understand as we debated this bill for a month.

The second thing they came to understand was the incredible amount of money that was going to be raised in these taxes, and not only the burden that would impose—a massive burden—but how that money was going to be largely squandered. I remind my colleagues that, for example, in my State, we have 3.1 million Texans who smoke. Under this bill, if those 3.1 million Texans—we have 3,137,723 people in my State who smoke—would have continued to smoke a pack of cigarettes a day after the passage of this bill, given the estimate that this bill, in the end, when you figure everything in, would have driven up the price by $2.78 a pack, they would have paid an additional $1,015 a year in Federal taxes.

Now, I remind my colleagues that 34 percent of that tax would have been paid for by people that made $15,000 or less. So we were talking about a confiscatory tax on blue-collar America. The American people, over a month, despite all the efforts to confuse the subject, came to understand that point. That is a major reason why this bill is about to come to the end of its legislative life.

The second thing the American people came to understand was how money was squandered in this bill, how in this bill we were ratifying agreements where plaintiffs' attorneys were going to earn $92,000 an hour, how in this bill we were providing money for smoker cessation for Native Americans who live on or near Indian reservations. If they smoke at the same rate the general public does, we would be spending $39,000 per beneficiary, with the goal of trying to promote the cessation of smoking—$39,000 a person.

They came to realize that under the provisions of the bill related to tobacco growers, one of those provisions would have ended up paying tobacco growers an incredible $22,297.29 an acre, and they could still own the land and still grow the tobacco.

People came to realize that this program literally gave tens of billions of dollars to various advocacy groups that would be advocating many things other than just smoking.

So in the end, the American people came to see this bill as having relatively little to do with teenage smoking and everything to do with taxing and spending, but doing so at a grander scale than anything we have seen in government in a long time.

I would have to say that I know it is popular now for people who are covering the debate and discussing it to talk about ads that the tobacco companies have run. But I would like to give a dissenting view. I do not believe that this bill is going to come to a legislative end today because tobacco companies have run ads against it. I think in the end that the American people never bought into the idea that this bill was going to have any substantial impact on teenage smoking. I think the American people never bought into the idea that this was anything other than a tax-and-spend bill, and the more they knew about the bill, the more conviction they had in that basic belief.

So despite the master work of spend and manipulation, which the White House, and I say admiringly, has and can engage in, despite an effort by all of the groups who supported the bill, and those groups ultimately came down to groups that wanted the money, despite all of that effort, in the end the Dicky Flatts of the world, the people who do the work and pay the taxes and pull the wagon, listen to our President, listen to the advocates of this bill, heard its high and noble stated objectives, but in reality in the end, after a month of debate, they finally saw this bill for what it really is—an effort to take money away from blue-collar workers and to have the government spend it, and spend it in a way that is obscene. There is no other word for it than that. The level of spending in this bill and the way the money is thrown around is almost beyond imagination, and in the end the American people recognized it.

So I don't know that you can ever pat anybody on the back when you end up not doing a bad thing. I guess part of any legislative process is to try to do good things and to try to stop bad things from happening. And when you defeat a bad bill, you have done a good thing.

But I think in the end this bill failed because the American people rejected

it. And it was an amazing thing. Maybe there is a lesson for all of us in this. It was exactly like the Clinton health bill. In Washington it looked like everybody in the world was for this bill. In Washington it looked as if this bill was totally and completely irresistable. But yet when you get outside of Washington, back in America, the public either was totally disinterested in this issue or they were against it. So in the end the American people knew more than we knew, and as a result, for the good of the Nation, this bill is going to die.

Let me conclude, because I know my dear colleague from Delaware is here, and I want to maintain his friendship, which I value and treasure. I would like to make the following point.

I do believe there are things we can do to deal with teenage smoking. I think we have to start by holding teenagers accountable for what they do. I think there are ways that we can tighten up the law to penalize people who knowingly sell tobacco products to teenagers and knowingly sell alcohol to teenagers and sell illegal drugs to teenagers. I think there are many things we can do. But the focus ought to be on the problem, which is teenage smoking.

I also believe that a fundamental premise of this bill is false; that is, that people are not responsible for what they do, that somehow somebody smokes and it is the tobacco company that made them smoke.

I used to, as this debate was underway, love to tease my 85-year-old mother, that she had not smoked for 70 years because she wanted to, that it was this Joe Camel that made her smoke. She hardly knew who Joe Camel was. But she had a telling point, which was my first indication that in the end this bill probably was not going to make it. Her point was a simple question, which the proponents of this bill tried their best—and they were very talented—but they could never answer the question. Her point was: ''If I am the victim, if the tobacco companies have conspired to force me to smoke and I am still doing it at 85, how come you are raising my taxes? If I am the victim, how come I am being punished?''

In the end, that was the question that not only was not answered, but could not be answered.

I want to congratulate our colleagues who were leaders on this issue. I don't think anybody ever questioned their sincerity.

I especially want to say about Senator MCCAIN, that under very difficult circumstances with his dearest friends in opposition on an issue where there were very, very strong emotional feelings on both sides of the debate, I especially want to congratulate Senator MCCAIN for the way he was able to separate issues from personalities. He was a person who was asked to do a hard job; and that is to get the best bill he could out of committee. He did that. But when the bill got to the floor and we got a chance to look at it, the basic conclusion was the best bill that could be gotten out of committee was not good enough. So basically that is where we are.

We will see a vote on a point of order. And the point of order is not a trivial matter. The point of order that we will vote on today is a point of order that has to do with the fact that this bill circumvents the balanced budget agreement. This bill raises spending above the limits that we set out in the budget. This bill would bust the budget, bust the spending caps, and violate all of the fiscal restraints that we have imposed.

So Members of the Senate will be asked in the vote—and I assume that the minority leader will move to waive the Budget Act. There will be a point of order that makes the point of order that this bill violates the budget, violates the spending caps, and would violate the balanced budget amendment. Then I assume that the minority leader, or someone, will move to waive that point of order. In doing so, they are saying, pass the tobacco bill even if it means busting the budget agreement.

I hope and believe that enough of our colleagues will vote ''no'' on that so that we can sustain the Budget Act. The bill would then go back to the Commerce Committee.

If all of these problems can be fixed, if a consensus could be built, there would be nothing to prevent this issue in another form, with another bill, with another approach, from coming to the floor of the Senate.

But if we send the bill back by sustaining the point of order, we are saying that this approach in this bill is not good enough. I hope that is what we will do.

I thank the Senator.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER (Ms. COLLINS). The Senator from Delaware.

Mr. BIDEN. Madam President, I was about to ask that we move into morning business to speak. My friend from Kentucky wants to speak on this matter, and I will in 10 seconds yield to him.

I say to my friend from Texas, it is always a joy to listen to him. The fairy tales he remembers always warm my heart. But I think he sometimes gets it mixed up. I think the Goliath here was the tobacco companies with their millions of dollars, and in the health care fight it was the insurance companies with their millions of dollars. I have no doubt my friend, with a small sling and a small stone, with his skill could take down Goliath, but in this case he had a few cruise missiles. The cruise missiles were the $40 million the tobacco companies are spending on advertising to kill this bill and the $14 billion that Harry and Louise spent on television to kill health care reform.

I don't doubt his prowess, but I acknowledge he probably had a little bit of help. It was a nuclear bomb in that little sling that David had, and it was worth tens of millions of dollars. It works every time in this town, and I just find it absolutely fascinating.

Mr. GRAMM. Will the Senator yield?

Mr. BIDEN. I would be delighted to yield.

Mr. GRAMM. I guess I ought to remind my colleagues that David was not alone on that battlefield either.

Mr. BIDEN. No, I know he wasn't. But I just want to point out that in that case David had several hundred—

Mr. FORD. The Senator is not suggesting he is with you.

Mr. GRAMM. Perhaps the same force is on this side on this issue. Who knows.

Mr. BIDEN. David was not alone, nor was my colleague with the sling. He had a force behind him of noble tobacco merchants who stood shoulder to shoulder making sure that their ultimate threat was, if they didn't get a bill they wanted, they were going to continue to advertise. Isn't that kind of fascinating. These no-good sons of guns talking about how they care about the health of America. Much of the criticism this bill had leveled at it I agree with. I agree with much of the criticism.

But the idea that at the end of the day—at the end of the day—we are going to have no bill and these young pages sitting here in front of me, their peer group is going to end up, every single day, being lured by specifically teenage-based advertising done by companies that lied straight out, right through their teeth, about what they have been doing. These companies are going to continue to consciously—consciously—attempt to addict them to nicotine, a conscious effort where they will spend tens of millions of dollars this year, next year, and the following years in advertising to addict them—addict them—and they are going to do it.

Notwithstanding the fact I had criticisms with some parts of this bill, at the end of the day, they win. They win big, and our children lose. Our children lose. And so David in this case had some cruise missiles. They were all paid for by big tobacco —big tobacco, period. I am not talking about tobacco farmers. They grow it. They get a small piece of this action. They don't do the advertising. I am talking about the tobacco executives.

And so it is going to be business as usual. But mark my words—let me end with this—the tobacco companies, from the advertising they have been out with now about how bad this bill is, if they are serious, I ask them in good conscience, for the health of the Nation—which they have now finally had to acknowledge has been put in peril by their action—I ask them publicly: voluntarily refrain from advertising, voluntarily refrain from advertising in any way that appeals to our children —if they have one ounce of moral fiber in them. We don't need a bill. They can

take care of this if they have any decency. Just voluntarily stop. No Government, no tax, no nothing. They know what they are doing to our children, and they are intending to do it.

So if they want to solve the problem, it is real simple. Voluntarily stop. As was said years ago in a committee by a witness to a former Senator named McCarthy—at one point the witness looked up and said, ''Have you no decency, sir?'' My question to the tobacco executives of America today is, Have you no decency? If you do, stop, stop luring our children.

I yield to my friend from Kentucky, and then later I am going to come back and ask to speak to Kosovo.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. FORD. I ask unanimous consent that I might speak for 5 minutes and that at the end of that period of time my friend from Delaware be recognized.

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

Mr. FORD. I thank the Chair.

Madam President, a few moments ago, my colleague from Kentucky inserted some editorials in the RECORD—a few, and selective letters to the editor concerning our debate over the future of tobacco farmers.

I do not want to take a lot of time on this matter, but I do not want anyone to get the mistaken impression that these articles represent the prevailing view in my State. I have 30 pages or more here, Madam President, of articles of my own, editorials with headlines like—and this is the Owensboro Messenger and Inquirer that my colleague mentioned a few moments ago. It says, ''Lugar Tobacco Bill Punishes Farmers.'' I think that tells a lot and that there are opinions at home that are somewhat different.

Rather than take a lot of time, Madam President, I will simply ask unanimous consent that some of these articles be printed in the RECORD, and anyone with any doubt can simply read them, and they will understand how average tobacco farmers feel about the Lugar proposal.

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

[From the Owensboro Messenger-Inquirer, Apr. 26, 1998]

LUGAR TOBACCO BILL PUNISHES FARMERS

Spending the long, hot summers of Kentucky in the tobacco field has been a way of life for many farm families this century, and farmers hope it continues another 100 years.

But tobacco's fate has never been as shaky as it is today, as lawmakers battle over a way to curb teenage smoking at the tobacco industry's expense.

One of those battles is in our own backyard, between Kentucky's U.S. Sen. Wendell Ford and Indiana's U.S. Sen. Richard Lugar. We believe it is a fight Ford should win.

Ford, a Democrat from Daviess County, proposes a plan that will protect tobacco families harmed financially by tougher anti-smoking legislation. Ford's plan would provide $28.5 billion over 25 years to assist tobacco farmers, communities and workers who suffer because of decline in tobacco demand and jobs. The quota holder—farmers who have an allotted amount of tobacco they can sell—along with those who sharecrop and lease those quotas would receive up to $8 a pound for their losses.

Ford's bill also calls for the continuation of the tobacco program created in the post-Depression days that sets prices and limits production.

Lugar, a Republican, thinks government price supports for tobacco are wrong and ought to end.

Those who hold quotas to grow tobacco but want to get out of the business would receive $8 per pound under Lugar's plan. Those who want to continue to grow would do so under free market conditions, but Lugar proposes transitional payment to wean farmers off the program. Grain farmers are receiving similar payments that decrease each year to ease their departure from price supports.

Lugar's bill would cost less, an estimated $15 billion, but its effect on Kentuckians would be punitive.

We agree that Lugar's argument has merit. The global economy has turned to a free market on tobacco, and much of the reasoning for protecting the U.S. system is in conflict with that fact.

We also think the length of Ford's plan is too generous. We believe supplanting lost income for 10 years is more fiscally responsible than 25 years, while still easing the burden on farmers.

But it is important not to lose the intangibles involved in tobacco production. Generations of Kentuckians have built their lives around growing a perfectly legal, and at times, revered crop. Any effort to strip the protections that farmers have grown up with could only hurt those families and the commonwealth as a whole.

While Lugar compares his phaseout plan to the grain program, the effects on tobacco would be exponentially greater. While only 1.2 percent of Kentucky farm acreage is used for growing tobacco, the crop produces 25 percent of Kentucky's farm income.

Tobacco farmers already are threatened by American companies increasing the amount of imported tobacco. Lugar's bill effectively bullies more family farmers out of business.

That would be a sad statement as we enter the next century.

[From the Lexington Herald-Leader, May 27, 1998]

RURAL AREAS MUST SURVIVE, EVEN IF TOBACCO DOESN'T

(By Wendell and John Berry)

In the midst of the Depression of the 1930's the tobacco farmers, who had experienced a long history of exploitation by the tobacco companies and who were in want as a result, asked their government for help. The result was the tobacco program. This program, run at practically no cost to the government, has kept a lot of small farmers in business for a long time. The program enacted a kind of economic justice, helping the farmers to survive by assuring them a fair price for their products.

Virtually from the beginning, the program has been under attack from proponents of the so-called free market. In more recent years, tobacco itself has come under attack because of its adverse effects on the health of smokers and other users. And so we have come to the moral dilemma of a good program protecting the producers of an unhealthy product. We have come at the same time to the need to make a political distinction between the program and the product, and this is difficult.

The defenders of the tobacco program are not arguing that tobacco is healthful. They are arguing that the program is necessary to maintain the rural economy while we make a large-scale transition from tobacco to other crops. They and their allies are arguing that to allow the rural economy of Kentucky and other tobacco states to crash will not eliminate smoking and is not a sane way to end our farmers' dependence on tobacco. On the contrary, it will do great harm in order to do no good whatsoever.

Sen. Mitch McConnell would like to claim (and he may be expected to claim when he runs for office again) that by washing his hands of his state's rural economy he has helped the farmers. In fact, as soon as it appeared expedient, he had done what he has always wanted to do, for he disagrees with the principle that the government should protect the economically weak from exploitation by the economically strong. He has demonstrated his true allegiance by consenting to Indiana Sen. Richard Lugar's estimate that the livelihoods of Kentucky farm families are worth only $80,000 apiece, and that the livelihoods of all the other participants in the rural economy are worth nothing.

The political philosophy underlying this betrayal does not concern itself with the question of what is right, but merely subordinates all issues to the crudest sort of economic determination. Lugar put it plainly: the tobacco program is not defensible, he said, because ''In many markets, U.S. tobacco is not competitive on price.''

In other words, if farmers in the United States cannot undersell farmers working at slave wages in the Third World, then they deserve to fail. This is a different kind of economic justice. Asking the farmer (like the industrial worker) to produce more for less has always been the objective of the ''free market'' politicians, because farmers and wage earners don't give as large political donations as do the interests that exploit them.

McConnell and Lugar propose to scatter several billions of government dollars among many thousands of farmers individually. This money will be taxed by government when it is paid out and again when it is spent. Obviously, nobody knows yet how it will be spent, but it will not necessarily be spent in ways that will help the farmers to keep on farming or the state's rural economy to remain intact.

It is, at any rate, hard to imagine how a farm family's prospects might be significantly improved by $80,000 paid to them in compensation for the loss of a staple crop that, with the program, would have been worth far more.

The only other available way to help our state's rural economy in this crisis would be to preserve the tobacco program as the agent of a gradual transition from dependence on tobacco to dependence on other crops—a transition which the Burley Co-op, in fact, has been working on for the past six years, in co-operation with allies both within and outside agriculture, urban as well as rural.

This rural is based on the recognition of the tobacco farmers' demonstrated and potential capacity for food production. Though this transition is still in its infancy, there is already much evidence that it can be made—and also that it cannot be made within the next three years. To pay farmers an average of $80,000 over three years for their tobacco quotas, without having in place some alternative to tobacco, is about the same as paying them to quit farmers.

Obviously, there are some who would like to see all the same farmers put out of business, specifically for the benefit of big farmers but that aim makes no agricultural sense anywhere, and the loss of the small-farm economy would be especially devastating in Kentucky. We have a lot of small farmers,

and much of our landscape, to be properly conserved, needs to be farmed in small acreages.

If the farmers fail, then other members of the rural communities whose businesses or professions depend on farm income must also fail. Where are these people to go? How are they to earn a living? What will be the impact of their failure on the economies of our cities? Do McConnell and Lugar think that failed farmers and rural merchants will be so obliging as to simply disappear?

To develop new crops and other agricultural sources of income for farmers requires that we must find the markets and solve the problems of production, transportation, storage and processing. People now involved in this effort estimate that it will take at least 15 years. Tobacco farmers have always assumed that even their worst enemies in Washington would not pull the rug from under them, and that any plan to eliminate the program would be gradual, allowing time for the development of alternatives. After all, ending the tobacco program will not end tobacco production any more than it will end smoking.

What it will do is enable the tobacco companies to buy their tobacco at a much lower price, and thus shift a significant part of the cost of the ''tobacco settlement'' onto the growers. This, not help to farmers, will be the certain result—and we suspect it was the motive—of McConnell's sudden alliance with Lugar.

There are many people in Kentucky and the nation who believe that our rural people and places are worth saving, and that our small farmers are better producers and stewards than the industrialized agribusiness firms that are trying to replace them.

The wishes of those people are reflected in Sen. Wendell Ford's LEAF Act—which McConnell, for reasons now unclear, once cosponsored. To put an end to the hopes of so many and to jeopardize the economy of an entire region ought not to be the sole prerogative of McConnell.

[From the Lexington Herald-Leader, May 20, 1998]

THE BEST DEAL?—PLAN MCCONNELL BACKS BRINGS IN QUICK CASH, BUT WOULD ULTIMATELY KILL OFF SMALL FARMS

In purely pecuniary terms, Sen. Mitch McConnell might be right. Maybe the best deal Kentucky can get is a quick cash buyout of tobacco quotas. We know many landowners are salivating at the prospect of collecting $8 a pound over three years under the proposal McConnell endorsed Monday.

But McConnell's dollars-and-cents calculation ignores the inevitable losses. The greatest of these losses would be farming as we know it in Kentucky.

Cigarette makers would benefit from cheaper tobacco grown on fewer but larger farms, while rural communities up and down both sides of the Appalachians would be torn by the upheaval.

Without the government's tobacco price support program, thousands of small family farms from Maryland to Georgia, would cease to be. some would be paved over and subdivided. Banks would take some. Cedar trees and marijuana patches would take some, too.

The communities these farms support also would cease to be, replaced by commuters and pensioners.

As the Senate debates the tobacco bill this week, the spotlight's glare will be on teen smoking and how much relief from lawsuits the cigarette companies should get. The fate of hand-tended hill farms is likely to get lost in the glare, or subsumed buy a Republican ideology that insists on a pure free market in agriculture.

It seems to us, though, the fate of tobacco farms has more to do with issues of land stewardship and national agricultural policy than with smoking and product liability.

Do we want American agriculture to be nothing but industrial-scale operations and corporate contractors? Are we ready to do all our shopping at the Supermarket to the World? Or should we save a place for family farms that pasture cattle, sell produce at the farmers market, grow a few acres of tobacco and depend on government planning to smooth out the ups and downs of the invisible hand?

It's a vital question, and one that shouldn't wait until the tobacco program, like the rest of America's farm programs, is dismantled.

For 60 years, the government has kept tobacco production in line with demand and guaranteed growers a good minimum price. Growers bear all but a little of the program's cost; there is no tobacco subsidy, contrary to popular belief.

As a result, Kentucky has more farms than all but three states. The tobacco program has immunized tobacco-growing regions against the consolidation of land and the loss of farmers that is fast remaking the rest of rural America.

The plan that McConnell endorsed, introduced by Senate Agriculture Chairman Richard Lugar, R–Indiana, should be viewed in its proper context—as the logical extension of the Freedom to Farm Act that ended the federal role in agricultural planning. In this new free market, farms on the Northern Plains already are going under, according to the Wall Street Journal, because the climate there is too cold for farmers to play the global market by growing anything but wheat. U.S. Agriculture Secretary Dan Glickman says Freedom to Farm should be revisited.

Until Monday, McConnell was co-sponsor of Sen. Wendell Ford's LEAF Act, which would preserve the price support program and provide tobacco communities with a much softer landing than the Lugar-McConnell plan.

That Kentucky's two senators have split on this most important tobacco question shows how very difficult it is.

Neither the Ford nor McConnell approach is perfect. Some hybrid of the two would be a better alternative. But if it comes to an either-or-choice, we're for the conservative approach, which oddly enough, is the one espoused by Democrat Ford.

[From the Lexington Herald-Leader, May 21, 1998]

UNTIMELY DEMISE—MCCONNELL PLAN KILLS TOBACCO PROGRAM TOO FAST

Some see Republican Sen. Mitch McConnell's shift to supporting an abrupt end to the tobacco price-support program as a political ploy aimed at sinking Arizona Sen. John McCain's anti-smoking bill.

Whether or not that's McConnell's strategy, he is putting rural Kentucky at too much risk. At the very least, the Republican from Louisville should demand tobacco farmers get as much time as grain farmers to make the transition to a free market.

Under the timeline McConnell endorsed just this week, tobacco-dependent communities would have way too little time to prepare for the economic upheaval. Likewise, farmers and farm cooperatives wouldn't have time to build up markets for other crops and products.

McConnell says the 68-year-old system of production controls and guaranteed minimum prices for tobacco is doomed. He says a mandatory buyout at $8 a pound is the best deal Kentucky farmers can get. If that's so, give farmers a certain date when the program will end. But make it a reasonable date.

What McConnell and Senate Agriculture Chairman Richard Lugar propose is not reasonable. Their three-year phaseout of the program is too quick. Payments to grain farmers under the Freedom to Farm Act, by contrast, are lasting seven years. And some people think Freedom to Farm will be overhauled when the payments end in 2002.

We're not necessarily saying spread out the tobacco payments, since there are advantages to getting the money in a lump. We are saying give farmers more time to grow tobacco under production controls before jerking the safety net from under them.

The McConnell-Lugar plan is just as stingy with financial aid to tobacco communities. The competing proposal by Sen. Wendell Ford would pump $8.3 billion over 25 years into educational grants and economic assistance to tobacco-growing areas. The Lugar-McConnell plan provides $1 billion, which is not enough to have much impact. Ford's proposal also continues the price support program.

We doubt the tobacco program's prognosis is as dire as McConnell claims. The politics of tobacco have changed drastically in the last few months. Anti-smoking forces have come out in support of keeping some form of a tobacco program. So has President Clinton. They realize that in an uncontrolled environment, the cigarette makers get a projected $1 billion a year windfall from cheaper and more plentiful American tobacco, while many rural communities get the shaft.

That McConnell has embraced such an unbending approach reinforces the notion that he's really out to kill the tobacco bill. By staking out an extreme position, he lessens the chance of compromise with Southern Democrats defending the program.

We can't forget McConnell heads political fund-raising for Senate Republicans. The death of the McCain bill would make the cigarette companies happy, and happy cigarette companies would pump even more millions into Republican campaign coffers. A lot of Kentucky farmers would love to see the anti-smoking legislation disappear, too.

But that seems unlikely, given the public's revulsion at the cigarette companies' shameless efforts through the years to hook kids.

When it becomes clear he can't stop the inevitable, we trust McConnell will use his clout as a member of the Senate's majority to undo the Lugar plan, and give rural Kentucky a fighting chance. We hope it won't be too late.

[From the Kentucky Post, May 22, 1998]

MCCONNELL'S ABOUT-FACE MIGHT MARK END OF TOBACCO QUOTAS

(By Bill Straub)

MAYFIELD, KY.—Over the past decade, Sen Mitch McConnell has proved himself to be the most astute politician in Kentucky and certainly one of the smartest in the nation.

Under his guidance, the state Republican Party, once a laughing stock, has emerged to not only dominate the Bluegrass congressional delegation but challenge the Democratic Party's traditional hold on Frankfort. Were it not for McConnell's touch and tactics, folks like Rep. Ron Lewis would be back selling Bibles in Salvisa.

Even when it seemed like McConnell tripped up there was a method to his madness.

He has, for instance, earned the enmity of do-gooders everywhere for his no-holds-barred opposition to campaign finance reform. Yet, as he delights in pointing out, no one has ever won or lost an election based on electoral process issues, and the GOP is reaping the benefits of his recalcitrance by pulling in contributions as if it were printing money.

The time, however, it just seems like madness.

On Monday, the Louisville Republican announced he was abandoning his support for the tobacco program and siding with Sen. Richard Lugar, R-Ind., chairman of the Senate Agriculture Committee, in seeking to have it abolished.

It could be the biggest political story of the decade. Imagine a Texas lawmaker suggesting that vehicles propelled by fossil fuel cause too much pollution and embracing a proposal to convert to cars that run on electricity. That's what McConnell has done—in spades.

Burley is Kentucky's number one cash crop, pulling in $1 billion per year. But it's more than that. It's grown on 60,000 farms, permitting uncounted numbers of men and women to retain their beloved rural way of life.

This is not Nebraska or Kansas, where thousands of acres of wheat and soybeans are grown as far as the eye can see on huge spreads. Kentucky's farms are small, family owned and operated, and the hilly and rocky terrain prohibits a lot of row crops.

That's why tobacco has proved invaluable over the decades. Folks on these small farms take city jobs but tend to a tobacco crop that brings in enough money to permit them to stay on the land. It is, in every sense, Kentucky's cultural legacy.

That heritage has been protected by the tobacco program. The amount of burley produced every year is limited by a quota system. It elevates the price and stops farmers from other states from planting their own tobacco crop from fence row to fence row.

Without the tobacco program, which operates at no net cost to the federal government, its's hard to imagine small family farms surviving for very long in Kentucky. It's that simple. There's no crop that pays enough to take its place. Folks don't earn enough in the factory to maintain their small plot of heaven without it.

McConnell insists he is acting in the interest of these farmers by killing the program. Its demise is inevitable, he says, noting that support programs for wheat, corn and other commodities have already been eliminated. Considering the anti-tobacco fervor that seems to be overwhelming Washington these days, he maintains that the responsible political position is to join in the slaughter and broker the best deal possible.

The rationale makes absolutely no sense.

For one thing, there remain some commodities, such as peanuts, that continue to operate under a support system. Many anti-tobacco activists support the tobacco program because it limits production and keeps prices higher than they otherwise might be—working as deterrent to smoking.

President Clinton, who has hopped on the anti-tobacco band wagon with both feet, has expressed support for keeping the price-support program.

The tobacco bill that passed out of committee contained a provision offered by Senate Minority Whip Wendell Ford, the Democrat from Owensboro, Ky., that offers a voluntary buyout while keeping the price-support program.

There is absolutely no detectable groundswell to kill the program despite the continuing animus for the tobacco industry itself.

McConnell, suddenly, is leading the charge against what is arguably the most important federal program in the entire state when there is no army to lead.

But consider it politically. The Lugar plan calls for a three-year phase out at a cost of $18 billion. Each farmer, under the proposal, will receive $8 per quota pound.

What exactly has McConnell gained for Kentucky's small farmers by colluding with the senator from Indiana?

Prior to what some are portraying as McConnell's betrayal, the worst-case scenario for Kentucky farmers had the Senate killing the price support program over objections from Ford, McConnell and other tobacco state lawmakers—under the terms of the Lugar bill, which hasn't changed significantly in recent months.

McConnell's defection hasn't changed the terms of the abolition debate, only provided cover to those who may have been on the fence.

McConnell is a power in Washington these days and he generally has served in the state's best interest.

But this move is inexplicable and the Republican Party he has built and served with distinction could ultimately suffer.

Mr. FORD. Madam President, let me just pick out a couple of headlines here. ''The best deal? Plan McConnell backs brings in quick cash, but would ultimately kill off small farms.'' ''Untimely demise. McConnell plan kills tobacco program too fast.''

These are in the RECORD.

My colleague, Senator MCCONNELL, referred to Congressman RON LEWIS who is for his position. Well, let me just say this, that Congressman RON LEWIS said that blood would run through Congress before he would give up the fight for the quota system. Then all of a sudden he now is for selling out. The Republican nominee to replace me for the U.S. Senate is for the LEAF program, not for the side that Senator MCCONNELL is on. So it raises a lot of suspicion in the minds of my folks back home. Are Senator MCCONNELL and Senator LUGAR supporting the manufacturers or are they supporting the farmer? Because if the Lugar plan would go into effect, it would save the tobacco manufacturers a minimum of $1 billion a year over the next 25 years.

And so when you have one major statewide official in Kentucky, elected official, representing the tobacco farmers in Kentucky for one position, the others the other way—our Governor supports the LEAF plan—I just do not understand. Maybe it is the big bucks for the Republican Senatorial Campaign Committee to kill this bill and, in fact, killing the bill, then can say that the farmers continue to grow as they are. But then everybody is worried about their demise. And if you have a demise of the tobacco program, then we are in mighty bad shape without funding.

I was criticized for supporting Senator MCCAIN and $1.10, but then we find the Lugar-McConnell plan is using that money to pay the farmers. If we didn't have the money, we would not be able to pay the farmers.

So, this thing gets awful mixed up. I will be very hopeful about those who read this and those who understand what is happening.

I have a lot here I could talk about, but we have ENACT, that supports the Ford-Hollings plan; an open letter from the tobacco States, from all of the health groups and the tobacco groups supporting our plan. It just seems some way, somehow, there is something more than trying to do something for farmers here and those who are trying to defeat the program.

I might just say in closing, here is the Chicago Tribune today: ''Health Funds Lose In Tobacco Talks: Everybody else gets their project on and youth are forgotten.'' If we are going to forget youth in this bill, maybe it is time we send it back to the Commerce Committee and try to write a bill that will be on target, that will save the youth from smoking.

I think these young pages, after they hear the debate here, will never want to smoke, and I hope that is true. But when they become 21, they can do basically whatever they want to do. At that point, if they have not started smoking, they probably will not. But at the same time, we have a lot of folks who depend on this program. What we have done is help phase it out rather than cut it off at the knees.

One of the things my friends on the other side, Senator LUGAR and Senator MCCONNELL, fail to say is when they do away with the program and the farmers get some money, they lose the value of their land. By some $7 billion in Kentucky alone, the value of farmland will be reduced, because the farmland is based on the tobacco quota. When you advertise a farm for sale, you put what the tobacco quota is in that farm sale.

So, if we lose the farm program, as they would try to do, then we lose $7 billion in farmland value almost immediately. Some farmers could go to bed at night with their farm at one price, get up in the next morning and their farmland is at a lower price and it doesn't cover the mortgage, and the bank will foreclose on those farmers.

People have not thought this through: ''Pay them some money, and get out of the business.'' Pay them a little bit of money, help them through the transition period here so we might be able to save their way of life.

If my 5 minutes is up, I thank the Chair. I thank my friend from Delaware. He is always gracious, and I appreciate him as a friend very much.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Madam President, I ask to proceed as in morning business.

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

RESOLUTION OF THE KOSOVO PROBLEM

Mr. BIDEN. Madam President, I rise at this moment to deplore the ongoing, brutal Serbian repression of the people of Kosovo and to lay out principles for American policy to deal with the crisis.

Analysts have known for years that the Serbian province of Kosovo is a potential tinderbox for the entire southern Balkans. Approximately ninety percent of Kosovo's population is ethnic Albanian, known as Kosovars. Because of emigration to—not from—to other parts of Serbia and because of a

low birth rate, ethnic Serbs now constitutute only about 7 percent of the province's population, down from a quarter of the population in the early 1970's.

Kosovo is revered, as you know, Madam President, by Serbs as the cradle of their culture. Near the provincial capital Pristina lies Kosovo Plain, the site of the epic battle of June 28, 1389 in which medieval Serb knights and other Europeans were defeated by the Ottoman Turks, who remained in control of much of the Balkans into this century. Many of the holiest monasteries of the Serbian Orthodox Church lie within Kosovo's borders.

The ethnic Albanians also have long historical ties to Kosovo, tracing, in fact, their origins to the Illyrians who inhabited the area in ancient times. Senator BYRD often talks of this heritage when he recites, as he does better than anyone, the history of Rome and its impact on the region.

In 1974, Yugoslav President Tito made Kosovo, along with Vojvodina in the north, an autonomous region within Serbia.

After Tito's death as the old Yugoslav Federation was beginning to disintegrate, an ambitious, demagogic Serbian politician named Slobodan Milosevic used Serbian nationalism and resentment of the Kosovo Albanians as a springboard to national power.

In 1989, Milosevic abrogated Kosovo's constitutional autonomy, concurrently launching a purge of ethnic Albanians from the province's civil service and curtailing government funding for public institutions, including the schools.

In response, the Kosovars, led by Dr. Ibrahim Rugova, a Sorbonne-educated intellectual, set up a shadow government and began a campaign of non-violent resistance to the Serbian oppression. The Kosovars set up and ran a system of public schools and maintained other public services. Rugova advocated attaining independence for Kosovo through Gandhian tactics. For most of this decade he was able to keep the lid on popular resentment and prevent violence.

Rugova's position began to be undermined when the Kosovo Question was left off the agenda at the Dayton Peace talks in November 1995. Younger Kosovars increasingly began to ask why they should hold fast to nonviolence when the Bosnian Serbs were rewarded for their violence and brutality with their own quasi-state within Bosnia.

In 1996 the beginnings of armed resistance to the Serbs appeared. A clandestine group calling itself the Kosova Liberation Army—KLA in English acronym or UCK in the Albanian acronym—carried out isolated attacks on Serbian police.

By this past winter the frequency of KLA attacks increased, and Milosevic decided to respond. In late February his special police units, backed up by the Yugoslav Army, stormed into the Drenica area, killing and mutilating civilians who they said were harboring KLA militants.

Some of you will remember, some of the people listening will remember, that's the circumstance in which the Yugoslav authorities would not allow the international community to examine the bodies. They rapidly buried them in mass graves and would not let outsiders come in and see what they had done.

But, Madam President, it is essential not to fall into the trap that some have done by making false parallels to Milosevic's vicious military repression.

These people, either for want of logic or perhaps as Serbian apologists, assert that Milosevic's storm troopers were only doing what any state would do against rebels.

But, Madam President, if Milosevic had not robbed Kosovo of its legal autonomy, had not closed its schools and other institutions, and had not summarily brutalized and fired thousands of Kosovars, the armed resistance never would have materialized.

Just yesterday in Moscow, Milosevic refused to deal with the KLA saying, ''I see no reason to conduct negotiations with terrorists.'' I will return to these prospects for negotiations in a minute, but let me just respond to Milosevic's comment by saying that acting just as he did in Croatia and Bosnia, as he is acting in Kosovo, I ask the rhetorical question: Who is the terrorist? Milosevic is a terrorist and a war criminal. He has demonstrated that over the past 5 to 6 years in Bosnia, and he is revealing it again in Kosovo.

Since the February and early March massacres by his troops, Milosevic has diddled the Western world, utilizing his classic ''bait-and-switch'' tactics.

First, he agreed to negotiate with Dr. Rugova and, thereby, earned from the United States an ill-advised postponement of a ban on foreign investments in Serbia.

While talking, but not seriously negotiating with Rugova, Milosevic was busy setting in motion the next step in his state of terrorism. Late last month, his notorious special police sealed off western Kosovo and began a murderous campaign of ethnic cleansing, driving some 65,000 refugees into neighboring Albania and others into Montenegro. After killing hundreds and burning entire towns to the ground, Milosevic's forces have reportedly even resorted to strafing fleeing refugees from Yugoslav helicopters.

One would hope that the West has learned something from its pathetic temporizing in Bosnia earlier in this decade. Perhaps we have, but maybe we have not. The so-called Contact Group, made up of the United States, the United Kingdom, Germany, France, Italy, and Russia, has met regularly to try to hammer out a unified policy on Kosovo before it spins out of control. In spite of the fact that it operates by consensus, which means the ''lowest common denominator,'' the Contact Group has agreed upon economic sanctions which, given time, will worsen the already catastrophic conditions of the Serbian economy.

But, Madam President, time is of the essence. Not only are thousands of innocent civilians—most of them Kosovars, but also some ethnic Serbs—being killed or driven from their homes, but the continuing fighting threatens the stability of neighboring Albania and also of the former Yugoslav Republic of Macedonia, which itself has restive ethnic Albanians who constitute between one-quarter and one-third of its population.

Maintaining the integrity of Macedonia—a fragile democracy with a Slavic leadership genuinely committed to interethnic reconciliation—must be the cornerstone of U.S. policy. Above all, however, is the stark obvious fact that everyone should have learned from Bosnia, and that is, Slobodan Milosevic will only react to superior force being employed against him. He will not react otherwise.

Lest anyone forget, while economic sanctions against Yugoslavia may have modified Milosevic's position in Bosnia, it was only the use of American airpower for 3 weeks in the fall of 1995 that brought Milosevic and his Bosnian Serb puppets to the bargaining table in Dayton. So now, Madam President, we, once again, are faced with an unpalatable fact that force may have to be employed in order to prevent the need for even greater force later. But there is no decision more difficult than considering whether to send American troops into action.

I have been a Senator for 25 years. I started here when the Vietnam war was still underway, and I am here today. I find the single most intimidating decision that need be made by any of us is when we vote, as we have in the past, to put American forces in harm's way, and Kosovo is no exception.

Let me outline some of the basic principles that have to be part of that decision, outline whether or not that the decision, although difficult, will have to be made.

First, I believe that, except for those who prefer to withdraw to a ''Fortress America'' posture, no one doubts the strategic importance of the south Balkans to the United States.

Second, before we embark upon any military or political action, we must have our goals firmly established.

Third, I also believe that most of my colleagues will agree that NATO remains the cornerstone of American policy in Europe and should be the vehicle by which we act in Kosovo.

Fourth, it goes without saying that a primary concern in any military planning is to minimize the risk of American lives while ensuring the success of the mission.

With these principles in mind, let me examine our options in the Kosovo crisis now.

The United States has declared itself against independence for Kosovo,

thereby putting itself at odds with the Kosovar leadership and people, the very ones who are currently being brutalized.

Madam President, I agree with the position our nation is taking. Whatever one may think of a broader decision made at the beginning of the 20th century as the Turks were pushed out of most of the Balkans, the ethnographic mix of the area simply precludes homogenous states, except through ethnic cleansing, which we must oppose. To put it bluntly, I would use force to stop massacres of innocent civilians. I would use force to prevent cross-border invasions. I would use peacekeepers backed up by force to guarantee the rights of minorities. But I would not risk American lives in a cause of a ''greater Albania'' which would probably destroy the Macedonian state and set off a chain reaction of incalculable proportions in the south Balkans.

On the other hand, I cannot imagine asking the Kosovars to accept a return to the pre-1989 autonomy with Serbia. If Milosevic could summarily revoke the autonomy one time, he can do it again.

Therefore, my own preference as a political goal would be giving Kosovo full republic status within the Yugoslav federation, on an equal footing with Serbia and Montenegro. Perhaps we would also have to have republic status for other parts of Serbia.

I recognize there are problems with such a solution. Milosevic will be dead set against it, since a Kosovo Republic would ipso facto consign Serbia to a minority role in the upper house of the Yugoslav Parliament and probably mean the end of Milosevic's quasi-dictatorial rule.

My response is that we and the Kosovars and the democratic leadership of Montenegro and the remaining democrats in Serbia should look at the probable outcome as an opportunity, not a problem.

Both Dr. Rugova and the KLA have insisted upon independence for Kosovo, but if they keep in mind the scenario I just outlined, they might, in the course of negotiations, agree to a ''third republic'' or ''fourth republic'' compromise.

But how about Milosevic? It is clear to me that only one principle continues to guide his policy, and that is clinging to power. In fact, since he took power in Serbia, Milosevic has been a dismal failure at everything, except staying in power.

His wars of aggression in pursuit of a goal of a ''greater Serbia'' have resulted in the extinguishing of hundreds of years of Serbian culture in the Krajina and in Slavonia, and hundreds of thousands of Serbian refugees, and in the impoverishment of most Bosnian Serbs, and all this at a cost of over 300,000 persons killed.

Meanwhile, under Milosevic's stewardship Serbia itself has plummeted from having been one of the wealthiest countries of Central and Eastern Europe to a near basket-case.

But Milosevic clings to power. And it is, I regret to have to repeat, only the use of countervailing policy and force, power, that will remove Milosevic.

And this is the central point. While there is no panacea for the Balkan ills, the necessary precondition for restoration of peace is a democratic government in Belgrade that is prepared to coexist with the non-Serb peoples of the area.

In order to move events in that direction the Clinton administration has wisely supported the democratic reformist regime in Montenegro—of which Milo Djukanovic is the president—which is already posing a serious challenge to Milosevic within the Yugoslav parliament.

We must now apply all necessary pressure on Milosevic in Kosovo.

The Contact Group has issued four demands: a cessation of fighting; the unconditional withdrawal of Serbian special police forces and Yugoslav Army forces from Kosovo; a return of refugees; and unlimited access for international monitors.

Milosevic's statement on Tuesday in Moscow after his talks with Russian President Yeltsin did not go far enough. He refused to withdraw his troops or to talk with the KLA—two conditions the Contact Group is asking for.

Milosevic's usual half-way tactics must not dilute the West's resolve to force him to meet all the demands.

NATO has already tasked its military experts to come up with military options for moving against the Serbs and Milosevic.

Reportedly, nine preliminary options have been submitted. They range from stationing troops along Kosovo's borders, to imposing a new ''no-fly zone'' and a ''weapons-exclusion zone'' over part of Yugoslavia, to air strikes, and even ground invasions.

In this planning, the possible political ramifications of any military action are, I am sure, being factored in by this administration.

In the immediate future, though, the NATO military planners will flesh out the details of these options. So, I think it would be imprudent for me or for any other Senator to second-guess the NATO military planners who have the relevant expertise and are in possession of the vital intelligence data needed to make a judgment.

What I can say is that the use of force must remain on the table, and that, if at all possible, it must be exercised through NATO.

Within NATO, however, there exists a serious problem. It does not revolve so much around whether or not to use force; for most of our European allies seem to have learned from our Bosnian experience that the use of force in Kosovo may well be necessary.

The dispute is rather over the question of whether approval by the U.N. Security Council is necessary before NATO acts outside the territory of its members. The United States has always maintained that it is not. As recently as our expansion vote on NATO we insisted that that is not a neessary precondition. A U.N. Security Council mandate is not a necessary precondition to use NATO forces.

This is a position reinforced, as I said, by the U.S. Senate in the Resolution of Ratification of NATO enlargement overwhelmingly passed on April 30 of this year.

Most—perhaps all—of our European NATO allies, including the British, assert that U.N. approval is necessary.

Madam President, this difference of opinion strikes at the heart of the Alliance, for if the European allies' position wins out, the Russians—and even the Chinese—will have a veto power over NATO action in Central and Eastern Europe. This is precisely where Bosnia and Kosovo-like ethnic conflicts are likely to pose the biggest threats to regional security in the coming decades. As much as I support the U.N., I, for one, am not about to yield to the Security Council, the Russians, and the Chinese the decision of whether or not we are able to protect the interests of Europe—requiring their approval ahead of time.

We must make clear to our European allies, and to the Russians, that while we prefer to act within NATO, we see Kosovo as a vital national security interest of the United States and, hence, are prepared to act alone if necessary.

This is an unpleasant exercise, but it is preferable to face it now, rather than to postpone the issue. In fact, it would be good to resolve this intra-alliance dispute in the newest revision of NATO's Strategic Concept, which is now being discussed.

Finally, Madam President, I believe it is absolutely essential for the United States immediately to make contact with the Kosovo Liberation Army.

A withdrawal of Serbian special forces and Yugoslav Army troops, or a NATO bombing campaign, must not be done unless the KLA first agrees to a ceasefire. For I must repeat—the object of U.S. policy is not only to stop the movement toward a greater Serbia on the part of Mr. Milosevic, but it is also not to become a tool for a greater Albania in the South Balkans. It is to halt the fighting and then to start serious negotiations involving all the parties. I have already made clear my preferred political solution, but the outcome is for the parties to thrash out.

We are approaching the moment of truth in Kosovo. As usual, the indispensible element in solving the crisis is the active involvement of the United States, just as it was in Bosnia.

As the U.S. Government continues its negotiations with its allies and its Contact Group partners, and as NATO military planners continue to refine possible military options, I urge my colleagues to recognize the gravity of the situation and to make clear their support for resolute American leadership.

Madam President, I yield the floor.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The Senate continued with the consideration of the bill.

Mr. HARKIN. Madam President, I hear all kinds of rumblings that the Republican side of the aisle, at some time today, is going to try to kill or will effectively kill the tobacco bill. I want to take a few minutes to talk about that and try to recap, if I can, why we are here and why we have spent so much time on the tobacco bill.

Three thousand kids every day take up smoking; 1,000 of them will die prematurely. Teenage use of tobacco products is at a 17-year high. And 42.7 percent of high school kids are now using some form of tobacco products. Ninety-one percent of 3-year-olds in this country recognize Joe Camel, and recognize him in a friendly manner. And thanks to the court cases that we have had in several States, we now have the industry documents that reveal years and years and years of lying and deception by the tobacco companies.

That is why we are here. That is why we have a tobacco bill—to put an end to teen smoking, to put an end to the lies and deceptions of the tobacco companies, to save kids' lives.

The Republican leader was on the floor here a week and a half or so ago. I happened to be on the floor at the same time. And Senator LOTT of Mississippi, why, he said, we have to remember what the end game is. Well, I got to the floor shortly after, and I said, yes, we do have to remember what the end game is. The end game is to put an end to what I just talked about and to reduce teen smoking. That is the end game. That is why we are here—to cut down on teen smoking.

But Senators on the other side of the aisle here today, and in the past 4 weeks, have had another agenda. They have had tax cuts, drug money, and limits on attorneys' fees, et cetera, et cetera, and on and on.

Let us look at the RECORD. On Friday, June 5, the majority leader, Senator LOTT, said, and I quote, ''If we don't add something on marriage penalty, tax relief, and on drugs, there won't be a bill. There will not be a bill.'' In other words, the majority leader is saying, if we do not load a lot of stuff onto this bill—marriage penalty, tax relief, drugs—there will not be a bill. That is what he said on June 5.

On June 7, on one of the talk shows, CNN's Sunday Night ''Late Edition'' interview with Wolf Blitzer, here is Senator LOTT again, 2 days afterward:

> Instead of focusing on trying to get something constructive done, what we have now is game playing and rhetoric. What we need is leadership.

Mr. Blitzer said, ''When will there be a vote''—talking about the MCCAIN bill.

Senator LOTT, 2 days before on June 5—Senator LOTT had said, ''. . . there won't be a bill until we add the marriage penalty, tax relief and drugs.''

Now, two days later, Mr. LOTT says:

> Well, at this point, it is dead in the water and there may never be a vote on the MCCAIN bill. The problem is greed has set in. It is the usual addiction in Washington to taxes and spend. This has gone way beyond trying to do something about teenage smoking. This is now about money grubbing. This is about taxing people and spending on a myriad of programs. . ..We have lost our focus.

What kind of brave new world are we living in around here? On June 5, the majority leader says there won't be a bill unless we load it up. Two days later, he says we have loaded the bill up, we can't have a bill because we have lost our focus, because it ought to be about teen smoking.

Game playing. You want game playing? That is where the game playing is coming from. It is coming from the leadership in the Senate. That is where the game playing is coming from.

I will say it loud and clear right here. The leadership has never wanted this bill, and they want to kill it. What we want—and I don't just mean Democrats, I mean a lot of Republicans, too, we want to put an end to teen smoking, and we want this bill. But, unfortunately, the Republican leadership and some on that side are going to try to make good on their threats to kill the bill.

I understand the Senator from Texas, Senator GRAMM, was on the floor a few minutes ago sort of crowing about killing the bill. Well, I hope those reports are wrong. I hope we have the bipartisan support to pass the bill.

But it seems to me at this point in time the choice is very clear: You are either for tobacco company profits or you are for our kids. You are either for cutting down on the lies and deceptions of the tobacco companies, or you are for saving our kids' lives and keeping them from smoking. That is what it has come down to. Don't let anybody kid you.

Now I heard the Senator from Kentucky, Senator MCCONNELL, a while ago—I happened to be listening—talking about all the taxes, all the taxes the people are going to have to spend if we raise the price of cigarettes. I got to thinking about that. Guess what. Not one person in this country has to pay those taxes. What an interesting set of taxes—taxes you don't have to pay. If you don't smoke, you don't pay the taxes—simple as that. It doesn't tax everybody. You have the freedom to choose. If you want to pay the taxes, smoke; if you don't want to pay the taxes, don't smoke. Yet to listen to the other side talk about it, why, you would think that everyone in this country was going to have to pay taxes. Absolutely not true. Only if you want to smoke. Then you ought to be more than happy to help pay for those who get sick and to help do something about keeping teenagers from smoking.

I don't think I yet have met one adult who has smoked a long time—10, 15, 20 years—I haven't met one yet who has said, ''I would recommend a young person take up smoking.'' I haven't met one yet. Every single one of them says, ''Don't do what I did. Don't get in the habit. Don't become an addict like I am.''

That is what this bill is about—keeping kids from becoming addicts, addicts every bit as bad as if they took up cocaine or heroin—nicotine addiction. And it is the gateway drug to the others. You want to cut down on marijuana? Cut down on teen smoking of cigarettes. You want to cut down on teen use of smoking crack? Cut down on their smoking cigarettes first. You want to cut down on kids who get into the drug culture? Go after cigarettes first. It is a gateway drug. It is a drug, make no mistake about it, and a highly addictive drug. And it just so happens to be legal.

But we know from industry documents today that they have known for years that nicotine is addictive. They have known for years that it is carcinogenic. They have known for years about the medical costs of addiction to tobacco. Yet through all their advertising, they have lied about it. All this fancy advertising of Joe Camel and that rugged Marlboro Man on that horse and all these young people—do you ever see a tobacco ad that has a lot of old people hacking and smoking and spitting in it? No. All the tobacco ads have nice young people, and they are healthy, and they are vibrant. They look like they are having a great time, and if it weren't for tobacco, they probably wouldn't be having a great time. That is the kind of deception used by the tobacco companies. That is what we are trying to put an end to.

Taxes? No one has to pay these taxes. I see the Senator from Kentucky is on the floor. No one has to pay these taxes, not one single person, if they choose not to smoke. But if they do, then, yes, we want you to pay more for cigarettes, because we want to use that money to stop kids from smoking, which is what you want, too.

Every adult I have known who is addicted to nicotine says kids shouldn't take it up. But these tobacco companies will continue to hook kids because they know that is their replacement smoker. They know that 90 percent of adult smokers who are hooked on nicotine start smoking before the age of 18. If they don't start smoking by that time, chances are they will never take it up and become addicted. That is why we are here. That is the end game—to keep our kids from smoking.

Killing this bill is a death sentence for millions of kids. Killing this bill would be a historic cave-in to the special interests of this country. It would be a historic cave-in to the $40 million in deceptive ads that the tobacco companies have put out across this land over the last month. It would be a historic cave-in to an industry that has deceived and lied to the American people for the last half century.

Make no mistake about it, tobacco executives and all of their PAC directors who have all of that money to start giving out to campaigns, they are watching. They are watching, and they are rubbing their hands together, and they are saying, ''Oh, boy, they are going to kill that tobacco bill.'' And they are going to know who their friends are. They are going to know who their friends are—the ones who killed this bill. And I am sure they will be helpful to their friends.

Well, I hope we can send a message to our kids that these well-funded special interests, no matter what they have done and how much money they have spent, that they can't win today, that they can't win in this body, that this body still represents the rank and file of American people and not just those with a lot of money and a lot of power.

If the Republican leadership and those on that side kill this bill today, we will be back, time and time and time again. We will be back. We will be back with amendment after amendment after amendment on bills that come up to this floor. We will not back down. We have come too far to rein in the tobacco companies, we have come too far to stop our kids from smoking, to back off now.

If the Republican leadership and the Republicans succeed in killing this bill today, it might be the end of the debate on the tobacco bill, but it will not be the end of tobacco debate on the Senate floor and it will not be the end of amendments and bills that we will bring up to try to get to the end game to keep our teenagers from smoking.

If the Republican leadership succeeds in killing this bill, I predict that there will be a major public backlash—a major public backlash. Why do I say that? A little bit of history.

Last year, about this time—actually toward the end of July—Senator CHAFEE, a Republican, and I, a Democrat, offered an amendment on the floor of the Senate to provide the necessary money to the FDA to enforce the ID checks in stores and outlets, wherever cigarettes were sold across the country. We offered the amendment and we had a vote. We lost. That was in July. Well, I used a parliamentary maneuver to ensure that we could have one more vote on it when we came back after the August recess of last year. So I filed my parliamentary appeal on that. We broke here in August and we went home.

We came back in September, and the first vote we had when we came back in September was the same vote of Senator CHAFEE and Senator HARKIN on providing the money to the FDA for the ID checks—the same vote that had lost in July. Guess what. This time it carried overwhelmingly. I submit that a large part of that was because a lot of people went home in August and a lot of the groups—I am talking about all of the public health groups, such as the American Heart Association, The Lung Association, the American Cancer Society, and a host of others—got to people and said, wait a minute, we want to enforce these ID checks. We don't want young people buying cigarettes and tobacco products. There was a public backlash. I predict the same thing will happen if this bill is killed today.

Despite over $40 million in ads that have dominated the airwaves over the last month by the tobacco companies—despite all that—the public still supports this bill by over 2 to 1. This was a survey taken June 12 through June 15 by Market Facts TeleNation, an independent polling firm, of 924 adults. Margin of error, plus or minus, is 3.2 percent.

The question was:

> As you may know, the Congress is currently considering the McCain tobacco bill, which creates a national tobacco policy to reduce tobacco use among kids. Based on what you know about the bill, do you favor or oppose Congress passing the McCain bill?

Those who favored, 62 percent; opposed, 31 percent.

That was June 12 to June 15. This is the 17th, so that was earlier this week. That is after $40 million was spent by the tobacco companies to persuade the public that what we are doing is raising these huge taxes and spending all of their money on a variety of nonsense programs. I am sure we have all seen the ads. How can you miss them? Turn on the TV and there is another ad. And still, through it all, the American people are seeing through it. They have caught on to the tobacco companies. They know they have been lying to them for 50 years. Ask any older adult today—I am talking about somebody in their sixties, seventies, or eighties—who has been addicted to nicotine. Ask them if they believe the tobacco companies told them the truth 30 or 40 years ago when they took up tobacco. They know the tobacco companies lied to them through their slick advertising, ads that show doctors smoking and nurses smoking, and all kinds of things, saying that Camels were better for your throat than other cigarettes. Still, the American people, 2 to 1, want this bill.

That is why I predict that if this bill is killed, there is going to be a tremendous public backlash. The public is going to know who killed this bill: the Republican leadership in the U.S. Senate. Make no mistake about it.

I yield the floor.

Mr. AKAKA. Mr. President, the Senate is engaged in an historic debate over tobacco control legislation. This bill is the most important public health issue of the decade. Yet, it appears that we are losing sight of the foremost purpose of the bill. If this bill was a Christmas tree, its branches would be drooping to the floor because of the weight of the unrelated amendments. These extraneous amendments were added at the insistence of the majority to broaden the appeal of the legislation. Yet, critics of the bill cite these amendments as reasons to topple the tree.

First, a majority of Senators voted to strip the liability provisions from the tobacco bill. With this vote, we lost a powerful incentive for the tobacco companies to accept provisions of the bill that require their consent. Industry cooperation is critically important to a comprehensive national tobacco policy, and to obtain voluntary acceptance of the sweeping advertising restrictions.

As my colleagues know, advertising is one of the most important factors in attracting young people to tobacco products, and restrictions on advertising must be a central component of the efforts to reduce youth tobacco consumption. Industry acceptance will also be essential to the lock-back provisions that will penalize companies that fail to meet youth tobacco reduction targets.

The majority then passed an amendment to divert $2 billion from public health initiatives into programs having nothing to do with tobacco. This amendment takes money allocated to public health and puts it into drug interdiction, the Coast Guard, education vouchers, and a multitude of other items. We have abandoned the fundamental objective of this public health legislation.

The Senate then approved an amendment providing a massive tax cut to reduce the marriage penalty and increase the deductibility of health insurance for the self-employed. These provisions not only strip huge sums from the bill, but also take funds from the general treasury in future years. As a result, the majority of my colleagues voted to weaken the Social Security system for future generations. Money that would have been used to reduce the incidence of youth smoking will instead be used to finance a tax cut. Make no mistake about it, this action severely hampers the effectiveness of the programs designed to reduce tobacco use. The money stripped from the bill would have paid for core public health initiatives such as health research, counter advertising, and smoking cessation and education programs.

We are losing sight of the grim statistics on youth tobacco consumption that have been repeated here on a daily basis. Every day, 3,000 kids become smokers. One third will die to tobacco related diseases. We have an obligation to act.

Despite my strong objections to these changes, we must pass a measure out of the Senate and allow the process to continue. The bill retains provisions that address the problems of youth tobacco consumption. For example, the tobacco price increase in the bill should dramatically reduce the number of kids who begin smoking and who may ultimately die from smoking related diseases. Statistics show that for every ten cents added to the price of cigarettes, approximately 700,000 fewer teens will being smoking and more than 200,000 premature deaths will be avoided. The bill also provides for a national counter-advertising campaign

aimed at discouraging young people from using tobacco products. It also funds health research at the National Institutes of Health and the Centers for Disease Control and state and local tobacco education and prevention programs.

Two other components of the bill that will have a large impact on our efforts were added during floor consideration. The first is the increased investment of funds into early childhood development and after-school activities. The second is the strengthening of the look-back provisions which hold individual tobacco companies responsible for their portion of the youth market.

Mr. President, the Senate still has a landmark opportunity to save the lives of future generations. If this effort is defeated it will show that the majority bowed to the tobacco industry and sold out the youth of America.

TOBACCO WAREHOUSE

Mr. FAIRCLOTH. Mr. President, I would like to engage in a colloquy with the Chairman of the Agriculture Committee regarding the role of warehouseman in the tobacco debate. There are 356 tobacco quota warehouses in eleven states. For over 60 years tobacco auction warehouses have played a role in the federal government's tobacco program. By law, warehousemen collect specified fees, supervise inspections, keep records and otherwise act on behalf of the U.S. Department of Agriculture.

In 1935, the Tobacco Inspection Act was passed under the jurisdiction of the Agriculture Committee to designate approved auction warehouses and to protect growers by providing standards of classification and inspection of tobacco. In fact, from the onset of North America's tobacco commerce in 1619 successive governments have used tobacco warehouses as the primary channel for regulating the leaf tobacco trade. According to Professor Allan C. Fisher, Jr., between 1619 and 1731, various colonial governments in North America passed a total of eight legislative acts pertaining to tobacco warehouses. In effect, these laws made tobacco warehouses the agents of government for ensuring that the inspection and sale of leaf tobacco remained fair to growers.

Even now, by law, warehousemen collect specified fees, supervise inspections, keep records and otherwise act on behalf of the U.S. Department of Agriculture. The Supreme Court, in a 1939 case upholding the inspection law, state that warehousemen and auctioneers act as agents for growers and the government.

In summary, tobacco warehouses were established by and are regulated by the federal government. Therefore, assistance to warehousemen is a necessary component of any legislative action that effects federal tobacco policy.

Mr. LUGAR. I acknowledge the importance of warehousemen under the current tobacco program and that some of those warehousemen may be adversely affected when the current program is eliminated. That is why I have made it clear in my amendment that warehousemen may be considered as recipients of some of the $1 billion in economic assistance grants to states. I believe that it will be important for state and local governments to determine the level of assistance to individual warehousemen in their localities. Local officials will be better able to assess the economic impact on individual warehousemen and can make adequate compensation accordingly.

Mr. FAIRCLOTH. I appreciate the Chairman's recognition of the importance of warehousemen and his efforts to include them in this amendment. The Senator is correct. Tobacco warehouses have no other business than operating as agents for the growers and the government. They are as integrally tied to the tobacco program as are farmers and quota holders.

For these reasons I believe that comprehensive tobacco legislation must provide compensation for tobacco warehousemen—and that such compensation should be specific, certain and equitable.

By the term ''specific,'' I mean that the legislation should denote warehousemen as individuals who shall rightfully receive a measure of compensation, just as it provides for a measure of compensation for growers and quota holders.

By the term ''certain,'' I mean that the legislation should provide for a procedure to ensure that such compensation is a definite Federal responsibility calculated by Federal authority according to factors that Congress establishes in the statute.

By the term ''equitable,'' I mean that the compensation should be based upon an appreciation for a warehouseman's equity investment in his business and that the formula for determining the appropriate compensation should be related to the volumes of tobacco that each warehouse has historically handled.

It is essential that three elements are thoroughly addressed. It is my judgment that the managers' amendment in its current form falls short in meeting these criteria.

My question to the distinguished Chairman is this: will you work with me and other Senators, as the legislative progress continues, to ensure that warehousemen are not left out of my comprehensive tobacco legislation?

Mr. LUGAR. Indeed, it is always a pleasure to work with the Senator from North Carolina, I will do what I can to ensure that warehousemen who are adversely affected by comprehensive tobacco legislation are not forgotten as the tobacco legislation proceeds through the legislative process.

Mr. WARNER. Mr. President, I rise today to express my strong opposition to the tobacco bill that is currently before the Senate.

As you know, on June 20, 1997, a group of state attorneys general, plaintiffs' lawyers, public health advocates, and representatives of the major cigarette manufacturers announced a sweeping settlement that would restructure the tobacco industry and revolutionize the nation's tobacco control efforts. The agreement, reached in good faith among the parties, would settle lawsuits brought by forty states seeking to recoup Medicaid spending for smoking-related illnesses and ban certain class-action lawsuits against the tobacco industry.

The only reason that the Senate is even considering the current bill is because the proposed settlement required the approval of Congress and the President before taking effect. This measure differs significantly, however, from the terms of the original settlement. Although the bill makes some progress toward the important goal of eliminating youth smoking, it has also become a vehicle for regressive higher taxes and a creation of more federal government. In fact, the attorneys general who negotiated the original settlement are opposed to this bill in its current form.

Mr. President, S. 1415 contains over $500 billion in new taxes. By some estimates, as much as $800 billion in new taxes could be imposed on the American people as a result of this bill. But even more alarming than the sheer size of this tax increase is the fact that two-thirds of the tax burden would fall on Americans earning less than $35,000 per year.

Indirectly, the bill ''deputizes'' tobacco firms as tax collectors.

In view of our country's current economic prosperity and budgetary surpluses, I believe that the American people are entitled to forms of tax relief, not increases in taxes.

The total result of the bill's proposed tax could, in my view, be disastrous. It would primarily burden lower-income Americans. It could create a new black market for cigarettes similar to the underground market that currently exists for illegal drugs. Canada has experienced this terrible problem as a result of its high taxes on cigarettes. Further, it could tempt children to obtain cigarettes illegally or to illegally or improperly obtain the funds to purchase cigarettes. There is simply no justification for imposing over half a trillion dollars in new regressive taxes on the American people.

Traditionally, families and the states have been responsible for dealing with the legitimate and important objective of deterring youth smoking. Indeed, every state in the country has enacted laws making youth smoking and selling tobacco products to minors illegal. I believe that these laws should be vigorously enforced, both against adults who sell tobacco products to minors and against children who illegally attempt to purchase these products. Congress should not intrude on a responsibility that is properly and legitimately under the purview of the citizens of a state and their state governments.

Many small family firms, indeed many businesses and communities throughout Virginia, depend on the cultivation, sale, and taxation of tobacco. They do so legally. In addition, Virginia's ports depend heavily on the shipment of tobacco and related products. The industry directly employs over 12,800 Virginians and supports over 150,000 additional jobs indirectly, generating more than $2.2 billion in payroll taxes annually. The bill before us would have unfair consequences on all of these thousands of honest, hard-working Virginians.

I would remind my colleagues, however, that one need not represent a tobacco-producing state to represent a large number of constituents who would be adversely effected by this legislation. Indeed, thousands of Americans across the country work in other industries that interact with the tobacco industry, such as convenience stores, shippers, packers, suppliers of agricultural products and equipment and vendors. Each of these industries, and many others, are likely to suffer tremendously if this bill is enacted. Most of these enterprises, particularly convenience stores, are small businesses and are struggling every day for survival.

I would further remind my colleagues that one need not represent a tobacco-producing state to stand for the principles of smaller government, lower taxes, and personal responsibility.

Last Thursday, Virginia Governor Jim Gilmore convened the Tobacco Workers' Unity Summit. As a governor who is respected nationwide for vigorously enforcing Virginia's laws against the sale of tobacco to children while passing the largest tax cut in Virginia history, I consider Governor Gilmore's to be an important voice in this debate. In his opening remarks at the Unity Summit, Governor Gilmore said, ''We will not be successful in combating youth smoking if we leave the matter to the tax commissioner rather than the law enforcement officer.'' I agree.

The them of the Unity Summit was ''Protecting Our Children . . . Protecting Our Jobs.'' I ask unanimous consent that a list of participants which I will send to the desk be printed in the RECORD.

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

TOBACCO WORKERS' UNITY SUMMIT

LONGSHOREMEN AND DRIVERS

Ed Brown: International Vice President, International Longshoremen's Association.

John G. Heckman: Executive Assistant to the President of Highway Express.

BAKERS, CONFECTIONERY AND TOBACCO WORKERS INTERNATIONAL UNION

Robert T. Curtis: Vice President, BCTWIU.

Barry Baker: International Representative, BCTWIU.

James B. ''Sonny'' Luellen: President, Local #203T, BCTWIU.

Marian Spratt: Leaf processing worker, Danville, Virginia.

BUILDING CONSTRUCTION TRADES

Ray Davenport: President, Virginia State Building & Construction Trades Council.

Walter F. Merritt: Millwright, Atlantic Industrial Corp. & Member, Local 1402 Millwrights.

RETAIL AND WHOLESALE

Ronnie Volkening: Government Affairs Manager, Southland Corporation Dallas, Texas.

Frank C. Beddell: President, Virginia Petroleum Jobbers.

Jo Kittner: President, Virginia Retail Merchants Association.

Duncan Thomas: President and CEO, Q Markets Convenience Stores.

Read deButts: Executive Director, Coalition for Responsible Tobacco Retailing Wholesale.

David Strachan: President and CEO American Wholesale Marketers Association.

Kevin J. Koch: Corporate Vice President, McLane Company, Inc. Temple, Texas.

INTERNATIONAL ASSOC. OF MACHINISTS AND AEROSPACE WORKERS (IAMAW)

Stephen Spain: Directing Business Agent, Lodge #10, IAMAW.

Nathan Grooms: Printing Pressman, Reynolds Metals Printing Plant Local #670.

Harlan Young: Machinist, Molin Machine Corporation.

GROWERS

Donnie Anderson: President, Virginia Tobacco Growers Association.

Wayne Ashworth: President, Virginia Farm Bureau.

Gary Hodge: Executive Director, Tri-County Council for Southern Maryland. Advisor, Southern Maryland Tobacco Board.

Haywood J. Hamlet: CEO General Manager, Virginia Dark-Fired Tobacco Growers Association.

Joe H. Williams: State Board, Dark Fired Tobacco Advisory Committee Chatham, Virginia.

Jerry Jenkins: Flue-Cured Tobacco Advisory Committee Blackstone, Virginia.

LEAF INDUSTRY

Harry Lea: President, Virginia Flue Cured Warehousemen Association.

Todd Haymore: Director of Corporate Communications, Dimon, Inc. Danville, Virginia.

Hart Hudson: R. Hart Hudson Farms and Dixie Tobacco Warehouse South Hill, Virginia.

SUPPLY AND SUPPORT INDUSTRY

Frank E. ''Pepper'' Laughon: Chairman of the Board, Richmond Cold Storage Co., Inc.

Karen Crawford: Plant Manager, Shorewood Packaging Danville, Virginia.

Thomas J. Kirkup: General Manager, Flexible Packaging Division, Reynolds Metals.

Ted A. Lushch: Owner, Jerry Brothers Industries Richmond, Virginia.

Bo Fear: Vice President, Westvaco Consumer Packaging Division.

Jean Dunn: Baling Operator, Hoechst Cellanese & Member, UNITE Local 2024, Gaithersburg, Md.

Susan Gregorek: Joint Board Representative UNITE Mid/Atlantic Regional Joint Board.

James Fifer: President J.E. Fifer Sheet Metal Fabricators, Inc.

Ralph Bauwens: Plant Manager, Jewett Machine Mfg. Co., Richmond, Virginia.

Harold C. Hill, Jr.: Vice President, Inside Sales & Customer Service Fi-Tech, Inc.

ECONOMIC ANALYSIS

Virginia Lieutenant Governor John Hager.

Barry Duval: Virginia Secretary of Commerce and Trade.

Martin Feldman: Director of Research, Solomon Smith Barney, New York, New York.

Dr. Dixie Watts Reaves: Agricultural Economist, Virginia Polytechnic University.

Dr. Thomas J. Towberman: Commissioner, Virginia Employment Commission.

Hugh Keough: President, Virginia Chamber of Commerce.

PREVENTING UNDERAGE SMOKING

Virginia Attorney General Mark Earley.

Gary Aronhalt: Virginia Secretary of Public Safety.

Colonel Wayne Huggins: Superintendent, Virginia State Police.

Curtis Coleburn: Policy & Judicial Director, Virginia Alcoholic Beverage Control Board.

Henry Stanley: Chief of Police, Henrico County, Virginia.

Dana Schrad: Executive Director, Virginia Association of Chiefs of Police.

Mr. WARNER. Mr. President, these are the people who have been left out of the debate in the Senate—the people who stand to lose their livelihoods if this bill is passed.

The participants of the Unity Summit were universally opposed to the bill that is currently before us, and they all signed the following Tobacco Workers' Unity Pledge:

We the undersigned urge President Clinton and the U.S. Congress not to forget the hard-working men and women whose livelihoods are linked to tobacco.

These men and women include truckers and longshoremen, paper and steelworkers, machinists and growers, convenience store clerks and warehouse workers.

These working Americans labor long and hard hours to pay their taxes and put food on the table for their families.

These working families should not be forgotten by those who hold power in Washington.

We urge policy makers in Washington to find ways to protect children from access to tobacco products that will not result in thousands of working men and women losing their jobs.

We urge the Administration and Congress to remember that protecting our children is a vital law enforcement issue, not an excuse to raise taxes.

We also urge the President and the Congress to remember that you will not protect our children by putting their parents out of work.

The bill before us will create far more problems for the American people than it could ever hope to solve. The bill has lost sight of the important objective of stopping children from smoking and has fallen prey to a multi-billion dollar money grab. The bill has blinded us to the American tradition of insisting on personal responsibility from adults and protecting our citizens from government intrusion into their personal lives.

Ms. MOSELEY-BRAUN. Mr. President, I would like to take a moment to share my thoughts concerning S. 1415, the National Tobacco Policy and Youth Smoking Reduction Act.

The fundamental goal of this bill was supposed to be to drastically reduce the number of children who become addicted to cigarettes. However, sometime during the last three weeks of debate on this bill the Senate seems to have lost its focus on that objective.

We have debated three different amendments regarding lawyers fees—as if the states are incompetent to enter into legal contracts—and adopted one

of them. We have spent the better part of a week on the marriage penalty and health insurance deductibility for the self-employed. Now, I happen to believe that those two issues are very important, and need to be addressed. But this bill is not the proper vehicle for addressing them. This bill is supposed to be about reducing smoking—particularly teen smoking.

I still view this bill as the best means of focusing on the main goal. For all of its faults, the bill still gives the FDA the power to insure: that no human, animal, or cartoon image is used to advertise tobacco products; that tobacco companies do not advertise in color on the backs of magazines; that cigarettes are not advertised on bill boards or other outdoor signs; that tobacco products are not displayed in close proximity to products—like candy—that would be attractive to children; that cigarettes are not advertised on the Internet; and that payments are not made to celebrities to smoke in movies or on television.

And this bill sets targets for reducing smoking by our young people and penalizes tobacco companies if they fail to meet those targets. This is only fair because tobacco companies have targeted our children. Aware that nearly 89 percent of all smokers begin smoking by age 18 and eager to maintain its market, the industry specifically targeted children in the hopes of creating life-long addicts.

Its efforts have paid off handsomely. Today, more than 3 million American children and teenagers smoke cigarettes. Seventy-one percent of high school students have tried cigarette smoking and about one-third of high school students are current smokers. Teen smoking has risen for five years in a row. And if nothing is done, 5 million Americans who are now children will die prematurely from tobacco-related diseases.

But tobacco products are responsible for enormous damage to all of our citizens, not just children. Smoking accounts for nearly one in five deaths in the United States. It is related to over 419,000 U.S. deaths each year—more than alcohol, car accidents, fires, suicides, drugs, and AIDS combined. Approximately half of all continuing smokers die prematurely from smoking. Of these, 50 percent die in middle age, losing, on average, 20 to 25 years of life.

We now have proof that the tobacco companies knew precisely what the impact of their products would be. According to their own internal documents, these companies hid the truth regarding both the dangers associated with smoking and the addictiveness of their products. It is therefore time for the tobacco industry to be held accountable for marketing a product it knew to be unsafe. Fortunately, that is something that this bill accomplishes.

I remain concerned about the regressive nature of the $1.10 per cigarette tax that this bill will levy and I believe that it addresses issues that, while important, have nothing to do with tobacco legislation and should be addressed separately. Despite the many problems that the Senate has faced during the last three weeks, I think it is a real mistake to kill the tobacco reform legislation at this time, and make no mistake about it, that is what is happening here today.

Mr. President, we must tackle the issue of teenage smoking and this legislation may very well be our only opportunity to do so. I would not want to see this bill become law in its current form, but there are still ample opportunities to improve if we allow the legislative process to go forward. Mr. President, I urge my colleagues not to kill this bill today; I urge them to think of our children and the children that will follow them and to cast a vote to prevent another generation of young Americans from becoming addicted to tobacco.

Mr. FAIRCLOTH. Mr. President, I urge my colleagues to vote to kill this bill. It is no more than a massive $577 billion tax increase on working class Americans. Almost one trillion dollars in taxes and penalties to fund the largest expansion of government in years. Almost one trillion dollars to throw tens of thousand of North Carolina factory workers out of their jobs. Almost one trillion dollars to throw tens of thousands of farm families off their land.

Back in 1993, we denounced the Clinton tax increase, the largest tax increase in world history. Today, some of us seem interested in passing this tobacco tax bill, the second largest tax increase in world history.

I would like to compare the two bills.

The 1993 tax increase was for ''fighting deficits.'' The 1998 tax increase is for ''fighting teen smoking.''

The 1993 tax increase totaled 240 billion dollars over the first 5 years. The 1998 tax increase totals $103 billion over five years.

The 1993 tax increase paid for a massive increase in new spending. The 1998 tax increase pays for a massive increase in new spending.

The 1993 tax increase was progressive. The 1998 tax increase is regressive.

The 1993 tax increase targeted ''those who succeeded in the decade of greed.'' The 1998 tax increase targets smokers—mostly working class Americans.

The 1993 tax increase was done in the name of ''the children.'' The 1998 tax increase is in the name of ''the children.''

The 1993 tax increase enlarged the Washington bureaucracy. The 1998 tax increase enlarges the Washington bureaucracy.

The 1993 tax increase taxed the American people. The 1998 tax increase taxes the American people, not the tobacco companies.

It literally requires the tobacco companies to pass on the entire tax increase to the American people—mostly blue collar people. Those earning less than $40,000 per year will pay sixty-one percent of these new taxes.

It will raise taxes on the one-pack-a-day smoker by $1015 per year. That's a fifty percent federal tax increase on those earning less than ten thousand dollars per year. Those earning more than $75,000 will pay less than one percent more from this tax increase.

We should all be deeply concerned about the ''tax and spend'' approach that the bill takes to resolving a social problem. The bill reaches right into the pockets of hard-working low- and middle-income adults who have every right to smoke if they choose. And, it takes their hard-earned dollars to create yet more federal programs and to pay trial lawyers billions of dollars. At least the Senate saw the light on my efforts to cap these fees.

We're literally grabbing money from the poorest Americans to buy trial lawyers more than Lear jets. Pure greed, Mr. President, pure greed.

To what end are we taxing the American people here? It is unclear whether price increases really have the effect of getting kids to stop smoking or to prevent them from starting.

And what is the real motivation here? If it really were to cut smoking, we wouldn't phase in the tax, we would drop it right at once. But we're not doing that because the tax-and-spenders want the revenues. I know they're not doing it for the tobacco companies.

We all know that this isn't about smoking—it's about money.

The consequences are irrelevant. Facing huge profit margins, a new industry will crop up bringing cigarettes into the country tax-free. It will be boom time for smugglers.

Just consider how much smuggling already occurs. Ten percent of the cigarettes consumed in America today are smuggled from low cigarette-tax states to high-tax states.

Just ask the Canadian border patrol about the smuggling that occurred in 1993 when the Canadian cigarette excise exceeded the U.S. excise by as much as $3.50 per pack.

Increased smuggling means that not only is the additional tax not paid, but the existing federal excise of 24 cents per pack would also be avoided, as would the state excises.

Organized crime must be absolutely licking its chops at the prospect of smuggling a legal product into the country and then using its existing distribution networks to sell it. One thing's for sure—the market demand for small planes in about to jump sky high.

The effect of smuggling is to create two classes of smokers—those who smoke only legal cigarettes and those who smoke smuggled cigarettes. Those who smoke smuggled cigarettes will see a decline in price since these cigarettes will escape the existing federal and state taxes.

Thus, if smokers respond to price changes, smokers of smuggled cigarettes will smoke more, while smokers

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.

Mr. DOMENICI. Mr. President, I will be managing the bill for the majority and the Subcommittee of Appropriations on Energy and Water Development. I understand that the minority will not consent to any amendments being laid down tonight. So we will just have opening statements, and then I gather we will take the matter up at the earliest opportunity in the morning and proceed until we finish.

I might suggest, unless there are some amendments I am unaware of—and that could be the case—that there is a real possibility that we could finish this bill tomorrow. We would very much like to do that. That would mean Thursday night we would finish. If that doesn't happen, then we may have a complication with reference to the manager and ranking member, which might carry the bill over for a considerable number of days.

I want to give a few opening remarks about the bill. First, I thank my ranking member, Senator REID. This is a very difficult bill and, in many respects, contains some very, very serious, substantive matters for America and some very important defense policies with reference to nuclear weapons, our stockpile, and the like. We have worked very handily together, and I am proud of the bill we have before us.

This bill was reported unanimously by the Committee on Appropriations last Thursday and was filed on Friday. It has been available to Senators since Monday.

The committee recommendation provides a total of $20.9 billion in budget authority. Of that, $12 billion is defense and $8.9 billion is nondefense. Especially within the nondefense allocation, the committee has struggled to craft a recommendation that meets the Senate's expectations. The President's request for water projects was $1.8 billion below the level required to continue ongoing construction projects at their optimal level. If we were to truly fix that problem to provide the level of funding of water projects Congress envisioned when it enacted the Water Resources Development Act of 1998, which the President signed, and last year's Energy and Water Development Act, which the President signed, the committee would have to shift $1.8 billion from other programs within nondefense, which is only $8.9 billion of the entire bill. We would have to move that to the Corps of Engineers and the Bureau of Reclamation.

Now, Mr. President, when the President of the United States decided to reduce water projects by $1.8 billion, let me suggest that these are flood protection projects in many, many States. These are dams and reservoirs that have been under construction. These consist of work on channeling our ports. And, yes, there is money that was obligated to build our ports so that they could continue to carry the vast commerce that comes in and out of the United States through these ports.

Much of the port activity—draining and the like, dredges—is paid for by the Federal Government. And the President decided that he had priorities in water, and he wanted us to pay for those and give dramatic increases. But when it came to all those projects that are all over our country that other Members appropriated last year and that the President signed, those were knocked out.

Mr. President, that is just not the way to do business. It is all right if the President wants to cut things, but to do it like that and then ask for his special projects to be increased as if they are the only ones that are deserving of any increase, and all the rest of our States and our ports of entry are supposed to be cut, just doesn't make sense.

So, actually, we are going to have a little difficulty when we go to conference in that part of the bill which is called nondefense. That includes water projects, plus nondefense research projects within the Department of Energy—some very important research projects.

That much of a reduction would be impossible to impose on the Department of Energy's science, energy, research, and environmental management programs. Fortunately, to reduce our need to cut these programs, Chairman STEVENS provided the Energy and Water Development Subcommittee with $238 million in nondefense budget authority above a freeze.

The committee recommendation is to use all of that increase and an additional $211 million taken from a freeze level within the Department of Energy to add to water projects. I just explained why he wants to do that. Even at that, Senators have been very understanding, because it means two things for all the Senators and their projects. We have been able to provide between 60 percent and 70 percent of the optimal funding level for water project construction, and our baseline for the Department of Energy was a freeze, and we had to go below that.

As an example, the administration proposed a $90 million increase, $26 million over last year, for solar and renewable energy. We are working with two of our Senators who want to amend what we have done in this bill. Let me just explain what we have done.

Regardless of any individual's view on solar and renewable energy, the subcommittee does not have resources to provide the kind of increase that the President had in mind. The recommendation for solar and energy is a $780,000 reduction from the current level—that is what we have in our bill—and that is because we have to cut below a freeze in this part of this bill.

As usual, the subcommittee has received requests for thousands of individual projects. To the best of our ability, we have tried to include those in the water area where requests were generally well founded requests to provide adequate funding for ongoing projects. Unfortunately, because the reductions apply to DOE's nondefense program, there is very little flexibility to add projects within budgets that are already being cut.

For a specific recommendation—but before I do that—I am not sure that I will deliver my entire summary—I want to yield the floor and ask if my ranking member desires to make some comments at this point.

I yield the floor.

Mr. REID. Mr. President, as ranking member of this subcommittee, I recommend this bill to my colleagues.

I first of all want to say that we hear so much in the press about the partisan nature of this Congress. And there is, I think, in the minds of most everyone too much partisanship. But I think the Appropriations Committee is a place to look to see bipartisanship, to see a model as to how we can get along to make progress. This bill is a bill that was done on a bipartisan basis. The ranking member, I, and the chairman of the subcommittee, the senior Senator from New Mexico, have worked very hard to come up with a bill that is the most just and fair bill we could come up with.

This is a very important bill. It deals with many different aspects of our society. We realize the importance of this legislation. The chairman and the ranking member, as a result of that, have worked very closely together. We have a harmonious relationship between ourselves and our staffs.

I repeat, the two Members operate this subcommittee. I extend my arm of friendship to my senior colleague, the chairman of this subcommittee, who has been very forthright. I have been included in all the meetings with Cabinet officials and others to come up with this bill.

But I also say to the administration that we have a constitutional form of government. We have to protect the legislative aspect of this separation of powers document. The administration did not, in my opinion, treat us fairly with this bill. As a result of this, because we have broad and equal say in what goes on in this country as a legislative branch, we step forth and rearrange the priorities of this bill. We did it in a way that protects ongoing projects that are essential to various parts of this country.

We feel that we have come up with something that is fair and that is reasonable. There are programs that have been itemized for projects and activities of the Department of Energy, the Corps of Engineers, Bureau of Reclamation, and other independent agencies.

I repeat that I support the approximately $21 billion in appropriations to this Senate. I recommend this to the Senate as a whole.

I can't overemphasize the fiscal tension between these programs that we worked to make a balance. The Department of Energy, the Corps of Engineers, the Bureau of Reclamation recognize some of it.

On the defense side of this bill, there is a very close, important relationship

that we have with the security of this country. Some of these programs are relatively nondiscretionary, since we must provide for the stockpile stewardship management program, defense environmental management, and the naval reactor program.

I repeat, the chairman and I have worked very hard to find a balance in this bill and recognize this bill is far from perfect, but it is the best that two human beings could do to balance the separate interests—the hundreds and hundreds of requests that we get from the 98 other Senators. So we have not accommodated everyone's priorities—not every State's priorities or the projects—but we have done the very best that we could.

Mr. President, the Army Corps of Engineers and the Bureau of Reclamation:

It is no secret that the budget request sent to us by the President would have increased some solar and renewable activities while devastating the Corps of Engineers and the Bureau of Reclamation projects. But everyone should understand that we did an excellent job, in my opinion, with solar and renewable. We are willing to bring at the right time solar-renewable up to last year's limit. That will be very difficult to do. But we will do that. But we have taken pretty good care of other programs. We have done a good job of increasing the hydrogen aspect. That is very important. We have done a good job with wind energy.

So I don't really apologize to anyone for the work that we have done in this bill. I don't apologize for what we have done with the tools we have with solar-renewable activities.

Mr. President, we hear a lot about water projects as if there is something wrong with a water project because the term ''project'' is connected to it. But let's talk about some. I am going to pick at random some of the water projects in this bill and indicate to this body and to anyone within the sound of my voice why these projects are important.

Take a place in North Dakota. Mr. President, North Dakota doesn't have a lot of people. I don't know if it is the State with the smallest number of people in it in this Union or not. But, if not, it is one of the smallest. North Dakota doesn't come to us with a large congressional delegation, but we felt, in fairness to the people of that small State, that we should do something about an act of nature that devastated a place called Devil's Lake. That certainly is a name that is appropriate because that lake is unending in spreading out over that part of the country. We have put money into this for flood control projects in North Dakota. We have, for example, $8 million for construction of another outlet on Devil's Lake. This is important because that lake just continues to grow. Never in recorded history has this lake been the size that it is, wiping out highways, people's farms, people's homes. That is one of the projects in this bill.

In the Mississippi delta region, Davis Pond, LA, this is a pond that diverts fresh water from the Mississippi to the coastal bays and marshes, but also mitigates any negative environmental impacts of freshwater diversion. It is a large project, $16 million, essential to that very important part of that country.

Mr. President, I have traveled in California to look at the California bay-delta. I didn't do a very good job of looking at it because El Niño got in the way. The rains were torrential, and I wasn't able to see very much.

The State of California has 33 million people. This project, which we were very generous in funding last year, and this will be the second year, is said by most people to be the most important environmental project in this country ongoing today. This bill has $65 million it added to some $85 million we put in last year. I think that was the number. But it is so important to that massive State to try to get things under control out there. We have environmental interests. We have agricultural interests. We have big cities. We have little cities, many different problems that we have there, and these people are all sitting down and talking about it. This is our recognition that progress is being made.

There is something in here that I am sure some of the press will focus on—what could this be—aquatic plant control. This is a strange-sounding name. Why should there be any money put in this? I wish we could appropriate ten times more money than the $4 million we put in this because it is badly needed. This $4 million is so important because we have aquatic plants which can and do hinder navigation. They undermine flood-control efforts. They threaten agriculture and public health.

Now, you have, for example, in Lake Champlain, VT, a problem with something called the water chestnut and Eurasian Milfoil. State and local governments are desperate for help because these plants are invasive. They are interfering with the lives of the people of Vermont and that part of the country.

We have in the western part of the United States a tree that was imported to stop the erosion of banks and rivers and streams. These things, called salt cedar trees or tamarisks, are literally ruining streams, agricultural ponds, rivers. We in Nevada, for example, have very few rivers, and they are not powerful rivers. The only real powerful river we have is the Colorado, but on some of these smaller streams this plant is devastating, ruining agriculture. So I wish we could put a lot more money into this to help places like Lake Champlain and others throughout the United States.

Dredging of ports and harbors along the Atlantic and Pacific coastlines, as well as the harbors in the Gulf of Mexico, no small task for the Corps of Engineers. On an annual basis, U.S. ports and harbors handle an estimated $600 billion in international cargo, generating over $150 million in tax revenue. So that is part of the responsibility in our bill, to make sure the ports in the Atlantic and Pacific and Gulf of Mexico can handle their small navigation projects, totaling less than $10 million, but they are large navigation projects.

As an example, the New York and New Jersey channels need to be deepened, dredging and other corps operations to permit commercial navigation traffic through the complex river-harbor system they have. These projects are funded in this bill at over $50 million. They are important to the literal survival of the commerce of New Jersey and New York.

There are things in this bill on which we have to go forward, and it is not fair, in my opinion, that the administration cut back on these ongoing projects. We just could not stop the projects.

So these kinds of projects have been priorities of Members and funded through nondefense dollars. This bill is as important as the defense authorization bill and the defense appropriations bill which will come up for the security of this Nation. No question about that in my mind. While the allocations provided the subcommittee for the Army Corps of Engineers was higher than the President's request, it was still over $200 million less than last year's level.

Now, I want to say one other thing that I think is important, and again I express my appreciation to the chairman of the subcommittee. The subcommittee mark has a section in the bill that reports and addresses the concerns about the management and regulatory oversight at the Nuclear Regulatory Commission. As I stated in the markup before the full committee, Senators CHAFEE and BAUCUS, who are the authorizing full committee leaders of Environment and Public Works, do a good job, and we have requested and they have accepted the responsibility of taking a look at some of the things going on at the NRC.

Again, I express my appreciation to the chairman of the subcommittee for cooperating on this issue. We have a responsibility as the appropriators to make sure that the taxpayers' dollars that we appropriate are used fairly. I have a very, very strong feeling that it is topheavy at the NRC. I have talked to people there who believe it is topheavy, too much management. We need to make sure there is an examination of this commission so that there are more people to do the work at the lower levels, and we do a good job of limiting management.

I thank the junior Senator from Maryland, Ms. MIKULSKI, for working with us and whose efforts on behalf of the employees living in Maryland were of great value as we reexamined the funding levels and language. There are people who work there who need to make sure they are still there able to do the work and we relieve a little of the dead weight, frankly, at the higher

levels. This is something we need to revisit next year if this isn't resolved during this coming year.

Mr. President, we have the responsibility for the Nation's nuclear stockpile. I am not going to spend a lot of time on that tonight other than to say the Senate has to realize that this is an awesome responsibility we have, the chairman and the ranking member, to make sure there is adequate money to take care of our nuclear stockpile. We have to make sure the nuclear stockpile we have is safe and reliable. We no longer do underground testing, but we still have as large a responsibility as we ever had to make sure our stockpile is safe and reliable. The Nuclear Non-Proliferation Treaty is something that this country adheres to, but we go one step further than most countries; we make sure the stockpile we have, I repeat, is safe and is reliable. That is what we are trying to do with this bill, and $4.5 billion a year is barely enough to do it. We can't have that cut down at all, or we will have some significant problems in this country. We can't put the nuclear genie back in the bottle. It is open. It is there, as indicated in the actions that have been taken by the countries of India and Pakistan. We have a responsibility, however, to make sure that we safeguard our nuclear stockpile.

So I think we have done that in this bill. We have good teamwork between the laboratories and the Nevada Test Site. We have tried to make a good balance there. I think we are looking at, also, some great science that is being conducted in those national laboratories, which are a jewel this country has. These laboratories do the finest raw science of any place in the world, and their job is only going to become more difficult now that we have stopped underground nuclear testing.

It is going to become more difficult because they have to do it in ways that only great scientific minds can do it. They are doing great things right now with subcritical testing. That is, they will start a device and before it gets critical they stop it and, through computerization and the other means they have at their disposal, they give us information as to what would have happened had that nuclear reaction gone critical. There are other things they are doing because of the need for further evaluation of these tests. Computerization is going to increase from present models as much as 1,000 times. So there is great science taking place as generated in this bill.

Again, I say this bill provides for some very important things for this country, in the defense field and the domestic field. I repeat, it is not a perfect bill, but we did the best we could with the tools we were given, and I recommend to the Members that we approve this just as quickly as possible. This will be the first appropriation bill in the cycle and we should get it to the President as quickly as possible. It is the first and, I think, if not the most important, one of the two or three most important appropriations bills that we have.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I want to proceed for a few minutes and then ask we move off of this bill and go into morning business.

Mr. President, within the Department of Energy's nondefense accounts we have placed a priority on science. Our recommendation is only $44.9 million below the request, most of which is taken from prior year balances that can be used to offset fiscal year 1999 expenses.

We are recommending proceeding with the construction of the Spallation Neutron Source at Oak Ridge National Laboratory. When it is completed, it will be one of America's most significant research tools, and it will add to the versatility and diversity of that great laboratory.

We have also provided funds for the administration's requests for new nuclear energy programs and have provided a slight increase for the magnetic fusion energy account, just enough to bring it up to current levels. We provided three additional nuclear research programs that we believe are absolutely urgent.

The bill includes a total of $11.9 billion for the atomic energy defense activities. That is $269 million below the budget request.

This bill contains $1.048 billion for defense facilities cloture projects. The largest increase is $32 million for Rocky Flats, that project which was significantly underfunded in the budget. Accelerated cleanup at Rocky Flats will save an estimated $1 billion, which would then be available for other cleanup work. So it is important that the schedule at Rocky Flats be maintained as much as possible.

In other defense activities, one of my highest personal goals is to destroy excess weapons plutonium in the United States and Russia. I believe it is the key to permanent nuclear arms control.

The administration is on a path to begin to fabricate into mixed-oxide fuels, 3 tons of U.S. weapons plutonium per year and is tentatively working to aid Russia to fabricate 1.3 tons per year into mixed-oxide fuel. I think both countries should destroy in the order of 10 tons per year. But more than that, we have to ensure that Russia destroys at least as much weapons plutonium as we do because they have many times as much as we do. Anything else amounts to unequal disarmament.

So my recommendation is to provide for a full amount of the request, but make a portion of it contingent upon bilateral accords which require at least equal conversion of weapons grade plutonium in the United States and the Soviet Union.

Mr. President, just one last closing remark, and perhaps we will have to talk about this more tomorrow. But I note, many Senators' offices have had lobbyists come to see them about what is in this bill and what is now called Science-Based Stockpile Stewardship. Science-Based Stockpile Stewardship is an American plan to use the highest of science, technology and computers to measure the efficacy and effectiveness of our nuclear weapons; that is, to determine if they will do what they are supposed to do, if they are safe, trustworthy and sound.

If someone wants to come to the floor and suggest the $4.46 billion which goes to this Science-Based Stockpile Stewardship should be reduced because it is a lot of money, let me just suggest when the United States of America decided that we would no longer do underground testing, which is one of the methods to determine the validity of our nuclear weapons and of that stockpile—since we do not build any new ones, we are only talking about old ones—if you want to return to underground testing, you probably can get by with less money for Science-Based Stockpile Stewardship, because it takes the place, in a sense, of underground tests as part of the verification of the value of the nuclear weapons, in terms of trustworthiness, accountability, and the like.

So, for those who do not want to give the scientists and the laboratory directors the tools so they can certify our supply of nuclear weapons every year to the President of the United States as required by law—first to the Chairman of the Joint Chiefs and then to the President—if you don't want to give them the money to do that, then let's have an amendment on the floor and see if we are going to return to underground testing. I do not believe anyone wants to do that, at least not enough Senators. So we have to proceed doing it through science, through new ways to x-ray, in a sense, what is in these weapons through computerization, which is going to be improved dramatically for America and the world as part of this process so we can use the vast models and research capacity of computers to do this job.

The day may come when we do not have any nuclear weapons. But for now, Russia still has a lot of nuclear weapons. Within the last month and a half, we have heard about two more nuclear powers. I believe that we have to maintain ours in a solid, ready, trustworthy state, and reduce them as much as possible, consistent with the risks to the United States. That is the kinds of things in this bill—very, very important.

I must say, all of that money comes out of the Defense Department. So, when you look at the defense moneys for America, you must understand that about $14 billion of it goes to this committee for the nuclear activities and the laboratories that produce and do the nuclear research for us, and for the maintenance of the stockpile. It is very important everybody understand that.

That money cannot be spent anywhere else. It is subject to the walls that we have put up around defense spending so you cannot spend it for nondefense work, you cannot spend it for water projects, and I am very, very thankful you cannot. If those walls come down, you will see the pressure for domestic spending eat away at defense needs, including the defense needs as depicted in this bill.

MORNING BUSINESS

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

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

TOBACCO LEGISLATION

Mrs. MURRAY. Mr. President, today is a sad day for children across America. Big tobacco companies with unlimited lobbying budgets and Republicans in the Senate killed tobacco reform legislation. Kids lost and Joe Camel won. I am outraged at the message this sends: tobacco money is more important than children's health.

Almost four weeks ago, the Senate began debating a comprehensive tobacco bill aimed at reducing underage smoking and strengthening the role of public health agencies to combat tobacco. Congress appeared unified in its intent to end the practice of tobacco companies preying on our children. But some of my colleagues in the Senate got lost along the way.

Since we started debate on tobacco legislation, more than 60,000 children have taken up this deadly addiction. But, this has not been the focus of the debate on this legislation. In fact, if the American people were watching the debate on the Senate floor they would be hard pressed to determine what legislation we were actually debating. That's because the tobacco industry has spent $40 million to hijack the process and prevent Congress from acting. This is a tragic example of our political system at its worst.

We had an historic opportunity to enact comprehensive tobacco legislation that would have mandated tobacco companies stop targeting our children. In one piece of legislation we could have saved five million children from suffering the ill effects of smoking or facing premature death. Those who acted to kill this legislation will have to answer these five million children, who are now facing a death sentence due to the actions of a few.

To those who think the state suits are a fall back position, they need to know that these suits do not change the corporate culture of tobacco. The states litigate, and Congress legislates.

This is a sad day for those of us who have worked hard to advance the tobacco settlement. Throughout debate of this legislation, I voted to strengthen the bill to protect our children and prevent the continued deadly assault of tobacco companies.

As a parent, I have always been troubled by how tobacco companies target our children. When my son turned 14, he received a birthday card from a tobacco company inviting him to celebrate this milestone by purchasing cigarettes. They sent a child coupons for cigarettes as a birthday gift. This is outrageous and unacceptable. These are kind of tactics that I have been fighting to end.

I will not let this set back today end my pursuit of big tobacco. I will continue to stand up to tobacco companies. I will continue to work for bipartisan, comprehensive tobacco legislation that is focused on public health.

This is not the first time I have witnessed the power of the tobacco industry or the hold that tobacco money has on many of the same members of the Senate. It is these very members who have used every tactic known to delay, filibuster and load this bill down with so many unrelated items, that it is hard to remember what was in the original legislation.

Every parent should be outraged. The U.S. Senate played politics with the health and safety of children in America. Today's action says that tobacco money is more important than the health and safety of our children. Where are our priorities?

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, June 16, 1998, the federal debt stood at $5,489,043,503,639.58 (Five trillion, four hundred eighty-nine billion, forty-three million, five hundred three thousand, six hundred thirty-nine dollars and fifty-eight cents).

One year ago, June 16, 1997, the federal debt stood at $5,355,413,000,000 (Five trillion, three hundred fifty-five billion, four hundred thirteen million).

Five years ago, June 16, 1993, the federal debt stood at $4,302,703,000,000 (Four trillion, three hundred two billion, seven hundred three million).

Ten years ago, June 16, 1988, the federal debt stood at $2,526,681,000,000 (Two trillion, five hundred twenty-six billion, six hundred eighty-one million).

Fifteen years ago, June 16, 1983, the federal debt stood at $1,304,460,000,000 (One trillion, three hundred four billion, four hundred sixty million) which reflects a debt increase of more than $4 trillion—$4,184,583,503,639.58 (Four trillion, one hundred eighty-four billion, five hundred eighty-three million, five hundred three thousand, six hundred thirty-nine dollars and fifty-eight cents) during the past 15 years.

U.S. FOREIGN OIL CONSUMPTION FOR WEEK ENDING JUNE 12TH

Mr. HELMS. Mr. President, the American Petroleum Institute reported for the week ending June 12 that the U.S. imported 8,862,000 barrels of oil each day, 529,000 barrels a day less than the 9,391,000 imported during the same week a year ago.

While this is one of the rare weeks when Americans imported slightly less foreign oil than the same week a year ago, Americans still relied on foreign oil for 58.4 percent of their needs last week. There are no signs that the upward spiral will abate. Before the Persian Gulf War, the United States imported about 45 percent of its oil supply from foreign countries. During the Arab oil embargo in the 1970s, foreign oil accounted for only 35 percent of America's oil supply.

Politicians should give consideration to the economic calamity certain to occur in America if and when foreign producers shut off our supply—or double the already enormous cost of imported oil flowing into the U.S.—now 9,532,000 barrels a day at a cost of approximately $99,431,640 a day.

WORLD DAY TO COMBAT DESERTIFICATION

Mr. JEFFORDS. Mr. President, I would like to take just a few moments of the time of the Members to discuss a subject which I find probably no one has ever heard of but, nevertheless, is one of the very serious problems facing the world. I wish my colleagues a Happy World Day to Combat Desertification.

I assume most Senators have never heard of this day, so let me explain. June 17 was established as World Day to Combat Desertification to promote awareness of dryland degradation.

Few Americans today have an association with desertification. My parents and their contemporaries did: the great ''Dust Bowl'' that occurred in the western United States in the 1930s. Desertification is defined as land degradation in arid and semi-arid areas resulting from climatic variations and human activities. It can occur to such an extent that affected dryland can no longer sustain vegetation, crops, livestock or the people who depend on them for survival. In the 1930s, desertification forced farmers and their families off their land when topsoil—and their livelihood—blew away. Vermont is not arid. But as an agricultural State, Vermonters were pained by the plight of western farmers. The suffering of these farmers who became penniless migrants is still starkly visible in photos of the era.

Hopefully, the U.S. will never experience another ''Dust Bowl.'' We have the expertise and resources to prevent such damage to U.S. agricultural lands. However, it threatens the way of life of one billion people worldwide in underdeveloped countries. The economic consequences of desertification are particularly devastating in regions that are both underdeveloped and arid. In these regions, much of the population relies on subsistence agriculture. Subsistence farmers do not have the means

or incentives to make investments in proper land and water management. Poor land and water management, especially when combined with periodic droughts, are the primary causes of desertification. Other factors include overcultivation, overgrazing, single-crop farming on fragile soil, slash-and-burn land clearing methods, and improper irrigation practices. These factors are often compounded by unwise government policies and the pressure of explosive population growth. When formerly productive farm and pastoral land is degraded, it creates a downward spiral of poverty and rural out-migration—often to the already overcrowded cities. We saw this during our own ''Dust Bowl.''

I was only a small child in the 1930s. I never met impoverished farmers dislocated by the ''Dust Bowl.'' But I have witnessed first hand the effects of desertification in Indonesia and Africa. I saw first hand how hard farmers are fighting to hold on to arable land in the face of huge environmental changes brought on by cutting of the rainforests or overgrazing of arid lands. And I saw the resulting poverty and dislocation that then grip these areas.

Through our foreign aid programs, we are assisting afflicted regions. But we could use our resources more efficiently by joining 124 other nations in ratifying the U.N. Convention to Combat Desertification in Countries Experiencing Serious Drought and /or Desertification, Particularly in Africa. As the Administration began to sharpen its focus on Africa prior to the President's recent trip, it decided to make U.S. ratification a priority. On the occasion of World Day to Combat Desertification, I urge my colleagues to take a look at this treaty and reflect for a moment on the benefits to the U.S. of Senate ratification.

The treaty is in the best interest of the United States. Our agriculture industry, American universities, and our non-governmental organizations have considerable expertise in combating desertification. Businesses like Monsanto, Land O' Lakes, and the Chocolate Manufacturers Association are supporting the treaty because it will increase U.S. business opportunities. Ratification will also increase export of American technical assistance in erosion control. The Irrigation Association supports it because many of its members produce world-class irrigation and water control equipment. After ratification, the U.S. may submit names of its desertification experts and consultants for the international Roster of Independent Experts who are available to provide services.

The treaty does not commit the U.S. to any specific level of foreign assistance. Rather, it asks governments of developed nations to channel existing bilateral and multilateral aid funds through a new mechanism that will provide improved coordination and better use of donor resources. The treaty obligates recipient nations to develop actions plans ''from the bottom up'' to combat regional and local desertification. The treaty is remarkable because it calls upon local communities to take the lead in identifying their problems and selecting the best solutions for their particular situations.

On World Day to Combat Desertification, let's not forget our own grim experience with desertification and the ''Dust Bowl.'' Let's join the other nations that have ratified the Convention to Combat Desertification and prevent a reoccurrence of this tragedy elsewhere.

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MEASURES RECOMMITTED

Pursuant to Section 312(f) of the Congressional Budget Act of 1974, the following bill was recommitted as indicated:

S. 1415. A bill to reform and restructure the process by which tobacco products are manufactured, marked distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes; to the Committee on Commerce, Science, and Transportation.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–5529. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a Presidential Determination (98–22) relative to sanctions against India for the detonation of a nuclear explosive device; to the Committee on Foreign Relations.

EC–5530. A communication from the Secretary of Agriculture, transmitting, pursuant to law, a report entitled ''The Animal Welfare Enforcement Report for Fiscal Year 1997''; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5531. A communication from the Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Listing of Several Evolutionarily Significant Units of West Coast Steelhead'' (RIN1018–AE97) received on June 12, 1998; to the Committee on Environment and Public Works.

EC–5532. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule regarding gasoline volatility requirements for the Pittsburgh-Beaver Valley Ozone Nonattainment Area (FRL6102–9) received on June 12, 1998; to the Committee on Environment and Public Works.

EC–5533. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''OMB Approval numbers Under the Paperwork Reduction Act'' (FRL6111–4) received on June 12, 1998; to the Committee on Environment and Public Works.

EC–5534. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, a report on the operation of the Premerger Notification Program for fiscal year 1997; to the Committee on the Judiciary.

EC–5535. A communication from the Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, the report of a rule amending regulations on nonimigrant students seeking off-campus employment (RIN1115–AF15) received on June 12, 1998; to the Committee on the Judiciary.

EC–5536. A communication from the Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, the report of a rule regarding employment of dependents of NATO personnel stationed in the United States (RIN1115–AB52) received on June 12, 1998; to the Committee on the Judiciary.

EC–5537. A communication from the Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, the report of a rule entitled ''Effect of Parole of Cuban and Haitian Nationals on Resettlement Assistance Eligibility'' (RIN1115–AE29) received on June 12, 1998; to the Committee on the Judiciary.

EC–5538. A communication from the Deputy Director for Policy and Programs, Community Development Financial Institutions Fund, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Notice Inviting Applications to the Presidential Awards for Excellence in Microenterprise Development'' (No. 981–0158) received on June 9, 1998; to the Committee on Finance.

EC–5539. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled ''Social Security Administration Cost Assignment Methodology Review''; to the Committee on Finance.

EC–5540. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Federal Employment Tax Deposits—De Minimis Rule'' (RIN1545–AW29) received on June 15, 1998; to the Committee on Finance.

EC–5541. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, the report of the Office of Inspector General for the period October 1, 1997 through March 31, 1998; to the Committee on Governmental Affairs.

EC–5542. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of the Office of Inspector General for the period October 1, 1997 through March 31, 1998; to the Committee on Governmental Affairs.

EC–5543. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a list of General Accounting Office reports for the month

of April 1998; to the Committee on Governmental Affairs.

EC–5544. A communication from the Secretary of Agriculture, transmitting, pursuant to law, a management report associated with the report of the Office of Inspector General for the period October 1, 1997 through March 31, 1998; to the Committee on Governmental Affairs.

EC–5545. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled ''Voluntary Early Retirement Authority'' (RIN3206–AI25) received on June 15, 1998; to the Committee on Governmental Affairs.

EC–5546. A communication from the Members of the Railroad Retirement Board, transmitting, pursuant to law, the annual report on the Railroad Retirement Account; to the Committee on Labor and Human Resources.

EC–5547. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule regarding an amended economic analysis of labeling requirements for medical devices containing natural rubber (Docket 96N–0119) received on June 15, 1998; to the Committee on Labor and Human Resources.

EC–5548. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medical Devices; Classification/Reclassification of Immunohisto- chemistry Reagents and Kits'' (RIN0910–ZA10) received on June 15, 1998; to the Committee on Labor and Human Resources.

EC–5549. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule regarding nutrition labeling and ingredient labeling of dietary supplements (RIN0910–AA59) received on June 15, 1998; to the Committee on Labor and Human Resources.

EC–5550. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Revocation of Lather Brushes Regulation; Correction'' (RIN1105–AA20) received on June 15, 1998; to the Committee on Labor and Human Resources.

EC–5551. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Beverages: Bottled Water; Correction'' (Docket 98N–0294) received on June 15, 1998; to the Committee on Labor and Human Resources.

EC–5552. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report on Public Health Service programs for fiscal year 1997; to the Committee on Labor and Human Resources.

EC–5553. A communication from the Secretary of Defense, transmitting, pursuant to law, a report on the disposal of excess and surplus materials for fiscal year 1998; to the Committee on Armed Services.

EC–5554. A communication from the Director of Naval Nuclear Propulsion, Department of the Navy, transmitting, pursuant to law, the Naval Nuclear Propulsion Program's reports for 1997; to the Committee on Armed Services.

EC–5555. A communication from the Director of Administration and Management, Office of the Secretary of Defense, transmitting, pursuant to law, the report of a rule entitled ''Private Organizations on DoD Installations'' (RIN0790–AG53) received on June 15, 1998; to the Committee on Armed Services.

EC–5556. A communication from the Director of Administration and Management, Office of the Secretary of Defense, transmitting, pursuant to law, the report of a rule entitled ''Conduct on the Pentagon Reservation'' received on June 15, 1998; to the Committee on Armed Services.

EC–5557. A communication from the Director of Defense Procurement, Office of the Under Secretary of Defense (Acquisition and Technology), transmitting, pursuant to law, the report of a rule entitled ''Defense Federal Acquisition Regulation Supplement; Contractor Use of Nonimmigrant Aliens—Guam'' (Case 97–D318) received on June 12, 1998; to the Committee on Armed Services.

EC–5558. A communication from the Director of Defense Procurement, Office of the Under Secretary of Defense (Acquisition and Technology), transmitting, pursuant to law, the report of a rule entitled ''Defense Federal Acquisition Regulation Supplement; Contract Distribution to Defense Finance and Accounting Service Offices'' (Case 97–D039) received on June 12, 1998; to the Committee on Armed Services.

EC–5559. A communication from the Director of Defense Procurement, Office of the Under Secretary of Defense (Acquisition and Technology), transmitting, pursuant to law, the report of a rule entitled ''Defense Federal Acquisition Regulation Supplement; Antiterrorism Training'' (Case 97–D016) received on June 12, 1998; to the Committee on Armed Services.

EC–5560. A communication from the Director of Defense Procurement, Office of the Under Secretary of Defense (Acquisition and Technology), transmitting, pursuant to law, the report of a rule entitled ''Defense Federal Acquisition Regulation Supplement; Use of Auctions, Spot Bids, or Retail Sales of Surplus Contractor Inventory by the Contractor'' (Case 97–D004) received on June 12, 1998; to the Committee on Armed Services.

EC–5561. A communication from the Assistant Secretary for Export Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Exports of Humanitarian Goods and Services to Cuba'' (RIN0694–AB49) received on June 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5562. A communication from the Assistant Secretary for Export Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Effect of Imported Articles on the National Security'' (RIN0694–AB58) received on June 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5563. A communication from the Assistant Secretary for Export Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Defense Priorities and Allocations System'' (RIN0694–AB58) received on June 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5564. A communication from the Deputy Associate Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of two rules regarding revisions to the NASA FAR supplement and to the NASA grant handbook received on June 15, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5565. A communication from the Deputy Associate Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled ''NASA FAR Supplement; Miscellaneous Changes'' received on June 15, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5566. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on the National Transportation Safety Board's recommendations to the Secretary for calendar year 1997; to the Committee on Commerce, Science, and Transportation.

EC–5567. A communication from the Director of the National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''NOAA Climate and Global Change Program, Program Announcement'' (RIN0648–ZA39) received on June 15, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5568. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Low Speed Vehicles'' (RIN2127–AG58) received on June 15, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5569. A communication from the Acting Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the cumulative report on rescissions and deferrals dated June 9, 1998; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, to the Committee on the Budget, to the Committee on Agriculture, Nutrition, and Forestry, to the Committee on Commerce, Science, and Transportation, to the Committee on Energy and Natural Resources, to the Committee on Environment and Public Works, to the Committee on Finance, to the Committee on Foreign Relations, to the Committee on Indian Affairs.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committees were submitted:

By Mr. THOMPSON, from the Committee on Governmental Affairs:

Deidre A. Lee, of Oklahoma, to be Administrator for Federal Procurement Policy.

G. Edward DeSeve, of Pennsylvania, to be Deputy Director for Management, Office of Management and Budget.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. AKAKA:

S. 2181. A bill to amend section 3702 of title 38, United States Code, to make permanent the eligibility of former members of the Selected Reserve for veterans housing loans; to the Committee on Veterans Affairs.

By Mr. GORTON (for himself, Mr. KERREY, Mr. JEFFORDS, Mr. BUMPERS, and Mrs. MURRAY):

S. 2182. A bill to amend the Internal Revenue Code of 1986 to provide tax-exempt bond financing of certain electric facilities; to the Committee on Finance.

By Mr. HARKIN:

S. 2183. A bill to amend the Head Start Act to increase the reservation of funds for programs for low-income families with very young children, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. KERREY (for himself, Mr. MOYNIHAN, Mr. BREAUX, and Mr. LIEBERMAN):

S. 2184. A bill to amend the Social Security Act to provide each American child with a KidSave Account; to the Committee on Finance.

By Mr. KENNEDY (for himself, Mrs. BOXER, Mr. DURBIN, Mr. DODD, and Mr. REED):

S. 2185. A bill to protect children from firearms violence; to the Committee on the Judiciary.

By Mr. DORGAN (for himself and Mr. BUMPERS):

S. 2186. A bill to terminate all United States assistance to the National Endowment for Democracy, and for other purposes; to the Committee on Foreign Relations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. CHAFEE:

S. Res. 250. A resolution expressing the sense of the Senate that the third Saturday in June of each year should be designated as ''National Rivers Day''; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. AKAKA:

S. 2181. A bill to amend section 3702 of title 38, United Code, to make permanent the eligibility of former members of the Selected Reserve for veterans housing loans; to the Committee on Veterans' Affairs.

Mr. AKAKA. Mr. President, I rise today to introduce legislation that would permanently authorize the Department of Veterans Affairs Home Loan Guaranty Program for members of the Selected Reserve.

The eligibility of National Guard and Reserve members for VA-guaranteed home loans will expire in October 1999. I believe that Section 3702 of Title 38, which allows Guard and Reserve members who complete 6 years of service to participate in the loan program, should be made permanent.

The law extending eligibility for the VA Home Loan Guaranty Program to these service members was enacted in 1992 with bipartisan support in the Senate and in the House. As the sponsor of the original bill, I am pleased with the participation of Guard and Reserve members in the program, and am committed to ensuring that their eligibility for this program continues beyond the sunset date.

With the downsizing of our active duty military forces, Guard and Reserve units are becoming an increasingly vital element of the total force. However, there are very few incentives to get qualified individuals to serve our country in the Selected Reserve. The VA Home Loan Guaranty Program for National Guard and Reserve members is an excellent incentive to join and remain in the Selected Reserve.

Since the VA Home Loan Guaranty Program for Guard and Reserve members began in October 1992, the VA has guaranteed more than 33,000 loans through fiscal year 1996. In 1996 alone, approximately 11,000 loans totalling over $1 billion were made. According to the VA, only 93 out of all loans made to Reservists have been foreclosed upon, for a minimal default rate of about 0.4 percent. By comparison, the foreclosure rate for loans made to other veterans was two and one-half times higher than the rate for Reservists. Furthermore, 67 percent of loans to Reservists guaranteed by the VA in fiscal year 1996 were to first time home buyers, compared to 56 percent of loans to other veterans.

As the statistics on VA-guaranteed home loans indicate, the inclusion of Guard and Reserve members actually stabilizes the financial viability of he program since this group is likely to have a lower default rate than other veterans. Reservists are generally an older, more mature, and stable group with established civilian jobs and ties to local communities.

Mr. President, it is clear that the VA Home Loan Guaranty Program is not only good for members of the Selected Reserve, it is also beneficial for the VA Home Guaranty Program. Furthermore, the local economies where the homes are purchased also benefit from this program. So, therefore, I urge my colleagues to join me in supporting this legislation. Passage of this measure will ensure that the program continues to be made available to National Guard and Reserve members who have served our country.

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

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

S. 2181

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

SECTION 1. PERMANENT ELIGIBILITY OF FORMER MEMBERS OF SELECTED RESERVE FOR VETERANS HOUSING LOANS.

Section 3702(a)(2)(E) of title 38, United States Code, is amended by striking out ''For the period beginning on October 28, 1992, and ending on October 27, 1999, each veteran'' and inserting in lieu thereof ''Each veteran''.

By Mr. GORTON (for himself, Mr. KERREY, Mr. JEFFORDS, Mr. BUMPERS, and Mrs. MURRAY):

S. 2182. A bill to amend the Internal Revenue Code of 1986 to provide tax-exempt bond financing of certain electric facilities; to the Committee on Finance.

PRIVATE USE COMPETITION REFORM ACT OF 1998

• Mr. GORTON. Mr. President today I join with Senators KERREY, JEFFORDS, and BUMPERS, to introduce the Private Use Competition Reform Act of 1998. This legislation provides a fair balance among public financing concerns, principles of fair competition and customer choice in the electric utility industry. At the same time, it strikes an equitable balance between publicly-owned utilities and investor-owned utilities. Most importantly, it advances the interest of consumers.

The challenge in developing this legislation was to determine the middle ground. Some publicly-owned utilities would like to change the Tax Reform Act of 1986 so that all existing and all future tax-exempt debt would be protected without restrictions. Some investor-owned utilities favor elimination of tax-exempt options for municipal electric utilities, including much of their existing debt. However, this approach would threaten the existence of publicly owned utilities, and raise rates for more than 40 million consumers.

This bill will accomplish two objectives. First, it clarifies how the existing private-use requirements—the rules that limit the ability of publicly-owned utilities to sell or transport electricity to private parties from facilities financed by tax-exempt bonds—will work in a new competitive marketplace. Secondly, it provides options, with significant tradeoffs, for those utilities that need flexibility and encourages municipalities to open their transmission systems and provide retail choice to consumers.

There are three categories of debt addressed in this legislation.

The first consists of existing debt that has been issued for all segments of a public utility's system: generating plants, transmission lines, and local distribution systems. This debt was issued under the assumption that our existing system would not change, and electric utilities would remain closed and not be subject to retail competition.

The second category of debt pertains to bonds issued after the effective date of the enacted bill and used to finance new generating facilities. There is a compelling argument that this type of debt should not be tax-exempt because power generation, unlike transmission and distribution, is emerging as a competitive market.

The third category of future debt involves those areas of a utility's system that will not face competition: transmission and local distribution. Since these areas would remain *de facto* monopolies regulated by FERC or local governments and would be increasingly open to access by all market participants on a non-discriminatory basis, it is appropriate that they should continue to have access to tax-exempt financing.

This bill addresses each area differently. To enable public power systems to one up their transmission and distribution systems, it provides limited relief to existing tax-exempt debt.

But there is a significant tradeoff for this relief: eliminating publicly-owned utilities' ability to issue tax-exempt debt for facilities that will be used in a competitive marketplace.

THE CURRENT PROBLEM

The Energy Policy Act of 1992 and the subsequent FERC Order 888 mandating open transmission access, coupled with state restructuring efforts, have created a significant tax problem for public systems.

To gain access to competitive wholesale markets, a publicly-owned utility must provide comparable access; some public power systems own vital transmission links within a geographical area. Also, customers of public systems—who are also their owners—will want access to other power suppliers.

If publicly-owned systems open their transmission lines they can run afoul of the current ''private-use test'' in the tax code and force their bonds to become retroactively taxable.

In sum, the current private use restrictions were written before anyone could anticipate a competitive electricity industry; consequently this places publicly-owned utilities in a complex bind. Allowing private entities to use their transmission facilities could trigger the private use tests, resulting in an expensive and chaotic defeasance of these bonds. Public systems also face penalties under private use regulations if they sell power to existing customers on a non-tariff basis or resell power that becomes excess when retail customers switch suppliers.

The Department of Treasury released temporary regulations in January of 1998, (twelve years after the Tax Reform Act of 1986), but these temporary regulations still fail to provide the flexibility needed for public power systems as the electric utility industry transitions to retail competition.

This legislation is needed to address these concerns, and to promote fair competition in the electricity industry. This bill will help ensure that all Americans can enjoy the benefits of competition—lower rates, new and innovative products, and better service.

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

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

S. 2182

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

SECTION 1. TAX-EXEMPT BOND FINANCING OF CERTAIN ELECTRIC FACILITIES.

(a) PERMITTED OPEN ACCESS TRANSACTIONS NOT A PRIVATE BUSINESS USE.—Section 141(b)(6) of the Internal Revenue Code of 1986 (defining private business use) is amended by adding at the end the following:

''(C) PERMITTED OPEN ACCESS TRANSACTIONS NOT A PRIVATE BUSINESS USE.—

''(i) IN GENERAL.—For purposes of this subsection, the term 'private business use' shall not include a permitted open access transaction.

''(ii) PERMITTED OPEN ACCESS TRANSACTION DEFINED.—For purposes of clause (i), the term 'permitted open access transaction' means any of the following transactions or activities with respect to an electric output facility (as defined in subsection (f)(5)(A)) owned or leased by a governmental unit or in which a governmental unit has capacity rights:

''(I) Providing open access transmission services and ancillary services that meet the reciprocity requirements of Federal Energy Regulatory Commission Order No. 888, or that are ordered by the Federal Energy Regulatory Commission, or that are provided in accordance with a transmission tariff of an independent system operator approved by such Commission, or are consistent with state administered laws, rules or orders providing for open transmission access.

''(II) Participation in an independent system operator agreement, regional transmission group, or power exchange agreement approved by such Commission.

''(III) Delivery on an open access basis of electric energy sold by other entities to end-users served by such governmental unit's distribution facilities.

''(IV) If open access service is provided under subclause (I) or (III), the sale of electric output of electric output facilities on terms other than those available to the general public if such sale is (1) to an on-system purchaser, (2) an existing off-system sale, or (3) a qualifying load loss sale.

''(V) Such other transmissions or activities as may be provided in regulations prescribed by the Secretary.

''(iii) QUALIFYING LOAD LOSS SALE.—For purposes of clause (ii)(IV), a sale of eclectic energy by a governmental unit is a qualifying load loss sale in any calendar year after 1997, if it is a new off-system sale, and the aggregate of new off-system sales in such year does not exceed lost load, and if the term of the sale does not exceed three years, and such governmental unit has elected under subsection (f)(2) to suspend issuance of certain tax-exempt bonds for not less than the term of the sale (or for any period equal to the term of the sale that includes the first year of the sale).

''(iv) OTHER DEFINITIONS; SPECIAL RULES.—For purposes of this subparagraph—

''(I) ON-SYSTEM PURCHASER.—The term 'on-system purchaser' means a person who purchases electric energy from a governmental unit and who is directly connected with transmission or distribution facilities that are owned or leased by such governmental unit or in which such governmental unit has capacity rights that are treated under FERC tariffs or existing contracts as equivalent to ownership.

''(II) OFF-SYSTEM PURCHASER.—The term 'off-system purchaser' means a purchaser of electric energy from a governmental unit other than an on-system purchaser.

''(III) EXISTING OFF-SYSTEM SALE.—The term 'existing off-system sale' means a sale of electric energy to a person that was an off-system purchaser of electric energy in the base year, but not in excess of the KWH purchased by such person in such year.

''(IV) NEW OFF-SYSTEM SALE.—The term 'new off-system sale' means an off-system sale other than an existing off-system sale.

''(V) LOST LOAD.—The term 'lost load' for the purposes of determining qualifying load loss sales for any year, means the amount (if any) by which (1) the sum of on-system sales of electric energy and existing off-system sales of electric energy in such year is less than (2) the sum of such sales of electric energy in the base year.

''(VI) BASE YEAR.—The term 'base year' means 1997 (or, at the election of such unit, in 1995 or 1996).

''(VII) JOINT ACTION AGENCIES.—A member of a joint action agency that is entitled to make a qualifying load loss sale in a year may transfer that entitlement to the joint action agency in accordance with rules of the Secretary.''

(b) ELECTION TO TERMINATE TAX EXEMPT FINANCING.—Section 141 of the Internal Revenue Code of 1986 (relating to private activity bond; qualified bond) is amended by adding at the end the following:

''(f) ELECTION TO TERMINATE OR SUSPEND TAX-EXEMPT BOND FINANCING FOR CERTAIN ELECTRIC OUTPUT FACILITIES.—

''(1) TERMINATION ELECTION.—An issuer may make an irrevocable election under this paragraph to terminate certain tax-exempt financing for electric output facilities. If the issuer makes such election, then—

''(A) except as provided in paragraph (3), no bond the interest on which is exempt from tax under section 103 may be issued on or after the date of such election with respect to an electric output facility; and

''(B) notwithstanding paragraph (1) or (2) of subsection (a) or paragraph (5) of subsection (b), with respect to an electric output facility no bond that was issued before the date of enactment of this subsection, the interest on which was exempt from tax on such date, shall be treated as a private activity bond, for so long as such facility continues to be owned by a governmental unit.

''(2) SUSPENSION ELECTION.—For purpose of subsection (b)(6)(C)(iii), an issuer may elect to suspend certain tax-exempt financing for electric output facilities for a calendar year. If the issuer makes such election, then (except as provided in paragraph (3)) no bond, the interest on which is exempt from tax under section 103, may be issued in such calendar year with respect to an electric output facility.

''(3) EXCEPTIONS.—An election under paragraph (1) or (2) does not apply to—

''(A) any qualified bond (as defined in subsection (e)),

''(B) any eligible refunding bond, or

''(C) any bond issued to finance a qualifying T&D facility, or

''(D) any bond issued to finance repairs or pollution control equipment for electric output facilities. Repairs cannot increase by more than a de minimus degree the capacity of the facility beyond its original design.

''(4) FORM AND EFFECT OF ELECTIONS.—An election under paragraph (1) or (2) shall be made in such a manner as the Secretary prescribes and shall be binding on any successor in interest to the issuer.

''(5) DEFINITIONS.—For purposes of this subsection—

''(A) ELECTRIC OUTPUT FACILITY.—The term 'electric output facility' means an output facility that is an electric generation, transmission, or distribution facility.

''(B) ELIGIBLE REFUNDING BOND.—The term 'eligible refunding bond' means state or local bonds issued after an election described in paragraph (1) or (2) that directly or indirectly refund state or local bonds issued before such election, if the weighted average maturity of the refunding bonds do not exceed the remaining weighted average maturity of the bonds issued before the election.

''(C) QUALIFYING T&D FACILITY.—The term 'qualifying T&D facility' means—

''(i) transmission facilities over which services described in subsection (b)(6)(C)(ii)(I) are provided, or

''(ii) distribution facilities over which services described in subsection (b)(6)(C)(ii)(III) are provided.''

(c) EFFECTIVE DATE, APPLICABILITY, AND TRANSITION RULES.—

(1) EFFECTIVE DATE.—The amendments made by this section take effect on the date of enactment of this Act, except that a governmental unit may elect to apply section

141(b)(6)(C) of the Internal Revenue Code of 1986, as added by subsection (a), with respect to permitted open access transactions on or after July 9, 1996.

(2) APPLICABILITY.—References in the Act to sections of the Internal Revenue Code of 1986, as amended, shall be deemed to include references to comparable sections of the Internal Revenue Code of 1954, as amended.

(3) TRANSITION RULES.—

(A) PRIVATE BUSINESS USE.—Any activity that was not a private business use prior to the effective date of the amendment made by subsection (a) shall not be deemed to be a private business use by reason of the enactment of such amendment.

(B) ELECTION.—An issuer making the election under section 141(f) of the Internal Revenue Code of 1986, as added by subsection (b), shall not be liable under any contract in effect on the date of enactment of this Act for any claim under section 141(f) of such Code arising from having made the election.

(d) SHORT TITLE.—This Act may be cited as the ''Private Use Competition Reform Act of 1998''.

EXPLANATION OF S. 2182

BACKGROUND

Interest on bonds issued by state and local governments is generally exempt from Federal income taxes. One exception to this general rule relates to bonds that finance output facilities used in a private business. In the case of such facilities, if the contractual arrangements for sale of the output transfer the benefits and burdens of ownership of the facility to private parties, the use is treated as a private business use and the bonds issued to finance the facility may not be tax-exempt. If at the time of issuance the issuer reasonably expected that the private business use rules would be violated or the issuer thereafter took deliberate action that resulted in a violation, interest on the bonds is retroactively taxable to date of issuance.

There has been significant uncertainty as to how these private business use rules apply to public power systems in the emerging competitive wholesale and retail electricity markets. In particular, questions have been raised as to whether such systems may (1) provide open access transmission services, (2) contractually commit their transmission systems to an Independent System Operator (ISO), (3) open their distribution facilities to retail competition, or (4) lower prices to particular customers to meet competition.

PROPOSED AMENDMENTS

S. 2182 would amend the Internal Revenue code of 1986 to make two modifications to the private business use rules as they apply to electric facilities: (1) to clarify the application of the existing private business use rules in the new competitive environment, and (2) to make the private business use rules inapplicable to existing tax-exempt debt issued by any public power system that elects not to issue new tax-exempt debt for electric generation and certain other facilities.

1. *Clarification of Existing Private Business Use Rules*. Subsection (a) of section 1 of the bill amends section 141(b)(6) of the Code to make it clear that the following activities (referred to as ''permitted open access transactions'') do not result in a private business use and will not make otherwise tax-exempt bonds taxable:

(a) Providing open access transmission service consistent with Federal Energy Regulatory Commission (FERC) Order No. 888 or with State open transmission access rules.

(b) Joining a FERC approved ISO, regional transmission group (RTG), power exchange, or providing service in accordance with an ISO, RTG, or power exchange tariff.

(c) Providing open access distribution services to competing retail sellers of electricity.

(d) If open access transmission or distribution services are offered, contracting for sale of power at non-tariff rates—

(i) with on-system purchasers or existing off-system purchasers, or

(ii) with new off-system purchasers for up to three years to offset lost load, but only if the issuer elects to temporarily suspend use of certain tax-exempt financing. A sale qualifies under this provision if aggregate new off-system sales do not exceed lost load, and if the public power system has elected to suspend issuance of certain tax-exempt bonds for a period at least as long as the term of the sale. ''Lost load'' means the amount by which on-system sales and existing off-system sales in a year are reduced from such sales in a 1995, 1996, or 1997 base year. A special rule permits a member of a joint action agency that is entitled to make a qualifying load loss sale in a year to transfer that entitlement to the joint action agency.

Treasury by regulation could add to the list of permitted open access transactions.

2. *Election to Terminate or Suspend Issuing Future Tax-Exempt Debt*. Subsection (b) of section 1 amends section 141 of the Code to permit a public power system to elect to terminate or suspend issuing new tax-exempt bonds.

(a) *Termination Election*.—Under new Code section 141(f)(1), if a public power system elects to terminate issuance of new tax-exempt bonds, it may then undertake transactions that are not otherwise permissible under the private business use rules (as amended above) without endangering the tax-exempt status of its existing bonds. Specifically, if the issuer makes an irrevocable termination election under this provision, then (subject to the exceptions discussed below) no tax-exempt bond may be issued on or after the date of such election with respect to an electric output facility, and no tax-exempt bond that was issued before the date of enactment will be treated as a private activity bond. This treatment continues for so long as such facility continues to be owned by a governmental unit.

Essentially, making this termination election will eliminate the possibility of a private business use challenge to existing tax-exempt debt. If a utility does not make the election, its existing tax-exempt debt for electric generation facilities would continue to be subject to applicable private business use rules and the marketing constraints thereunder.

(b) *Suspension Election*. New section 141(f)(2) provides an alternative to the election to permanently terminate issuing tax-exempt bonds described above. Under the alternative, an issuer may elect to suspend certain tax-exempt financing for electric output facilities in return for temporary relief from certain of the private business use rules, so as to permit the issuer to make sales to offset lost load, as described in 1(d) above.

(c) *Exceptions to Termination or Suspension*. Under section 141(f)(4) even if a public power system made the suspension or termination election, it could continue to issue tax-exempt bonds for the following purposes: for transmission and distribution facilities used to provide open access transmission and distribution services; for ''qualified bonds'' as defined in section 141(e) of the Code (which are not currently subject to private business use restrictions); for eligible refunding bonds (bonds that refinance existing bonds but do not extend their average maturity); and for bonds issued to finance repairs of, or pollution control equipment for, electrical output facilities, so long as the capacity of the facility is not increased over a de minimis amount.

3. *Effective Dates*. Subsection (c) makes the provisions of the bill effective on date of enactment, but an issuer may elect to make the private business use rules as clarified by the bill applicable retroactively to 1996 (when FERC issued its Order No. 888). Paragraph (2) of subsection (c) makes it clear that the provisions of the bill apply to bonds issued under the Internal Revenue Code of 1954 as well as the Internal Revenue Code of 1986. This subsection also makes clear that any activity that was not a private business use prior to the enactment of the bill will not be deemed to be a private business use by reason of the bill's enactment. in addition, an issuer making the election under the bill will not be liable under any contract in effect on the date of enactment of the bill for any contract claim arising from having made the election.●

● Mr. KERREY. Mr. President, consumers in Nebraska currently pay some of the lowest rates in the nation for their electric service. They receive power from 171 entities—more individual electric systems than any other state. Nebraska is also the only state in the nation which relies entirely on public power for its electric service.

This structure has served Nebraskans well, and the legislation that Senators GORTON, BUMPERS, JEFFORDS, and I are introducing today will ensure that consumers in my state continue to receive superior electric service as efforts to deregulate the electric industry move forward.

Mr. President, the legislation we are introducing accomplishes three important goals:

First, this bill enables public power systems to open their transmission lines to other power producers and to transfer control of their transmission facilities to an Independent System Operator without jeopardizing the status of their tax-exempt bonds. This will enable consumers throughout the country to receive electricity from their power producer of choice in an open access marketplace.

Secondly, this bill enables public power systems to make non-tariff sales of lost ''load'' resulting from retail competition, without jeopardizing the ability of the utility to issue tax-exempt debt in the future. This will allow public utilities to continue to provide quality service to current customers and attract new customers in a deregulated environment.

Finally, Mr. President, this legislation gives public power systems the option of terminating issuance of new tax-exempt debt for generation facilities, while grandfathering all existing debt. This provision will give public power systems the flexibility necessary to make business decisions about the future based on their financial status and the electricity demands in their individual service areas.

Mr. President, I commend Senator GORTON for the time and energy that he has devoted to this issue. It is critical that Congress alleviate the burden which current private-use regulations place on the ability of public power

systems to function in a deregulated environment.

While Congress moves toward electricity deregulation, I will continue to fight for the consumers of my state to ensure that their best interests are not compromised. The legislation my colleagues and I are introducing today is a realistic and workable solution to the private-use dilemma, and I encourage my colleagues to give it their full support.●

By Mr. HARKIN:

S. 2183. A bill to amend the Head Start Act to increase the reservation of funds for programs for low-income families with very young children, and for other purposes; to the Committee on Labor and Human Resources.

HEAD START LEGISLATION

● Mr. HARKIN. Mr. President, most Americans are very familiar with Head Start. This popular preschool program was created in 1965 to provide health, nutrition and educational assistance to low-income four and five year old children. Head Start enjoys strong bipartisan support and is widely recognized as a success.

In response to the growing body of research about the critical development which occurs during the first three years of a child's life, Head Start has been expanded in recent years to also serve infants and toddlers. The Early Head Start Program provides comprehensive child development and family support services to families with infants and toddlers from birth through age three and currently receives 5% of Head Start funding. An estimated 39,000 children currently receive services nationwide. In Iowa, 533 children are served by Early Head Start.

However, these children and families represent only a fraction of those that need and could benefit from these activities. As a result, today I am introducing legislation that would increase the set-aside to 10% in 2002—to double the number of participants.

There were many exciting developments last year with respect to the education of young children. Science confirmed what many of us have believed for years—that the first three years of a child's life are the most important. We discovered that young children have unlimited potential to learn many things during this critical time. We learned how important it is for parents to read to their young children, talk with them and stimulate learning through play. We also learned that children who do not have enriched learning experiences during these important years can be stunted for life.

Last year, the Labor, Health and Human Services and Education appropriations subcommittee, of which I am the ranking Democrat, held a hearing focused on the importance of early intervention activities. We heard compelling testimony on the benefits of providing support for early education and development activities. The President and First Lady also convened historic conferences to discuss early childhood education and child care and a public campaign was launched to spread the word to parents.

Throughout the year, the message was always the same—we must make investments in early intervention programs a national priority. This is the right thing to do for the young children of our nation, but it is also the most cost-effective thing for us to do. Every dollar invested in quality preschool programs saves $7 in future costs for special education, welfare or corrections.

In 1991, the Committee for Economic Development called on the nation to rethink how we view education. This group of business leaders urged federal policy makers to view education as a process that begins at birth, with preparations beginning before birth. I strongly support this objective and have always been a strong advocate in early intervention activities such as Head Start, the WIC nutrition program and early intervention programs for infants and toddlers with disabilities.

We must dedicate ourselves to making the CED vision a reality and build a strong foundation for education in this country. That begins with ensuring that all children get off to a good, strong start and enter school ready to learn.

Last year, the Labor, Health and Human Services and Education appropriations subcommittee made investments in early intervention a priority at my request. The FY 1998 appropriations bill invested an additional $64 million in Early Head Start, an increase of 75%, and provided an 11% increase in the early intervention program for infants and toddlers with disabilities.

The legislation I am introducing today takes another step toward building this foundation by doubling the set-aside for the Early Head Start Program for children ages 0–3 by the year 2002. This action will continue to improve access to education and development services for our youngest children to provide a good start in life. I urge my colleagues to support this legislation.●

By Mr. KERREY (for himself, Mr. MOYNIHAN, Mr. BREAUX, and Mr. LIEBERMAN):

S. 2184. A bill to amend the Social Security Act to provide each American child with a KidSave Account; to the Committee on Finance.

SOCIAL SECURITY KIDSAVE ACCOUNTS ACT

● Mr. KERREY. Mr. President, many of the things we do in the Senate require hypothetical analysis, shaky forecasts and hazy predictions. Indeed at times it could be said that we don't know what we're doing. Today Senator MOYNIHAN and I are introducing a bill based on a mathematical certainty. Our bill would make every baby born in America wealthy. Guaranteed.

This proposal, called KidSave, supplements S. 1792, the Social Security Solvency Act of 1998, which the Senator from New York introduced earlier this year and of which I am an original cosponsor. It would cut the payroll tax by $800 billion—the largest tax cut in American history, and the one most targeted to middle class families—so individuals can harness the power of compounding interest rates to build wealth for retirement. One of the discoveries I have made in researching this idea is that the most important variable in compounding interest rates is time. The earlier you start, the more wealth you build.

KidSave is based on that observation. It would use part of the savings created by S. 1792 to open a $1,000 account for every child at birth and contribute $500 a year to that account for the first five years. These KidSave accounts would be invested in broad funds administered by the Social Security Administration, and be similar to the Thrift Savings Plan available to federal employees and to members of this body.

As I said, Mr. President, this is a mathematical proposition. Even at modest rates of return, the long stretch of time over which this investment would be compounded means every baby born in America would have a shot at the American dream. At just 5.4 percent return, less than the historical rates of return for the market, these birth accounts alone would allow every American to supplement his or her retirement income by $235 a month in 1998 dollars, and still leave more than $100,000 behind to his or her heirs.

These accounts would supplement those opened by the payroll tax cut proposed in S. 1792. This approach to retirement security is two-pronged. First, we shore up the solvency of Social Security so it continues to provide a reliable monthly check. But we also realize that check isn't enough to live on. The average Social Security check in Nebraska is $733 a month. Nationwide, sixteen percent of beneficiaries have no other source of income. Another 14 percent rely on Social Security for more than 90 percent of their income, and nearly two-thirds overall derive more than half their income from that small check. For many of them, it's not enough. Our proposal is based on the idea that retirees need both income and wealth, and experience bears that idea out. Today retirees with asset income have more than double the retirement income of those who don't.

But this is about much more than money. Not only is this a guaranteed route to retirement security, it's also a mathematically certain solution to one of the toughest problems we face: The rich are getting richer and the poor are getting poorer. To understand this problem, we must understand the difference between income and wealth. Income, Mr. President, consists of the paychecks we use to pay our bills. Wealth is what an individual owns in assets like a home, mutual fund or pension. We've heard a lot recently about

the gap between rich and poor in terms of income. The gap in wealth is even worse and, I would argue, more important. As our economy becomes more global and technology-intensive, it is disproportionately distributing its rewards to those who own a piece of our economy.

Despite the growing importance of wealth, a stark gap has opened between those who have it and those who don't. The bottom 90 percent of Americans earn 60 percent of all income, but own less than 30 percent of net worth and less than 20 percent of financial assets. These Americans are being left behind as the economy apportions more and more of its rewards to owners of wealth. Social Security can be a vehicle for solving that problem.

We believe wealth can transform Americans' attitudes about their future. Wealth enables higher living standards, but it also enables generosity and the optimism that comes with feeling secure about the future. Wealth can make every American an Oseola McCarty, the remarkable woman in Hattiesburg, Mississippi, who after more than seven decades of low-wage work as a washer woman donated $150,000 to the University of Southern Mississippi—wealth she had built by saving a little bit of money over a long period of time. Wealth can make every American like Al, a man who works as a printer for the U.S. Senate. His Thrift Savings Plan has boomed so much he is thinking of opening a savings account for his two-year-old boy. Wealth can give every American the opportunity to be like another man I recently met, whose firm was bought out but who became wealthier because he owned a piece of it. When I spoke with him, he didn't talk about his income. He said he had told his wife: ''Whatever else happens to us in life, we know the kids can go to college.''

Each of these Americans has something in common, Mr. President. They own a piece of their country. When the economy grows, they grow. They have a stake in low inflation. They want trade barriers lowered. They are on the front lines of a transformation from an ''us-vs.-them'' economy to one in which the attitude is: ''We're all in this together.''

And, Mr. President, that's an opportunity we can open today to every baby born in America. Guaranteed. I urge my colleagues to support this legislation.●

● Mr. MOYNIHAN. Mr. President, Senator KERREY and I, along with Senators BREAUX and LIEBERMAN, are pleased to introduce the Social Security KidSave Accounts Act, which nicely complements the Social Security Solvency Act of 1998 introduced by Senator KERREY and me in March. In that proposal we reduced payroll taxes by $800 billion over 10 years. The reduction in the payroll tax rate from 12.4 percent to 10.4 allows the funding of personal savings accounts with the 2 percentage point reduction in the payroll tax.

A worker with average earnings depositing 2 percent of wages—one percent from the worker and one percent from the employer can—over 45 years—accumulate almost one half of a million dollars. Add in the wealth generated over a lifetime of 70 years from the interest on the KidSave accounts of $3,500—$1,000 at birth and $500 for each of the next five years—and you have created a new class of millionaires. Workers will have estates which they can pass on to their heirs.

Combined, these two bills create wealth without spending the budget surplus. The Congressional Budget Office estimates that for the ten year period 1999–2008, our bill, which saves Social Security indefinitely, increases the budget surplus by $170 billion. This KidSave bill spends only about $100–$120 billion of that increase. In short, we create private savings without reducing public savings.

Together these bills provide for a more comprehensive approach to retirement savings. The foundation of this approach remains Social Security, the financial future of which is secured for 75 years and beyond. If this legislation is enacted, as I hope it will be, significant new private savings would be added to this foundation.●

By Mr. KENNEDY (for himself, Mrs. BOXER, Mr. DURBIN, Mr. DODD, and Mr. REED):

S. 2185. A bill to protect children from firearms violence; to the Committee on the Judiciary.

CHILDREN'S GUN VIOLENCE PREVENTION ACT

Mr. KENNEDY. Mr. President, I rise to introduce the Children's Gun Violence Prevention Act, together with Senator BOXER, Senator DURBIN, Senator DODD and Senator REED.

The continuing epidemic of gun violence involving children demands action by Congress.

The wave of school shootings in communities across the country is a wake-up call for the nation. We need to do more—and we can do more—to protect children from guns.

Every day in the United States, 14 children are killed by a gun; 24 percent of children say they have access to a gun at home; 10 percent have recently carried a gun to school.

We need to deal more effectively with all aspects of the culture of violence that is killing our children. The legislation we propose today is a concrete step to do more to keep children safe from gun violence.

I know that some in Congress are reluctant to challenge the National Rifle Association, but there are common sense steps that we can take and should take to protect children from guns. Our bill says that gun owners must take responsibility for securing their guns so that children can't use them. It says that gun dealers must be more vigilant in not selling guns and ammunition to children. It says we must develop child-proof safety locks and other child safety features for guns. We do more today to regulate the safety of toy guns than real guns, and that's a national disgrace.

The legislation we are introducing today is the least we can do to stop more schoolyard tragedies and to deal more responsibly with the festering crisis of gun violence involving children.

In a press conference earlier today, we heard what gun violence has done to Susan Wilson of Jonesboro with the loss of her daughter Brittheny, and what it has done to the families in Oregon, and the thousands of other families who lose children to gun violence every year, and we know that action is needed.

I want to commend Sarah Brady and Handgun Control for their leadership on this legislation, and for bringing us to this point today.

Practical steps can clearly be taken to protect children more effectively from guns, and to promote greater responsibility by parents, gun manufacturers, and gun dealers alike. This legislation calls for such steps and it deserves to be enacted this year by this Congress.

Mr. President, I ask that the full text and a description of the bill be included in the RECORD.

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

S. 2185

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Children's Gun Violence Prevention Act of 1998''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—THE CHILDREN'S FIREARM SAFETY ACT OF 1998

Sec. 101. Prohibition on manufacture or importation of unsafe handguns.
Sec. 102. Consumer Product Safety Commission study.

TITLE II—THE CHILDREN'S FIREARMS AGE LIMIT ACT OF 1998

Sec. 201. Extension of juvenile handgun ban to semiautomatic assault weapons.
Sec. 202. Increased penalty for transferring handgun or semiautomatic assault weapon to juvenile for use in a crime of violence.

TITLE III—THE CHILDREN'S FIREARM DEALER'S RESPONSIBILITY ACT OF 1998

Sec. 301. Automatic revocation of license of firearms dealer who willfully sells firearm to a minor.
Sec. 302. 2 forms of identification required from firearms purchasers under age 24.
Sec. 303. Minimum safety and security standards for gun shops.

TITLE IV—THE CHILDREN'S FIREARM ACCESS PREVENTION ACT OF 1998

Sec. 401. Short title.
Sec. 402. Children and firearms safety.

TITLE V—THE CHILDREN'S FIREARM INJURY SURVEILLANCE ACT OF 1998

Sec. 501. Short title.
Sec. 502. Surveillance program regarding injuries to children resulting from firearms.

TITLE VI—THE CHILDREN'S FIREARM EDUCATION ACT OF 1998
Sec. 601. Short title; purposes.
Sec. 602. Competitive grants for children's firearm education.
Sec. 603. Dissemination of best practices.
Sec. 604. Definitions.
Sec. 605. Amendment to Safe and Drug-Free Schools and Communities Act of 1994.
TITLE VII—THE CHILDREN'S FIREARM TRACKING ACT OF 1998
Sec. 701. Youth Crime Gun Interdiction Initiative.

TITLE I—THE CHILDREN'S FIREARM SAFETY ACT OF 1998

SEC. 101. PROHIBITION ON MANUFACTURE OR IMPORTATION OF UNSAFE HANDGUNS.

Section 922 of title 18, United States Code, is amended by inserting after subsection (x) the following:

''(y)(1) Beginning on the date that is 18 months after the date of enactment of this subsection it shall be unlawful for any person to manufacture or import an unsafe handgun.

''(2) The term 'unsafe handgun' means—

''(A) any handgun which the Secretary determines, when new, fires in any of 5 successive trials in which the handgun (loaded with an empty case with a primer installed and having built-in manual handgun safety devices deactivated so that the handgun is ready to fire) is dropped onto a solid slab of concrete from a height of one meter from each of the following positions:

''(i) normal firing position;

''(ii) upside down;

''(iii) on grip;

''(iv) on the muzzle;

''(v) on either side;

''(vi) on the exposed hammer or striker;

''(vii) if there is no hammer or striker, the rearmost part of the firearm; and

''(viii) any other position which the Secretary determines is necessary to determine whether the handgun is subject to accidental discharge;

''(B) any handgun without a child resistant trigger mechanism reasonably designed to prevent a child who has not attained 5 years of age from operating the weapon when it is ready to fire. Such mechanism may include:

''(i) any handgun without a trigger resistant to a ten pound pull; or

''(ii) any handgun, under rules determined by the Secretary, which is designed so that the hand of an average child who has not attained 5 years of age is unable to grip the trigger;

''(C) any semiautomatic pistol which does not have a magazine safety disconnect that prevents the pistol from being fired once the magazine or clip is removed from the weapon.

''(D) a handgun sold without a mechanism reasonable designed, under rules determined by the Secretary, to prevent the discharge of the weapon by unauthorized users, including but not limited to the following devices:

''(i) a detachable, key activated or combination lock which prevents the trigger form being pulled or the hammer form striking the primer; or

''(ii) a solenoid use-limitation device which prevents, by use of a magnetically activated relay, the firing of the weapon unless a magnet of the appropriate strength is placed in proximity to the handle of the gun.

''(3) Paragraph (1) shall not apply to—

''(A) the manufacture or importation of a handgun, by a licensed manufacturer or licensed importer, for use by the United States or a department or agency of the United States or a State or a department, agency, or political subdivision of a State; or

''(B) the manufacture or importation by a licensed manufacturer or licensed importer for the purposes of testing or experimentation authorized by the Secretary.

''(4) This subsection shall not be construed to preempt or limit in any way any causes of action available under the law of any State against a manufacturer of a firearm.''.

SEC. 102. CONSUMER PRODUCT SAFETY COMMISSION STUDY.

(a) STUDY.—Notwithstanding any other provision of law, the Consumer Product Safety Commission, in consultation with the Bureau of Alcohol, Tobacco and Firearms, shall conduct a study to determine how the safety of handguns can be improved so as to prevent their unauthorized use or discharge by children who have not attained 18 years of age. The study shall include the testing and evaluation of—

(1) locking devices that, while installed on a handgun, prevent the handgun from being discharged, and that can be removed or deactivated by means of a key or a mechanically, electronically, or electro-mechanically operated combination lock;

(2) locking devices that are incorporated into the design of a handgun, that, when activated, prevent a handgun from being discharged, and that can be deactivated by means of a key or a mechanically, electronically, or electro-mechanically operated combination lock;

(3) storage boxes, cases, or safes equipped with a mechanically, electronically, or electro-mechanically operated lock that, when activated, prevents access to a firearm located in the storage box, case, or safe.

(b) REPORT TO THE CONGRESS.—Within 1 year after the date of the enactment of this Act, the Consumer Product Safety Commission shall submit to the Congress a report that details the results of the study required by subsection (a) and that includes recommendations on how handgun safety can be improved and how changes in handgun design can reduce unauthorized access to guns by children who have not attained 18 years of age.

(c) LIMITATION ON AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated to the Director of the Consumer Product Safety Commission $1,500,000 for fiscal year 1999.

TITLE II—THE CHILDREN'S FIREARMS AGE LIMIT ACT OF 1998

SEC. 201. EXTENSION OF JUVENILE HANDGUN BAN TO SEMIAUTOMATIC ASSAULT WEAPONS.

Section 922(x) of title 18, United States Code, is amended in each of paragraphs (1) and (2)—

(1) by striking ''or'' at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting ''; or''; and

(3) by adding at the end the following:

''(C) a semiautomatic assault weapon.''.

SEC. 202. INCREASED PENALTY FOR TRANSFERRING HANDGUN OR SEMIAUTOMATIC ASSAULT WEAPON TO JUVENILE FOR USE IN A CRIME OF VIOLENCE.

Section 924(a)(6)(B)(ii) of title 18, United States Code, is amended by striking ''10'' and inserting ''20''.

TITLE III—THE CHILDREN'S FIREARM DEALER'S RESPONSIBILITY ACT OF 1998

SEC. 301. AUTOMATIC REVOCATION OF LICENSE OF FIREARMS DEALER WHO WILLFULLY SELLS FIREARM TO A MINOR.

Section 923(e) of title 18, United States Code, is amended by inserting after the 3rd sentence the following: ''The Secretary, after notice and opportunity for hearing, shall revoke the license of a dealer who willfully sells a firearm to an individual who has not attained 18 years of age.''.

SEC. 302. 2 FORMS OF IDENTIFICATION REQUIRED FROM FIREARMS PURCHASERS UNDER AGE 24.

Section 922(t)(1)(C) of title 18, United States Code, is amended by inserting ''(or, if the licensee knows or has reasonable case to believe that the transferee has not attained 24 years of age, 2)'' before ''valid''.

SEC. 303. MINIMUM SAFETY AND SECURITY STANDARDS FOR GUN SHOPS.

(a) IN GENERAL.—Section 923 of title 18, United States Code, is amended by adding at the end the following:

''(m) SAFETY AND SECURITY STANDARDS FOR GUN SHOPS.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, the Secretary of the Treasury, acting through the Director of the Bureau of Alcohol, Tobacco, and Firearms, shall issue final regulations that establish minimum firearm safety and security standards that shall apply to dealers who are issued a license under this section.

''(2) MINIMUM STANDARDS.—The regulations issued under this subsection shall include minimum safety and security standards for—

''(A) a place of business in which a dealer covered by the regulations conducts business or stores firearms;

''(B) windows, the front door, storage rooms, containers, alarms, and other items of a place of business referred to in subparagraph (A) that the Secretary of the Treasury, acting through the Director of the Bureau of Alcohol, Tobacco and Firearms, determines to be appropriate; and

''(C) the storage and handling of the firearms contained in a place of business referred to in subparagraph (A).''.

(b) INSPECTIONS.—Section 923(g)(1) of title 18, United States Code, is amended—

(1) in subparagraph (A)—

(A) in clause (i), by striking '', and'' and inserting a semicolon;

(B) in clause (ii), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(iii) with respect the place of business of a licensed dealer, the safety and security measures taken by the dealer to ensure compliance with the regulations issued under subsection (m).''; and

(2) in subparagraph (B)—

(A) in the matter preceding clause (i), by inserting ''and the place of business of a licensed dealer'' after ''licensed dealer'';

(B) in clause (ii), by striking ''or'' at the end;

(C) in clause (iii), by striking the period at the end and inserting ''; or''; and

(D) by adding at the end the following:

''(iv) not more than once during any 12-month period, for ensuring compliance by a licensed dealer with the regulations issued under subsection (m).''.

(c) PENALTIES.—Section 924(a)(1) of title 18, United States Code, is amended—

(1) in subparagraph (C), by striking ''or'' at the end;

(2) by redesignating subparagraph (D) as subparagraph (E); and

(3) by inserting after subparagraph (C) the following:

''(D) being a licensed dealer, knowingly fails to comply with any applicable regulation issued under section 923(m); and''.

TITLE IV—THE CHILDREN'S FIREARM ACCESS PREVENTION ACT OF 1998

SEC. 401. SHORT TITLE.

This title may be cited as the ''Children's Firearm Access Prevention Act of 1998''.

SEC. 402. CHILDREN AND FIREARMS SAFETY.

(a) SECURE GUN STORAGE OR SAFETY DEVICE.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

''(34) The term 'secure gun storage or safety device' means—

''(A) a device that, when installed on a firearm, is designed to prevent the firearm from being operated without first deactivating or removing the device;

''(B) a device incorporated into the design of the firearm that is designed to prevent the operation of the firearm by anyone not having access to the device; or

''(C) a safe, gun safe, gun case, lock box, or other device that is designed to be or can be used to store a firearm and that is designed to be unlocked only by means of a key, a combination, or other similar means.''.

(b) PROHIBITION AND PENALTIES.—Section 922 of such title is further amended by adding at the end the following:

''(z)(1) In this subsection, the term 'juvenile' means an individual who has not attained 18 years of age.

''(2) Except as provided in paragraph (3), any person who—

''(A) keeps a loaded firearm, or an unloaded firearm and ammunition for the firearm, any of which has been shipped or transported in interstate or foreign commerce or otherwise substantially affects interstate or foreign commerce, on premises under the custody or control of the person; and

''(B) knows, or reasonably should know, that a juvenile is capable of gaining access to the firearm without the permission of a parent or legal guardian of the juvenile;

shall, if a juvenile obtains access to the firearm and thereby causes death or bodily injury to the juvenile or any other person, or exhibits the firearm in a public place or in violation of subsection (q), be imprisoned not more than 1 year, fined not more than $10,000, or both.

''(3) Paragraph (2) shall not apply if—

''(A) the person uses a secure gun storage or safety device for the firearm;

''(B) the person is a peace officer, a member of the Armed Forces, or a member of the National Guard, and the juvenile obtains the firearm during, or incidental to, the performance of the official duties of the person in that capacity;

''(C) the juvenile obtains, or obtains and discharges, the firearm in a lawful act of self-defense or defense of 1 or more other persons; or

''(D) the person has no reasonable expectation, based on objective facts and circumstances, that a juvenile is likely to be present on the premises on which the firearm is kept.

''(4) This subsection shall not be construed to preempt any provision of the law of any State, the purpose of which is to prevent children from injuring themselves or others with firearms, or to preempt or limit in any way any causes of action available under the law of any State against a manufacturer of a firearm.''.

(c) ROLE OF LICENSED FIREARMS DEALERS.—Section 926 of such title is amended by adding at the end the following:

''(d) The Secretary shall ensure that a copy of section 922(z) appears on the form required to be obtained by a licensed dealer from a prospective transferee of a firearm.''.

TITLE V—THE CHILDREN'S FIREARM INJURY SURVEILLANCE ACT OF 1998

SEC. 501. SHORT TITLE.

This title may be cited as the ''Children's Firearm Injury Surveillance Act of 1998''.

SEC. 502. SURVEILLANCE PROGRAM REGARDING INJURIES TO CHILDREN RESULTING FROM FIREARMS.

(a) IN GENERAL.—

(1) PROGRAM OF GRANTS.—The Secretary of Health and Human Services may make grants to State and local departments of health and State and local law enforcement agencies for purposes of establishing and maintaining children's firearm-related injury surveillance systems.

(2) ADMINISTRATION OF PROGRAM.—The Secretary of Health and Human Services shall carry out this section acting through the Director of the Centers for Disease Control and Prevention. Such Director shall carry out this section through the Director of the National Center for Injury Prevention and Control (in this section referred to as the ''Director of the Center'').

(b) CERTAIN USES OF GRANT.—The Director of the Center shall ensure that grants under subsection (a) are used to establish systems for gathering information regarding fatal and nonfatal firearm injuries involving children who have not attained 21 years of age, including information with respect to—

(1) mortality;

(2) morbidity;

(3) disability;

(4) the type and characteristic of the firearm used in the shooting;

(5) the relationship of the victim to the perpetrator; and

(6) the time and circumstances of the shooting.

(c) PRIORITY FOR CERTAIN STATES.—In making grants under this section, the Director of the Center shall give priority to States and communities in which firearm-related injuries for children are a significant public health problem.

(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $5,000,000 for each of the fiscal years 1999 through 2003.

TITLE VI—THE CHILDREN'S FIREARM EDUCATION ACT OF 1998

SEC. 601. SHORT TITLE; PURPOSES.

(a) SHORT TITLE.—This title may be cited as the ''Children's Firearm Education Act of 1998''.

(b) PURPOSES.—The purposes of this title are—

(1) to award grants to assist local educational agencies, in consultation with community groups and law enforcement agencies, to educate children about and preventing violence; and

(2) to assist communities in developing partnerships between public schools, community organizations, law enforcement, and parents in educating children about preventing gun violence.

SEC. 602. COMPETITIVE GRANTS FOR CHILDREN'S FIREARM EDUCATION.

(a) ALLOCATION OF COMPETITIVE GRANTS.—

(1) GRANTS BY THE SECRETARY.—For any fiscal year in which the amount appropriated to carry out this title does not equal or exceed $50,000,000, the Secretary is authorized to award competitive grants described under subsection (b).

(2) GRANTS BY THE STATES.—For any fiscal year in which the amount appropriated to carry out this title exceeds $50,000,000, the Secretary shall make allotments to State educational agencies pursuant to subsection (a)(3) to award competitive grants described in subsection (b).

(3) FORMULA.—Except as provided in paragraph (4), funds appropriated to carry out this title shall be allocated among the States as follows:

(A) 75 percent of such amount shall be allocated proportionately based upon the population that is less than 18 years of age in the State;

(B) 25 percent of such amount shall be allocated proportionately based upon the population that is less than 18 years of age in the State that is incarcerated.

(4) MINIMUM ALLOTMENT.—If the amount appropriated to carry out this title exceeds $50,000,000, each State shall receive a minimum grant award each fiscal year of not less than $500,000.

(b) AUTHORIZATION OF COMPETITIVE GRANTS.—The Secretary or the State educational agency, as the case may be, is authorized to award grants to eligible local educational agencies for the purposes of educating children about preventing gun violence.

(1) ASSURANCES.—

(A) The Secretary or the State educational agency, as the case may be, shall ensure that not less than 90 percent of the funds allotted under this title are distributed to local educational agencies.

(B) In awarding the grants, the Secretary or the State educational agency, as the case may be, shall ensure, to the maximum extent practicable—

(i) an equitable geographic distribution of grant awards;

(ii) an equitable distribution of grant awards among programs that serve public elementary school students, public secondary school students, and a combination of both; and

(iii) that urban, rural and suburban areas are represented within the grants that are awarded.

(2) PRIORITY.—In awarding grants under this subsection, the Secretary or the State educational agency, as the case may be, shall give priority to a local educational agency that—

(A) coordinates with other Federal, State, and local programs that educate children about personal health, safety, and responsibility, including programs carried out under the Safe and Drug-Free Schools and Communities Act of 1994 (20 U.S.C. 7101 et seq.);

(B) serves a population with a high incidence of students found in possession of a weapon on school property or students suspended or expelled for bringing a weapon onto school grounds or engaging in violent behavior on school grounds;

(C) forms a partnership that includes not less than 1 local educational agency working in consultation with not less than 1 public or private nonprofit agency or organization with experience in violence prevention or 1 local law enforcement agency.

(3) PEER REVIEW; CONSULTATION.—

(A)(i) Before grants are awarded, the Secretary shall submit grant applications to a peer review panel for evaluation.

(ii) Such panel shall be composed of not less than 1 representative from a local educational agency, State educational agency, a local law enforcement agency, and a public or private nonprofit organization with experience in violence prevention.

(B) The Secretary shall submit grant applications to the Attorney General for consultation.

(c) ELIGIBLE GRANT RECIPIENTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), an eligible grant recipient is a local educational agency that may work in partnership with 1 or more of the following:

(A) A public or private nonprofit agency or organization with experience in violence prevention.

(B) A local law enforcement agency.

(C) An institution of higher education.

(2) EXCEPTION.—A State educational agency may, with the approval of a local educational agency, submit an application on behalf of such local educational agency or a consortium of such agencies.

(d) LOCAL APPLICATIONS; REPORTS.—

(1) APPLICATIONS.—Each local educational agency that wishes to receive a grant under this title shall submit an application to the Secretary and the State educational agency that includes—

(A) a description of the proposed activities to be funded by the grant and how each activity will further the goal of educating children about preventing gun violence;

(B) how the program will be coordinated with other programs that educate children about personal health, safety, and responsibility, including programs carried out under the Safe and Drug-Free Schools and Communities Act of 1994 (20 U.S.C. 7101 et seq.); and

(C) the age and number of children that the programs will serve.

(2) REPORTS.—Each local educational agency that receives a grant under this title shall submit a report to the Secretary and to the State educational agency not later than 18 months and 36 months after the grant is awarded. Each report shall include information regarding—

(A) the activities conducted to educate children about gun violence;

(B) how the program will continue to educate children about gun violence in the future; and

(C) how the grant is being coordinated with other Federal, State, and local programs that educate children about personal health, safety, and responsibility, including programs carried out under the Safe and Drug-Free Schools and Communities Act of 1994 (20 U.S.C. 7101 et seq.).

(e) AUTHORIZED ACTIVITIES.—

(1) REQUIRED ACTIVITIES.—Grants authorized under subsection (b) shall be used for the following activities:

(A) Supporting existing programs that educate children about personal health, safety, and responsibility, including programs carried out under the Safe and Drug-Free Schools and Communities Act of 1994 (20 U.S.C. 7101 et seq).

(B) Educating children about the effects of gun violence.

(C) Educating children to identify dangerous situations in which guns are involved and how to avoid and prevent such situations.

(D) Educating children how to identify threats and other indications that their peers are in possession of a gun and may use a gun, and what steps they can take in such situations.

(E) Developing programs to give children access to adults to whom they can report in a confidential manner about problems relating to guns.

(2) PERMISSIBLE ACTIVITIES.—Grants authorized under subsection (b) may be used for the following:

(A) Encouraging schoolwide programs and partnerships that involve teachers, students, parents, administrators, other staff, and members of the community in reducing gun incidents in public elementary and secondary schools.

(B) Establishing programs that assist parents in helping educate their children about firearm safety and the prevention of gun violence.

(C) Providing ongoing professional development for public school staff and administrators to identify the causes and effects of gun violence and risk factors and student behavior that may result in gun violence, including training sessions to review and update school crisis response plans and school policies for preventing the presence of guns on school grounds and facilities;

(D) Providing technical assistance for school psychologists and counselors to provide timely counseling and evaluations, in accordance with State and local laws, of students who possess a weapon on school grounds.

(E) Improving security on public elementary and secondary school campuses to prevent outside persons from entering school grounds with firearms.

(F) Assisting public schools and communities in developing crisis response plans when firearms are found on school campuses and when gun-related incidents occur.

(f) STATE APPLICATIONS; ACTIVITIES AND REPORTS.—

(1) STATE APPLICATIONS.—

(A) Each State desiring to receive funds under this title shall, through its State educational agency, submit an application to the Secretary of Education at such time and in such manner as the Secretary shall require. Such application shall describe—

(i) the manner in which funds under this title for State activities and competitive grants will be used to fulfill the purposes of this title;

(ii) the manner in which the activities and projects supported by this title will be coordinated with other State and Federal education, law enforcement, and juvenile justice programs, including the Safe and Drug-Free Schools and Communities Act of 1994;

(iii) the manner in which States will ensure an equitable geographic distribution of grant awards; and

(iv) the criteria which will be used to determine the impact and effectiveness of the funds used pursuant to this title.

(B) A State educational agency may submit an application to receive a grant under this title under paragraph (1) or as an amendment to the application it submits under the Safe and Drug-Free Schools and Communities Act of 1994.

(3) STATE ACTIVITIES.—Of appropriated amounts allocated to the States under subsection (a)(2), the State educational agency may reserve not more than 10 percent for activities to further the goals of this title, including—

(A) providing technical assistance to eligible grant recipients in the State;

(B) performing ongoing research into the causes of gun violence among children and methods to prevent gun violence among children; and

(C) providing ongoing professional development for public school staff and administrators to identify the causes and indications of gun violence.

(4) STATE REPORTS.—Each State receiving an allotment under this title shall submit a report to the Secretary and to the Committees on Education and the Workforce and Judiciary of the House of Representatives, and the Committees on Labor and Human Resources and Judiciary of the Senate, not later than 12 months and 36 months after receipt of the grant award. Each report shall include information regarding—

(A) the progress of local educational agencies that received a grant award under this title in the State in educating children about firearms;

(B) the progress of State activities under paragraph (1) to advance the goals of this title; and

(C) how the State is coordinating funds allocated under this title with other State and Federal education, law enforcement, and juvenile justice programs, including the Safe and Drug-Free Schools and Communities Act of 1994 (20 U.C.S.C. 7101 et seq.).

(g) SUPPLEMENT NOT SUPPLANT.—A State or local educational agency shall use funds received under this title only to supplement the amount of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for reducing gun violence among children and educating children about firearms, and not to supplant such funds.

(h) DISPLACEMENT.—A local educational agency that receives a grant award under this title shall ensure that persons hired to carry out the activities under this title do not displace persons already employed.

(i) HOME SCHOOLS.—Nothing in this title shall be construed to affect home schools.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for this section $60,000,000 for each of fiscal years 1999, 2000, and 2001.

SEC. 603. DISSEMINATION OF BEST PRACTICES.

(a) MODEL DISSEMINATION.— The Secretary shall include on the Internet site of the Department of Education a description of programs that receive grants under section 602.

(b) GRANT PROGRAM NOTIFICATION.—The Secretary shall publicize the competitive grant program through its Internet site, publications, and public service announcements.

SEC. 604. DEFINITIONS.

For purposes of this title—

(1) the term ''local educational agency'' has the same meaning given such term in section 14101(18) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8701).

(2) the term ''Secretary'' means the Secretary of Education; and

(3) the term ''State'' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the United States Virgin Islands.

SEC. 605. AMENDMENT TO SAFE AND DRUG-FREE SCHOOLS AND COMMUNITIES ACT OF 1994.

Section 4116(a)(1) of the Safe and Drug-Free Schools and Communities Act of 1994 (20 U.S.C. 7116) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and by inserting after subparagraph (B) the following:

''(C) to the extent practicable, provide timely counseling (without requiring the hiring of additional staff)—

''(i) and evaluations of any student, in accordance with State and local law, who possesses a weapon on school grounds or who threatens to bring or use a weapon on school grounds; and

''(ii) and advice to public school students, staff, and administrators after an incident of gun-related violence on school grounds;''.

TITLE VII—THE CHILDREN'S FIREARM TRACKING ACT OF 1998

SEC. 701. YOUTH CRIME GUN INTERDICTION INITIATIVE.

(a)(1) The Secretary of the Treasury shall endeavor to expand the number of cities and counties directly participating in the Youth Crime Gun Interdiction Initiative (in this section referred to as the ''YCGII'') to 75 cities or counties by October 1, 2000, to 150 cities or counties by October 1, 2002, and to 250 cities or counties by October 1, 2003.

(2) Cities and counties selected for participation in the YCGII shall be selected by the Secretary of the Treasury and in consultation with Federal, State and local law enforcement officials.

(b)(1) The Secretary of the Treasury shall, utilizing the information provided by the YCGII, facilitate the identification and prosecution of individuals illegally trafficking firearms to individuals who have not attained 24 years of age.

(2) The Secretary of the Treasury shall share information derived from the YCGII with State and local law enforcement agencies through on-line computer access, as soon as such capability is available.

(c)(1) The Secretary of the Treasury shall award grants (in the form of funds or equipment) to States, cities, and counties for purposes of assisting such entities in the tracing of firearms and participation in the YCGII.

(2) Grants made under this part shall be used—

(A) to hire or assign additional personnel for the gathering, submission and analysis of

tracing data submitted to the Bureau of Alcohol, Tobacco and Firearms under the YCGII;

(B) to hire additional law enforcement personnel for the purpose of identifying and arresting individuals illegally trafficking firearms; and

(C) to purchase additional equipment, including automatic data processing equipment and computer software and hardware, for the timely submission and analysis of tracing data.

THE CHILDREN'S GUN VIOLENCE PREVENTION ACT OF 1998

TITLE I—THE CHILDREN'S FIREARM SAFETY ACT OF 1998

Imposes, after 18 months, new safety standards on the manufacture and importation of handguns requiring: a child resistant trigger standard; a child resistant safety lock, a magazine disconnect safety for pistols; a manual safety and practice of a drop test.

Authorizes the Consumer Product Safety Commission to study, test and evaluate various technologies and means of making guns more child-resistant and reporting back to Congress within 12 months on its findings.

TITLE II—THE CHILDREN'S FIREARM AGE LIMIT ACT OF 1998

Extends the current ban on juvenile handguns transfers and possession to semi-automatic assault rifles and assault shotguns.

TITLE III—THE CHILDRENS FIREARM DEALER'S RESPONSIBILITY ACT OF 1998

Requires two forms of ID for purchases under the age of 24.

TITLE IV—THE CHILDREN'S FIREARM ACCESS PREVENTION ACT OF 1998

Imposes fines on a gun owner of up to $10,000 if a child gains access to a loaded firearm and criminal penalties and imprisonment if the gun is used in a act of violence.

TITLE V—THE CHILDREN'S FIREARM INJURY SURVEILLANCE ACT OF 1998

Authorizes $10 million to CDC's National Injury Prevention and Control Center over three for grants to state and local governments for development of children's firearm injury surveillance systems.

TITLE VI—THE CHILDREN'S FIREARM VIOLENCE EDUCATION ACT OF 1998

Authorizes $50 million a year for competitive Department of Education grants to state and local education agencies for children's firearm education programs.

TITLE VII—THE CHILDREN'S FIREARM TRACKING ACT OF 1998

Authorizes $10 million over five years for expansion of the Youth Crime Gun Interdiction Initiative.

By Mr. DORGAN (for himself and Mr. BUMPERS):

S. 2186. A bill to terminate all United States assistance to the National Endowment for Democracy, and for other purposes; to the Committee on Foreign Relations.

END FUNDING FOR THE NATIONAL ENDOWMENT FOR DEMOCRACY

• Mr. DORGAN. Mr. President, today I introduce a bill that would end federal funding for the National Endowment for Democracy, known as NED.

Last year the Administration asked for $30 million in NED funding, and after a Senate debate on the program, the Congress met that request. This year the Administration has requested $31 million for NED for fiscal year 1999.

In my view, the time has long since come for Congress to end our subsidy of NED. Let me take a brief moment to explain why.

NED began back in the early 1980s, during the darkest days of the Cold War, when Solidarity was on the ropes in Poland and a former KGB chief ruled the Soviet Union. As we all know, Solidarity has given birth to political parties that have governed Poland, and Lech Walesa, the Solidarity union leader, was elected Poland's president. The Soviet Union and the KGB are no more, and Russia has a multi-party political system. There is no Warsaw Pact. In fact, the Senate has just decided to admit into NATO some of the countries that NED used to help.

The historic fall of the Berlin Wall, the breakup of the Soviet Union, and the successes of democracy worldwide in the past 15 years should make us wonder whether NED is as necessary now as it was at the height of the Cold War. Democracy is on the march worldwide, most recently perhaps even in Indonesia. Yet the American taxpayer is still coughing up $30 million a year to foot the bill for NED.

It's also worth noting that when NED started, back during the Cold War, it was supposed to be a public-private partnership. Federal money was supposed to ''prime the pump'' of private contributions. Private corporations, foundations and philanthropists were supposed to foot much of the bill. But it didn't happen.

Since 1984 the American taxpayer has spent over $360 million on NED. And according to NED's most recent annual report, in 1996 NED's total revenue was $30.9 million, but its revenue from nonfederal sources was only $585,000. In that year, it took 53 taxpayer dollars to leverage one private dollar contributed to NED.

These statistics show that NED is a very poor investment for the Federal Government. There is no public-private partnership funding NED. It's the public, the Federal Government, all the way.

Of course, the Federal Government has some private partners when it comes to spending NED funds. Year after year, NED distributes taxpayer dollars to the same ''core grantees.'' This is despite the fact that everything we know about good government says that there should be competitive contracting for government work.

NED isn't one sole-source contract. It isn't just one set-aside. It's four.

Four private institutions got just over $4 million each in 1996 and 1997. These private groups are: the National Democratic Institute, also known as the Democratic Party; the International Republican Institute, better known as the Republican Party; the Free Trade Union Institute, which is really the AFL–CIO; and the Center for International Private Enterprise, which we all know as the Chamber of Commerce.

Mr. President, these four ''core grantees'' get the lion's share of NED funding, year after year. As our former colleague Senator Hank Brown of Colorado said four years ago, ''How long does it take for people to realize that what we are doing is not promoting democracy, but promoting these four organizations?''

What do these four groups do with this money? They use it to send well-connected Democrats and Republicans, and business and labor leaders, around the world. These folks visit various countries and try to promote democracy.

It sounds fine until you consider that this activity duplicates work done by the United States Information Agency, the Agency for International Development, and the Departments of State, Justice and Defense. In 1996 alone, AID spent $390 million, USIA spent $355 million, and the Defense Department spent $38 million, all to promote democracy.

There's no reason for another Federal program to achieve this same goal. The American people know that the time is past when we could spend money we didn't have on programs we don't need.

Last year, I thought that my hope of ending federal funding for the National Endowment for Democracy had come true. The Commerce-State-Justice appropriations bill actually zeroed out this program. Let me quote from the Appropriations Committee's report language on this issue:

> The Committee does not recommend funding for fiscal year 1998 for the National Endowment for Democracy. . . . The NED was originally established in 1984 during the days of the cold war as a public-private partnership to promote democratic movements behind the Iron Curtain. Limited U.S. Government funds were viewed as a way to help leverage private contributions and were never envisioned as NED's sole or major source of continuing funds. Since the cold war is over, the Committee believes that the time has come to eliminate Federal funding for this program.

Unfortunately, the full Senate approved a floor amendment that restored the requested $30 million for the NED.

So I am here today to call on Senators to accept the dictates of common sense this year, and to accept the recommendation of the Appropriations Committee. We are having great difficulty allocating funding among the different discretionary programs. The Senate is having to make difficult choices about federal spending. We need to determine what is a priority.

I strongly believe that NED no longer deserves the Senate's support. The Cold War is over, and we have other, more effective ways to promote democracy abroad. I hope that the Senate will act favorably on the bill that I am introducing today, and that we will save the American taxpayer $30 million a year.•

ADDITIONAL COSPONSORS

S. 367

At the request of Mr. WELLSTONE, the name of the Senator from South Dakota [Mr. JOHNSON] was added as a cosponsor of S. 367, a bill to amend the

Family and Medical Leave Act of 1993 to allow leave to address domestic violence and its effects, and for other purposes.

S. 427

At the request of Mr. THOMAS, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 427, a bill to amend the Internal Revenue Code of 1986 to restore the deduction for lobbying expenses in connection with State legislation.

S. 507

At the request of Mr. LEAHY, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 507, a bill to establish the United States Patent and Trademark Organization as a Government corporation, to amend the provisions of title 35, United States Code, relating to procedures for patent applications, commercial use of patents, reexamination reform, and for other purposes.

S. 766

At the request of Ms. SNOWE, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 766, a bill to require equitable coverage of prescription contraceptive drugs and devices, and contraceptive services under health plans.

S. 1335

At the request of Ms. SNOWE, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 1335, a bill to amend title 5, United States Code, to ensure that coverage of bone mass measurements is provided under the health benefits program for Federal employees.

S. 1385

At the request of Mr. WELLSTONE, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 1385, a bill to amend title 38, United States Code, to expand the list of diseases presumed to be service connected with respect to radiation-exposed veterans.

S. 1406

At the request of Mr. SMITH, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 1406, a bill to amend section 2301 of title 38, United States Code, to provide for the furnishing of burial flags on behalf of certain deceased members and former members of the Selected Reserve.

S. 1413

At the request of Mr. LUGAR, the names of the Senator from Wyoming [Mr. ENZI] and the Senator from South Dakota [Mr. JOHNSON] were added as cosponsors of S. 1413, a bill to provide a framework for consideration by the legislative and executive branches of unilateral economic sanctions.

S. 1862

At the request of Mr. DEWINE, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 1862, a bill to provide assistance for poison prevention and to stabilize the funding of regional poison control centers.

S. 1915

At the request of Mr. LEAHY, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 1915, a bill to amend the Clean Air Act to establish requirements concerning the operation of fossil fuel-fired electric utility steam generating units, commercial and industrial boiler units, solid waste incineration units, medical waste incinerators, hazardous waste combustors, chlor-alkali plants, and Portland cement plants to reduce emissions of mercury to the environment, and for other purposes.

S. 2110

At the request of Mr. BIDEN, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 2110, a bill to authorize the Federal programs to prevent violence against women, and for other purposes.

S. 2158

At the request of Mr. ROBERTS, the names of the Senator from South Dakota [Mr. DASCHLE], the Senator from Kansas [Mr. BROWNBACK], and the Senator from Nebraska [Mr. HAGEL] were added as cosponsors of S. 2158, a bill to amend the Arms Export Control Act to provide that certain sanctions provisions relating to prohibitions on credit, credit guarantees, or other financial assistance not apply with respect to programs of the Department of Agriculture for the purchase or other provision of food or other agricultural commodities.

S. 2176

At the request of Mr. THOMPSON, the names of the Senator from Mississippi [Mr. COCHRAN] and the Senator from Utah [Mr. HATCH] were added as cosponsors of S. 2176, a bill to amend sections 3345 through 3349 of title 5, United States Code (commonly referred to as the ''Vacancies Act'') to clarify statutory requirements relating to vacancies in and appointments to certain Federal offices, and for other purposes.

SENATE CONCURRENT RESOLUTION 103

At the request of Mr. MOYNIHAN, the name of the Senator from New Hampshire [Mr. GREGG] was added as a cosponsor of Senate Concurrent Resolution 103, a concurrent resolution expressing the sense of the Congress in support of the recommendations of the International Commission of Jurists on Tibet and on United States policy with regard to Tibet.

SENATE RESOLUTION 193

At the request of Mr. REID, the names of the Senator from Connecticut [Mr. DODD] and the Senator from North Dakota [Mr. CONRAD] were added as cosponsors of Senate Resolution 193, a resolution designating December 13, 1998, as ''National Children's Memorial Day.''

SENATE RESOLUTION 238

At the request of Mr. WELLSTONE, the names of the Senator from Indiana [Mr. LUGAR], the Senator from Wisconsin [Mr. FEINGOLD], and the Senator from California [Mrs. BOXER] were added as cosponsors of Senate Resolution 238, a resolution expressing the sense of the Senate regarding human rights conditions in China and Tibet.

AMENDMENT NO. 2707

At the request of Mr. FORD the name of the Senator from Montana [Mr. BAUCUS] was added as a cosponsor of amendment No. 2707 proposed to S. 1415, a bill to reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes.

SENATE RESOLUTION 250—EXPRESSING THE SENSE OF THE SENATE THAT THE THIRD SATURDAY IN JUNE OF EACH YEAR SHOULD BE DESIGNATED AS ''NATIONAL RIVERS DAY''

Mr. CHAFEE submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 250

Whereas the United States has a total of 3,000,000 linear miles of rivers, which have played a fundamental role in the Nation's culture, heritage, ecological health, economic development, and overall quality of life;

Whereas rivers are used throughout the Nation as efficient transportation routes for commerce and industry, are used in urban areas as public transportation corridors, and have facilitated economic growth by providing transportation, generating hydroelectric power, and supplying water for farms and rural towns;

Whereas rivers support fish, waterfowl, and other wildlife that need greenways and clean water to survive in their habitats, and people throughout America live in close proximity to rivers and streams and use them for swimming, fishing, boating, and other forms of recreation and leisure;

Whereas the Nation's rivers are important tourist destinations, which, each year, attract more than 46,000,000 international travelers and generate more than $430,000,000 in tourism revenue;

Whereas the activities carried out along the Nation's rivers affect water resources, environment, and geography on regional, national, and global scales;

Whereas the President and Congress have declared their support for rivers through the American Heritage Rivers program; and

Whereas it is appropriate for the people of the United States from time to time to reflect upon the manner in which their activities and lifestyles affect the rivers of the Nation: Now, therefore, be it

Resolved, That it is the sense of the Senate that the third Saturday in June of each year should be designated as ''National Rivers Day''.

• Mr. CHAFEE. Mr. President, I am submitting a sense of the Senate resolution to designate the third Saturday in June of every year as ''National Rivers Day.'' Rivers touch each and every one of our lives. Every State and nearly every community in the United States has a river or stream going through it. Because every American has access to rivers and streams, what we do and how we live has a profound impact on the quality of the nation's rivers.

The three million miles of rivers and streams that travel through the United States have played a fundamental role in our culture and our heritage. Indeed, the health of America's rivers inextricably linked to our health as a nation. Our rivers contribute to commerce, food production and public recreation, and they enhance our well-being. Rivers also support fish, waterfowl, and other wildlife that need clean water to survive in their habitat.

The settlers in the eighteenth and nineteenth centuries were awed by our majestic rivers, curious mixtures of pristine and rugged beauty. Since colonial times, America's rivers have promoted our economic and social growth, as an energy source to spur industrialization and as a water supply resource.

Regrettably, in the late 1960's, although America had grown to be the most powerful industrial nation in the world, we had failed to protect the very resources that were responsible for our success. The Hudson River was a dumping ground for fuel and other industrial waste. The Cuyahoga River in Cleveland became so polluted that it caught fire. These terrible events prompted the call to reverse the trend and to clean up the nation's rivers and other waters.

Today, the cleanup of our rivers and streams has led to the economic revitalization of urban centers, neighborhoods, and towns all over America. From Boston to Chicago to Washington, D.C., Americans are cleaning up their rivers and using them for recreation, boating, tourism and leisure. America's rivers continue to serve as transportation links supporting commerce and industry. Their greatest contribution to the U.S. economy, however, is the 430 billion dollars generated annually from the tourists that visit our rivers. And more than 46 million international tourists visit our rivers each year.

The tide has turned significantly from the late 1960s and early 1970s, but we must continue to encourage ongoing protection and promotion of the nation's rivers. Designating the third Saturday in June of each year as ''National Rivers Day'' will inspire all Americans to get involved in the ongoing protection of our precious rivers and streams. I urge my colleagues to join me in supporting this important measure.●

AMENDMENTS SUBMITTED

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

JEFFORDS (AND BINGAMAN) AMENDMENT NO. 2710

(Ordered to lie on the table.)

Mr. JEFFORDS (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by them to the bill (S. 1415) to reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes; as follows:

On page 159, line 8, strike ''such sums as may be necessary'' and all that follows through line 11, and insert ''not less than 5 percent of such funds in fiscal year 1999, 10 percent of such funds in fiscal year 2000, 15 percent of such funds in fiscal year 2001, and 20 percent of such funds in fiscal year 2002 and each subsequent fiscal year, shall be used to expand existing support for epidemiological, behavioral, psychopharmacological, psychobiological, psychophysiological, health services and social science research related to the prevention and treatment of tobacco addiction. Research described in this paragraph shall include research on the effect of nicotine on brain and behavior as well as the behavioral etiology of tobacco use.''.

On page 159, line 13, strike ''(d) may'' and insert ''(c) shall''.

On page 160, line 17, strike ''(h)'' and insert ''(f)''.

On page 160, line 18, strike ''may'' and insert ''shall''.

On page 161, strike lines 1 through 3.

On page 161, between lines 3 and 4, insert the following:

''(3) annually prepare and submit to Congress a report containing a description of the research undertaken pursuant to subsection (c) and an assessment of whether the requirement of subsection (c) has been met with respect to the preceding year;''.

On page 161, line 6, strike the period and insert ''; and''.

On page 161, between lines 6 and 7, insert the following:

''(5) use not less than $10,000,000 of the funds made available under this section in each fiscal year to carry out this subsection.''.

On page 161, strike lines 12 through 15.

McCAIN AMENDMENT NO. 2711

(Ordered to lie on the table.)

Mr. McCAIN submitted an amendment intended to be proposed by him to the bill S. 1415, supra; as follows:

Beginning on page 367, strike line 19, and all that follows through line 19 on page 368, and insert the following:

(a) IN GENERAL.—It is unlawful for any person to sell, or ship or deliver for sale or shipment, or otherwise introduce in interstate or foreign commerce, or to receive therein, or to remove from Customs custody for use, any tobacco product unless such product is packaged and labeled in conformity with this section, in order to counter trafficking in tobacco contraband and for other purposes.

(b) LABELING AND TRACKING.—

(1) IDENTIFICATION.—Not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate regulations that require each manufacturer or importer of tobacco products to place a unique serial number on all packages of tobacco products manufactured or imported for sale or distribution. The serial number shall be designed to enable the Secretary to identify the manufacturer or importer of the product, and the location and date of manufacture or importation of the product, and to track tobacco products through the stream of commerce. The Secretary shall determine the size, location, legibility and other characteristics of the serial number.

(2) ADDITIONAL MARKING REQUIREMENTS FOR EXPORTS.—Each package of a tobacco product that is exported shall be marked for export from the United States. The Secretary shall promulgate regulations to determine the size and location, and other characteristics, of the mark and under what circumstances a waiver of this paragraph shall be granted.

CHAFEE AMENDMENT NO. 2712

(Ordered to lie on the table.)

Mr. CHAFEE submitted an amendment intended to be proposed by him to the bill S. 1415, supra; as follows:

On page 195, line 15, strike ''and''.

On page 195, line 17, strike the period and insert ''; and''.

On page 195, between lines 17 and 18, insert the following:

''(v) activities related to the national education and outreach campaign under section ____ of title V.''.

At the appropriate place in title V, insert the following:

SEC. _____. EDUCATION AND OUTREACH.

(a) NATIONAL EDUCATION AND OUTREACH CAMPAIGN.—The Administrator shall use amounts made available under section 451(b)(2)(C) in each fiscal year to establish a national education and outreach campaign relating to the effect on individuals of exposure to tobacco smoke and ways to minimize such exposure. In establishing such campaign, the Administrator shall—

(1) focus on children's exposure to environmental tobacco smoke in the home; and

(2) coordinate activities with the Secretary of Health and Human Services and other Federal agencies as determined appropriate by the Administrator.

(b) PEER REVIEW.—The Administrator shall use amounts made available under section 451(b)(2)(C) in each fiscal year to carry out research, and provide for peer review studies of research, related to the exposure of individuals to environmental tobacco smoke.

(c) FUNDING.—There shall be made available from the Public Health Allocation Account established under section 451(b) to the Administrator—

(1) $50,000,000 for each of the fiscal years 1999 through 2003 to carry out subsection (a); and

(2) $5,000,000 for each of the fiscal years 1999 through 2003 to carry out subsection (b).

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, June 17, and Thursday, June 18, 1998, to conduct a hearing on H.R. 10, the Financial Services Act of 1998.

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

COMMITTEE ON FINANCE

Mr. GREGG. Mr. President, the Finance Committee requests unanimous consent to conduct a hearing on Wednesday, June 17, 1998, beginning at 10 a.m. in room 215 Dirksen.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized

to meet during the sessions of the Senate on Wednesday, June 17, 1998, at 11:30 a.m. and 2 p.m. to hold two hearings.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. GREGG. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Wednesday, June 17, 1998, at 9:30 a.m. for a business meeting.

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

COMMITTEE ON THE JUDICIARY

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, June 17, 1998, at 9 a.m. in room 226 of the Senate Dirksen Office building to hold a hearing on: ''Drug Abuse Among Our Children: A Growing National Crisis.''

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. GREGG. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, June 17, 1998, at 2:30 p.m. to hold a closed hearing on Intelligence Matters.

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

SUBCOMMITTEE ON COMMUNICATIONS

Mr. GREGG. Mr. President, I ask unanimous consent that the Communications Subcommittee of the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, June 17, 1998, at 9:30 a.m. on Spamming and S. 2107.

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

SUBCOMMITTEE ON CONSTITUTION, FEDERALISM, AND PROPERTY RIGHTS

Mr. GREGG. Mr. President, I ask unanimous consent that the Subcommittee on Constitution, Federalism, and Property Rights, of the Senate Judiciary Committee, be authorized to meet during the session of the Senate on Wednesday, June 17, 1998, to hold a business meeting, off the floor, in the Capitol Building, following the first vote.

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

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. GREGG. Mr. President, I ask unanimous consent that the Subcommittee on Forests and Public Land Management of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, June 17, for purposes of conducting a subcommittee hearing which is scheduled to begin at 2 p.m. The purpose of this hearing is to receive testimony on S. 1253, the Public Land Management Act of 1997.

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

ADDITIONAL STATEMENTS

CHINA'S MARITIME PRACTICES

• Mr. HOLLINGS. Mr. President, our country's relationship with the People's Republic of China is currently receiving a great deal of attention. One aspect of that relationship which is not getting enough attention is shipping.

The United States has an open door to Chinese shipping. Chinese companies can call at any U.S. port. They do not need any government agency to approve their schedule, their ships, or changes to those deployments. They can open branch offices anywhere in the U.S. that they wish. They can provide vessel agency services to their own vessels. This U.S. policy has allowed Chinese shipping companies to be quite free and successful. COSCO, for example, which is owned by the People's Republic of China, is by far the largest ocean carrier in the U.S.-China trade and is a major carrier in other U.S. trades. The Chinese government wants the most favorable treatment for COSCO here in the U.S.; yet it continues to deny U.S. carriers operating in China the opportunities and privileges Chinese carriers receive here.

Not only does Chinese shipping policy seek to control the trade rather than allow market forces to operate, but restrictions are becoming increasingly problematic. This lack of reciprocity is unfair.

For example, access to ostensibly open ports in China is now solely at the discretion of the Chinese Ministry of Communications. While American carriers must endure long waits for an uncertain approval of whether and where they can operate, Chinese carriers are free to call at U.S. ports without having to face such conditions. Recent Chinese regulations make this process even more burdensome and contain the potential for huge penalties.

U.S. carriers face restrictions on a host of normal commercial activities in China that Chinese carriers don't face here. For example, branch offices are restricted or prohibited. U.S. carriers cannot even provide normal vessel agency services to their own ships. This results in a considerably higher cost base for U.S. carriers versus their Chinese competitors.

The Federal Maritime Commission and the Administration have been working on and encouraging a resolution of these problems, but insufficient progress has been made. Therefore, I have written to the FMC to encourage it to use the full range of its authority to investigate these matters.

What is additionally very troubling to me—and what should be very troubling to the Chinese government if they value the government-to-government negotiation process as a way to resolve differences—is the recent turn of events in the maritime bilateral negotiations between our governments. In December of last year some progress was made. An agreement was reached on some of the outstanding issues. The U.S. government has fulfilled its promises by the FMC giving COSCO an exemption from some of the Controlled Carrier Act restrictions. But the Chinese government has not yet honored its commitments, even though it had agreed to act simultaneously with the U.S. government. The Administration recognizes this. The FMC recognizes this. The Congress recognizes this.

China's relationship with the U.S. is undermined when it fails to fulfill its promises. Our willingness to treat China favorably is undermined if the Chinese government's promises are illusory.

Not only do I urge the FMC to investigate and take appropriate action in these maritime issues, but I urge the State Department to convey to the Chinese government the damaging effect of its current maritime posture on improved trade relations.

Both our countries' trade relations are benefited by a liberalized shipping environment. An unbalanced lack of reciprocity cannot be sustained.

Mr. President, I ask that my letters to Secretary Slater at the Department of Transportation and Chairman Creel at the Federal Maritime Commission be printed in the RECORD.

The letters follow:

U.S. SENATE, COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC, June 16, 1998.

Hon. RODNEY E. SLATER,
Secretary, U.S. Department of Transportation, Washington, DC.

DEAR MR. SECRETARY: I am writing with regard to the recent trend toward maritime protectionism in the People's Republic of China. Your Department, particularly the Maritime Administration, has been actively engaged in negotiations with the Chinese to eliminate many of the restrictions faced by U.S. carriers in China. It is my understanding that, unfortunately, progress has been slow. I find particularly troubling the fact that the Chinese have failed to implement a gentlemen's agreement arrived at last December with your acting Maritime Administrator, John Graykowski.

I am attaching a letter which I have sent to Harold Creel, Chairman of the Federal Maritime Commission (FMC), asking the FMC to investigate this matter. I am certain you will agree that if the Chinese restrictions enumerated in this letter are not addressed through bilateral consultation, the FMC should act to impose countervailing sanctions on Chinese carriers doing business in the United States. Hopefully, a resolution can be reached before such steps are necessary.

I trust that resolving these China maritime issues will be among the Maritime Administration's highest priorities. The Department and the Maritime Administration have my full support in your continuing efforts to eliminate restrictions which hinder the competitiveness of U.S. carriers in China.

With kindest regards, I am
Sincerely,

ERNEST F. HOLLINGS,
Ranking Democrat.

U.S. SENATE, COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC, June 16, 1998.

Hon. HAROLD J. CREEL, Jr.,
Chairman, Federal Maritime Commission, Washington, DC.

DEAR MR. CHAIRMAN: Unfortunately over the past year, the maritime relationship between the United States and the People's Republic of China has deteriorated dramatically. This has resulted from a series of restrictive measures taken by the Chinese Ministry of Communications (MOC) aimed at limiting the activities of foreign shipping lines in China. At the same time, China's state-owned line, China Ocean Shipping Company (COSCO), has grown to become one of the largest, most successful carriers serving U.S. liner trades.

COSCO operates and competes freely and openly in the United States while our carriers face costly, anticompetitive restrictions in China. These restrictions include: (1) a cumbersome and lengthy approval process for vessel or itinerary changes; (2) limits on the number and location of branch offices for U.S. carriers in China; (3) limits on U.S. carriers ability to provide intermodal transport to inland customers; and (4) a prohibition barring U.S. carriers provision of vessel agency services. All of these costly restrictions make it extremely difficult for U.S. carriers to effectively compete in the Chinese market. Conversely, COSCO faces no similar restrictions in the United States.

U.S. negotiators from the Departments of Transportation and State have worked to bring reciprocity and fairness to our bilateral maritime relationship with China. To date these efforts have been for the most part unsuccessful. One glimmer of hope was December's ''gentlemen's'' agreement struck between our acting Maritime Administrator and the Chinese Director General for Water Transport from MOC to remove some of the roadblocks to an improved relationship.

On the United States side, MarAd and the U.S. carriers supported a petition by COSCO to your Commission for partial relief from the Controlled Carrier Act. The FMC fully granted that petition in March. However, the Chinese side has yet to keep their part of the agreement: to approve U.S. carrier port access and vessel registration applications and to grant a joint venture port operating license to a U.S. carrier. As a result of this breach, talks aimed at finalizing a new bilateral maritime agreement have broken down and U.S. carriers continue to face costly, burdensome restrictions to their operations in China.

Mr. Chairman, as you know, I have long been an advocate for fairness and reciprocity in our maritime relationships. I find the situation with China unacceptable. I urge you to act, as you have so effectively in the past, to investigate these matters and encourage China to remove these restrictions so that U.S. carriers can compete as freely and openly in China as COSCO competes here. I am confident that, as in the past, you can count on the full support of the Senate.

With kindest regards, I am

Sincerely,

ERNEST F. HOLLINGS,
Ranking Democrat.●

TRIBUTE TO RABBI ALEXANDER D. GOODE

● Mr. SANTORUM. Mr. President, I rise today to commemorate the courage and bravery of Rabbi Alexander D. Goode and the three other chaplains aboard the U.S.A.T. Dorchester on the night it sank into the icy waters off the coast of Greenland.

On February 3, 1943, the Dorchester, filled to capacity with over 900 men, was struck by German torpedoes around 1:00 am. The Germans succeeded in knocking out the ship's communication, injuring and killing scores of men, and fatally wounding the Dorchester. As the crew realized what had just occurred, chaos and panic erupted on all sides. In the midst of the confusion, four Army Chaplains, Lt. George L. Fox, Methodist; Lt. John P. Washington, Roman Catholic; Lt. Clark V. Polling, Dutch Reformed; and Lt. Alexander D. Goode, Jewish, brought hope and light to those around them.

The Arctic air made protection from the cold essential to those hoping to survive the night. As one sailor, Petty Officer John J. Mahoney, tried to return to his cabin to retrieve his gloves, he was stopped by Rabbi Goode. ''I have two pairs,'' the Rabbi said, handing the sailor the pair he had been wearing. In retrospect, Mahoney realized the Rabbi could not have had an extra pair and had sacrificed his only gloves to aide the sailor.

As the ship sank, the four chaplains distributed jackets and words of encouragement to those remaining. When there were no more life jackets left, the four removed their own preservers and handed them to the sailors next in line, sealing their own fate. Approximately 18 minutes after it was hit, the Dorchester sank. The last sight many of the survivors recall was the four chaplains, arms linked, praying together with over 600 men still on board.

The sinking of the Dorchester 55 years ago not only showed the chaplains' tremendous strength of spirit, but also illuminated their racial and religious tolerance. In an era of prejudice, these four men embraced ideas on interfaith relationships. These men shared a special brotherhood which lasted until the very end.

Mr. President, there are people in history who stand apart from the rest, and who go above and beyond what is demanded by their fellow men and women. Rabbi Goode and the three other chaplains were such men. I ask my colleagues to join me in honoring the memory of these truly remarkable heroes. Their story and the lessons it teaches will not soon be forgotten.●

TEXAS HATE CRIME

● Ms. MOSELEY-BRAUN. Mr. President, I want to offer my heartfelt condolences to the family and friends of James Byrd Jr., who was brutally murdered last week in Jasper, Texas. I am deeply saddened that we in this day and age still have this type of crime being committed in our nation.

I am even more outraged that this monstrous crime is being copied across the nation, from Louisiana to my own home state of Illinois. Just this past weekend, the Belleville News-Democrat reported that a 17-year-old from Belleville, Illinois, had to be rushed to the hospital after three youths grabbed him by his shirt and then dragged him until he fell under the wheels of their jeep. All the while they shouted racial epithets at him.

This violence must be stopped. Unless we take swift action to end these atrocities, we run the risk of endangering all the progress we have made toward undoing the ugly legacy of racism. We must stop copycat acts of cowardice from undermining the basic freedoms that we all are entitled to enjoy.

Every act of violence is reprehensible. Hate crimes are especially troubling, however, because they impact not only the victim, but the entire community. When a person is singled out and targeted for a hate crime, other members of that community feel isolated, vulnerable, and unprotected by the law. Hate crimes send a message to all members of a community that they are not free to walk the streets, to own property, or to enjoy their fundamental rights as Americans simply because of how they look or what they believe.

But these crimes do not occur only on the back roads of our nation. In 1996, 6,768 crimes committed across the nation were motivated by racial bias; 1,497 by religious bias; 1,258 by sexual-orientation bias; and 1,179 by ethnic bias. 333 of these crimes occurred in my home state of Illinois. The City of Chicago reported 175 incidents, the lowest number since the City began keeping records. Unfortunately, the inhumane nature of last week's brutal murder only remind us that there still remains work to be done to fight the hate.

Back in 1963, when a fire bomb at the 16th street Baptist Church took the lives of 4 children, the nation recoiled in horror at the cowardice and criminality of those who would resort to such violence. From that horror, however, grew a consensus that hate crimes are un-American, and must be exposed for what they are. The hood came off the hate.

We have since redoubled our effort, and must redouble our resolve that never again will such crimes be ignored or overlooked or unpunished. We must continue to work together. This means educating one another, building coalitions with our neighbors, and standing together against racism, sexism, and other forms of bigotry.

The Administration is doing their part. In June of 1997, President Clinton announced One America in the 21st Century: The President's Initiative on Race. This Initiative has proven critical to initiating the dialogue on race in this country that is essential if we are ever to live as one.

But we should do our part as well. I am a cosponsor of Hate Crimes Prevention Act, which was introduced by Senator KENNEDY in November of last year. This bill would strengthen laws to protect Americans from hate crimes. We should act swiftly to pass this law,

and to send a message to the American people that hate crimes will not be tolerated.

Again, I want to commend the people of Jasper, Texas for coming together in this time of tragedy and saying no to hate in their community. Their actions of reconciliation are an example for all of us to follow in times of moral crisis.●

100TH ANNIVERSARY OF THE HOSPITAL CORPS OF THE U.S. NAVY

● Mr. BOND. Mr. President, today is the 100th anniversary of the Hospital Corps of the United States Navy. On June 17,1898, President McKinley established the Hospital Corps which has recorded an illustrious history of service to the nation. The men and women who serve and have served as corpsmen have honored the nation, the Navy and themselves. They have upheld the highest traditions of service to the nation.

As a group, corpsmen have been the most highly decorated men and women who have served in our nation's military. Every day they put their lives at risk in the course of performing one of our highest callings as human beings, the preservation and protection of life.

Individually, during the course of their 100 year history, 1962 corpsmen have paid the ultimate price while administering to their wounded comrades on the battlefield. Twenty-seven times, their actions were so extraordinary that the individual was awarded the Congressional Medal of Honor.

There is a little known fact about a widely hailed piece of American history. On February 23, 1945, six young men raised our national colors on top of Mount Suribachi on the island of Iwo Jima. A world renowned photograph was taken and this photograph became a symbol of the self-sacrifice and devotion to duty of the United States Marine Corps and our nation's military in general. What is little known is that the second young man from the base of the flagpole, was a U.S. Navy corpsman. Only days before, that young man, Pharmacist Mate Second Class John Bradley, during the assault of Iwo Jima, pulled a young Marine to safety and bandaged his wounds while braving severe machine gun and mortar fire from a determined enemy. For his actions, Pharmacist Mate Bradley was awarded the Navy Cross. This extraordinary individual as with his other compatriots in that photo is even more extraordinary because of his anonymity. They were there for the photo by chance, they became the symbol we so readily recognize by a twist of fate. But they carried out their duties as thousands of other young Americans had done before them and since, in the most terrible of circumstances.

Corpsmen have been the protective blanket our soldiers, sailors, and Marines have relied upon in their times of greatest distress. They have been there for them to heal their wounds, to fend off the battlefield's angels of death, and sometimes to comfort them as life ebbed away. Corpsmen are representative of the best of our ideals. It is in that spirit I call upon my colleagues and all Americans to remember their significant contribution to our nation and celebrate this day in recognition of their service.●

SIGNING OF THE BULLETPROOF VESTS PARTNERSHIP GRANT ACT

● Mr. LEAHY. Mr. President, yesterday I had the privilege to attend the signing ceremony at the White House for the Bulletproof Vests Partnership Grant Act, S. 1605, with Attorney General Reno, Vice President GORE and President Clinton, who signed the bill into law.

I was honored to be joined at the ceremony by Vermont State Police Captain A. Marc Metayer and Springfield, Vermont Police Chief Barbara Higgins, who represented state and local law enforcement officers in my home state. Captain Metayer spoke on the importance of this new law and introduced the President of the United States.

I am very proud of the remarks of Captain Metayer and I ask that his remarks be printed at this point in the RECORD.

The remarks follow:

REMARKS OF CAPTAIN A. MARC METAYER, TROOP ''B'' COMMANDER, VERMONT STATE POLICE, JUNE 16, 1998

I am honored to have the opportunity to speak at the signing of the Bulletproof Vest Partnership Grant Act of 1998. I would like to thank Senator Patrick Leahy of Vermont and Senator Ben Nighthorse Campbell of Colorado for their efforts in making this lifesaving grant a reality.

As Senator Leahy knows, the need for body armor for Vermont law enforcement officers was highlighted by the two-state manhunt for Carl Drega, last August. Drega killed four people in Colebrook, New Hampshire, including New Hampshire State Troopers Scott Phillips and Leslie Lord. He then traveled into Vermont where he wounded four more officers during two separate encounters. Drega was killed in the final exchange of gunfire with a combined force of Vermont, New Hampshire and Federal law enforcement officers.

I know these circumstances from first hand experience. I was the on scene incident commander for the Vermont State Police when Drega was finally stopped.

The Drega incident brought home the fact that no area of the country, regardless of its remote nature, is immune from senseless violence: violence against our citizens and violence against our law enforcement officers. Law enforcement officers must be prepared for such violence at any time, and any place.

The Drega incident erupted from a regular traffic stop in which the Troopers were going to remove registration plates from Drega's vehicle. Moments later, two Troopers were dead, horrifying their families and their communities. All from an activity which law enforcement officers perform countless times each day: a traffic stop for a minor violation.

In the twenty years that I have served as a Vermont State Trooper, I have worn body armor as a part of my daily routine. For those twenty years, I have personally purchased successive vests since the State did not provide them. I have been fortunate enough to be in a financial position that allowed me to make these important purchases. But I have known many officers, most with young families, who simply could not afford to purchase body armor.

The Bulletproof Vest Partnership Grant Act will provide the funding to assist police departments with the purchase of body armor for their officers. Every state in the nation has communities that need this help to provide their law enforcement officers with this basic protection. In the end, this new law will save the lives of law enforcement officers in each and every state.

Thank you to all that have made this important contribution to the safety of police officers around the country.

I am now honored to introduce the President of the United States, President Bill Clinton.●

TRIBUTE TO THE NEWBROOK FIRE DEPARTMENT IN HONOR OF THEIR FIFTIETH BIRTHDAY

● Mr. JEFFORDS. Mr. President, July 5, 1998, is a great day for Vermont as we celebrate the fiftieth birthday of the Newbrook Fire Department. On behalf of all Vermonters, I want to wish the department a very happy birthday.

For a half-century, the volunteers at Newbrook's Fire Department have donated their time to provide fire protection to Vermonters living in the lower West River Valley area. These volunteers continually risk their lives to protect the welfare of others. The Newbrook Fire Department also responds to medical emergencies and, through the years, has earned the reputation as one of Vermont's most efficient volunteer response teams. This is truly admirable. I applaud such dedication and have the utmost respect for Newbrooks' courageous volunteers.

The Newbrook Fire Department is a vital part of the Newbrook community and its surrounding areas. For fifty years, the Department has given prompt and reliable service to people in the most distressing situations. It gives me great pleasure to recognize today fifty years of service and achievement of the Newbrook Fire Department and, more importantly, the volunteers who support it.●

LACK OF AFFORDABLE HOUSING

● Mr. KERREY. Mr. President, today, I want to speak on an issue of critical importance to my state of Nebraska. Whenever I travel back to the Good Life, what Nebraskans call their home, the one issue that always percolates to the top of any conversation is the lack of affordable housing, and this issue can dominate any spirited civic dialogue in our smaller communities throughout the state.

Talking with city officials, economic development groups, community planners, chambers of commerce representatives, and any of the town people who are deeply concerned about the prospects of their community, it is apparent to me, as sure as the Nebraska summer sky is blue, that more needs to be done to make sure communities

have the necessary tools to produce affordable housing and create more home ownership opportunities.

Home ownership should not be a far away dream, it should be a choice for many more Americans. Owning a home, some say, is not a right or privilege. I say owning a home is part of the American dream and should be a reachable goal for more Americans.

There are great examples of home ownership programs throughout this country, and I would like to share with you some of the exciting and innovative ideas people are trying in Nebraska.

Since 1990 the Lincoln Housing Authority (LHA) has enabled over 200 families to achieve their goal of owning a home through an innovative Home Ownership Program. LHA makes loans to qualified clients up to a maximum of $3,750. And each year the buyer remains in the home and is in compliance, 20% of the loan will be forgiven.

LHA also has an exciting project called Lease-Purchase Program which is a joint venture with the Lincoln Public Schools. Students who are in residential construction trade classes build one single family home a year. When the home is completed, the house is placed under a lease-purchase agreement with the understanding the tenants will purchase the house at the end of the five year lease period.

LHA, through innovation and unique partnerships, has made a huge difference in communities throughout Lincoln, where families who once thought home ownership was impossible, not see it as something that can be achieved.

The Holy Name Housing Corproation, along with South Omaha Affordable Housing, have implemented a 32 single family rental project called the Crown Project. The project, financed by low income tax credits, Community Development Block Grant funds, and private financing, is an incubator for home ownership. These new single family homes located in North and South Omaha neighborhoods are rented to tenants committed to home ownership. This is an exciting project for members of these neighborhoods and an excellent example of what efficient partnerships can produce.

Another fine example of what Nebraskans are doing is the example of the Kearney Housing Authority (KHA) and how they are seeking prudent partnerships that fill a need for the community of Kearney. KHA, along with the University of Nebraska at Kearney's Construction and Technology Department and the Platte Valley State Bank and Trust, is able to provide homeownership opportunities to families at income levels who otherwise could not afford it.

What KHA did was bring in the Platte Valley State Bank and Trust—with their financial expertise and competitive interest rates—and the University—who served as the contractor and the providers of excellent hands-on education for its students—to form a most qualified partnership. KHA served as ''the owner'' and saw the project from beginning to the end, which resulted in a huge success story, as families were given the chance to own a home for the first time, while the Kearney community received commitments from families who wanted to invest in Kearney.

As Americans are discussing this week how to improve home ownership opportunities and make it a reality for many more in their communities, I want to focus on rural Nebraska and how we need to make home ownership and affordable housing a reality for towns throughout Nebraska.

In 1996, a series of seven Nebraska regional focus groups comprised of community representatives and development professionals were asked ''What are the most important things to focus on in the next 12–24 months in your community?'' The top four priorities were leadership development, regional collaboration, technology, and housing.

Housing is a fundamental community need. It enhances or erodes a community's image and its appeal to business, industry, and, most importantly, the people who live there or may want to live there. Housing is a fundamental human need. Without decent, safe and affordable places to live, people lack a resource that enables them to pursue a quality of life that many others possess.

As some communities in Nebraska have seen former residents and new folks moving to their town, they find that their town does not have the housing supply to satisfy this new demand. Also, attracted by our state's economic development efforts, businesses are seriously considering rural Nebraska, but become hesitant about locating there when it is evident there is a lack of housing for the workers they aim to employ.

To ensure that job opportunities are not lost in our communities, to encourage population growth and to improve the quality of life for many Nebraskans, the serious lack of available and affordable housing must be addressed. Housing must be viewed as a component of every community's economic development future.

AFFORDABILITY

Financing affordable housing is challenging in general, but the small project located in a small town probably poses the greatest challenge of them all. Because of its size, a small project does not have the economies of scale that a larger project has, which creates a financial challenge to acquire resources into these areas. These projects cannot be ignored.

42 percent of Nebraska's 1.6 million people live in communities of 5,000 or less. Many of the new jobs coming into these towns are processing and manufacturing jobs, where wages range from $5 to $8 an hour, which is less than $17,000 annually. Indeed, the 1994 average per capita income in rural areas was $19,100 as compared to $22,444 in metropolitan areas.

According to the Nebraska Homebuilders, the average cost to build a new house is $120,000 and can get higher in rural areas when lack of credit, few building sites, cost of infrastructure development, and transportation and labor costs are taken into consideration. These numbers strongly suggest most rural Nebraskans will not be able to afford new housing.

AVAILABILITY

Increased demand coupled with limited production, increased building costs, and an aging housing stock has produced a severe housing shortage in many communities.

In 1996, the Nebraska Affordable Housing Trust Fund estimated that Nebraska communities need, over 5 years, approximately 35,000 housing units to address population growth, to replace housing units that are substandard—29 percent of the housing stock was 58 years or older in 1996—and to address the issues of affordability.

Because of the population decline of the 1980s, housing quality in rural Nebraska has suffered. Many home builders and contractors went out of business due to the lack of market. Without new homes to augment the older homes, the present housing market does not meet the needs of present demand. In essence, there are housing gaps.

Also, a greater portion of housing in rural areas is inhabited by senior citizens who may not have the money, energy, or desire to improve their homes. Older homes often fall off the market because they aren't inhabitable anymore.

From a federal standpoint, there are several tools pending in the 105th Congress that can be instrumental to communities throughout this country in need of affordable housing. I support these tools and aim to promote them among my Senate colleagues.

First, the Low-Income Housing Tax Credit (LIHTC) is probably the most important tool today that can create affordable housing in communities. In Nebraska, the LIHTC will be most effective in serving the affordable housing needs of the elderly. Also, it can be a great stepping stone for families moving into rural communities who need sound stability and then can proceed to search for home ownership options, if that is what they desire.

The LIHTC was created in the 1986 tax reform bill in the wake of decreasing appropriations for federally-assisted housing. LIHTC finances most affordable rental housing produced in Nebraska for low income working families, the elderly, and people with special needs.

Last year's GAO report on the LIHTC gave the program a healthy and favorable review. The GAO report said the program is doing more than what federal law even expected in serving the needs of the low-income. Ernst & Young assessed the program, reiterated

the GAO report, and said the present cap does not meet the needs for our communities.

Presently, the cap has not been adjusted for 10 years and inflation has muted the effectiveness of this tool for investments into communities. 45% of its purchasing power has been reduced. The present cap has created a situation where low-income needs are not being met.

According to Tim Kenny, Executive Director of the Nebraska Investment Finance Authority, which distributes the tax credit throughout the state, applications for the LIHTC far outnumber our state's supply. The need is overwhelming.

Because of this situation, I strongly support Senate Bill 1252 which would increase the cap per person under the LIHTC from $1.25 to $1.75. This would allow affordable housing projects that are pending in Nebraska to go through and be utilized in areas that need housing the most.

A second federal tool that can be extremely helpful in Nebraska are private activity tax-exempt bonds. State and local governments can sell tax-exempt bonds and then pass on the savings to lower income first-time homebuyers and for the construction of low cost rental apartments.

Presently, the cap on private activity tax-exempt bonds, set in 1986, is at $150 million, or $50 per capita. The cap applies to issuers of tax-exempt bonds for housing, economic development and other needed investments in communities. Cap growth is limited to State population increases, but not inflation.

Similar to the Low-Income Housing Tax Credit, the cap has not been adjusted for ten years and inflation has muted some of the effectiveness of this tool for investments into communities. The present cap has created a situation where demand for capped bonds has far exceeded supply. An example is the large demand for mortgage revenue bonds which can be used to finance first-time homes for lower income families. An increase in the cap could lead to housing construction in areas of Nebraska which need it most.

Senate Bill 1251 would increase the private activity tax-exempt bond cap to $250 million, or $75 per capita, and index it to inflation. I strongly support this bill as it could bring the dream of owning a home or renting a decent apartment closer to many Nebraskans. We have many qualified projects pending in Nebraska. They need to go forward.

The other federal tool that Congress needs to enact into law this year is to increase the FHA loan limit and simplify the down payment calculations for these loans.

Presently, 250 different loan limits exist throughout the country. This provision would establish one limit by raising all existing limits to $227,150.

The FHA mortgage program helps meet home financing needs for people who are not served by the private market. Many times, the down payment is the biggest barrier to home ownership and the FHA loan guarantee helps overcome this obstacle.

In the rural communities of Nebraska the FHA loan limit is $81,548. In non-metro areas only 14 percent of all new homes sell for less than existing rural FHA loan limits. With a loan limit of $81,548, the FHA loan, an effective tool for providing affordable housing, can not be implemented in a useful manner. The costs, as mentioned before, of building new quality housing, not tin huts, in most of our Nebraska communities are beyond the present FHA loan limit. We have to raise the limit if we are to utilize this tool

Each year, FHA operates at no cost to the taxpayer. Price Waterhouse reported that FHA insurance premiums and loan loss recovery proceeds more than cover the cost of claims and operations. This proposal will increase new home ownership in Nebraska and I strongly support it.

Passing these legislative proposals is important to getting tools to Nebraskans to create more affordable housing and home ownership opportunities in our communities. I will work hard to seek enactment of these bills into law and I appreciate the support and help of Nebraskans who are also working hard on making affordable housing and home ownership a reality in our state. Home ownership does not have to be a dream, it can be a reality. These tools bring that reality closer to more Nebraskans.

I also would like to mention an extremely important tool that does not require a federal law and can work just as well. That tool is communication. In Nebraska, we have many hard working people within excellent organizations who toil long hours to bring affordable housing and homeownership opportunities to people throughout the State. They understand the importance of home ownership and know what a dream like owning your own home can do for a family that finally reaches that goal.

I ask the communities of Nebraska to communicate with each other. What works great in one community might work just as great in the community one county over, but they might not be aware of such success. Communities can talk together, ask questions, meet and discuss how each other are getting along. Indeed, communication can be the best tool in creating affordable housing and home ownership. Learning from each other can only make us better and more aware, and we should always encourage more participation and more exchange of ideas.

As I have already talked about exciting new projects occurring in my state, I would also like to point out there are many organizations with housing specialists throughout the state who are instrumental in getting resources to our communities. People working at these places have ideas, they have know how and are experts in finding the means to get affordable housing to where it is needed. Along with these dedicated professionals, we have, throughout Nebraska, active non-profits with missions that make the quality of life for their neighborhoods the highest priority. Couple that fact with an army of dedicated volunteers means that home ownership and affordable housing is a realistic goal for each of our towns. Nebraska is lucky to have such resources.

We need to give these local groups the tools they need to improve the availability of affordable, quality housing. The three tools that I have mentioned can help people in these communities achieve the American Dream and should be enacted sooner rather than later.

GEORGIAN CONFLICT

• Mr. KOHL. Mr. President, disturbing events taking place around the world pose grave challenges to our U.S. strategic interests. In Pakistan and India, nuclear weapons are being developed, assembled and tested, escalating an arms race in the region. In Indonesia, the collapse of the rupiah has caused an economic and political crisis that has reverberated throughout the international financial markets. In China, missile proliferation looms ominously as evidence suggest that China conspired to sell entire missiles to other nations. And, in the former Yugoslavia province of Kosovo, NATO defense ministers have launched air exercises in an effort to convince Serbian dictator Slobodan Milosevic to halt his crackdown on the separatist ethnic Albanians in what has become Europe's most threatening security crisis since the 1992–95 Bosnian war.

These are just some of the more widely known international crises—requiring U.S. vigilance to protect its strategic interests. But there are lesser known struggles in remote and distant lands that have significant implications for U.S. foreign policy. One of these that deserves our attention is the conflict in the Republic of Georgia and its small break-away region of Abkhazia. In the wake of the recent armed insurrection in Abkahazia, U.S. efforts to ensure Georgia achieves and sustains political independence and economic stability must be enhanced.

Of all the newly independent states to emerges from the breakup of the former Soviet Union, Georgia is considered the most pro-western nascent democracy. Since its independence in 1991, Georgia has faced and begun to surmount formidable problems of economic collapse, civil war, separatist conflict, rampant crime, political infighting, and human rights abuses. Much to Russia's chagrin, Georgian President Eduard Shevardnadze has exerted strong leadership by moving Georgia away from Russia's sphere of influence. He has pursued an independent foreign policy, ushered in democratic and market reforms, and

achieved annual growth rates of 10 percent.

Moreover, Georgia is a NATO borderland and at the entry point to the emerging new ''Silk Road'' that traverses Central Europe to China. This commercial route will eventually encompass oil and gas pipelines, roads, railroads, bridges, airports and communications networks. It will completely alter the region's economic and political landscape. Because Georgia is situated at a critical juncture in the corridor, stability in this state, and its neighbors, is essential. There are signs of a Russian strategy to keep the region frozen in instability, thereby discouraging commercial investment, and ultimately forcing nascent democracies and their resources back into Russia's tacit control.

The small, breakaway region of Abkhazia has been Russia's best available instrument to diminish Georgia's accomplishments and to imperil its remarkable gains. Numerous and compelling reports, including eye-witness accounts by Georgian refugees, suggest active Russian involvement in arming, training and sustaining Abkhazia's so-called freedom fighters against Georgian nationals.

In this context, I am very concerned by indications of Russian activities and covert aggression aimed at eroding public support for President Shevardnadze and his administration. I regard Georgian independence from Russian hegemony as a critical first step toward stability in the region.

I strongly encourage the administration to end its neglect of this situation and become actively engaged. The administration should state unequivocally that it stands behind the leadership of Georgian President Eduard Shevardnadze; that the stability and survival of an independent, democratic Georgia is in our national interest; and that the U.S. will consider all appropriate measures necessary to help build closer economic and political ties between Georgia and the United States. Finally, the administration should call the Russians to task for engaging in activities that would re-subordinate Georgia to Moscow's rule.

Moreover, Congress should move expeditiously to secure enactment of the ''Silk Road Strategy Act of 1997.'' This legislation is designed to promote sovereign and independent democratic governments; assist in the development of infrastructure necessary for communications, transportation, energy and trade on an East-West axis; and promote market-oriented principles and practices among Central Asian and South Caucasus countries. Passage would help curb Russian hegemony in the region and contain the spread northward of anti-western Islamic extremism. The legislation is designed to assist all the nations of the region—Armenia, Azerbaijan, Georgia, Kazakhastan, Kyrgyzstan, Turkmenistan, Tajikistan and Uzbekistan.

Russia is again increasing its grip on the region and working to keep these countries from maintaining their independence. Iran continues to exert influence to foster anti-western attitudes. It is critical that we help these countries look westward to contain extremist forces hostile to U.S. interests—and this is a good place to start.●

TRIBUTE TO MRS. ROSEMARIE PECILLO KNOWLTON

● Mr. SANTORUM. Mr. President, I rise today to recognize Mrs. Rosemarie Pecillo Knowlton. For almost 50 years, Rosemarie has dedicated her life to education. She will be sincerely missed after her retirement from Sacred Heart Parish School.

At the age of four, Rosemarie asked to attend school with some of her older friends. The principal allowed her to begin, believing it was probably just a ''phase.'' This phase turned into a teaching career. Such was her desire to teach, that immediately after graduating high school, Rosemarie took a teaching position which required her to travel on four modes of public transportation just to commute back and forth.

When Rosemarie transferred to a position closer to home, she decided to continue her own formal education by taking night classes at Villanova University. There, she met her future husband, Arthur L. Knowlton. They were married in 1956. As her son, Arthur, Jr., graduated from high school in 1975, Rosemarie also received her degree from Villanova.

Rosemarie never saw teaching as a job that began and ended with morning and afternoon bells. She enriched her students through forensics, the annual Science Fair, and CCD classes. She also directed the school's music shows, the Parish Living Stations of the Cross, and the Living Rosary.

Mr. President, the lives Rosemarie has touched are too numerous to count. She is leaving a legacy of dedication and accomplishment, and her son, Richard, carries on the family's teaching tradition. I ask my colleagues to join me both in congratulating Rosemarie for 46 years of dedication to the children of southeastern Pennsylvania and in extending the Senate's best wishes to the Knowltons as Rosemarie retires to devote all of her time to her husband, children, and seven grandchildren.●

AMERICA-ISRAEL FRIENDSHIP LEAGUE CELEBRATES ISRAEL'S 50TH ANNIVERSARY

● Mr. MOYNIHAN. Mr. President, I rise to inform the Senate of a celebration being held later this evening in New York's historic Gracie Mansion. New York City's Mayor Rudolph Giuliani and his wife Donna Hanover will be joining the America-Israel Friendship League and the Jewish Community Relations Council of New York in hosting a gala dinner celebrating the State of Israel's Golden Jubilee. It is most appropriate that the city with the largest Jewish population in the world is hosting this official celebration of Israel's fiftieth anniversary.

The members of the Senate are familiar with the important work of the America-Israel Friendship League (AIFL), a national, non-sectarian organization committed to maintaining and strengthening the historic, mutually supportive relationship between the peoples of the United States and Israel. Founded in 1971, the AIFL's activities generate bi-partisan support in reaching out to our citizens of all faiths and ethnic backgrounds in an effort to educate Americans and Israelis about the common interests they share. With a membership and leadership comprised of political, religious, labor, business, and community activists of all faiths, the diversity of the AIFL's membership makes its efforts even more extraordinary. The distinguished publisher Mortimer Zuckerman currently serves as the League's president, one of New York's leading attorneys Kenneth Bialkin serves as chairman of the board, and the talented Ilana Artman is the League's executive vice president.

As a non-sectarian, people-to-people organization, the AIFL is devoted to fostering cultural and economic ties between the United States and Israel and to strengthening the unique friendship between our country and the only democracy in the entire history of the Middle East. Throughout Israel's first half century. the people of Israel have struggled to survive in a hostile region. Enduring five wars, they have most recently embarked on an historic journey in search of peace.

The United States' support for Israel is grounded in an appreciation of the shared values and principles that are at the foundation of American and Israeli societies. Israel is the only country in the Middle East that, like the United States, is founded on the rights and privileges that guarantee a free society: elected government; freedom of speech; freedom of the press; an independent judiciary; and the rule of law. There have been just fourteen free elections in the entire history of the Middle East: all fourteen have been held in the State of Israel since 1948.

To promote the unique friendship between these two great democracies, the AIFL has successfully mobilized a coalition of Americans of all ages and backgrounds to participate in a broad range of cultural and educational programs. Three of our most revered former members—Frank Church, Hubert Humphrey, and Jacob Javits—played major roles in creating the League in 1971, and I can testify to how strongly they believed in the League's mission and responsibilities.

I ask that a report on tonight's dinner be printed in the RECORD.

MAYOR RUDOLPH W. GIULIANI AND THE AMERICAN-ISRAEL FRIENDSHIP LEAGUE JOIN IN MAJOR NEW YORK CITY 50TH ANNIVERSARY CELEBRATION

Mayor Rudolph W. Giulinai and the American-Israel Friendship League announce that a gala celebration of Israel's 50th anniversary will be held at Gracie Mansion on Wednesday evening, June 17, 1998.

Mayor Giuliani, who serves with Edgar Bronfman as co-chair of New York City's Official Host Committee for Israel's Fiftieth Birthday, has agreed to open his home for a gala dinner marking 50 years of US-Israel friendship and joint achievements. The evening's guests will include leaders of the US and Israeli governments; faith communities; industry and community organizations.

''I am particularly proud to host this special event, in celebration of Israel's historic 50th Anniversary and in commemoration of our shared traditions of democracy,'' said Mayor Giuliani. ''This exciting gala will be an important part of New York City's celebration of Israel's important milestone birthday.''

The dinner will celebrate Israel's accomplishments and will recognize and honor US and Israeli individuals, organizations and companies for their joint achievements. The United States and Israel have a long record of cooperation on strategic, scientific research, economic development and education projects. These initiatives have generated remarkable breakthroughs and have had a major impact on medical research, international communications, agriculture, computer and high technology, and many other areas.

''It will be an exciting evening'' said Mortimer B. Zuckerman, Publisher of the New York Daily News and President of the American-Israel Friendship League. ''The Gracie Mansion gala will bring together a cross section of society, people of all parties and stripes, from both sides of the ocean, coming together in New York City in celebration of the strength of US–Israel friendship and cooperation.''

''The dinner will be a festive occasion with an important message,'' said Kenneth J. Bialkin, Partner of the law firm Skadden, Arps, Slate, Meagher & Flom, and chairman of the AIFL's Board of Directors. ''It will highlight the mutual benefits to both the United States and Israel of our close, long-standing relationship. It is an association based on common values, on shared interests and on genuine friendship between our two peoples.''

The American-Israel Friendship League is a national, non-sectarian organization committed to maintaining and strengthening the historic bonds between the people of the United States and Israel. Founded in 1971, the League's activities generate bi-partisan support in reaching out to all faiths, ethnic backgrounds, all age groups and political persuasions in an effort to educate Americans and Israelis about the common interests that they share.●

ORDERS FOR THURSDAY, JUNE 18, 1998

Mr. JEFFORDS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10 a.m. on Thursday, June 18. I further ask unanimous consent that on Thursday, immediately following the prayer, the routine requests through the morning hour be granted, and the Senate then resume consideration of S. 2138, the energy and water appropriations bill.

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

PROGRAM

Mr. JEFFORDS. Mr. President, for the information of all Senators, the Senate will reconvene tomorrow at 10 a.m. and immediately resume consideration of the energy and water appropriations bill. It is hoped that Members who wish to offer amendments to the energy and water bill will come to the floor during Thursday's session to offer and debate their amendments under short time agreements. Therefore, roll-call votes are possible during Thursday's session of the Senate. The leader would like to remind Members that the Independence Day recess is fast approaching and, therefore, the cooperation of all Members will be necessary to make progress on a number of important items, including appropriations bills, any available conference reports, the Higher Education Act, the DOD authorization bill and any other legislative or executive items that may be cleared for action.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. JEFFORDS. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:56 p.m., adjourned until Thursday, June 18, 1998, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate June 17, 1998:

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

IDA L. CASTRO, OF NEW YORK, TO BE A MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR A TERM EXPIRING JULY 1, 2003, VICE PAUL STEVEN MILLER.

IN THE COAST GUARD

THE FOLLOWING NAMED OFFICER FOR PERMANENT APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES COAST GUARD UNDER TITLE 14, U.S.C., SECTION 211:

To be lieutenant

CHRISTOPHER A. BUCKRIDGE, 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. LEON J. LAPORTE, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. JAMES M. LINK, 0000.