

I say this is demonstrated right here as clear as can be. What we have seen is, as the price has gone up over a period of years, teenage smoking has gone down, except in 1982 when we had the wars, then we had the drop, and we see that incredible spike and the leveling years with \$5 billion a year in tobacco advertising, getting those children, holding those children, addicting those children in this country.

Madam President, now is the time. Now is the time to speak up for the children of this country. Now is the time to speak out about public health. We have not heard all morning long, all last night, all yesterday, we have not heard the opposition give the name of one notable, credible public health official who denies what we have stated hour after hour about the dangers for the children of this country—not one. They can't answer it.

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

Mr. KENNEDY. That is why this amendment should be accepted.

Mr. ROBB. Madam President, I rise in opposition to the amendment offered by the Senator from Massachusetts. I do so fully supporting what the authors of the amendment seek to achieve—a reduction in teen smoking.

I, too, want to keep tobacco out of the hands of children. And I'm convinced that the best way to achieve that goal is to pass a reasonable, comprehensive tobacco bill. I have not abandoned hope that such a reasonable bill can still be achieved. But I am convinced that this amendment will make it more difficult to pass comprehensive legislation, and I therefore will vote against it.

For over a year, I have been saying that I believe a resolution of these issues that have dogged the tobacco industry are in the best interests of all concerned, including children, public health advocates, tobacco farmers, workers and their communities, the states and yes, the companies. To achieve the delicate balance that is a prerequisite to enacting such a complex bill, however, we need to remain centered. If the bill becomes too punitive in the one direction, or too protective in the other, we will fail ultimately to take advantage of this historic opportunity to resolve these issues.

In that same spirit, I intend to oppose other amendments which would, if adopted, make final passage of a reasonable bill much less likely.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

AMENDMENT NO. 2427

Mr. KERRY. Madam President, I move to table the Ashcroft second-degree amendment No. 2427, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

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

The PRESIDING OFFICER. There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. To ascertain the presence of a quorum, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. KERRY. Madam President, I ask unanimous consent that at the conclusion of the vote on the tabling of the Ashcroft amendment, the Senator from Texas be afforded 10 minutes to speak, at which point the vote on whatever might occur.

Mr. KENNEDY. Reserving the right to object, will the Senator restate that please?

Mr. KERRY. Madam President, the request is that we would vote on the tabling of the Ashcroft amendment now, at the conclusion of that there would be 10 minutes for the Senator from Texas to speak, at which point the manager for the majority, Senator MCCAIN, would be recognized. That is my request.

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

Mr. KERRY. I thank the Chair.

Mr. MCCAIN. The yeas and nays have been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered.

The question now occurs on agreeing to the motion to lay on the table the amendment offered by the Senator from Missouri, Senator ASHCROFT. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT (when his name was called). Present.

Mr. NICKLES. I announce that the Senator from New Hampshire (Mr. SMITH) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 72, nays 26, as follows:

[Rollcall Vote No. 143 Leg.]

YEAS—72

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

NAYS—26

Allard	Faircloth	Kyl
Ashcroft	Gramm	McConnell
Burns	Grams	Nickles
Coats	Hagel	Sessions
Cochran	Helms	Shelby
Coverdell	Hutchinson	Thomas
Craig	Hutchison	Thompson
Domenici	Inhofe	Warner
Enzi	Kempthorne	

ANSWERED "PRESENT"—1

Lott

NOT VOTING—1

Smith (NH)

The motion to lay on the table the amendment (No. 2427) was agreed to.

Mr. KERRY. Madam President, I move to reconsider the vote.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

AMENDMENT NO. 2422

Mr. GRAMM. Madam President, we have had over a dozen Senators who have stood up and said that while the Kennedy amendment raises the effective tax on a pack of cigarettes to \$1.50 per pack, it has absolutely nothing to do with money. Over and over, our colleagues have said this is not about money, it is about children. They say they don't want the money, they want the impact of higher cigarette prices to discourage children from smoking.

It seems to me, Madam President, that if that is in fact what they want, that there is a simple way to give it to them, and that is, we should attach to the Kennedy amendment a tax cut aimed at the very people who are paying this increase in the price of cigarettes. In doing that—may I have order?

Mr. KERRY. Madam President, I make a point of order that the Senate is not in order.

The PRESIDING OFFICER. The Senate will be in order. We will not proceed until the Senate is in order. The Senator from Texas is entitled to be heard. The Senator's time will not begin until there is order.

The Senator from Texas.

Mr. GRAMM. Madam President, I thank the Presiding Officer.

Madam President, we have a dilemma in that our colleagues assure us that while this amendment raises hundreds of billions of dollars, that it is not about money. They say they don't want the money, they want the impact of higher cigarette prices. But yet the cold reality is, those prices are going to be paid in higher out-of-pocket costs by blue-collar workers all over America. Thirty-four percent of the cost of this tax increase that is now pending as an amendment here in the Senate will be borne by Americans who make less than \$15,000 a year. Forty-seven percent of it will be borne by Americans who make less than \$22,000 a year.

And 60 percent of it will be borne by Americans who make less than \$30,000 a year. None of this tax increase will be paid for by tobacco companies. Sixty percent of the tax increase will be paid for by Americans who make less than \$30,000 a year.

So if the motion to table the Kennedy amendment fails and the Kennedy amendment remains pending, it would be my objective to offer, along with Senator DOMENICI, a second-degree amendment that will repeal the marriage penalty for working Americans in families that earn less than \$50,000 a year. In doing so, Senator KENNEDY would have the higher cost of tobacco, but the same people who are paying that tax, while seeing the cost of cigarettes rise would, by having the marriage penalty eliminated, where Americans who fall in love and work at the same time and get married now end up paying higher taxes for the privilege of being married, have that penalty eliminated, so that we would still get the impact of a higher price on inducing children not to smoke.

But blue-collar working Americans, a waitress and a truck driver who are married and who both smoke, under this bill will pay an estimated \$712 in new taxes, new excise taxes. We should give that money back to them in a tax cut so that we don't dramatically lower the living standards of blue-collar workers.

I want to remind my colleagues of the incredible fact that the amendment before us, the Kennedy amendment, will mean that Americans who make less than \$10,000 a year will see their Federal taxes rise by 53 percent.

So I urge my colleagues, in this rush to tax tobacco companies, to remember that the Kennedy amendment does not tax tobacco companies, it taxes Americans who basically make less than \$30,000 a year. It will drive up the Federal tax burden of those who make less than \$10,000 a year by over 50 percent.

So I hope my colleagues will table the amendment. But if they don't table the amendment, Senator DOMENICI and I will offer an amendment which lets the tax increase stand but simply takes the money and gives it back to blue-collar working families who are, I have to remind my colleagues, the victims in this debate.

There is a terrible paradox that, instead of taxing the tobacco companies, we are taxing the very people who have been induced to smoke, and therefore the victims are being punished with an excruciating, bone-crushing tax increases so that a working couple will pay \$712 in taxes a year as a result of the Kennedy amendment.

If, in fact, our colleagues are only interested in the impact on teenage smoking, then they won't object to the amendment that Senator DOMENICI and I are offering because we don't take the tax off, we simply say take that money, eliminate a discrimination in the Tax Code against married, working people, blue-collar families making less

than \$50,000 a year, and give them the money back. Also under our provision, we would adjust for the marriage penalty before you calculate the earned income tax credit so that the substantial amount of the benefits would go directly to those Americans who are making less than \$10,000 a year who are going to see their Federal tax burden grow by over 50 percent under this bill.

I would like to first ask my colleagues to remember, this is not Joe Camel that this bullet is getting ready to hit. This is not a big tobacco company. This is Joe and Sara Brown, two hard-working Americans who have been induced to smoke. They are the victims in this whole process. And, yet, we are getting ready to take \$712 a year out of their pockets. If we don't table this amendment—and I hope we do table it—Senator DOMENICI and I will offer an amendment that will take the money that is raised from this tax increase and we will give it back to the very people who are going to pay these higher taxes. But we will give it back to them by eliminating the marriage penalty, so that they will have to pay more for tobacco, and hopefully they will stop smoking. But they won't be poorer. They won't see their Federal tax burden go up by 50 percent. They won't be crushed by an oppressive and very, very punitive and regressive tax.

Let's remember, it is the victim of the process who is being assaulted by this amendment. I hope my colleagues will vote for the McCain motion to table it. But if they don't, Senator DOMENICI and I will try to give our colleagues what they claim they want. That is, they want the tax; they don't want the money. Well, let's give the money back to blue-collar working families in West Virginia, in Texas, in New Mexico and across the country who make less than \$50,000 a year and who need every penny they get. They are the people who are outraged about the fact that they have been exploited by being induced to smoke and in many cases have become addicted to nicotine. They are the ones who are being harmed by the amendment we have before us.

I think the issue is clear. I hope my colleagues will not impose this massive tax increase of \$712 on a blue-collar working family where both the husband and the wife smoke. I hope they will not crush them with this tax. But if they decide to, if they decide to do it, then Senator DOMENICI and I will have an amendment to give the money back to married taxpayers by eliminating the marriage penalty for American families that earn less than \$50,000 a year, and we will make the adjustment above the line so that those who receive the earned income tax credit, the poorest people in America who work, will receive the benefit of our tax cut.

I yield the remainder of my time.

The PRESIDING OFFICER. Under the previous order, the Senator from Arizona is recognized.

Mr. MCCAIN. Madam President, I am going to make a motion to table the

Kennedy amendment. Before I do, I would like to, for the benefit of my colleagues who would like to know what is going on here, say our intention is—and none of this is by unanimous consent—but our intention is to move to the Senator from New Hampshire, Senator GREGG, who has an amendment concerning immunity.

In our custom of going back and forth, since Senator GRAMM was the last speaker, I would like to have Senator KERREY of Nebraska be able to speak for about 15 minutes. Then we would move to Senator GREGG.

I would like to have a vote on that tonight. But I also urge my colleagues to come and talk on the bill as well as its amendment, because I have been told by Members on both sides of the aisle that there is great frustration that they have not been able to address the entire bill, much less amendments.

I intend to stay tonight as long as is necessary. I will force the Senator from Massachusetts to do the same thing, and we will try to get as much debate and discussion of this very important bill before we leave tonight.

Madam President, at this time I move to table the Kennedy amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT (When his name was called). Present.

Mr. NICKLES. I announce that the Senator from New Hampshire (Mr. SMITH) is necessarily absent.

The result was announced—yeas 58, nays 40, as follows:

[Rollcall Vote No. 144 Leg.]

YEAS—58

Abraham	Feingold	McCain
Allard	Feinstein	McConnell
Ashcroft	Ford	Mikulski
Bennett	Frist	Murkowski
Bond	Gorton	Nickles
Breaux	Gramm	Reid
Brownback	Grams	Robb
Burns	Gregg	Roberts
Byrd	Hagel	Roth
Campbell	Hatch	Santorum
Cleland	Helms	Sessions
Coats	Hollings	Shelby
Cochran	Hutchinson	Stevens
Collins	Hutchison	Thomas
Coverdell	Inhofe	Thompson
Craig	Inouye	Thurmond
DeWine	Kempthorne	Torricelli
Domenici	Kerrey	Warner
Enzi	Kyl	
Faircloth	Mack	

NAYS—40

Akaka	Dorgan	Lautenberg
Baucus	Durbin	Leahy
Biden	Glenn	Levin
Bingaman	Graham	Lieberman
Boxer	Grassley	Lugar
Bryan	Harkin	Moseley-Braun
Bumpers	Jeffords	Moynihan
Chafee	Johnson	Murray
Conrad	Kennedy	Reed
D'Amato	Kerry	Rockefeller
Daschle	Kohl	
Dodd	Landrieu	

Sarbanes Snowe Wellstone
Smith (OR) Specter Wyden

ANSWERED "PRESENT"—1

Lott

NOT VOTING—1

Smith of New
Hampshire

Mr. MCCAIN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. KERRY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

UNANIMOUS CONSENT AGREEMENT—VETO MESSAGE ON S. 1502

Mr. LOTT. Mr. President, we have cleared this with all concerned parties, including the Democratic leadership.

I ask unanimous consent that the veto message to accompany S. 1502 be considered as read, printed in the RECORD, and spread in full upon the Journal, and further, that it be set aside to be called up by the majority leader after consultation with the Democratic leader.

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

The message of the President is as follows:

To the Senate of the United States:

I am returning herewith without my approval S. 1502, the "District of Columbia Student Opportunity Scholarship Act of 1998."

If we are to prepare our children for the 21st Century by providing them with the best education in the world, we must strengthen our public schools, not abandon them. My agenda for accomplishing this includes raising academic standards; strengthening accountability; providing more public school choice, including public charter schools; and providing additional help to students who need it through tutors, mentors, and after-school programs. My education agenda also calls for reducing class size, modernizing our schools and linking them to the Internet, making our schools safe by removing guns and drugs, and instilling greater discipline.

This bill would create a program of federally funded vouchers that would divert critical Federal resources to private schools instead of investing in fundamental improvements in public schools. The voucher program established by S. 1502 would pay for a few selected students to attend private schools, with little or no public accountability for how those funds are used, and would draw resources and attention away from the essential work of reforming the public schools that serve the overwhelming majority of the District's students. In short, S. 1502 would do nothing to improve public education in the District of Columbia. The bill won't hire one new teacher,

purchase one more computer, or open one after-school program.

Although I appreciate the interest of the Congress in the educational needs of the children in our Nation's Capital, this bill is fundamentally misguided and a disservice to those children.

The way to improve education for all our children is to increase standards, accountability, and choice within the public schools. I urge the Congress to send me legislation I have proposed to reduce class size, modernize our schools, end social promotions, raise academic standards for all students, and hold school systems, schools, and staff accountable for results.

WILLIAM J. CLINTON.

THE WHITE HOUSE, May 20, 1998.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The Senate continued with the consideration of the bill.

Mr. LOTT. Mr. President, we have had a good bit of discussion today and two very important votes. I hope that we can move on now to some other amendments that really are important and will determine how this legislation is eventually written.

I thank Senators again for keeping calm and working through this. The managers are working very diligently. I emphasize again to my colleagues, while I think every Senator obviously needs to have the time and will have the time he or she needs to make a statement, I do think it would be wise if you can say what you have to say and we can move on. To go for an extended period of time on an amendment 2, 3, 4, 5 hours is going to make it very difficult to ever get a satisfactory result.

I hope Senators will agree to some reasonable time limits. I am not going to ask for a unanimous consent agreement now. I don't think it is necessary, but I will suggest the form that we might take in a consent agreement as to how to proceed.

It is my hope that Senator GREGG from New Hampshire will be recognized next to offer his amendment, with Senator LEAHY, regarding immunity. Senator GREGG and Senator LEAHY have been circling the area since we started. They are ready to go. The debate should last the rest of this session today. It is my hope that the vote on, or in relation to, that amendment can be scheduled to occur first thing on Thursday morning—I mean early—so we can move to the next amendment, which will come from the Democratic side. Senator DASCHLE and Senator KERRY will have to decide what amendment that will be.

Following the disposition of that amendment offered by the Democrats, then I hope the Senate will consider the farmers' protection issue and debate it, have a vote on that issue or issues in a way, hopefully, that is agreeable and as fair as possible to both sides of that issue. Then we will

really have a feel for where we are and can make an assessment about time and where to go from there.

I hope that Senators are comfortable with that. I think that it is a fair way to proceed alternating back and forth. We are not ducking the tough issues. This last amendment was a key amendment. This next amendment is a key amendment. The farmers' amendment is critical to all concerned. So I hope this will be acceptable and we can move in this way. I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, that is, I think, a superb way to proceed. It is the way we have been trying to proceed. I thank the majority leader for trying to structure it that way.

There was an understanding prior to that that the Senator from Nebraska will proceed for 15 minutes, at which point Senators GREGG and LEAHY will be recognized for their amendment.

Mr. LEAHY. Mr. President, I have no objection to that.

Mr. KERRY. I yield the floor.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, I thank both the Senator from Arizona and the Senator from Massachusetts for allowing me to speak.

I have come to the floor to speak about the tobacco bill. I began several months ago to have conversations with Nebraskans about this legislation. The first question I was asked is, Why do we need it? What has happened here? All of a sudden we have a \$368 billion to a \$516 billion piece of legislation being introduced and people want to know how we got to where we are today.

I would like to describe, at least as I see it, how we got to where we are today in May of 1998, from a point just as recently as 2 years ago when there was no piece of legislation on the floor even remotely approaching something like this. "Why all of a sudden is Congress taking on something like this," is the question I get asked. I will try to give Nebraskans an answer.

The second question I get asked is, "What are we going to do? What is the purpose here?" On behalf of 1,600,000 Nebraskans, I will describe what this law is attempting to do, what is the piece of legislation which Senator MCCAIN and Senator KERRY have brought before this body all about.

The short answer to the question "How did we get to this point?" is that there was a potential lawsuit. There was litigation that was being proposed by States' attorneys general against tobacco companies. There was an attempt through the discovery process to get internal tobacco industry documents, and one of the tobacco companies said, "We'll provide you the information you need to proceed with your case because we are concerned that what we know is going to be discovered