

whole thing is, how embarrassing the whole thing is, and how wrong it is for veterans to not even be given a chance.

America's veterans are justifiably losing their faith in Government. This will accelerate that process for American veterans. They no longer believe that the Government that they fought to preserve intends to meet its obligation to them. I share their fear.

What is obscene about all of this is that this denial of disabled veterans' benefits occurred just before Memorial Day, when everybody on this floor and in the other body was pouring out words of patriotism, appreciation, love, respect, reverence to veterans for all they have done for their country. But in the Halls of Congress, actions often belie these words. If we do not take care of America's veterans now, one might say, who will take care of us in the future? To secure the soldiers we will need in the future, we must maintain the promises made to those who protected us in the past.

Thirty minutes equally divided up or down, Mr. President, I submit is a fair request on behalf of disabled American veterans.

I thank the Presiding Officer.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Utah is recognized to speak for up to 20 minutes as in morning business.

The Senator from Utah.

Mr. HATCH. I thank my colleagues.

Mr. President, it is my understanding that the Senator from Utah has 20 minutes and the Senator from California has 20 minutes.

The PRESIDING OFFICER. The Senator is correct. He will be followed by the Senator from California, who has 20 minutes.

Mr. BREAU. If the Senator will yield, may I have a few minutes from either Senator?

Mr. HATCH. We will be happy to do so.

TOBACCO LEGISLATION

Mr. HATCH. Mr. President, I rise to announce that—contrary to press reports that tobacco legislation is dead—in fact, a strong, bipartisan effort to enact meaningful tobacco legislation is very much alive and well in the Senate today.

Last week's action by the Senate on the Commerce Committee tobacco bill should not be viewed as a failure by this Senate to pass tough tobacco legislation.

Nor should it be viewed as a victory by tobacco companies and tobacco lobbyists to kill tobacco legislation and deny the public health benefits from a strong bill.

To be fair, there were many criticisms of the Commerce bill. It suffered from a myriad of legal problems, including several unconstitutional provisions. Its costs were very high, perhaps as high as \$800 billion. It could have provided enhanced opportunities for

black market sales, with accompanying crime and violence.

And, a bad bill was made worse on the floor with adoption of several, additional competing spending priorities which—however well-intentioned—diverted from the primary focus of the bill [e.g. child care, illegal drug abuse, tax cuts.]

In my opinion, the four weeks that the Senate spent on the tobacco bill were a critical and useful exercise in educating ourselves—and the American public—on the numerous complexities of the tobacco issue. By and large, we now have a better understanding of this issue and what Congress should do to develop a good bill.

Accordingly, Senator FEINSTEIN, Senator BREAU and I have come to the floor today to announce our bipartisan effort to work toward a strong tobacco bill that, we believe, will be acceptable to the vast majority of our colleagues.

There are eight cosponsors on our side and three cosponsors thus far on the Democrat side. And it is bipartisan.

We must not lose sight of the fact that we have a very real opportunity, a compelling opportunity to act on tobacco this year.

We believe the best framework for legislation clearly remains in the provisions of the June 20, 1997 global tobacco settlement that was agreed to by 40 State Attorneys General and the tobacco industry.

This document should serve as the blueprint on which the Senate should act. It should be clean of extraneous provisions and programs and targeted to the overwhelming need to educate our nation's youth on the hazards of tobacco use.

I call upon my colleagues—both Republicans and Democrats—to join us in this bipartisan effort to protect the lives of American youth.

I call upon the President to work with us in a bipartisan effort to forge meaningful tobacco legislation. Without your active participation and support, Mr. President, there can be no tobacco bill. Together we can make a positive and defining difference.

Senator FEINSTEIN, Senator BREAU and I are prepared to move forward with tobacco legislation that is constitutionally sound and that will protect millions of Americans, both young and old, from the enticement of the deadly tobacco habit. We simply cannot lose this opportunity.

We do not intend to remain on the sidelines while this issue languishes and political rhetoric is thrown back and forth.

Some of my colleagues have stated they intend to offer the Commerce Committee tobacco bill as an amendment to all appropriate legislation on the floor of the Senate. Let me say to my friends that I share your concern that the Senate should pass legislation this year.

I ask that you join us in our bipartisan effort to enact a settlement-based bill. Together we can realize enact-

ment of tobacco legislation that has seemed so illusive over the past several weeks.

I would like to outline this legislation so that my colleagues will understand the basics of the bill that we will file in the future.

Number one, the key to an effective program, according to public health experts, is that it must be comprehensive.

The Hatch-Feinstein bill accomplishes this goal with major provisions that build upon the June 20, 1997, agreement and the plaintiffs' attorneys' settlement proposal. Ours would require \$428.5 billion in payments over 25 years. That is \$60 billion more than the June 20, 1997 proposal.

Our bill will focus on antitobacco activities, including prevention and research efforts, and give full FDA authority over tobacco products. This is important because no comprehensive, antitobacco bill can be passed without the voluntary cooperation of the tobacco companies.

When the proposed settlement was announced last June, with a record \$368.5 billion in industry payments, we were all astounded that the tobacco companies would agree to pay that whopping amount of money. That record amount, that "ceiling" as it were, was astounding. Now there are those who talk like that is nothing.

Our bill will add another \$60 billion to that \$368.5 billion in required industry payments over 25 years.

I am hopeful our bill will bring the tobacco companies back.

Yes, they will be kicking and screaming. They will be angry. They will be upset. But, I predict they will come back.

There has been considerable debate in this body about the adequacy of the industry payments. I wish we could require \$1 trillion in payments.

The plain fact is that we have to be reasonable. If we want a comprehensive and constitutional bill, then we will have to insert provisions to bring the industry back to the discussion. Only with their participation can we have a truly constitutional, comprehensive bill.

Of the \$428 billion in industry payments, \$100 billion will be devoted to biomedical and behavioral research.

These significant new revenues are devoted to efforts to prevent, treat, and cure tobacco-related and other illnesses. We have included funds for behavioral research as well, so that we can determine the causes for youth tobacco use and determine how best to address them.

Let me emphasize, we provide \$100 billion over 25 years, or \$4 billion a year, for biomedical and behavioral research, with no possibility the funds will be diverted for other, non-tobacco-related purposes. That is something that will benefit the public health of this country significantly.

We also provide \$92 billion for important public health programs to combat

youth tobacco use, including counteradvertising, smoking cessation, and public education. Again, this is all for tobacco-related public health programs.

We also include \$18.7 billion for tobacco farm families, by melding the Lugar bill and the best of the LEAF Act, Senator FORD's bill, other than continuing the subsidies.

Public health authorities insist that increasing tobacco prices is an important weapon in our anti-youth-tobacco-use arsenal. Law enforcement is equally adamant that price increases will lead to greater opportunities for black market sales. Our bill will substantially enhance law enforcement resources at all levels—Federal, state and local—and will also provide new criminal penalties for trafficking in contraband. The Hatch-Feinstein-Breaux bill will provide \$9.4 billion for law enforcement efforts, which will be essential in the eyes of law enforcement.

Turning to another provision, our bill includes \$5 billion for tobacco-related programs for Native Americans, who are particularly hard hit by some of the problems that come from tobacco. We provide \$200 million a year for these Native American programs.

Let me add that we also give FDA strong and new authority over tobacco products, authority that is in question in light of current litigation over this issue. We also include strong look-back assessments, which, without the tobacco companies on board, will not be constitutional.

In addition, when I say we give FDA strong new authority, we mean it. We not only give them the authority, we give them the authority to ban tobacco products, with the consent of Congress, right from day one. And we require them to issue strong performance standards that industry must meet so that we can be assured that any tobacco products sold in the future, meet government-mandated standards with respect to their critical components, such as tar and nicotine and all other additives. So that is important. That is quite a bit different from what was included in the Commerce bill, where the performance standards were permissive, not mandatory. We keep the industry's feet to the fire by including a strong look-back provision which will provide the industry with the incentives to be good actors, but which will provide stringent penalties if they are not.

We provide \$204 billion to the States to settle their suits and provide reimbursement for their Medicaid costs. We waive Federal recoupment of these funds under Medicaid law.

The challenge for Congress is to design a program which works and which will withstand legal challenge. The problem with the Commerce bill, had it passed, is that it would have been litigated for probably 10 years, because it was unconstitutional.

Senator FEINSTEIN, the other cosponsors, and I, have worked very hard to

avoid constitutional and other legal pitfalls which handicapped the Commerce bill.

So, to sum up, our bill contains constitutionally permissible advertising and marketing provisions, advertising restraints well-beyond those contained in the FDA rule. We have strong look-back assessments—up to \$5 billion in penalties in 2004 and up to \$10 billion by the year 2009 if the industry does not meet the reductions in youth-smoking that we set in the bill.

And our bill mandates establishment of a documents depository in a central location, Washington, DC, where all of the tobacco companies will deposit critical industry documents. This will be done by volition, since the companies will have agreed to the protocol contained in the bill. This should make it easier for individual claimants to sue and to recover. And that is no small thing.

Now, under Hatch-Feinstein, the manufacturers, State governments, the Castano litigants, and the Federal Government voluntarily execute a binding and enforceable contractual agreement, so that tobacco companies will have agreed, voluntarily to meet the requirements of the bill.

Similarly, with the industry voluntarily consenting to the agreement, this obviates any constitutional problems with the look-back provision.

We have included several limited liability provisions, which is the one prerequisite to the industry voluntarily agreeing to a bill; this will give the industry greater predictability in their financial exposure due to lawsuits, and which in turn will provide the Federal Government with a more predictable revenue stream to operate its new antitobacco program.

Now, with respect to the limited liability provisions, we settle all Federal, State and local suits, including class actions, in line with the settlement nature of the legislation. That is what the attorneys general did. Shutting off the State litigation allows us to provide the States, counties and cities with guaranteed payments of up to \$204 billion, without the need for costly and time-consuming litigation and without Federal Medicaid recovery.

Specifically, we provide \$204 billion to the States. Forty percent of the State funds are untied; 60 percent of the State funds are targeted for 14 specific programs.

We fully preserve all individuals' rights to pursue their injury claims, and all individual suits will be preserved and allowed to proceed except for those making claim for treatment only of addiction or dependency.

We settle all past punitive damages in exchange for an unprecedented \$100 billion which will be used for biomedical and behavioral research. Future judgments against the industry, with the exception of claims for addiction and dependence, will be subject to punitive damages, but they will also be subject to a cap on total awards during any given year.

May I ask, Mr. President, how much of my time is remaining?

The PRESIDING OFFICER (Mr. ABRAHAM). The Senator from Utah has 8 minutes remaining.

Mr. HATCH. Let me just proceed a few minutes more before I turn to my colleagues, and then I will reserve the remainder of my time.

The Hatch-Feinstein-Breaux bill contains many provisions that mirror those contained in the proposed settlement of June 20 of last year.

We are trying to accomplish the art of the impossible. We want to enact this astounding settlement, this unprecedented agreement wherein the tobacco companies voluntarily concur in making large annual payments in exchange for unprecedented new advertising bans and future look-back penalties.

If we cannot maintain the consensual nature of the original settlement, then we lose the ability to accomplish many of the key elements of any comprehensive anti-tobacco legislation.

I want us to go home this year proud that we have enacted a good bill, not ashamed of our inaction or our action on a faulty bill.

I thank my colleagues for being willing to support this bill. On the Republican side it is myself, the Senator from Oregon, Mr. SMITH, Senator JEFFORDS, Senator GORTON, Senator BENNETT, Senator HUTCHISON, Senator KEMPTHORNE, and Senator DEWINE; on the other side, Senators FEINSTEIN, TORRICELLI and BREAUX. Let me reserve the remainder of my time.

The PRESIDING OFFICER. Under the previous agreement, the Senator from California has up to 20 minutes.

The Senator from California is recognized.

Mrs. FEINSTEIN. I thank the Chair. I would ask that I be notified when 10 minutes of my time has gone by, and I will try to share it with the distinguished Senator from Louisiana.

Mr. President, Senator HATCH and I have prepared our bill based on some ten hearings in the Judiciary Committee and is based on, we believe, would create a consensus to create a bill which would do the following: Create a pure tobacco bill with no additional tax measures, no drug enforcement programs, no voucher programs, but which would provide some incentives for the tobacco industry to agree, while increasing the per-pack price, and this is a gross figure, to about a \$1.50 over 10 years. This would include excise and State taxes, wholesale and retail mark-ups, manufacturers take. This bill would also ban all tobacco advertising geared toward children and ensures that the FDA has the necessary regulatory authority to regulate the contents, and to limit nicotine. It would also provide, as Senator HATCH has just said, some \$92 billion over 25 years for tobacco-related public health programs, and \$100 billion over 25 years for research, with tough look-back provisions that require the industry to reduce youth smoking by 67 percent in 10 years.

It would also require States to negotiate an allocation of tobacco funds to counties that filed lawsuits before the June 20, 1997, deadline.

As you know, the McCain bill as it came out of the Commerce Committee, required a total payment of \$516 billion over 25 years. The Hatch-Feinstein proposal requires \$428.5 billion over the same period. Under the McCain bill, as amended, it would have diverted about half the funds to programs unrelated to tobacco or public health. Under the McCain bill, there was less money going to public health programs and to the States than under Hatch-Feinstein, since 26 percent of the funds right off the top went to an election year tax cut. For instance, for the first five years, \$47.2 billion would be left over after the tax cut, the Coverdell amendment then takes the great bulk of funds available for public health programs and uses it for drug enforcement, border patrol and school vouchers. That bill allocated 40 percent of the remaining funds available for State programs, while Hatch-Feinstein allocates 50 percent of the funds directed to the State.

Under our proposal during the first five years, there would be \$10 billion more money for Federal public health research and antitobacco programs. There would also be \$7 billion more money for State public health and antitobacco programs. The public health aspect, we believe, is the most important part of this legislation. Additionally, one of the most critical areas which must be addressed for any tobacco legislation to be successful in reducing youth smoking, I believe, is advertising. The tobacco industry knows that millions of smokers quit annually and approximately 400,000 Americans die from smoking-related diseases each year. They also understand that 89 percent of all new smokers are adolescents, and for their market share to continue they must continue to market cigarettes to children, and they do.

So, advertising plays a central role in leading young people to smoke.

We know that tobacco companies can no longer advertise on television or radio, so they use alternative forms of advertising and promotion to persuade teens to start smoking. We know that, despite endless promises by the tobacco companies that they have not and would not market to children, that they would not use advertising to appeal to children, they have done exactly what they promised not to do. And the evidence is staggering.

Mr. President, 87 percent of adolescents could recall seeing one or more tobacco advertisements and half could identify the brand name associated with one of four popular cigarette slogans. As a matter of fact, in 1986 Camel cigarettes ranked seventh in popularity among the youngest age group of smokers, with less than 1 percent of all children smoking Camels. One year after Joe Camel was introduced, the

brand jumped to No. 3 among teenage smokers—from No. 7 to No. 3—because of Joe Camel. This shows a clear relationship between advertising and teen smoking.

Three months ago, I saw a tape of a television news report where a beautiful 3-year-old girl was able to match the cartoon Joe Camel with the photo of a cigarette. It was chilling. Even a 3-year-old could associate Joe Camel with cigarettes, and it was a positive association. Some have even said more children recognize Joe Camel than Mickey Mouse. It should not be this way in the United States of America.

Our provisions in this bill with respect to advertising are as follows: The companies would have to agree to ban all outdoor advertising; all Internet advertising; all stadium/arena advertising; sponsorship of athletic, music, and other cultural events; human images in ads; cartoon characters in ads; product placement in movies, TV, video games, youth publications, and live performances; placing tobacco logos on non-tobacco merchandise such as hats and T-shirts; color and image advertising except for adult-only locations; all adult magazines and newspapers; music and sound effects in audio and video advertising.

So, if a company wants to advertise in media other than periodicals, promotional material, and point-of-sale materials, it must give a 30-day notice to the FDA. These are broad, far-reaching restrictions which will severely limit exposure of children to tobacco advertising.

Senator HATCH has laid out the liability provisions very well. Something I think we have all learned from this debate is that there should be some form of liability cap. That is the incentive—part of it—for the tobacco companies to comply. Our bill caps liability at \$5.5 billion. As Senator HATCH stated, it would terminate all Federal, State, and local suits, Castano action, class action, individual preventive addiction and dependency claims.

But all individual suits will be preserved and allowed to proceed, with the exception of those making addiction or dependency treatment claims for past conduct by the companies. They could continue the addiction and dependency treatment as long as an illness was related. Consolidation would be allowed by court action or by motions to join cases filed by individuals.

Additionally, as I have mentioned, the Joe Camel suit was actually brought by a county, and yet that suit was jettisoned in the prior legislation. So we require that the states with those counties who have filed suit before 6/20/97—San Francisco, Los Angeles, Cook County, New York City, and Erie county—that they would all be recognized and provided for in this particular bill.

I want to speak to the look-back provisions for a moment, because we set tough industry targets to reduce youth smoking and they are the following: 15

percent in 3 years, 30 percent in 5 years, 50 percent in 7 years, and 67 percent in 10 years. And the penalties are actually stronger in our bill. The McCain bill, for example, had \$40 million penalty per point when the industry is 1 to 5 percent short; we would have \$100 million per point. Under McCain, if an industry is 6 to 20 percent short, their penalty would be \$120 million per point plus \$200 million. Ours impose \$200 million per point. Under McCain, it imposes a penalty cap of \$2 billion per year industry-wide and \$5 billion per year company-specific cap; in our bill, it is \$5 billion per year for 5 years and \$10 billion thereafter industry-wide.

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

Mrs. FEINSTEIN. If I might have 1 minute to sum up and then yield to the distinguished Senator from Louisiana?

Another provision in our bill that I want to speak to is the antismuggling provision. I heard so many people say, you don't have to worry about a black market, it is not going to happen. There is a black market today in California based on the present \$2-per-pack price. The trick really is how the bill phases in per-pack pricing increases plus FDA's regulation of content and nicotine to see that it is done in a way that does not create an increased black market or increased smuggling. We provide in our bill an additional \$9.4 billion over 25 years for enforcement of antismuggling provisions.

So, if the ultimate goal of tobacco legislation is to reduce teen smoking and smoking overall, we believe this bill will pass scrutiny by our colleagues. We offer to work with anyone who cares to work with us.

I would like very much to thank the chairman of the Judiciary Committee. I very much enjoyed working with him on this bill.

I now yield the remainder of my time to the distinguished Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. BREAUX. Mr. President, I thank my colleague for yielding some of her time. As well, I thank Chairman HATCH for the work that he did on this legislation. I think the two previous speakers really need to be congratulated for bringing to the Senate a commonsense approach to what has become a very tragic situation. I would like to make just a few comments about it.

You know, in Louisiana, where I am from, there is an old saying that if you like the end product, there are two things you should never watch being made; one is sausage, and the other is laws; because if you like the end product, you don't like the process that you go through to make either laws or sausage. If you observe it too carefully, you will never like the end product, perhaps is what they are trying to say.

The point I am trying to make today is, what has happened on the tobacco legislation, I think, is indeed very,

very tragic, because what started out with very good intentions has ended up with a very serious loss for all Americans who are concerned about trying to do something about tobacco. There was a poll by one of the television networks on Friday night. It said that 47 percent of the American people were pleased that the tobacco legislation that came up in the Senate was defeated; 46 percent said that they were disappointed it was defeated. The American people have to be horribly confused about the situation, where we are and what has transpired.

Do you know what we are engaged in now? We are now engaged in Monday morning quarterbacking. Members of both parties are trying to figure out how we can blame each other for the defeat of something that started off so pure and so good, with the best of intentions. Now all you see is spinmeisters saying, well, it is the Republicans' fault, because they are trying to load it up with marriage penalties and vouchers and they made it a tax bill and then they decided it was too loaded up after they loaded it up.

There are some on our side who said, "Well, no, this legislation wasn't nearly enough and wasn't tough enough on tobacco. We can be tougher on the tobacco companies than anybody else. Just watch what we can do when we want to be tough on tobacco companies." So we started with a product that was a good product in the beginning. Then, we made it so difficult that you broke the cooperation between all of the parties that is essential to get any kind of good agreement.

I suggest there is plenty of blame to go around on both sides. That is why 47 percent of the American people believe they are glad the tobacco bill is defeated; 46 percent do not feel happy, that the Senate should have passed it. The American people have to be horribly confused. I think now we have to take a look at where we are. What do we do? Do we continue to play the blame game for the rest of the year? Do we continue to see who can get the most political advantage? Or do we try to make one last desperate but incredibly important effort to put something together that we can pass and that will work?

It is really interesting if you look at what happened. You have to start from where we started. The June 20 attorneys general agreement was a compromise that really got the job done. People have come to the floor of the Senate and said, "I can't be for that because this bill was written by the health groups." Others have said, "I can't be for this bill because this bill was written by the tobacco companies." Or they can't be for this because it was written by the attorneys general or it was written by the plaintiffs' lawyers.

The truth, in fact, is the reason the June 20 attorneys general agreement was so good is because it was written by everyone involved. It was written by

the attorneys general, who filed suit on behalf of 40 States against the tobacco companies. It was written by the tobacco companies, who were the ones being sued. It was written by the lawyers for all of the injured plaintiffs who had suffered injuries from smoking-related activities. That is why it worked, because it was not written by just one group, but it was written by everybody who had an interest in trying to get a realistic settlement passed.

Now, all of the people who have now said that what we had on the floor was not nearly enough, I think they thought the June 20 agreement was pretty good. I was just looking at some of the old press releases about the June 20 agreement. One caught my attention the most. It was from the Campaign For Tobacco-Free Kids, which has been one of the strongest advocates for more, more, more, more. I understand where they are coming from, and I understand their position.

But when the June 20 agreement came out with the attorneys general and the tobacco companies, which was far less than the bill they opposed on the floor from their perspective, here is what they said about the June 20 agreement:

The agreement with the tobacco industry announced by the state Attorneys General has the potential to save millions of lives, prevent children from starting to smoke, and help break the cycle of addiction for both children and adults.

They continued:

This agreement has the potential to achieve more than could be realistically gained by any other means. The agreement can be a historic turning point in the decades-old fight to protect children from tobacco addiction and bring about a fundamental change in the role of tobacco and the tobacco industry in our lives.

They continued by saying:

The agreement goes well beyond the provisions of the FDA Rule in terms of reducing youth access to tobacco products and curbing tobacco marketing.

It goes on and on and on praising the June 20 agreement. The bill on the Senate floor was far better than this agreement, which they said such wonderful things about, yet because of a desire for more and more and who can be tougher, we ended up getting less and less and less. And where we are today is very unfortunate.

Where we are today is, there is no settlement of any of the lawsuits. No plaintiff has ever put a nickel in their pocket as a result of suing a tobacco company. This would have provided that. No settlements because of where we are; no money for the States for their Medicaid programs; no money for the States for tobacco-related expenses; no money for the National Institutes of Health to do research in this area; no additional authority for FDA to regulate nicotine as a drug; no advertising and marketing restrictions; no targets for reducing teen smoking, with penalties if these targets are not met. There is no help for farmers for getting out of the business.

And what we have now is a debate about whose fault it is. We are arguing about failure. We are arguing that, "It's your fault nothing was done"; "No; it's your fault nothing was done," instead of trying to put together a compromise where we can argue about success, where we can argue about a bill that would provide all of these things that I have just outlined, and the distinguished chairman of the Judiciary Committee outlined and about which the Senator from California spoke. We have none of that now. And we have none of that because of this rush to see who can be tougher and tougher and tougher.

I am suggesting that what Senator HATCH and Senator FEINSTEIN have brought before the Senate is a major undertaking. And we are at the point where it is time for cooler heads to prevail. We have had the political debate. We have had the political arguments. We have had the pollsters talk about who comes out the best. And in fact, the truth is we all come out, I think, looking pretty bad.

So I conclude by thanking Senator HATCH and Senator FEINSTEIN for doing what they are doing. The status of the tobacco legislation now, because of the Senate's action, is that it has been sent back to the Commerce Committee. I think we ought to take this legislation and bring it back to the full Senate.

Now that we have had the political discussion, perhaps we can find a way to come together and do something where everybody can get credit. Both sides can get credit, and the American people will win. Right now we have a situation where I am afraid that everybody is a loser. This is a good, solid, balanced approach that needs to be enacted. Thank you.

Mr. HATCH. I am happy to yield the last couple minutes of my time to the distinguished Senator from California, if she would like.

Mr. President, let me just bring one other point to the Senate's attention. Press articles in the past few days make it abundantly clear the need to enact a national settlement.

Yesterday, the Washington Post had a front page article: "Tobacco Pays for Crusade Against Itself." Think about that for a minute. This article highlights what it calls an "all-fronts attack" on tobacco, a massive counteradvertising campaign paid for by the industry itself. Those potent tools would be used by all 50 States if we enacted a national settlement. The article highlights the strong counteradvertising message that is being delivered in Florida because of the settlement.

Then today, the Post ran another article that was entitled: "Appeals Court Voids Award in Tobacco Suit." This article describes the Florida court of appeals action to overturn a \$750,000 judgment against the Brown and Williamson tobacco corporation for a smoker who lost part of his lung to cancer.

Experts agree that the ruling, which overturned a judgement termed by the AMA as a "milestone," has important national implications. This jury award was just the second jury award against a tobacco company in all of our history in this country.

Now, you can go back to the 1960s, when I became a young lawyer in Pittsburgh, PA. The first antitobacco cigarette cancer case in the history of the world was brought to the Federal district court by none other than Jimmy McArdle, one of the greatest plaintiffs' attorneys who ever lived, the lead partner in the law firm McArdle, Harrington, Feeney, and McLaughlin.

That was a big battle. This case was publicized all over the country. It was the first loss of literally hundreds of cases.

The ruling in the Florida case was just the second awarded against tobacco companies, and its reversal once again demonstrates how hard it is to successfully sue the tobacco industry.

This ruling affirms the vitality of the common law doctrine of assumption of risk which bars recovery if the plaintiff knew the risk of his action. Because of the assumption of risk doctrine, the tobacco companies win almost all their cases.

A national settlement bill, such as Hatch-Feinstein, would assure an orderly and rational payout of funds by earmarking annual payments. It would avoid the so-called "race to the courthouse" that has so many of us concerned.

These two Washington Post articles point out the need for a "global" approach in the words of the Attorneys General.

I would happily yield the remainder of my time to my friend from California.

Mrs. FEINSTEIN. I thank the chairman. And I thank him very much for all his work in this area.

I think, just to summarize—and I recognize there is a lot of territorial imperative resounding around this issue. And I hope that can be put into perspective and that we can look to find something around which we can rally.

True, this is a compromise proposal. I hope it will not be dismissed out of hand. It has a liability cap, yes. It has strong look-back provisions. It provides \$428 billion over 25 years. It does divide the money 50-50 to federal and state. The money that goes to the State can be used for 14 specific programs. The money that goes to the federal fund is used for tobacco-related research and public health programs. It does have the FDA provisions. It does have strong advertising provisions.

Now, as I have talked to people, there is a kind of purist attitude that "Unless a bill is this or that, I won't vote for it." Well, there are a lot of strong feelings on behalf of all of us. I could say—and it is true—my calls on tobacco reform have run dominantly in the negative, those people opposed to

reform. And yet I think there isn't a Member in this body who does not understand that tobacco reform is something that is important, just forged from one statistic—and that is 3,000 young people a day beginning to smoke, and 1,000 of them dying from tobacco-related illnesses.

We know we have to do something. We do know when you raise the price, teenagers stop or are deterred from buying. If you combine that with a strong no-advertising provision and a strong look-back provision to keep the companies honest, I think you have a bill that is about as good as one can get.

So I'm very pleased and proud to join with the chairman of the Judiciary Committee, once again, to offer to work with whomever in this body so that we might be able to introduce a bill that will be looked upon with favor by a majority.

I thank Chairman HATCH and I yield the floor.

Mr. HATCH. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call.

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

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

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1999

The PRESIDING OFFICER. The order of June 18, 1998, in regard to H.R. 4060 has been executed.

The bill is passed, and the conferees have been appointed.

(Pursuant to the order of June 18, 1998, the Senate passed H.R. 4060, making appropriations for energy and water development for the fiscal year ending September 30, 1999, after striking all after the enacting clause and inserting in lieu thereof the text of S. 2138, Senate companion measure, as passed by the Senate. Also, pursuant to the order of June 18, 1998, Senate insisted on its amendment, requested a conference with the House thereon, and the following conferees were appointed on the part of the Senate: Senators DOMENICI, COCHRAN, GORTON, MCCONNELL, BENNETT, BURNS, CRAIG, STEVENS, REID, BYRD, HOLLINGS, MURRAY, KOHL, DORGAN, and INOUE. The passage of S. 2138 was vitiated and the measure was indefinitely postponed.)

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

NATIONAL DEFENSE AUTHORIZATION ACT OF 1999

The Senate continued with the consideration of the bill.

Mr. BURNS. Mr. President, parliamentary inquiry: What business are we in?

The PRESIDING OFFICER. The Senate is on division I of amendment No. 2137.

Mr. BURNS. Mr. President, I ask unanimous consent that be laid aside.

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. Reserving the right to object, I ask the Senator to withhold that, if he would, for another few minutes, to see if we can work out a unanimous-consent agreement, pursuant to which he would be able to proceed. Otherwise, I think we would have to object on this side, and perhaps on your side, without that unanimous-consent agreement. We are trying, however, very hard to work out a unanimous-consent agreement to permit the Senator to proceed.

So I ask the Senator to withhold just for a few more minutes to see if we can do that. In the absence of that, I would have to object.

Mr. BURNS. I appreciate the suggestion of the manager of the bill. I will do that.

I suggest the absence of a quorum. The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. 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. BAUCUS. Mr. President, I ask consent to speak as in morning business.

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

PARTISAN FIGHTING OVER FOREIGN RELATIONS POLICY

Mr. BAUCUS. Mr. President, we are here to debate one of the most significant components of our foreign relations policy, and that is the Department of Defense authorization bill.

There is often a great temptation to exploit foreign policy debates for partisan political purposes. We all are tempted. But I believe that when we do—that is, on a foreign policy debate—it is a mistake. Such partisan fighting over critical issues of worldwide importance is both dangerous and counterproductive, and that is why I see engaging in congressional debates over China policy at this time, particularly amendments which are perceived as mischievous, is not a good idea. Although China does not manage its affairs as we would like, it makes little sense to base our relationship entirely on that concern. We should base our relationship, rather, with China on a clear view of United States interests, a