United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 106th CONGRESS, FIRST SESSION

Vol. 145 WASHINGTON, THURSDAY, MARCH 18, 1999 No. 43

Senate

The Senate met at 9:30 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Today's prayer will be offered by our guest chaplain, Dr. Gordon Reed, Sardinia Presbyterian Church, Sardinia, SC.

PRAYER

Dr. Gordon Reed offered the following prayer:

May we pray?

Almighty God, God of fathers before us, it is by Your grace and gracious hand that we have been given this land of freedom and plenty. And we humbly pray that we may prove ourselves to be a people who acknowledge You and Your goodness, and who are eager to do justly, love mercy, and to walk humbly with our God. Bless this dear land we love with honorable and upright leaders in government, industry, education, and public life.

Save us from all of our enemies and foes who would conquer and destroy us. Save us from internal strife, discord, and confusion, from pride and arrogance, and from moral disintegration. Teach us to love and respect each other, who come from such diverse backgrounds, that we may truly be one Nation under God.

We especially pray for these to whom we have entrusted the authority and power of government. Grant them wisdom, courage, and the humility to confess that all authority comes from above. May their deliberations and decisions be guided by Your almighty hand and tempered with charity toward one another. May they ever be mindful that ''sin is a reproach to any people, but righteousness exalts a nation.''

In our times of prosperity, fill us with gratitude. In our times of want and trouble, fill us with trust. And when we must endure Your chastening hand because of our waywardness, give to us a spirit of true repentance and humility. Grant us peace within and enable us to be peacemakers among the nations of this world. We ask this in the name of and by the authority of the Prince of Peace. Amen

EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT FOR FISCAL YEAR 1999

The PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 544, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 544) making emergency supplemental appropriations and rescissions for recovery from natural disasters, and foreign assistance, for the fiscal year ending September 30, 1999, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Specter amendment No. 77, to permit the Secretary of Health and Human Services to waive recoupment of Federal government medicaid claims to tobacco-related State settlements if a State uses a portion of those funds for programs to reduce the use of tobacco products, to improve the public health, and to assist in the economic diversification of tobacco farming communities.

The PRESIDING OFFICER (Mr. SESSIONS). Under the previous order, there will now be 90 minutes remaining on the Specter amendment, No. 77, to be equally divided.

The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, before proceeding with this amendment, I have been asked to make this statement on behalf of the majority leader.

This morning, the Senate will immediately resume consideration of the supplemental appropriations bill. Under the order, there will be 90 additional minutes for debate on the pending Specter amendment, No. 77.

All Senators are, therefore, notified that the first vote this morning will be at approximately 11 a.m., if all debate is used. Following that vote, additional amendments are expected, and Senators should anticipate rollcall votes throughout today's session. Any Senators intending to offer amendments to this legislation are encouraged to notify the managers so that they can be scheduled for consideration.

I thank my colleagues for their attention.

AMENDMENT NO. 77

Mr. SPECTER. Mr. President, I found on my desk this morning a ''Dear Colleague'' letter entitled, ''Oppose the Specter-Harkin Amendment That Seizes $123 Billion in State Funds.''

Instead of outlining the provisions of the Specter-Harkin amendment, I would just refer my colleagues to this ''Dear Colleague'' letter signed by the opponents, and tell them that the amendment is exactly contrary to what is in this ''Dear Colleague'' letter, so that by reading the letter, they can just conclude the opposite, and they will have a statement of what the pending amendment is.

Before dealing in detail with the ''Dear Colleague'' letter, or this misstatement, permit me to outline in very general terms that the pending amendment has been offered by the chairmen and ranking members of the two Senate committees which are charged with authorization of appropriations for the Department of Health and Human Services. Senator JEFFORDS, the chairman of the authorizing committee, and Senator KENNEDY, the ranking member, are cosponsors of the amendment which has been offered by Senator HARKIN, the ranking member on the appropriations subcommittee which has the responsibility for appropriations for the Department of Health and Human Services, and the subcommittee which I have the honor to Chair.

We must survey—the four of us in our positions as chairmen and ranking members—the health needs of America in a very, very constrained budget. We have seen the budget resolution, which

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

has come out of Budget Committee, and the limitations on discretionary funding. Our subcommittee has the responsibility for funding not only the Department of Health and Human Services, but also the Department of Education and the Department of Labor, where so many vital programs for worker safety are involved.

So our responsibility is a very heavy one. As we have observed, the settlement with the States is in excess of some $200 billion over a 25-year period. The thought immediately came to mind that these funds, which have been obtained from settlements on tobacco issues, could be used and should be used in very large part, frankly, if not entirely, for health purposes.

In the Appropriations Committee meeting, an amendment was offered by the distinguished Senator from Texas, Senator HUTCHISON, to have the Federal Government relinquish all claims to these funds, and have these funds paid entirely to the State governments.

I can understand the popularity of this kind of an amendment.

It is backed by all 50 Governors; it would be shocking if it weren't. It is backed by all 50 State legislatures; it would be shocking if it weren't. It is backed by all State attorneys general; again, it would be shocking if it were not.

I support the proposition that there ought to be minimal strings, minimal requirements mandated by the Federal Government, especially in the context where we mandate requirements and do not fund them.

Last week, we passed the Ed-Flex bill to give flexibility to the States. But I submit to you that it is fundamentally different to say that where there are Federal appropriations for a specific purpose, there ought to be latitude for State governments and local governments to figure out how to spend those funds, contrasted with saying that all of $200 billion-plus ought to go to the States to spend as they choose, when some States have already made an announcement that they intend to use these funds, at least in part, for highway construction or for debt retirement.

When a settlement is reached on matters of this sort by State governments and officials representing the States, those funds realistically are impressed with the trust, where the claims are brought because of damages due to public health, due to tobacco. There is a specific purpose that the lawsuits were started, and that was to redress public claims on these important areas. Even without a Federal direction limiting, in some way, or articulating a portion of these funds to go for medical purposes, it is my legal judgment that those funds are impressed with the trust. I would not be surprised to see that, if the State governments undertake spending on items far afield, they may face a class action or taxpayer suits or people who have been injured by tobacco seeking to impress that trust.

We had a hearing in the appropriations subcommittee this Monday. Our subcommittee took up the issue on an emergency basis to try to see if we could find some area for resolution. We heard testimony from the Governor of Kentucky and the attorneys general of Pennsylvania, Texas, and Iowa. Those four witnesses all emphasized the desirability of having some resolution of this issue so that they could make plans for their budgets.

I agree with that proposition. A very forceful letter was filed by the Secretary of Health and Human Services, Donna Shalala, strenuously objecting to having the money paid over to the States, because the Federal law gives her the authority to make an allocation as to how much of those funds should be deducted from the Federal obligation to the States on Medicaid.

The States have the obligation under Federal law to sue to collect on claims that Medicaid has. And the States have the authority—and exercise the authority—to release the tobacco companies from liability to the Federal Government. That is provided for under existing Federal law. So for those who say that the Federal Government can bring lawsuits, it simply is not so, because those claims have all been released.

It may be, Mr. President, that we are in an area where largely, if not entirely, the States will recognize the duty to use these settlement proceeds for tobacco-related purposes. The distinguished attorney general of Pennsylvania, Mike Fisher, who testified on Monday, outlined a program for the use by Pennsylvania of $11.3 billion. I believe that, in conjunction with our distinguished Governor Tom Ridge, there will be a program to use these funds for tobacco-related purposes. But it is not sufficient to say that States may recognize this obligation, because States may not recognize the obligation, as we have already seen from preliminary indications of spending these funds on unrelated purposes—debt reduction and highway construction.

In a ''Dear Colleague'' letter that has been circulated today, which I referred to earlier, the statement is made:

> The Specter-Harkin amendment will require every Governor—each year—for the next 25 years to submit a plan to Washington asking for permission on how to spend fifty percent of the State's own money.

That is flatly wrong.

It is true that there is a 20-percent requirement for smoking cessation education to try to dissuade youngsters from smoking and a 30-percent requirement on medical plans. But there is no need for Governors to submit a plan to Washington asking for permission on how to spend that money, that 50 percent. That is a matter where the Governors only have to tell the Department of Health and Human Services how the money was spent after in fact it is spent. They don't have to submit a plan, and they don't have to ask for prior authorization.

The ''Dear Colleague'' letter further says:

> This is a classic ''Washington Knows Best'' policy, an unprecedented Federal power grab.

In a sense, it is complimentary to call it an ''unprecedented Federal power grab.'' Considering all the Federal power grabs that have been recorded historically, this is really a gentle nudge to the States, saying that here we have funds realized from a tobacco settlement with a statement of policy that 50 percent ought to be used for a specific purpose.

On the 50 percent, it is actually on the low side. The facts show that some 50 percent of the funds involved here come from Medicaid, so that the percentage could have been substantially higher.

So, Mr. President, it is my hope that we will have a statement of congressional policy on this vote today which will, in a very gentle way, without regulations, without the requirement of submitting the plan to Washington, simply say to the Governors that at least 50 percent ought to be used for tobacco-related purposes, such as education to discourage children from smoking, where we see a very high rate of juvenile smoking and overwhelming statistics of deaths resulting from juvenile smoking—where we have a reasonable amount allocated for that educational purpose, and a reasonable amount—some 30 percent—allocated not only for public health measures but also for aiding smoking cessation.

Mr. President, I ask unanimous consent that a letter supporting my amendment from the American Lung Association dated March 17, 1999, and a letter of support from the Campaign for Tobacco-Free Kids dated March 18, 1999, be printed in the RECORD.

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

AMERICAN LUNG ASSOCIATION,
March 17, 1999.

Hon. ARLEN SPECTER,
U.S. Senate, Washington, DC.

DEAR SENATOR SPECTER: The American Lung Association is pleased to support the legislation you are introducing with Senator Harkin that requires states spend the federal share of tobacco settlement funds on tobacco and health purposes. The American Lung Association is a strong supporter of the Medicaid program. However, if the decision is made to forego the federal share of the Medicaid recovery, legislation like your proposal must be enacted to ensure that the funds are spent on tobacco control, prevention and cessation activities and health programs. It would be extremely shortsighted not to use these resources to reduce the cause of the disease that led to the need for the recovery in the first place.

We favor your approach and the similar proposal by Senators Kennedy and Lautenberg (S. 584) because they require tobacco settlement dollars to be invested in tobacco control and improving the public health.

Effective tobacco education, prevention and cessation programs will help reduce the horrible toll tobacco takes on American families. Reducing tobacco use also will help reduce the enormous cost to taxpayers that tobacco-related disease imposes. Investing

funds in the public health programs will improve the health of millions of Americans. We also support efforts to help tobacco growing communities diversify their economies.

To ensure their efficacy, the American Lung Association supports rigorous federal review, evaluation and oversight of tobacco control programs. Congress should contain Medicaid costs and promote public health by affirming the authority of the Food and Drug Administration to regulate tobacco products, implementing a vigorous national advertising and education program to counter the tobacco industry's marketing efforts and by enacting other policies and programs to reduce tobacco use.

The American Lung Association looks forward to working with you to enact strong legislation to combat the addiction, disease and death caused by tobacco.

Sincerely,

FRAN DU MELLE,
Deputy Managing Director.

CAMPAIGN FOR TOBACCO-FREE KIDS—NATIONAL CENTER FOR TOBACCO-FREE KIDS,
Washington, DC, March 18, 1999.

Hon. ARLEN SPECTER,
U.S. Senate, Washington, DC.

DEAR SENATOR SPECTER: The Campaign for Tobacco-Free Kids fully supports your amendment to the supplemental appropriations bill to require states to spend 20 percent of the money they receive from their settlements with the tobacco companies on comprehensive programs to prevent tobacco use. The Federal government has a legitimate claim to a share of the settlement money and should condition its waiver of the federal share on states funding effective tobacco prevention programs.

Investing in tobacco prevention will save lives and money. the evidence continues to build that statewide tobacco prevention strategies are effective in reducing tobacco use. Several states already have tobacco prevention campaigns and have reduced overall smoking levels within their borders at a faster rate than elsewhere in the country. And while youth smoking rates have risen dramatically nationwide, they have decreased or increased much more slowly in these states. Just this week, results were released showing decreases in teen smoking in Florida less than a year after that state's comprehensive tobacco program was launched.

In addition to saving lives, decreasing tobacco use will save money. Public and private direct expenditures to treat health problems caused by smoking annually total more than $70 billion. Aggressive tobacco prevention initiatives in every state would reduce these costs for federal and state governments as well as for businesses and individuals. Requiring the states to devote resources to solving the tobacco problem will save federal dollars in the future.

We heartily endorse your efforts to ensure that funds from the tobacco settlement are used to address the reason for the lawsuits in the first place—reducing the number one preventable cause of death in this country. Thank you for standing up for America's kids.

Sincerely,

MATTHEW L. MYERS,
Executive Vice President and General Counsel.

Mr. SPECTER. Mr. President, how much time has been consumed?

The PRESIDING OFFICER. The Senator has spoken for 12 minutes.

Mr. SPECTER. I thank the Senator.

Does the Senator from Hawaii, who was on the floor first, seek recognition on this issue?

Mr. AKAKA. Mr. President, I would like to speak on the emergency supplemental and rescissions bill.

Mr. SPECTER. Mr. President, in that case, I yield 5 minutes to the Senator from Rhode Island on this amendment.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. REED. Mr. President, I thank the Senator from Pennsylvania for yielding the time, and I also commend him and Senator HARKIN for their amendment to this supplemental bill. They have done something that I think is incredibly important, and that is to provide some emphasis on smoking cessation and also public health in the use of the funds from the tobacco settlements that the States are beginning to receive.

The amendment by Senator SPECTER and Senator HARKIN strikes a very reasonable balance between the desires of the Governors to use these funds and also the willingness of the Federal Government to forgo its share of the tobacco settlement, and also the need to ensure that we do have in place significant tobacco prevention activities, as well as being able to meet other public health priorities. This amendment reserves 25 percent of the overall settlement to these priorities—smoking cessation and public health—and allows 75 percent of the funds to be spent at the discretion of the States. I think this is an appropriate way to deal with the proceeds of the tobacco settlement.

When we consider the fact that the basis of these claims rested upon Medicaid spending by the States, and we also consider the significant contribution the Federal Government makes to the Medicaid Program, it is not unrealistic—in fact, it is entirely appropriate—that we would be able to, and should be able to, lay out some broad guidelines as to the use of a small portion of the settlement funds. I can't think of any more appropriate topic of concern at every level of government than the reduction of smoking in this society.

Let's step back a minute. This process of suing the tobacco companies, this process that led to the settlements, is not about getting some money for new highways or new types of programs at the State level. It started with the realization that smoking is the most dangerous public health problem in this country and we have to take concerted steps to do that. The suits resulted in a settlement, financially, but it won't result in the effective eradication, elimination, or reduction of smoking unless we apply those proceeds to smoking cessation programs and other public health initiatives that are critical to the health and welfare of this country.

We know that each day more than 3,000 young people become regular smokers. We also know that 90 percent of those who are long-term smokers began before they were 18 years old. So there is a critical need for more and more efforts particularly targeted at youngsters to ensure that they do not start the habit of smoking, and by requiring a certain portion, a rather small portion, of the proceeds of these settlements to that end is, again, not only sensible but it is compelled by the crisis we face in the public health area of smoking in the United States.

One of the other things that we must also recognize is that this settlement represents a concession, an acknowledgement by the tobacco industry that their marketing practices were sinister, that they targeted young people, and that, in fact, their product causes disease and death. And in that context we have to respond with some of these funds to recognize the public health impact of smoking overall. On both the law and the logic, it seems to me entirely appropriate that this amendment should not only be debated but passed.

I think we have to recognize, too, that what the amendment proposes is not some type of grandiose Federal program. It simply directs the Governors and the legislatures in their own way, form, and fashion to use these funds for very broad programmatic initiatives in public health which encompass such things as smoking cessation.

So this is not an overwhelming usurpation of State and local prerogatives by the Federal Government; it is a common way to deal with problems that got us here in the first place, the fact that smoking, particularly youthful smoking, is one of the major public health crises in this country.

I believe Senator SPECTER and Senator HARKIN have balanced and complemented the way in which States are using these funds.

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

Mr. REED. Their efforts are complementing what States are doing. Our Lieutenant Governor, Bernard Jackvony, is proposing this initiative.

I hope we can all stand behind this amendment, and I thank the Senator for yielding me time.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I have two speakers on the amendment, but I know Senator AKAKA wants to speak on the bill. I would like to ask him if he could take 5 minutes—and then let us get back to the amendment—equally divided from Senator SPECTER's side and my side.

Mr. AKAKA. Mr. President, I thank my friend from Texas for yielding me this time. I want her to know that I will be speaking on the emergency supplemental and rescissions bill.

Mrs. HUTCHISON. I understand that the Senator was not aware we had set aside this time by unanimous consent for the amendment. So I am happy to give him 5 minutes equally divided between Senator SPECTER's side and my side, if he will do that, and then allow us to go back to the amendment under

the current unanimous consent agreement. Is that acceptable?

Mr. AKAKA. I certainly would accept that, and I thank my friend from Texas.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. Mr. President, I rise to express my concern on the FY 1999 emergency supplemental and rescissions bill. I support disaster relief for Central America and the Caribbean, emergency relief for America's farmers in crisis, and aid to Jordan to implement the Wye River agreement. It is important that these priorities be funded.

My concern is that one of the budget offsets to pay for this bill pits these important foreign and domestic needs against the needs of the country's poorest families—something that Hawaii's poorest families can ill afford. This supplemental bill seeks to defer $350 million in funding from ''unobligated balances'' under the Temporary Assistance for Needy Families (TANF) Program until fiscal year 2001. The language in the bill requires deferral of portions of states' unobligated TANF funds.

The deferral is based on the states' share of total unobligated funds. Preliminary estimates show this means Hawaii would not be able to spend about $800,000 of its TANF funds until fiscal year 2001.

It is my understanding that my friend from Alaska, chairman of the Appropriations Committee, Senator STEVENS, is working to find a different offset so that the $350 million in TANF funds will not have to be deferred. I strongly encourage him in these efforts and urge that this be done.

In the meantime, we all know that TANF replaced the Aid to Families with Dependent Children welfare program in 1996. I am a critic of the TANF Program for failing to provide an adequate safety net for low-income families. However, I am adamant that full funding must continue to go to the states to assist welfare families and their children. No part of it should be deferred to offset supplemental spending.

The term ''unobligated,'' may seem self-explanatory. Anyone may think that a $350 million deferral of unobligated funds under the bill would apply to funds that have simply not been spent under this program. Proponents would argue that welfare rolls have fallen so far that this money is not needed by states, which is why it remains unobligated. However, Mr. President, we know that funding decisions by state and local governments take time. Transfers of expenditures must go through a process. States often commit funding to counties and local governments that is not transferred immediately, so the amount is not taken off the states' books.

The fact is many states rely heavily on these unobligated funds and have already committed them for a wide variety of uses, such as distribution to counties and local agencies, ''rainy day'' funds for contingencies such as economic downturns that swell the rolls and leave states without enough money until the next federal payment, transfers into child care and social services activities, or other basic expenses to help low-income families become self-sufficient.

My state of Hawaii continues to plan uses for all available funds to provide child care services to our TANF families so that they can be given a chance to continue at their jobs and make it work. Hawaii is doing this the right way, instead of simply looking at the numbers and acting to drop welfare recipients off their rolls. Hawaii is truly ''teaching them to fish,'' so that they truly achieve self sufficiency.

Deferring release of TANF funds for a number of years and using the $350 million for emergency spending violates the agreement made when TANF was passed. I have a letter here from Governor of Hawaii, Benjamin Cayetano, dated March 12th, that describes the agreement between Governors, Congress, and the administration that the entitlement nature of the old AFDC Program would be replaced with a set amount of funding to states under TANF. I ask unanimous consent that the letter be printed in the RECORD.

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

MARCH 12, 1999.

Hon. DANIEL AKAKA,
U.S. Senate, Hart Office Building, Washington, DC.

DEAR SENATOR AKAKA: I am writing you today to express concern about information I have received which predicts Congress will attempt to cut the funding for the Temporary Assistance for Needy Families (TANF) Program this year. My concern is that there was an agreement between the Governors, Congress, and the Administration that the entitlement nature of the Aid to Families with Dependent Children (AFDC) Program would disappear in favor of a set amount of funding in block grant form under TANF.

The funding under TANF is not overly generous. If fact, in Hawaii, we have not experienced a decrease in the welfare population and every dollar is needed.

I have been told that Congress may be viewing unspent TANF allocations as a surplus that could be used to fund other initiatives. This is being discussed even though child poverty has increased since the passage of Welfare Reform.

While I cannot speak for other States, I can assure you we are trying very hard to assist welfare recipients to become employed and self-sufficient. It appears many States may have tightened their eligibility criteria, but have not been successful in getting welfare recipients employed. If this is the case, the States will be needing their TANF allocation to address the continuing hardships of these families.

I hope you will agree that the TANF funding needs to be safeguarded to provide States with the necessary resources to assist welfare families. Thank you for your attention to this matter. Your strong support is greatly appreciated.

With warmest personal regards,

Aloha,

BENJAMIN J. CAYETANO.

Mr. AKAKA. To use TANF funding as an offset abrogates this agreement. I hope my colleagues, the appropriators, are working to keep this agreement intact. Hawaii and other states need this money to assist poor families.

And of all states, Hawaii needs assistance the most.

Mr. President, our Nation is enjoying the longest peacetime expansion in American history—yet Hawaii is not benefiting from this expansion. While the country is enjoying the lowest unemployment in nearly 30 years and tremendous job creation, Hawaii is losing jobs and its people are having a difficult time finding work at a living wage. Our unemployment rate is at 5.7 percent as of November 1998—well above the country's average of 4.3 percent. Bankruptcy filings increased more than 30 percent form 1997 to 1998. Retail sales fell 7 percent from $16.3 billion in 1997 to $15.2 billion in 1998. These are some recent economic indicators. Hawaii has been suffering from an economic downturn for most of this decade. As if this were not enough, my state has had to endure the worst of all states from the economic crisis in Asia. The Aloha State welcomed 11 percent fewer tourists from Japan and other parts of Asia in 1998. If anything should be slated for emergency funding, Hawaii should.

With all of this need, you can see why $800,000 in TANF funding means a lot to my state. The number of families in Hawaii receiving assistance under this program has increased since the new law was passed. According to the Hawaii Department of Human Services, as of January, 1999, 16,575 single-parent families and 7,119 two-parent families were on the rolls, for a total of 23,694 families receiving assistance. This represents an increase of more than 2,000 families since 1995 when the number of families receiving assistance was 21,480. Hawaii's numbers have increased because of the tough economic conditions we are now enduring.

Hawaii needs every bit of our TANF funding to make sure that our poor families continue to be self-sufficient. This is stated in the letter I submitted earlier from Governor Cayetano. We have not put our unobligated balances aside for a rainy day fund because we do not have enough of it—we need to use every dollar we have for caseloads now.

Once again, I urge my colleagues on the Appropriations Committee and the gentleman from Alaska, Chairman STEVENS, to continue working to find another $350 million offset for this emergency supplemental bill, rather than defer much-needed TANF funds.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. AKAKA. I thank the Chair. I thank the Senator from Texas for yielding me time.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, will the Senator from Texas yield me 5 minutes at this point?

Mrs. HUTCHISON. Mr. President, I yield 5 minutes to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized for 5 minutes.

Mr. GORTON. Mr. President, one of the ways in which the Congress of the United States has been the bane of every Governor and State legislator in the United States of America is its constant willingness to impose unfunded mandates on States and on local communities. We constantly pass laws that tell States and local communities what they are to do, but we rarely pass appropriations sufficient to cover the costs of carrying out those duties.

Just last week we debated the overwhelming unfunded mandate that is included in our rules relating to the education of special needs students, and, in fact, we moved, at least slightly, in the direction of funding some portion of those unfunded mandates. Here, on the other hand, we have the exact mirror image of an unfunded mandate originally imposed by the Congress of the United States. Here we are asked, in this amendment, to decide that billions of dollars recovered by almost every State in the Union in tobacco litigation against tobacco companies will be appropriated, effectively, by the Federal Government, unless the States agree on the way in which we think that money ought to be spent.

Mr. President, 50 percent of all recoveries that the States have made, pursuant to this amendment, must be spent in accordance with this amendment, and detailed regulations are promulgated by the Federal Government for every State in the country. Every Governor will have to make a new application every year for 25 years and meet these requirements or will, in effect, lose an amount of money equal to 50 percent to 100 percent of the money that State has already recovered in an action in which the United States of America was not a party at all.

That is fundamentally unfair. It makes an assumption, an unwarranted assumption, that these were Medicaid claims that were presented by the States of the United States. My attorney general, the attorney general of the State of Washington, Christine Gregoire, one of the three or four leaders of this effort, brought and prosecuted a case through much of the trial period, before it was ultimately settled, without the slightest mention of Medicaid. There were all kinds of fraud and contract and tort claims connected with this litigation, quite independent of Medicaid claims on the part of the various States of the United States of America. Last year, this body spent weeks debating whether or not we should control the settlements that the States were making. We ultimately abandoned that effort and left it entirely to the States.

As a consequence, we have absolutely no right, at this point, to tell the States how they are to spend their money. Many are already engaged in extensive and sometimes successful antismoking efforts. Many have priorities that are different than the priorities here in the U.S. Senate. But if Members of the U.S. Senate want to control the spending in their own States, money that their own States have recovered, they should run for the State legislature, not for the Senate of the United States.

The position taken by the Senator from Texas and her companion, the Senator from Florida, a position that was accepted by the Senate Appropriations Committee, is the right and just position. This money was recovered by the States, this money belongs to the States, and the spending of this money should be determined by each of the 50 States of the United States of America.

It is no more difficult than that. It is as simple as that. We have already imposed too many unfunded mandates on the States by our substantive legislation here. Let's not do essentially the same thing by telling States that money they have already recovered has to be spent on our priorities, rather than their own. Support the position of the Senator from Texas and Florida. Reject this amendment.

The PRESIDING OFFICER (Mr. BENNETT). The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I yield 10 minutes to my distinguished colleague from Iowa, Senator HARKIN.

Mr. HARKIN. Mr. President, again I thank my friend and my colleague and my leader, Senator SPECTER, for bringing forth this amendment, which is common sense and which goes to the heart of what the smoking problem in America is all about. It is about health.

I might just say, at the outset, really the provision in the supplemental bill we are talking about should not even be on the supplemental. It is not an appropriations measure. It more appropriately ought to be in the Finance Committee, but it was slipped in as a rider on the appropriations bill, the amendment offered by the Senator from Texas, Senator HUTCHISON.

What Senator HUTCHISON's amendment says is all the money already recouped by the States in their settlement with the tobacco companies should be kept by the States and they can do with it whatever they want to do with it. That is all right as far at the State's money goes.

I have no problem with that. But that also includes the Federal share of Medicaid. As I have continually pointed out, under the Social Security Act the States are required to go after recoupments in Medicaid from third parties. In fact, they are the only ones who can sue for third party recoupment. The Federal Government is preempted from doing that. Only the States can do that. So they act as an agent for the Federal Government and recoup them. Keep in mind, the law states, regarding any money recouped by the States for Medicaid, the Federal portion has to be returned to the Federal Government.

We have to keep in mind what we are talking about here. Are we talking about the fact that the tobacco companies didn't build a number of highways in Texas? Or that they did not build prisons in Alabama? Or they did not build a sports arena in Michigan—or on and on and on? No. That is not why these lawsuits were brought. They were brought because tobacco is the biggest killer we have in America today. You add up alcohol, accident, suicide, homicide, AIDS, illegal drugs, fires—add them all up and tobacco kills more a year than all of these combined.

What has this tobacco debate been about, that we have been here for years and years on end debating? That is what it is about. Tobacco is hooking young people, getting them addicted. And the tobacco companies have lied and lied and lied, year after year, and covered up, and fought with powerful money and powerful interests here in Washington to keep us from doing what we need to do to protect the public health. That is what it is all about.

Now, the CDC estimates that smoking among high school students has risen 32 percent since 1991—32 percent. The tobacco companies say they are going to cut down on their advertising to kids and stuff. If they really want to do that, get rid of the Marlboro Man. You don't see the Marlboro Man disappearing, do you? No, he is still out there. And the Virginia Slims and all that kind of stuff is still out there; the Marlboro gear—that is all out there. They are still hooking kids.

Tobacco, an estimated $50 billion a year in health care costs alone, and a big portion of that is borne by the Federal taxpayers who finance over half the costs of Medicaid.

Again, to repeat for emphasis' sake, what does the Specter amendment do? It only would require the States to use 20 percent of the total settlement to reduce tobacco use and 30 percent for public health programs or tobacco farmer assistance, helping some of our tobacco farmers, and we would then waive the Federal claim to the tobacco settlement funds. We do not dictate what the States spend their money on. If the States want to take their portion and build a sports arena, that is up to the voters of that State. I can tell you if it happened in my State, I would be on the side of any other taxpayers in my State, suing the Governor or anybody else who was spending the money that way, because I think that money is held in trust for the very purposes which I just enumerated, and that is to cut down on smoking and to help the public health.

CBO estimates the Federal share would be about $14 billion over 5 years.

Others are saying that the Federal Government had no role in these lawsuits. I just covered that.

Under the Social Security Act, it is the responsibility of the States to recover any costs and, in fact, the law states that only the States can file such suits.

I want to correct something that was said last night by my colleague from Alabama, Senator SESSIONS. He claimed that only one State had filed suit to recover tobacco-related Medicaid costs. Sorry. That is wrong. In fact, the following States had Medicaid claims in their lawsuits: Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Florida, Hawaii, Iowa, Illinois, Indiana, Kansas, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, New Jersey, New Mexico, New York, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Texas, Utah, Washington and Wisconsin—all had Medicaid claims in their lawsuits.

I think this is really the crux of it—whether or not a State included a Medicaid claim isn't the issue. The fact is every State that settled in November of 1998, and that included all 50 States and the territories, even those that did not include a Medicaid claim in their suit, waived their right to recover tobacco-related Medicaid costs in the future. Why do you think that was put in the settlement? If, in fact, the lawsuits were not about Medicaid, why do you think that the tobacco companies came in and insisted, as a condition of the settlement, that the States had to waive their right for any future suits based on Medicaid? It is curious. If that is not what this was all about, why did they put that in there? Because the tobacco companies, smart lawyers that they have got, knew this is what it is about. It is about health care. It is about hooking kids on smoking.

They could see that the States are going to get all this money. What do the States want to do with it? They want to reduce debt. They want to build prisons and highways. They want to reduce taxes.

How many are going to use it to cut down on what the tobacco companies are most afraid of? What they are afraid of is losing young people who would not be smoking, who won't take up the habit. That is what they are afraid of. That is why they put it in there. Not only did the settlement waive the right of the States forever to sue to recoup for Medicaid, it waives our rights, the Federal Government's rights to sue. Why? Because under the Social Security law, only the States can sue for recoupment under third parties. When they waive their right, they waive our rights. The States, in making this deal with the tobacco companies, have effectively taken away the right of the Federal Government to go into court and to go after tobacco companies to get the Federal taxpayers' share of the money for the health care costs of Medicaid. That is what it is about.

The provision put in by the Senator from Texas says let them have it. Let the States have all this money. If they want to build highways, let them build them. I tell my colleagues, I know where the tobacco lobby is on this one. The tobacco lobby is foursquare for this provision in the bill, because they do not want States spending money to cut down on teen smoking. Some States will. I compliment and commend the Governor of my own State of Iowa who has said that they will use a large portion of this for education, intervention, cutting down on youth smoking. How much, I do not know, a large portion of it.

Again, this is a bipartisan, commonsense amendment. For the life of me, I do not know why anyone would oppose it, unless it is under some theory that we can't tell the States what to do with this money. I don't want to tell the States what to do with their money, but when the Federal taxpayers provide over 50 percent of Medicaid monies to the States and we are paying 50 billion bucks a year in health-related costs and much of that through Medicaid, then I think we have a right and an obligation to say that some portion of that money that is Federal money ought to go for health-related purposes.

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

Mr. HARKIN. Mr. President, I ask unanimous consent for 3 additional minutes.

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

Mr. HARKIN. For example, in Maine, I am told the Governor wants to use it for a tax cut. In Michigan, the Governor wants to use the settlement for college scholarships; no funds for tobacco prevention. The Nevada Governor wants it for college scholarships. New Hampshire's Governor wants the money for education; no proposal on tobacco. In New York, the Governor wants to spend 75 percent for debt relief. In South Dakota, the Governor wants money for prisoners, nothing on tobacco. In Rhode Island, the Governor wants money to cut the car tax. That is all well and good, but that is not what this is about.

I say to my friends, we have a statement of policy from the Executive Office of the President which says, referring to the emergency supplemental bill, S. 554:

> Were the bill to be presented to the President with the Senate Committee's proposed offsets and several objectionable riders discussed below, the President's senior advisers would recommend that he veto the bill.

One of the provisions:

> A provision that would completely relinquish the Federal taxpayers' share of the Medicaid-related claims in the comprehensive State tobacco settlement without any commitment whatsoever by the States to use those funds to stop youth smoking. Federal taxpayers paid more than half, an average of 57 percent of Medicaid smoking-related expenditures. The Administration believes that the States should retain those funds but should make a commitment that the Federal share of the settlement's proceeds will be spent on shared national and State priorities: to reduce youth smoking, protect tobacco farmers, improve public health and assist children.

So there we have it. If this amendment stays in there untouched, the President's senior advisors will recommend a veto.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I want to thank my Scottish cousin, Senator GRAHAM, for letting me go first so I can go back to the Budget Committee.

I am very happy to be here and join both Senator GRAHAM of Florida and my colleague from Texas in strongly opposing this amendment.

The idea that the Federal Government is trying to seize $18.9 billion from the States to spend in Washington, DC, when we had nothing to do with their settlement and when we were in the process of trying to impose our own taxes and, in fact, when the President has in his budget the imposition of new taxes on tobacco, is absolutely outrageous.

The amazing thing is the President proposes taking the money away from the States and then giving them a bunch of money, but then telling them how to spend it.

This amendment is the height of absurdity. In my State, this amendment would tell Texas that we have to spend $4 billion on smoker cessation. We could literally hire thousands of people and have a personal trainer for each person who are chewing tobacco or dipping snuff. Why should the Federal Government have the right to tell the States how to spend this money?

I suggest our colleagues read the tenth amendment of the Constitution—powers not specifically delegated to the Federal Government are reserved to the several States and to the people.

This amendment is an outrageous power grab. Where we in Washington, the day before yesterday, were trying to be the school board for all America, now we are trying to tell the States how to get people to stop smoking, when we have done a very poor job of it in the Federal Government. We are trying to tell the States how to spend their money. Somewhere this has got to stop. My suggestion to our colleagues is, if you want to run the schools in America, quit the Senate and go run for the school board.

If you want to be a State legislator, leave the Senate and run for the State senate or the State house or run for Governor. Our job is not to tell the States how to spend their money.

This is an outrageous amendment. I just cannot understand the logic of this, other than the belief that only we know what is best. The idea that we on the floor of the Senate will tell Texas how they have to spend $4 billion over this period is absolutely absurd—that Texas has to file a report every year

with Health and Human Services, and then they have to approve how Texas is spending its own money that the Federal Government had nothing to do with, had no part in claiming, no role in the settlement. In fact, in the President's budget this year where he tries to reclaim this money, he is talking about imposing a tobacco tax. Are we going to let the States tell us how to spend that money? I think not.

I congratulate my colleague from Texas. This is an amendment that deserves to be defeated overwhelmingly. I hope 80 or 90 of our fellow Senators will vote against this amendment. Again, if you want to tell Texas how to spend its money, quit the Senate, move to Texas, establish residence, run for the State legislature; if you can get elected, go at it. But do not get elected from another State and come here and try to tell our State or any other State how to spend its money.

The Federal Government needs to butt out. We have plenty of our own problems to deal with here. Social Security is going broke, Medicare is going broke quicker, and what are we doing? The day before yesterday, we were trying to run all the schools in the country as a national school board. Today we are trying to spend money in every State to tell them how to deal with their tobacco settlements.

It seems to me we are running away from real problems that we ought to be solving and trying to find somebody else's problems to solve where we don't have any responsibility if things go bad.

Again, I congratulate my colleague from Texas. I congratulate the Senator from Florida. I thank him for letting me come in and speak at this time. I yield the floor.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. If the Senator will withhold, does the Senator from Texas yield to the Senator from Florida?

Mrs. HUTCHISON. I yield 10 minutes to my colleague.

Mr. GRAHAM. Mr. President, I thank my colleague and Teutonic cousin for his kind remarks and for his comments against this misguided amendment.

First, I strongly support the original purpose of this legislation, which is to provide relief to our neighbors in the Central American countries and the Caribbean which were so devastated last year by a series of hurricanes.

I had the opportunity to visit Honduras, Nicaragua, El Salvador, and Dominican Republic which were primarily affected by those hurricanes and can testify that the need is great and that the humanitarian assistance which the United States has already provided, and which this legislation will allow us to continue, has been of immeasurable value and has added to the strength of the relationship between the United States and those affected countries.

I also strongly support the tobacco recoupment amendment which was added in the Appropriations Committee by my colleague, the Senator from Texas. In addition to the wisdom of the amendment, there is a sense of urgency to move forward with this. Many State legislatures are meeting as we meet this week. Many of those legislatures are well along toward their adjournment date. Many of those States are awaiting our action on this issue to make a determination as to what is the most appropriate way to utilize funds that have been secured through the tobacco settlement for purposes that will benefit their citizens.

We need to resolve this issue and resolve it in a way that has been suggested by the amendment recommended by the Appropriations Committee, which is that the Federal Government keep its hands off this money which has been secured solely as a result of the actions of the States.

Let me give a brief history of this issue, with particular focus on the State of Florida, which was one of the first four States to secure an individual settlement with the tobacco industry.

Under the leadership of our departed friend and colleague, Lawton Chiles, the Florida Legislature amended its law to allow a specific statute to be passed, under which the State brought litigation against the tobacco industry. At the time that occurred, Governor Chiles wrote a letter to Attorney General Janet Reno suggesting that the Federal Government join in the lawsuit—not join in the lawsuit as it relates to any specific claim, such as the Medicaid claim, but, rather, join in the lawsuit to advance Federal interests that were at stake. I will talk later about what those Federal interests are.

This is the letter—and I quote it in part—dated June 6, 1995, which was sent from the Attorney General to the Governor of Florida:

DEAR GOVERNOR CHILES: Thank you for your letter concerning the possibility of the Department of Justice participating in the State of Florida's lawsuit against cigarette manufacturers. As you know, similar suits have been filed by the States of Mississippi, Minnesota and West Virginia. At my request, the Department's Civil Division has been monitoring the tobacco litigation. Thus far, we have not been persuaded that participation would be advisable. We will continue to actively monitor these cases, however, and will reconsider this decision should circumstances persuade us otherwise in this regard.

There were no subsequent reconsiderations, and the Federal Government essentially said, ''We will stand apart from these States' efforts.'' Stand apart until the States, having spent enormous amounts of money, effort, and political resources now have secured a settlement.

At this point, the Federal Government wishes to invite itself back into this litigation by, in the President's budget proposal, taking half the money and having the Federal Government spend it or, in this amendment proposal, having the Federal Government serve as the parent for the States and tell them how to spend their tobacco settlement money.

The assumption of this legislation started with another letter from Washington which went to the States which stated, in effect, that the Federal Health Care Financing Administration was going to initiate an administrative collection procedure under an arcane provision of the Social Security statute—specifically, 1903(D)(3)—in which it would recoup a substantial portion of the States' settlements.

The specific language which was relied upon by the Federal Health Care Financing Administration is the language which states:

The pro rata share to which the United States is equitably entitled, as determined by the Secretary, of the net amount recovered during any quarter by the State or any political subdivision thereof with respect to medical assistance furnished under the State plan. . . .

Mr. President, I argue that that statute, which is the basis of the Federal efforts to recoup, is inapplicable to the tobacco litigation. What that statute was intended to do was, in the case where a State had, for instance, overpaid a provider and subsequently received a repayment, that a portion of that repayment that was related to the percentage of the Federal Medicaid share under the State Medicaid plan would go back to the Federal Government.

This was not recovered pursuant to any State health care plan. It was recovered based on litigation brought by the States on a variety of claims against the Federal Government. And that is the first of two fundamental erroneous assumptions behind this amendment. And that first assumption is that 100 percent of the collections that the States have made were as a result of the Medicaid claims; and, therefore, that the Federal Government can legitimately assume the right to control its share or 50 percent of those funds. That assumption is just fundamentally incorrect.

First, Florida's causes of action included a violation of the State's RICO statute, the Racketeer-Influenced and Corrupt Organizations statute. Fourteen other States filed a similar RICO claim. Remedies available to the States under RICO statutes are enormous: disgorgement of profits and treble damages. I argue that these claims far exceed any money damages available under the Medicaid claim.

Twenty-eight States filed claims under violations of consumer protection laws. Remedies include significant monetary penalties per violation—per sale of each pack of cigarettes—plus disgorgement of profits. For instance, the Missouri remedy allows for a penalty of $1,000 per pack of cigarettes sold. The Oregon remedy was up to $25,000 per violation, which could have potentially totaled billions of dollars.

Thirteen States filed under public nuisance. In Iowa, the remedy requested was equal to not the profits made through cigarette sales, but the price of cigarettes sold in each year involved.

Twenty States filed antitrust claims. Available remedies again include disgorgement of profits and treble damages.

In three States, the courts dismissed the Medicaid claims—Indiana, Iowa, and West Virginia. So those States' claims could not have included a Medicaid component because it had been rejected by the courts prior to the settlement.

Further, the State of Florida, which did have a Medicaid claim among all of its other claims, estimates that at most only 10 percent of its entire settlement could have been attributed to Medicaid.

I ask the Senator from Texas if I can have an additional 5 minutes.

The PRESIDING OFFICER (Mr. SANTORUM). Does the Senator from Texas yield an additional 5 minutes?

Mrs. HUTCHISON. I am happy to yield an additional 5 minutes to the Senator from Florida. If he can take any less than that, we have other Members signed up for the time. Thank you.

Mr. GRAHAM. So Mr. President, the first assumption that all this money was generated by Medicaid claims is fundamentally inaccurate.

The second assumption, which is that unless Washington acts the States will fritter this money away, is a fundamental assault against the principles of Federalism: That we are a Nation in which political power is divided between the States and the Federal Government, and that we have a respectful appreciation of the responsibility of our State partners.

In the case of the State of Florida, through the use of the initial tobacco settlement money, 250,000 children who previously did not have financing for health care now have that financing. That was proposed by former Governor Lawton Chiles. Current Governor Jeb Bush has suggested the establishment of an endowment so that these funds would be protected in perpetuity and the interest earnings from that endowment would be used for a variety of children's and seniors' programs. That not only indicates the care with which the States are using, but the fact that it is a bipartisan issue, the appropriate use of these funds.

Let us face it, those State officials, those Governors, those State legislators are just as much accountable to the voters as we are. And should they act in a way that the voters consider to be inappropriate, they will suffer the consequences of those actions.

Mr. HARKIN. Will the Senator yield?

Mr. GRAHAM. Let me complete my final comments, and then I will yield.

Mr. HARKIN. OK.

Mr. GRAHAM. Mr. President, what we have at stake here is that the Federal Government is dealing with the wrong issue at the wrong time. It is time for the Federal Government to move on. The way in which the Federal Government should move on is by pursuing its own litigation against the tobacco industry rather than trying to steal a portion of the State settlement.

I was, therefore, very pleased that the President, in his State of the Union Message, indicated that it was the intention of the Federal Government to pursue precisely such a course of action.

Let me say, Mr. President, that for those of us, like Senator HARKIN and others, who joined last year in an effort to craft a bipartisan tobacco bill, we recognize that the most significant way in which we will reduce teenage smoking is to increase the price of cigarettes. Every other technique to reduce teenage smoking pales in comparison with increasing the price. The Centers for Disease Control has estimated that for every 10-percent increase in the price of cigarettes, there will be a 7-percent reduction in smoking by teenagers.

The Federal Government's potential claims against the tobacco industry are much greater than the States. The Medicare Program is much larger than Medicaid. The Federal Government has all the array of antitrust and RICO claims which the States so successfully pursued.

What we need to be encouraging the administration to do is to aggressively carry out the direction of the President to effectively bring action against the tobacco industry. And those will be the funds that will be 100 percent under the control of the Federal Government for the purposes that it considers most appropriate.

My own feeling is that we ought to use a substantial share of those Federally derived funds from successful litigation against the tobacco industry to add to the solvency of the Medicare trust fund, and then to use a portion of those to assist in financing what the American people desperately want, which is a prescription drug benefit, a major share of which will go to dealing with the illnesses generated by tobacco use.

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

Mr. GRAHAM. So Mr. President, I appreciate the leadership that the Senator from Texas has provided. I appreciate her generosity and time. I urge the defeat of this amendment.

Mr. MCCAIN. Mr. President, I rise today in support of this amendment offered to earmark a portion of the tobacco settlement proceeds for health and anti-smoking programs. The use of the money for these purposes goes to the very heart of my support for the global settlement a year ago and my reason for sponsoring a bill to implement the settlement.

It was never my intention or understanding that this money would be used for building roads, prisons, or to simply inflate the government's coffers. It was my understanding and intent that the money would be used primarily to fight the evils of the tobacco industry and to keep 3,000 kids a day from starting to smoke.

I am also a strong proponent of states' rights. In considering this amendment, it is my understanding that no federal approvals are required, but only that reports be filed demonstrating that the funds are being used in programs designed to achieve the public health goals of the litigation. This information is important for Congress and the Administration to have so that we can continue to evaluate the need for federal legislation addressing any issues not covered by the settlement agreement. If the states are successful in achieving what the litigation and settlement set out to achieve, then there will be no need for additional action. If not, we can revisit the issues.

I do not perceive this amendment as requiring federal approval of all state spending or programs, but as an informational requirement. I am certainly open to further discussion on how to best ensure that the money is being spent as intended, to keep kids from smoking.

I hope that we will continue the dialogue on this very important issue and that we can reach consensus on how to ensure that the settlement funds are used to protect kids, if not today, then as the bill progresses to the House and conference.

Mr. KENNEDY. Mr. President, I am very concerned about a number of provisions in the supplemental appropriations bill.

First, I strongly oppose the offsets included in this bill, which will take money away from programs that help the most vulnerable Americans.

Before I discuss the specific offsets, let me begin with a reminder—emergency supplemental funds do not need to be offset. This is the law and it is grounded in the understanding that Congress needs to act expediently when disaster strikes. Emergencies are just that, emergencies, and they require swift action and the ability to release funds quickly. We do not need offsets to provide essential assistance to Central America, our farmers, or U.S. steel workers.

Nevertheless, a series of offsets have been proposed that will hurt the most vulnerable Americans, low-income children and families and immigrants. Included in their offset package, are proposals to defer $350 million in Temporary Assistance to Needy Funds (TANF), a $285 million cut in the Food Stamp Program, and a $25 million recision in INS programming which will reduce INS' ability to provide immigration benefits and services. A $40 million cut in INS border enforcement is also being proposed.

Taking from one poor, vulnerable community to pay for the needs of another is unacceptable. We must draw the line here to prevent the raiding programs that help poor children and families.

In 1996, when the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) was passed, Congress gave states the authority and flexibility to design their own unique

programs to help low-income families move from welfare-to-work. The TANF program provides fixed block grants to the states totaling approximately $16.5 billion annually. TANF is a new program that supports a wide array of services. States are using their funds to assist needy families, strengthen job preparation, and promote self-sufficiency. Across the country, states and social service agencies are developing and implementing the best strategies to move their clients from welfare to self-sufficiency.

In addition to giving states the authority to develop their own assistance programs for low-income families, Congress also gave them the power to carry forward unobligated TANF funds for future use. States were expressly given the ability to tap into unspent funds at any point during the five-year block grant period, to optimize flexibility and meet their own unique needs and circumstances. In FY98, states obligated or spent 84% of the total federal funds received. Nineteen states have obligated 100% of their FY98 TANF funds.

The Republican Leadership seems to have confused ''unobligated'' with ''unneeded.'' Nothing could be further from the truth. There are a variety of reasons why some states have unobligated funds. Many states have specifically set aside part of their funds in a ''rainy day'' account. This reflects wise planning. The strong economy and low unemployment rates which we are currently enjoying may not last forever. These states will be prepared because they have set aside sufficient funds to protect themselves if the economy turns downward.

Other states have experienced large caseload declines but require further state legislative action to reprogram funds from cash assistance to other investments, such as child care and job training, which promote work and end dependency. Other states have proceeded slowly because they chose to engage in careful planning and needs assessment research before embarking on innovative new efforts to move people from welfare to work. Now, they are ready to utilize their funds, and now the feds are trying to take back these funds.

Let me also point out that unobligated funds are not surplus funds. These funds are essential to the overall success of welfare reform. Many of the families remaining on welfare face substantial barriers to employment including lack of educational and workforce skills, substance abuse, domestic violence, and disability. States anticipate that greater investments will be required if families are going to successfully transition from welfare-to-work. As an increasing number of families with infants and young children move into the work force, the need and competition for child care, particularly during evening hours, will continue to expand. Without assistance, many states will not be able to provide needed services to low-income families.

Now, just a few years after dramatically overhauling the welfare system, the Republican Leadership wants to take $350 million in unobligated TANF funds to offset some of the expenses incurred by the Emergency Supplemental Act. This is unacceptable. Congress told states to spend their money carefully, to engage in thoughtful long-term planning, and that they could keep their unobligated funds, and here we are two years later, changing the rules of the game.

The Republican Leadership also wants to take $252 million from the Food Stamp Program base appropriations level. Senate appropriators contend that these funds would otherwise be unspent. Once again, the Republicans are taking a short-sighted approach. First, assuming these funds are unspent, they are not unneeded. The current base appropriations level provides an important cushion to meet unanticipated need. Second, recently released statistics on hunger and undernutrition suggest that we need to reinvest in food assistance programming. Hunger is still an urgent problem. The recent decline in food stamp use from 28 million to under 19 million does not mean that hunger is no longer a significant concern. Just a few weeks ago the Urban Institute reported that one-third of America's children are in families grappling with hunger and food insecurity.

We cannot let this happen. We cannot take any more money from programs that help children and needy families. Furthermore, Congress must uphold its commitment to the states—federal money pledged to the states should not be taken away, especially when emergency funding is available without offsets.

Another disturbing aspect of the Supplemental is the inclusion of the Hutchinson Medicaid Amendment. This issue does not belong in an emergency appropriations bill. If approved, the long-term cost to Medicaid of this amendment would be approximately $140 billion. No serious consideration has been given to the enormous impact that could have on national health policy. Instead of being used to deter youth smoking and to improve the nation's health, the language in the Committee bill would permit states to use these federal Medicaid dollars to pave roads, to build prisons and stadiums, and to fund state tax cuts. Those are not appropriate uses for Medicaid dollars. Congress has a vital interest in how those federal dollars are used.

Fifty-seven cents of every Medicaid dollar spent by the states comes from the federal government. The cost of Medicaid expenditures to treat people suffering from smoking-induced disease was at the core of state lawsuits against the tobacco industry. While the federal government could legally demand that the states reimburse Washington from their settlements, I believe the states should be allowed to keep one hundred percent of the money. However, the federal share must be used by the states for programs that will advance the goals of protecting children and enhancing public health which were at the heart of the litigation and are consistent with the purposes of Medicaid. That would be an eminently fair and reasonable compromise of this contentious issue.

While there were a variety of claims made by the states against the tobacco industry, the Medicaid dollars used to treat tobacco-related illness constituted by far the largest claim monetarily, and it formed the basis for the national settlement. As part of that settlement, every state released the tobacco companies from federal Medicaid liability, as well as state Medicaid liability. Medicaid expenditures heavily influenced the distribution formula used to divide the national settlement amongst the states. In light of these undeniable facts, the dollars obtained by the states from their settlements cannot now be divorced from Medicaid. States are free to use the state share of their recoveries in any way they choose. However, Congress has a clear and compelling interest in how the federal share will be used.

States should be required to use half of the amount of money they receive from the tobacco industry each year (the federal share) to protect children and improve public health. At least thirty-five percent of the federal share would be spent on programs to deter youth smoking and to help smokers overcome their addiction. This would include a broad range of tobacco control initiatives, including school and community based tobacco use prevention programs, counter-advertising to discourage smoking, cessation programs, and enforcement of the ban on sale to minors. Three thousand children start smoking every day, and one thousand of them will die prematurely as a result of tobacco-induced disease. Prevention of youth smoking should be, without question, our highest priority for the use of these funds. Reducing youth smoking would, of course, result in a dramatic savings in future Medicaid expenditures. The state settlements provide the resources to dissuade millions of teenagers from smoking, to break the cycle of addiction and early death. We must seize that opportunity.

The remainder of the federal share should be used by states to fund health care and early learning initiatives which they select. States could either use the additional resources to supplement existing programs in these areas, or to fund creative new state initiatives to improve public health and promote child development.

Smoking has long been America's foremost preventable cause of disease and early death. It has consumed an enormous amount of the nation's health care resources. Finally, resources taken from the tobacco companies would be used to improve the nation's health. A state could, for example, use a portion of this money to help

senior citizens pay for prescription drugs, or to provide expanded health care services to the uninsured. Funds could be used to support community health centers, to reduce public health risks, or to make health insurance more affordable.

For years, the tobacco companies callously targeted children as future smokers. The financial success of the entire industry was based upon addicting kids when they were too young to appreciate the health risks of smoking. It is particularly appropriate that resources taken from this malignant industry be used to give our children a better start in life. States could use a portion of these funds to improve early learning opportunities for young children, or to expand child care services, or for other child development initiatives.

Congress has an overwhelming interest in how the federal share of these dollars is used. They are Medicaid dollars. They should not be used for road repair or building maintenance. They should be used by the states to create a healthier future for all our citizens, and particularly for our children.

These problems with the supplemental need to be fixed. Congress shouldn't let emergency assistance get bogged down by these extraneous provisions. A clean supplemental should be approved as quickly as possible so that this aid can go out quickly to those in greatest need.

Mr. GRASSLEY. Mr. President, I rise today to express my opposition to the amendment offered by Senators SPECTER and HARKIN that is based on a ''Washington Knows Best'' policy. Under this amendment, every Governor—each year—for the next 25 years would be required to submit a plan to Washington asking for permission on how to spend fifty percent of the state's own money. I'm voting ''no'' to this ''Washington Knows Best'' amendment.

My state of Iowa stands ready to receive $1.7 billion over the next 25 years for its share of this landmark settlement. Iowa began a thoughtful process years ago to establish a framework to guide the state on how to utilize these new resources should the state succeed with its case against the tobacco industry. Two years ago, after much state and local deliberation, the Iowa Legislature passed laws establishing a governing framework. Now that success has come for Iowa, it is prepared. Among top priorities for the use of these new funds are increased medical assistance and programs to reduce teen smoking. Furthermore, Iowa's Governor Vilsack enthusiastically advocates a number of new initiatives for combating teen smoking, including an initiative to spend $17.7 million of its settlement money on tobacco prevention and control programs. I am confident in the leadership of our Governor and State Legislature in deciding how to best spend its resources for the well-being of Iowans.

The states are entitled to the full amount of their settlement. Years ago, the states began to organize their case against the tobacco industry. They sought assistance from the federal government in their efforts, but received none. The states took on all the risk, and invested all of the time, money and energy. They have been rewarded for their commitment to the case with a landmark settlement. It is unfair for Congress, at this very late stage, to dip into the state's multi-billion dollar settlement. What's more, last year Congress made attempts at a federal settlement but failed. Congress is in no position to interfere with what the states have independently accomplished.

Mr. CRAIG. Mr. President, as a cosponsor of Senator HUTCHINSON'S bill to protect the states' claims on the funds from the settlement that they negotiated with the tobacco industry, I oppose the Harkin-Specter amendment.

I am not a lawyer, and maybe that's why I'm not particularly impressed by all the legal hairsplitting we've been hearing from the government's lawyers about their claim to these funds. But you don't have to be a lawyer to recognize unfairness when you see it.

In fact, I think my little granddaughter would recognize the story that's unfolding in Washington today: it's called the ''Little Red Hen.'' As my colleagues probably will recall, this story is about some people doing all the work and other people, who didn't lift a finger to help, wanting to share in the product of that work.

In this case, we have the states who initiated lawsuits against the tobacco industry, who took all the risks, who received no assistance from the federal government in making their claims, and who ultimately succeeded in negotiating the historic Master Settlement Agreement last November. Now that the work has been done by these 46 little red hens, and the other four who negotiated individual settlements, the federal government wants to sweep in and take over.

Mr. President, I do not think what we have here is an attempt to assert legal rights, but an attempt to assert control. Quite simple, the federal government wants to direct the spending of these funds by the states, despite the fact that this effort is likely to provoke more litigation, which in turn will only prevent the funds from being used to benefit the health or welfare of any state's residents. I do not think the federal government has the law on its side, and I know it doesn't have the equities or even common sense on its side.

At this point, I ask unanimous consent to have printed in the RECORD a letter from Idaho Attorney General Al Lance, objecting to the attempted money grab.

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

OFFICE OF THE ATTORNEY GENERAL,
Boise, ID, January 13, 1999.

Hon. LARRY CRAIG,
U.S. Senate, Washington, DC.

Re: Idaho tobacco settlement monies.

DEAR SENATOR CRAIG: You are no doubt aware that Idaho settled its lawsuit against the tobacco defendants. Under the settlement agreement, Idaho is set to receive annual payments totaling $711 million over the first 25 years of the settlement. Now that the settlement is complete, it is my understanding that the Clinton Administration intends to lay claim on a significant portion of settlement monies for its own use. This is wrong. I ask that you help Idaho protect itself from this money grab by supporting appropriate federal legislation.

Idaho was one of 40 states that filed suit against various tobacco defendants, alleging violations of various state statutes. In Idaho's complaint we sought reparation for damages incurred by the State, as well as civil penalties, costs, and fees as a result of the defendants' actions. We alleged as damages the increased Medicaid costs attributable to tobacco use, which Idaho has spent, as well as the increased insurance premiums attributable to smoking that the State has paid for its state employees. We sought civil penalties under our consumer protection laws.

Section 1903(d) of the Social Security Act provides that a State must allocate from the amount of any Medicaid-related recovery ''the pro-rata share to which the United States is equitably entitled.'' Relying upon this statute, it is our understanding that the Health Care Financing Administration will be taking the position that Idaho's settlement payments represent a credit applicable to Idaho's Medicaid program, regardless of whether the monies are received directly by the State's Medicaid program. This should not be so.

It is not equitable for the federal government to take the fruits of the states' efforts. This is particularly true in this case. Idaho filed its suit, took significant risks, and fought for significant changes in how the tobacco industry will market its products. What did the Clinton Administration do in this regard with the federal government's vast resources? Nothing.

I have great confidence that Idaho's Legislature will properly determine how Idaho's tobacco proceeds should be spent. I am sure you share that trust as well. That will not happen, however, if the federal government is allowed to take that money and spend it as it pleases. I ask for your assistance in making sure that does not happen.

Sincerely,

ALAN G. LANCE,
Attorney General.

Mr. CRAIG. I wholeheartedly agree with Attorney General Lance's confidence that the Idaho state legislature is quite capable of properly determining how Idaho's share of the tobacco settlement should be spent.

It is my strong hope that the Senate will defeat this amendment and allow my state's legislature, and those of the other 49 states, to make these decisions without interference.

Mrs. MURRAY. Mr. President, we have a difficult decision before us. I believe most, if not all of us, hope the states will do the right thing and spend the tobacco litigation money to stop underage smoking, reduce adult smoking, and provide critical public health services. I know I am unequivocally committed to those objectives and will

therefore support the Specter-Harkin amendment to ensure they do so.

That said, I want the states to have the greatest degree of flexibility and discretion in allocating these settlement funds to the health needs of their residents as possible. This amendment does just that. It broadly requires states to spend 20 percent of the settlement on programs to reduce the use of tobacco products, including enforcement, school education programs, and advertising campaigns. It also requires 30 percent to be spent on public health.

If we do not reduce smoking and stop at least some of the 3,000 new kids per day from smoking, the federal taxpayer will end up the loser. That is why we should have a voice in directing use of these funds. The Medicare Trust Fund is financially solvent only until 2009, so we need to do everything possible to reduce overall health care costs. If one state does not reduce the deadly impact of smoking, the federal taxpayers will foot the bill. So, all American taxpayers have a big stake in reducing smoking. They have the right to push all states to save their tax dollars by reducing health care costs.

Still, the Specter-Harkin amendment targets only a portion of settlement dollars; just that portion that could be attributed to the federal share of Medicaid. Because Medicaid is a federal-state partnership and the settlement includes claims arising out of this program, federal taxpayers have a valid claim to make in how those settlement dollars are spent.

I am proud of my home state of Washington. It has already made a commitment to public health and smoking reduction. The Specter-Harkin amendment only reinforces what my state has done. Once again Washington state is a leader on protecting public health and saving the premature death of five million of today's children. I have attached a letter I received from the Western Pacific Division of the American Cancer Society urging me to support this amendment for these very reasons, to support the ''health of our kids and our families.''

I also continue to support Senator HUTCHINSON's work to ensure the states receive the credit they deserve. They have scored a major victory for public health. The success of the Attorney's General in their settlement with the tobacco companies is unprecedented. I applaud them and especially Washington's Attorney General, Chris Gregoire, who has been a champion in this cause.

The federal government must not rely on the states to do all of its work for them. It is the responsibility of the federal government to recover Medicaid funds and I will urge the Administration to move forward with necessary litigation. The federal government must seek restitution from the tobacco companies for the years of lies and deception that have resulted in the premature deaths of millions of Americans. Smoking-related illnesses are still the number-one killer of Americans.

I am pleased Senators SPECTER and HARKIN could find the appropriate balance between the rights of the states to enjoy their well-deserved settlement funds and the rights of federal taxpayers to ensure those funds are spent to protect the public health and reduce their future tax obligations under Medicare and Medicaid by reducing the cost of tobacco-related illnesses.

The PRESIDING OFFICER. Who yields time?

Mrs. HUTCHISON. Parliamentary inquiry. How much time do I have left?

The PRESIDING OFFICER. The Senator has 13 minutes.

Mrs. HUTCHISON. Thank you, Mr. President.

Mr. HARKIN. Parliamentary inquiry. How much time do we have left?

The PRESIDING OFFICER. Ten minutes 11 seconds.

Mrs. HUTCHISON. Does the Senator from Iowa wish to go at this time? Because if not, Senator VOINOVICH was next in line for our side.

The PRESIDING OFFICER. Time is controlled by the Senator from Pennsylvania.

Who yields time?

Mrs. HUTCHISON. Mr. President, I yield up to 5 minutes to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio is recognized for 5 minutes.

Mr. VOINOVICH. Mr. President, as a former Governor, I introduced my own tobacco recoupment legislation. I am pleased to be an original cosponsor of Senator HUTCHISON's and Senator GRAHAM's bipartisan legislation.

Under this settlement, the tobacco companies agreed to pay 46 States, including Ohio, $206 billion over 25 years. Four other States previously won a $40 billion settlement. Ohio was slated to receive $9.8 billion over 25 years, beginning with $400 million in 2000 and 2001.

I just want you to know that the Nation's Governors are adamantly opposed to imposing restrictions on State funding. I have distributed a letter from the chairman and vice chairman of the National Governors' Association. It will be on the desk of all of the Senators expressing their adamant opposition to the amendment.

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

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

NATIONAL GOVERNORS' ASSOCIATION,
March 17, 1999.

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

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

DEAR MAJORITY LEADER AND SENATOR DASCHLE: As the Senate moves forward with consideration of the Emergency Supplemental Appropriations bill, we write to inform you of the nation's Governors' strong support for language now included in the bill that would protect state tobacco settlement funds. In addition, we are adamantly opposed to any amendments that would restrict how states spend their tobacco settlement money. The settlement funds rightfully belong to the states, and states must be given the flexibility to tailor the spending of the tobacco funds to the needs of their citizens.

There is a proposal under consideration, the Harkin/Specter amendment, to require states to earmark 20 percent of the settlement funds for smoking cessation programs, and an additional 30 percent for health care programs. Governors are adamantly opposed to any restrictions on the tobacco settlement funds, but even more so to this proposal, because it obligates state tobacco settlement funds to federal programs or to specific state programs only if approved by the Secretary of HHS.

Furthermore, although the nation's Governors agree with the goal of substantially reducing smoking, we are strongly opposed to earmarks on smoking cessation on the basis that it represents unsound public policy. There are already four major initiatives that are going into effect to reduce smoking.

1. The price of tobacco products has already increased between 40 cents and 50 cents per pack. Additional price increases may come over time as companies attempt to hold profit margins and make settlement payments. These price increases will substantially reduce smoking over time.

2. The tobacco settlement agreement already contains two major programs funded at $1.7 billion over ten years dedicated to reducing smoking. $250 million over the next ten years will go towards creation of a national charitable foundation that will support the study of programs to reduce teen smoking and substance abuse and the prevention of diseases associated with tobacco use. An additional $1.45 billion over five years will go towards a National Public Education Fund to counter youth tobacco use and educate consumers about tobacco-related diseases. The fund may make grants to states and localities to carry out these purposes.

3. The settlement agreement has a significant number of restrictions on advertising and promotion. The settlement prohibits targeting youth in tobacco advertising, including a ban on the use of cartoon or other advertising images that may appeal to children. The settlement also prohibits most outdoor tobacco advertising, tobacco product placement in entertainment or sporting events, and the distribution and sale of apparel and merchandise with tobacco company logos. Further, the settlement places restrictions on industry lobbying against local, state, and federal laws. Over time, these restrictions on tobacco companies' ability to market their products to children and young adults will have a major impact on smoking.

4. States are already spending state funds on smoking cessation and will substantially increase funding as the effectiveness of programs becomes established. Many states have already invested years in program design, modification, and evaluation to determine the best ways to prevent youth from taking up cigarette smoking and helping youth and adults quit smoking. Governors and states are highly motivated to implement effective programs. We see the human and economic burdens of tobacco use every day in lost lives, lost wages and worker productivity, and medical expenditures for tobacco-related illnesses.

All of these initiatives are likely to substantially reduce tobacco consumption. It would be foolish to require large expenditures over the next 25 years to such programs without a good sense of how these initiatives will reduce the current level of

smoking. Any additional expenditures for smoking cessation must be carefully coordinated with these other four major policy initiatives as they will cause smoking behavior to shift dramatically. Furthermore, while there have been some studies on the effectiveness of alternative smoking cessation programs, the ''state of the art'' is such that we just do not know what types of programs are effective. States are still in the process of experimentation with effective methods of preventing and controlling tobacco use; there is no conclusive data that proves the efficacy of any particular approach.

Governors feel it would be wasteful, even counterproductive to mandate huge spending requirements on programs that may not be effective. Governors need the flexibility to target settlement funds for state programs that are proven to improve the health, welfare, and education of their citizens to ensure that the money is wisely spent. Furthermore, the federal government must maintain its fiscal commitment to vital health and human services programs, and not reduce funding in anticipation of increased state expenditures.

We strongly urge you to vote against the Harkin/Specter amendment and support flexibility for states to tailor the spending of the tobacco funds to the needs of their citizens.

Sincerely,

Gov. THOMAS R. CARPER,
Chairman, State of Delaware.
Gov. MICHAEL O. LEAVITT,
Vice Chairman, State of Utah.

Mr. VOINOVICH. The proposition is clearly unsupportable, for the following reasons:

First of all, States filed complaints that included a variety of claims—consumer protection, racketeering, antitrust, disgorgement of profits and civil penalties for isolations of State laws.

Medicaid was just one of the many issues in many cases. Furthermore, State-by-State allotments were determined by the overall health care costs in each State and not based on Medicaid expenditures—not based on Medicaid expenditures.

Medicaid was not even mentioned in some cases. As a matter of fact, in Ohio the Medicaid claim was thrown out of court. The Federal Government was invited to participate in the lawsuits, but the Federal Government declined. States bore the risk of initiating the suits and the burden of the unprecedented lawsuits against a well-financed industry. It was not until after the States prevailed that the Federal Government became interested.

The tobacco settlement negotiated between attorneys general and the tobacco companies is completely different from the agreement that failed to pass in the 105th Congress.

With the failure of that legislation, the States were forced to proceed with their own State-only lawsuit and settlement.

States must be given the flexibility to tailor their spending to the unique needs of their citizens. And States will spend their funding on a variety of local needs—health, education, welfare, smoking cessation programs.

Many Governors, through their state-of-the-State speeches or proposed legislation, have already committed publicly to spending these funds for the health and welfare needs of their citizens.

The majority of the Governors have already made commitments to create trust funds and escrow accounts that will ensure that the tobacco settlement funds are spent on health care services for children, assistance for growers in the States that will be affected, education, and smoking cessation.

Two major programs—this is really important—in the settlement are already dedicated to reducing teen smoking and educating the public about tobacco-related diseases. Two hundred and fifty million dollars will create a national charitable foundation to support the study of programs to reduce teen smoking and substance abuse and prevent diseases associated with tobacco use. An additional $1.5 billion will create a National Public Education Fund to counter youth tobacco use and educate consumers about tobacco-related diseases.

In addition, the settlement agreement has significant restrictions on advertising and promotion—such as bans on advertising and lobbying against local, State, and Federal laws—which will have an impact on youth smoking. In other words, the tobacco companies can no longer lobby against legislation that will deal with cessation of use of tobacco.

States are already spending State funds on smoking cessation. They don't need the Federal Government to put a mandate in place. There is simply no way that States can spend 20 percent of these funds on smoking cessation programs. These programs cannot absorb this level of funding. As smoking levels decline, as expected under the settlement, it will become impossible for States to spend this level of funding effectively.

This amendment forces States to spend an incredible—listen to this—$49 billion on just one objective: Denying them the ability to use these funds to best meet the needs of their citizens. The notion that the compassion and wisdom of Washington exceeds that of our State capitals is not only wrong, it is offensive. The Governors and the local government officials in this country care as much about smoking cessation as the Members of this Congress.

I will never forget during welfare reform the people who were telling us that we didn't care as much about people as the people in Washington. They said it would be a race to the bottom. The fact of the matter is, it is a race to the top.

Mr. President, I think we should overwhelmingly defeat this amendment. It is not appropriate for this piece of legislation.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. How much time remains?

The PRESIDING OFFICER. The Senator from Texas has 7 minutes 37 seconds.

Mrs. HUTCHISON. I yield Senator BROWNBACK up to 3 minutes.

The PRESIDING OFFICER. The Senator from Kansas is recognized for 3 minutes.

Mr. BROWNBACK. I thank the author of this amendment from Texas, as well as our colleague from Florida.

The idea that we would tell the States how to spend this money from this litigation is absolutely wrong. It is just wrong on its face. The people who are proposing it, I respect their motivation; they are trying to reach out and save lives and to stop these health problems. I think their motivation is appropriate, but the direction and the apportionment that is taking place on the States is the wrong way to do it.

In every State in the country that has been a part of this litigation, there is now ongoing a healthy and vigorous debate about how best to spend the tobacco settlement funds. It is happening in Kansas, my State. I am being contacted by the Kansas Legislature in very strong terms. ''Do you not think that we care about what happens to the people here? Do you not have enough problems in Washington to deal with, that you have to tell us what to do with this? We are the ones who brought this litigation forward.'' They are quite offended that we would try to direct them and tell them what to do with these funds that they pursued in litigation and that they need. They are offended as well because they think we don't believe they know what is best for Kansans.

I agree with them. I laud my colleague from Texas, Senator HUTCHISON, in what she is doing. I note, as well, that in Kansas in the debate and in the funding proposal that we have, 50 percent of all the funds to Kansas are going to children's health care program funds for prevention and cessation. We are putting in 50 percent which was enacted in the legislature. But we should not require them to go to HCFA after they have appropriated the money and see if they agree or see if they are going to have to do something different.

With almost unprecedented unanimity, every State Governor, Attorney General, and State legislature has directly backed the Hutchison-Graham language. In fact, in many cases it is the No. 1 Federal issue for the 106th Congress by a number of these groups. I applaud my colleague. The debate is happening at the right place now. We should not impose a ''Washington knows best'' approach.

Mrs. HUTCHISON. I yield up to 4 minutes to the Senator from Kentucky.

Mr. MCCONNELL. I thank the Senator from Texas for her outstanding leadership on this issue. As has been stated by all the speakers, basically this is an amendment to tell the States how to spend money that they achieve through a settlement with the tobacco industry. Not only money, but a huge amount of money—$40 billion—just on

tobacco use reduction advertising and programs.

To contrast that with the advertising budgets of private enterprise in this country, ''Advertising Age'' said U.S. companies spend a total of $208 billion on advertising all of their products last year. The top 100 advertisers spent a total of $58 billion last year. In California and New York, this would mean $5 billion worth of ads to each of those States; in Pennsylvania, $2.25 billion worth of ads; and in my State, $700 million worth of ads.

Mr. President, this would be one of the most massive advertising campaigns in the history of the country, probably the most massive in the history of the country—public or private. Because advertising rates in my home State are not particularly high, that could translate into over 1,000 days of nonstop TV commercials. That is almost 3 years. And we think political campaigns go on too long.

Contrast this with all Federal Government drug control spending of $16 billion. Members get the picture. If the Specter amendment were approved, we would have the Federal Government spending more money, by far, attacking a legal product than the Clinton administration currently spends in its war on drugs. There is $40 billion targeted at tobacco use, $16 billion against illegal drug use. It makes a person wonder if it would be better to simply pay America's 40 million smokers $1,000 apiece to quit. Send them $1,000 checks each, to quit. It would be a lot cheaper than what we have before the Senate.

As has been stated by other speakers, the National Governors' Association has strongly committed itself to supporting antitobacco programs in the respective States. The States know better how to spend this money and will do so efficiently through existing State mechanisms. If the Federal Government dictates how the States should spend the money and the mechanisms are not there, the States will have to create them—creating even more bureaucracy.

The final outrage is that this amendment requires the elected Governors of the States to report to Secretary Shalala on how they are going to spend their money. This is truly an egregious effort by the Federal Government to dictate to the States how they ought to spend money that they are entirely entitled to under any system of justice.

Let me repeat: This calls for a $40 billion advertising campaign against a legal product, yet the Federal Government currently spends only $16 billion in its illegal drug enforcement effort.

The Hutchison proposal is the correct one. This amendment should be defeated.

The PRESIDING OFFICER. The Senator from Pennsylvania has 10 minutes 11 seconds, and the Senator from Texas has 40 seconds.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. LOTT. Parliamentary inquiry. Rather than just waiting here, whose time is being used?

The PRESIDING OFFICER. The time of the Senator from Pennsylvania is running. If neither side is yielding time, time will have to be deducted equally between both sides.

Mrs. HUTCHISON. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Unless the Senator gets unanimous consent, time will be deducted equally.

Mrs. HUTCHISON. I ask unanimous consent that my 40 seconds be reserved.

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

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I yield 5 minutes to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, I thank my chairman and friend from Pennsylvania for his leadership on this issue.

Again, let's cut through all the arguments, all the smoke and the haze, if you will. What is this about? It is about public health. It is about cutting down on youth smoking. That is what it is about.

Now, my friend from Florida—with whom I wanted to engage in a colloquy, but I understand he had to go to a committee meeting—pointed out that a lot of the States sued on different bases—RICO, racketeering, prices—but 32 States, including Florida, included Medicaid. As any good lawyer can tell you, it is the old ''spaghetti theory'' of suing. You just throw the spaghetti at the wall, and whatever sticks, that is what you go on. They just threw a bunch of stuff in there when they sued to recoup from the tobacco companies.

But it is interesting to note that, in the final settlement, the States waived their rights in the future to sue to reclaim any moneys under Medicaid. Why was that put in there? I will tell you why. Because the tobacco companies wanted it in there, because it not only precluded the States from suing, it precludes the Federal Government from recouping Federal shares of money for the health costs that we pay out in Medicaid to take care of people who are sick and dying of tobacco-related illnesses. That is what this is all about.

Some say we should not mandate to the States how to spend their money. We are not trying to do that. The basis of this is public health. At least a portion of the Federal moneys—not even all of it—ought to go to smoking cessation programs and for a variety of other public health programs.

The Senator from Pennsylvania knows as well as I do—we sit on the Appropriations Committee as chairman and ranking member—we have a lot of public health needs out there. We are getting shortchanged. I know States have needs for highways, bridges, sports arenas, prisons and things like that; but I daresay they did not bring these suits against the tobacco companies because the tobacco companies weren't building enough highways or sports arenas or prisons or anything else. What they brought it on was the health problems that tobacco companies are causing their people.

Well, I might also point out that, in the previous settlement with the Liggett tobacco company, some States did give back their portion of that settlement to the Federal Government, covering the Medicaid portions of those costs. I don't have the exact figures, but I believe Florida was one of those States—Florida, Louisiana, and Massachusetts were the three States that returned some of that money. So that is really what this is about.

I know the Governors have weighed in on this, both Democrats and Republicans. Well, I can understand their point. They are trying to get as much money as they can for their States; that is their responsibility. But it seems to me that we have to look at the national picture and what this is all about. It is about health care and cutting down on teen smoking. That is what this is really about.

To cut through all the smoke and haze, let us do our responsibility to the Federal taxpayers, to the Medicaid Program, and give some guidance and direction—not explicitly saying how the States have to spend it; let them use their wisdom—but give them guidance and direction and say that at least 20 percent has to be used for smoking cessation and 30 percent for a broad variety of other public health measures, including helping tobacco farmers switch from that crop to others. It is the only decent thing to do.

I reserve the time I have. How much time do I have?

The PRESIDING OFFICER. The Senator from Pennsylvania has 4 minutes 31 seconds.

Mr. HARKIN. I yield that back to the Senator from Pennsylvania.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. LOTT. Mr. President, since all time has been used, except for maybe 5 minutes—40 seconds for the opponents and 4½ minutes or so for the proponents—I would like to use leader time to state my position on this issue.

This morning I happened to be listening to one of the Washington, DC, all-news radio stations. There was an ad on there done by the Lieutenant Governor of Maryland, Kathleen Kennedy Townsend, speaking about the importance of tobacco cessation campaigns. Now, I wondered who paid for that, how that was being supported. Why was a Lieutenant Governor—a candidate for Governor—being used in this ad? It relates to this whole debate. I think probably the State of Maryland is paying for that campaign, or maybe it is a campaign unrelated to all this. But the point there is that there is already a lot being done, and there is going to be

a lot more done in the smoking cessation campaigns by the States.

Mr. President, this is a very fundamental argument. It goes to the heart of the broader question: Does the Federal Government have the great wisdom reposing here in the Secretary of HHS, or do States have a certain modicum of wisdom of their own?

Frankly, I trust the Governor of Pennsylvania and the legislature in Pennsylvania. I trust the Governors of Iowa and Illinois, and the legislature in Ohio, and in my own State, to make the best decision for the people in that State. There are those here who think the Federal Government has to review this, the Federal Government has the answer, the Federal Government must direct how this money is spent. I don't agree with that. That is the fundamental argument here on this issue and on a lot of others, as well.

First, a little history. How did this all begin? Well, whether you agree with it or not, or whether I like it or not, it began in my State of Mississippi. An attorney general developed this lawsuit and, to their credit, they did a fantastic job. The Federal Government wasn't involved. The Federal Government could not find a way to get involved. They did it. It was Mississippi, Florida, Texas, Washington State, all across the Nation. The States, through their attorneys general and their lawyers, did the job and they got settlements. They got the money. They won the issue.

Now, the Federal Government shows up and says, oh, by the way, give me that. The truth of the matter is, there are many people in this city who think all of that money, or somewhere between 50 and 77 percent of that money, should come to Washington, even though the Federal Government did nothing to win this settlement. They weren't a positive force. But they have the temerity to show up and say the law requires this or that and they want that money. I want to emphasize again that you are talking about a very substantial portion of that money.

Now, I want to submit for the RECORD—I don't know if there are already in the RECORD—a letter I received from the National Governors' Association, signed by Governor Carper of Delaware, a Democrat, and Michael Leavitt, the Republican Governor of Utah, addressed to Senator DASCHLE and myself.

I ask unanimous consent that this letter be printed in the RECORD, along with a letter I received from Secretary Shalala.

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

NATIONAL GOVERNORS ASSOCIATION,
March 17, 1999.

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

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

DEAR MAJORITY LEADER AND SENATOR DASCHLE: As the Senate moves forward with consideration of the Emergency Supplemental Appropriations bill, we write to inform you of the nation's Governors' strong support for language now included in the bill that would protect state tobacco settlement funds. In addition, we are adamantly opposed to any amendments that would restrict how states spend their tobacco settlement money. The settlement funds rightfully belong to the states, and states must be given the flexibility to tailor the spending of the tobacco funds to the needs of their citizens.

There is a proposal under consideration, the Harkin/Specter amendment, to require states to earmark 20 percent of the settlement funds for smoking cessation programs, and an additional 30 percent for health care programs. Governors are adamantly opposed to any restrictions on the tobacco settlement funds, but even more so to this proposal, because it obligates state tobacco settlement funds to Federal programs or to specific State programs only if approved by the Secretary of HHS.

Furthermore, although the Nation's Governors agree with the goal of substantially reducing smoking, we are strongly opposed to earmarks on smoking cessation of the basis that it represents unsound public policy. There are already four major initiatives that are going into effect to reduce smoking.

1. The price of tobacco products has already increased between 40 cents and 50 cents per pack. Additional price increases may come over time as companies attempt to hold profit margins and make settlement payments. These price increases will substantially reduce smoking over time.

2. The tobacco settlement agreement already contains two major programs funded at $1.7 billion over ten years dedicated to reducing smoking. $250 million over the next ten years will go towards creation of a national charitable foundation that will support the study of programs to reduce teen smoking and substance abuse and the prevention of diseases associated with tobacco use. An additional $1.45 billion over five years will go towards a National Public Education Fund to counter youth tobacco use and educate consumers about tobacco-related diseases. The fund may make grants to states and localities to carry out these purposes.

3. The settlement agreement has a significant number of restrictions on advertising and promotion. The settlement prohibits targeting youth in tobacco advertising, including a ban on the use of cartoon or other advertising images that may appeal to children. The settlement also prohibits most outdoor tobacco advertising, tobacco product placement in entertainment or sporting events, and the distribution and sale of apparel and merchandise with tobacco company logos. Further, the settlement places restrictions on industry lobbying against local, state, and federal laws. Over time, these restrictions on tobacco companies' ability to market their products to children and young adults will have a major impact on smoking.

4. States are already spending state funds on smoking cessation and will substantially increase funding as the effectiveness of programs becomes established. Many states have already invested years in program design, modification, and evaluation to determine the best ways to prevent youth from taking up cigarette smoking and helping youth and adults quit smoking. Governors and states are highly motivated to implement effective programs. We see the human and economic burdens of tobacco use every day in lost lives, lost wages and worker productivity, and medical expenditures for tobacco-related illnesses.

All of these initiatives are likely to substantially reduce tobacco consumption. It would be foolish to require large expenditures over the next 25 years to such programs without a good sense of how these initiatives will reduce the current level of smoking. Any additional expenditures for smoking cessation must be carefully coordinated with these other four major policy initiatives as they will cause smoking behavior to shift dramatically. Furthermore, while there have been some studies on the effectiveness of alternative smoking cessation programs, the ''state of the art'' is such that we just do not know what types of programs are effective. States are still in the process of experimentation with effective methods of preventing and controlling tobacco use; there is no conclusive data that proves the efficacy of any particular approach.

Governors feel it would be wasteful, even counterproductive to mandate huge spending requirements on programs that may not be effective. Governors need the flexibility to target settlement funds for state programs that are proven to improve the health, welfare, and education of their citizens to ensure that the money is wisely spent. Furthermore, the federal government must maintain its fiscal commitments to vital health and human services programs, and not reduce funding in anticipation of increased state expenditures.

We strongly urge you to vote against the Harkin/Specter amendment and support flexibility for states to tailor the spending of the tobacco funds to the needs of their citizens.

Sincerely,

GOV. THOMAS R. CARPER,
Chairman, State of Delaware.
GOV. MICHAEL O. LEAVITT,
Vice Chairman, State of Utah.

WASHINGTON, DC,
March 15, 1999.

Hon. TRENT LOTT,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR LOTT: I am writing to express the Administration's strong opposition to the provision approved by the Senate Appropriations Committee as part of the FY 1999 supplemental appropriations bill that would prohibit the Federal Government from recouping its share of Medicaid funds included in the states' recent settlement with the tobacco companies. The Administration is eager to work with the Congress and the states on an alternative approach that ensures that these funds are used to reduce youth smoking and for other shared state and national priorities.

Under the amendment approved by the committee, states would not have to spend a single penny of tobacco settlement funds to reduce youth smoking. The amendment also would have the practical effect of foreclosing any effort by the Federal Government to recoup tobacco-related Medicaid expenditures in the future, without any significant review and scrutiny of this important matter by the appropriate congressional authorizing committees.

Section 1903(d) of the Social Security Act specifically requires that the States reimburse the Federal Government for its pro-rata share of Medicaid-related expenses that are recovered from liability cases involving third parties. The Federal share of Medicaid expenses ranges from 50 percent to 77 percent, depending on the State. States routinely report third-party liability recoveries as required by law. In 1998, for example, states recovered some $642 million from third-party claims; the Federal share of these recoveries was $400 million. Over the last five years, Federal taxpayers recouped over $1.5 billion from such third-party recoveries.

Despite recent arguments by those who would cede the Federal share, there is considerable evidence that the State suits and their recoveries were very much based in Medicaid. In fact, in 1997, the States of Florida, Louisiana and Massachusetts reported the settlement with the Liggett Corporation as a third-party Medicaid recovery, and a portion of that settlement was recouped as the Federal share.

Some also have argued that the States are entitled to reap all the rewards of their litigation against the tobacco industry and that the Federal Government can always sue in the future to recover its share of Medicaid claims. This argument contradicts the law and the terms of the recent State settlement. As a matter of law, the Federal Government is not permitted to act as a plaintiff in Medicaid recoupment cases and was bound by the law to await the States' recovery of both the State and Federal shares of Medicaid claims. Further, by releasing the tobacco companies from all relevant claims that can be made against them subsequently by the States, the settlement effectively precludes the Federal Government from recovering its share of Medicaid claims in the future through the established statutory mechanism. The amendment included in the Senate supplemental appropriations bill will foreclose the one opportunity we have under current law to recover a portion of the billions of dollars that Federal taxpayers have paid to treat tobacco-related illness through the Medicaid program.

The President has made very clear the Administration's desire to work with Congress and the States to enact legislation that resolves the Federal claim in exchange for a commitment by the States to use that portion of the settlement for shared priorities which reduce youth smoking, protect tobacco farmers, assist children and promote public health. I would urge you to oppose efforts to relinquish the legitimate Federal claim to settlement funds until this important goal has been achieved.

Sincerely,

DONNA E. SHALALA,
Secretary of Health and Human Services.

Mr. LOTT. The Governors say:

. . . we are adamantly opposed to any amendments that would restrict how States spend their tobacco settlement money.

They point out that 20 percent of the settlement funds, under this amendment, would have to go for smoking cessation, and then another 30 percent for health care programs. But also what the States do has to be approved by the Secretary of Health and Human Services. Why? What do they have at HHS that the various States don't have, and why can't they decide on their own what is best for their people?

They say in their letter they are opposed to earmarks on smoking cessation on the basis that it represents unsound public policy.

They then go on to say that there are many things already being done. In fact, the settlement agreement contains two major programs funded at $1.7 billion over 10 years dedicated to reducing smoking, and $250 million over the next 10 years will go toward the creation of a national charitable foundation that will support the study of programs to reduce teen smoking. An additional $1.45 billion over 5 years will go toward the National Public Education Fund to counter youth tobacco use and educate consumers about tobacco-related diseases.

So there is a great deal already being done. There is a significant number of restrictions in the settlement with regard to advertising and promotion of smoking. The States are already, on their own, spending funds for the smoking cessation campaign.

The Governors need flexibility. That is what they say. In one State, perhaps, they need more money for smoking cessation. Fine. Perhaps they need more money for child health care. I think under this amendment that would be fine. But in another State perhaps they need it for HOPE scholarships, like Governor Engler in Michigan has been talking about. Or perhaps in another State, like my own, they want to use these funds for juvenile detention facilities, which, by the way, would be smoke-free. But there is a real need there. Let the States make those decisions.

Again, I want to point out that in the letter from Secretary Shalala she notes that the Federal share of Medicaid expenses ranges from 50 to 77 percent. And they don't want anything to happen here that would not allow them to come back around later and try to get more, or large, chunks of this money.

I think that is typical Federal Government arrogance: ''We have the solutions. We have the greater knowledge.'' I fundamentally reject that. I think the people closer to the problems are closer to the people, whether it is the farmers, or the children, or health care needs of the children in their States. I represent one of the poorest States in the Nation. We have tremendous needs for our children based on problems of poverty. We have needs across the board. We know what those needs are better than some all-powerful Federal Government.

So I just want to urge that this amendment be defeated.

I don't think, by the way, that every year for the next 25 years the States should have to submit their plan to the Department of Health and Human Services. Maybe the next Department will be headed by a Republican-appointed Secretary of HHS. ''Frankly, I don't care, my dear.'' I think the States can do this on their own. The Federal Government wants the money. Or, if they don't get the money, they want to control it.

That is one of the reasons I am glad to serve in the Senate today—so I can fight just such ideas as this, that the Federal Government has the answers and should have the control. We should reject this amendment and allow the States to do what is best for their people. They know what the needs are. They will provide the right decision.

I yield the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER (Mr. ALLARD). The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, Senator KENNEDY has been tied up in committee. He has requested 1 minute. I am anxious to see how the distinguished Senator from Massachusetts will handle the single minute. I yield 1 minute to the Senator.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. I thank the Senator, and the Chair.

Mr. President, let me just add my voice in support of the Specter-Harkin amendment. Basically, as we all know, the States have waived the Federal Medicaid rights. So they understand that there are Federal interests. I think it is pretty understandable to all of us, because we understand how the Medicaid Program was established.

The really compelling interest that was successful in the States that brought about the settlement in the first place related to the health hazards that individuals were afflicted with. This seems to me to be an eminently fair and reasonable balance between the Federal interests and the State interests. It seems to be focused in the areas of health care, and also the prevention of smoking. I think that is basically what the families of this country want. It makes a good deal of common sense. It is consistent with what this whole battle has been about, and this is a well targeted, well thought out, and a very compelling amendment to be able to do so.

One of the most disturbing aspects of the Supplemental is the inclusion of the Hutchinson Medicaid Amendment. This issue does not belong in an emergency appropriations bill. If approved, the long-term cost to Medicaid of this amendment could be as high as $125 billion. No serious consideration has been given to the enormous impact that cost could have on national health policy. Instead of being used to deter youth smoking and to improve the nation's health, the language in the committee bill would permit states to use these federal Medicaid dollars to pave roads, to build prisons and stadiums, and to fund state tax cuts. Those are not appropriate uses for Medicaid dollars. Congress has a vital interest in how these federal dollars are used.

Fifty-seven cents of every Medicaid dollar spent by the states comes from the federal government. The cost of Medicaid expenditures to treat people suffering from smoking-induced disease was at the core of state lawsuits against the tobacco industry. While the

federal government could legally demand that the states reimburse Washington from their settlements, I believe the states should be allowed to keep one hundred percent of the money. However, the federal share must be used by the states for programs that will advance the goals of protecting children and enhancing public health which were at the heart of the litigation and are consistent with the purposes of Medicaid. That is what the Specter-Harkin amendment would accomplish. I am pleased to be an original cosponsor of it. It is a fair and reasonable compromise of this contentious issue.

While there were a variety of claims made by the states against the tobacco industry, the Medicaid dollars used to treat tobacco-related illness constituted by far the largest claim monetarily, and it formed the basis for the national settlement. As part of that settlement, every state released the tobacco companies from federal Medicaid liability, as well as state Medicaid liability. Medicaid expenditures heavily influenced the distribution formula used to divide the national settlement amongst the states. In light of these undeniable facts, the dollars obtained by the states from their settlements cannot now be divorced from Medicaid. States are free to use the state share of their recoveries in any way they choose. However, Congress has a clear and compelling interest in how the federal share will be used.

In exchange for a waiver of the federal claim, states should be required to use half of the amount of money they receive from the tobacco industry each year to protect children from tobacco and improve the nation's health. If the funds are used in that way, this investment will dramatically reduce future Medicaid expenditures.

Under the Specter amendment, at least twenty percent of a state's recovery would be spent on programs to deter youth smoking and to help smokers overcome their addiction. This would include a broad range of tobacco control initiatives, including school and community based tobacco use prevention programs, counter-advertising to discourage smoking, cessation programs, and enforcement of the ban on sale to minors. Three thousand children start smoking every day, and one thousand of them will die prematurely as a result of tobacco-induced disease. Prevention of youth smoking should be, without question, our highest priority for the use of these funds. The state settlements provide the resources to dissuade millions of teenagers from smoking, to break the cycle of addiction and early death. We must seize that opportunity.

An additional thirty percent would be used by states to fund health care and public health programs which they select. States could either use the additional resources to supplement existing programs in these areas, or to fund creative new state initiatives to improve health services.

Smoking has long been America's foremost preventable cause of disease and early death. It has consumed an enormous amount of the nation's health care resources. At long last, resources taken from the tobacco companies would be used to improve the nation's health. A state could, for example, use a portion of this money to help senior citizens pay for prescription drugs, or to provide expanded health care services to the uninsured. Funds could be used to support community health centers, to reduce public health risks, or to make health insurance more affordable.

For years, the tobacco companies callously targeted children as future smokers. The financial success of the entire industry was based upon addicting kids when they were too young to appreciate the health risks of smoking. It would be particularly appropriate for resources taken from this malignant industry to be used to give our children a healthier start in life.

Congress has an overwhelming interest in how the federal share of these dollars is used. They are Medicaid dollars. They should not be used for road repair or building maintenance. They should be used by the states to create a healthier future for all our citizens.

I thank the Senator from Pennsylvania for yielding this time.

Mr. SPECTER. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 3 minutes.

Mr. SPECTER. I yield myself 2 minutes.

Mr. President, in response to the comments by the distinguished majority leader on the obligation under this amendment to submit a plan, it is simply not so; States do not have to submit the plan to the Federal Government. All the States have to do is submit a ''report'' which shows how the funds ''have been spent.'' So there is no obligation to submit a plan.

When the distinguished majority leader talks about the temerity of the Federal Government, there is enough temerity on all sides to go around. But that is not the issue here. The States brought the lawsuits, because that is what the law requires, and the States have an obligation to abide by the decision of the Secretary of Health and Human Services, who makes the allocation.

Here we have litigation which has brought a settlement on tobacco-related causes. This is a modest approach on spending, indicating broad standards for State compliance, and only 50 percent related to tobacco. If no legislation were enacted on specifics, these funds would certainly be impressed with the trust.

When the majority leader talks about spending the funds for juvenile detention, that is very important. But that is simply not related to tobacco. When there is talk about using it for debt reduction of the States, that is very important. But it is not related to tobacco causes. These are funds produced from a tobacco settlement, and if the States do not use these funds in this way, my legal judgment is that these funds are impressed with a trust enforceable by any citizen of the State. But this is an accommodation which will allow a reasonable amount of the moneys to be used for tobacco-related purposes.

I reserve the remainder of my time.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I believe that this amendment is the worst of all worlds. It would require every State every year for 25 years to submit a plan about how it is going to spend its own money. What happens if a State legislature is not in session and the Secretary of HHS says, ''I don't think your plan meets my standards for tobacco cessation or health programs,'' and the State legislature is then in the position of losing Medicaid funds and having to call a special session to either change its programs to meet the requirements of the Secretary of HHS, or take the hit, or not serve its own people under Medicaid?

Mr. President, this is State money, it is not Federal money. There is no relationship between Medicaid in many of these State lawsuits.

I hope my colleagues will reject this amendment.

The PRESIDING OFFICER. The Senator from Pennsylvania has 1 minute.

Mr. SPECTER. Mr. President, in conclusion—the most popular words of any speech—this proposal is a very modest approach on a multibillion-dollar—$200 billion—settlement that has been brought by the chairmen and ranking members of the committees in the Senate charged with allocating funds for Health and Human Services. There is no plan which has to be submitted by the Governors. That is repeated again and again. All the Governors have to do is say how they will spend the money. I agree with the principle of leaving maximum flexibility to the States when we make allocations. But this is for a generalized purpose, and that is all we are asking for here. In light of the very substantial budgetary shortfalls, this money ought to be used, at least in part, 50 percent for the purposes of solving the problems caused by tobacco.

I yield the remainder of my time.

Mrs. HUTCHISON. Mr. President, I move to table the amendment, and I 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 of the Senator from Texas to lay on the table the amendment of the Senator from Pennsylvania. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 71, nays 29, as follows:

[Rollcall Vote No. 53 Leg.]

YEAS—71

Abraham	Fitzgerald	Lott
Allard	Frist	Lugar
Ashcroft	Gorton	Mack
Bayh	Graham	McConnell
Bennett	Gramm	Moynihan
Biden	Grams	Nickles
Bingaman	Grassley	Robb
Bond	Gregg	Roberts
Brownback	Hagel	Rockefeller
Bryan	Hatch	Roth
Bunning	Helms	Santorum
Burns	Hollings	Schumer
Campbell	Hutchinson	Sessions
Cochran	Hutchison	Shelby
Collins	Inhofe	Smith (NH)
Conrad	Inouye	Smith (OR)
Coverdell	Johnson	Snowe
Craig	Kerrey	Thomas
Crapo	Kerry	Thompson
Domenici	Kyl	Thurmond
Dorgan	Leahy	Torricelli
Edwards	Levin	Voinovich
Enzi	Lieberman	Warner
Feinstein	Lincoln	

NAYS—29

Akaka	Durbin	Murkowski
Baucus	Feingold	Murray
Boxer	Harkin	Reed
Breaux	Jeffords	Reid
Byrd	Kennedy	Sarbanes
Chafee	Kohl	Specter
Cleland	Landrieu	Stevens
Daschle	Lautenberg	Wellstone
DeWine	McCain	Wyden
Dodd	Mikulski	

The motion to lay on the table the amendment (No. 77) was agreed to.

Mr. MURKOWSKI. Mr. President, I move to reconsider the vote.

Mrs. HUTCHISON. Mr. President, I move lay that motion on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. Is there objection?

Mr. MURKOWSKI. Mr. President, it is not my intention to object, but there is a matter to clear up with the leadership, if I may have 30 seconds.

Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MURKOWSKI. My preference is to continue the quorum call. I understand it has been agreed to by my colleague.

The PRESIDING OFFICER. The clerk will continue to call the roll.

The legislative clerk continued with the call of the roll.

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

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

Under the previous order, the Senator from Texas, Mrs. HUTCHISON, is recognized to offer an amendment relative to Kosovo.

Mr. STEVENS. Mr. President, I ask unanimous consent that that matter be set aside and that the Senator from Arkansas be recognized for up to 15 minutes as in morning business.

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

Mrs. LINCOLN. I thank the Senator from Alaska.

NATIONAL WOMEN'S HISTORY MONTH

Mrs. LINCOLN. Mr. President, I rise today to pay tribute to National Women's History Month. I am proud to have the privilege of being the youngest woman ever elected to serve in this great body. And I want to use the occasion of Women's History Month to recognize just a few women from Arkansas who are paving roads for others to follow. I want to thank the many women who have blazed trails for years before me in order to secure a more prominent role for women of all professions, race, or faiths. In my home state of Arkansas, there are many such examples of women who deserve notoriety.

Judge Bernice Kizer of Fort Smith was one of the first 5 women to enroll in the University of Arkansas Law School. After a brief time in private practice, she was elected to represent Sebastian County in our state legislature. During her tenure in the Arkansas General Assembly, Judge Kizer had the distinction of being appointed the first woman chairman of any legislative committee and the first woman member of the Legislative Council. She served in that capacity for 14 years, and then returned home to Sebastian County to become the first woman elected a judge in my home state of Arkansas. Judge Kizer's accomplishments are even more monumental when you understand that over the course of her 33 year career in public service, she was elected by Arkansans on 10 separate occasions without ever accepting one single campaign contribution. At the age of 83, Judge Kizer still serves as an active member of the Sebastian County Democratic Party. Judge Kizer paved the way for so many Arkansas women who are now involved in either the legislative or judicial branches of our government. On the Arkansas Supreme Court, Justice Annabelle Clinton Imber holds one of the courts seven seats. Secretary of State Sharon Priest and State Treasurer Jimmie Lou Fisher serve as two of Arkansas' constitutional officers. Today, Arkansas has 20 women who serve in our legislature.

Community service and philanthropy are two vital components of life in many of the small rural communities in Arkansas and women have helped lead the way to improve our quality of life. My home State of Arkansas ranks third in the nation for philanthropic giving. The gifts given to the people of Arkansas have consisted of civic centers, art centers, and classroom equipment just to name a few by women like Helen Walton, Bess Stephens, and Bernice Jones. These gifts have had a significant impact on the lives of all of the areas residents. Whether it be insuring a warm meal to a hungry child in the early morning or after school activities, these women have looked beyond their own world and reached out to others in need. My mother has always told me that the kindest thing you can do for someone is to do something nice for their children. And as a young mother, believing that to be true, I am grateful to these and all community activists who take the time to care for the less fortunate.

Numerous Arkansas women have ventured into previously uncharted territories and established themselves as leaders in the business communities. These women, like Patti Upton, founder of Aromatique, Inc. have served as an inspiration to our state's growing number of young women who want to pursue business careers. Patti, who began this home fragrance endeavor in her kitchen in 1982, has turned a personal hobby into an inspiring professional growth opportunity. As the current President and CEO of what has become one of the nation's leading home fragrance companies, Patti has most recently begun to share her success with the rest of the State. Under her leadership, Aromatique created a line of products that include potpourri, candles, soaps and other products that are appropriately named ''The Natural State.'' All proceeds from this product line go to support the Arkansas Nature Conservancy and recently Aromatique surpassed the million dollar mark for contributions back to this civic organization.

Arkansas is the home of other women who have had dramatic effects in the business world. Diane Heuter is President and CEO of St. Vincent Health System and Julia Peck Mobley is CEO of Commercial National Bank in Texarkana.

Mr. President, I am so proud to be able to stand here today in this historic Chamber and proclaim my full support and participation in National Women's History Month. There is no doubt that women across this Nation have made very significant contributions to our lives. Sometimes those contributions are subtle and some times they are significant, but none the less worthy of recognition. Let us celebrate the invention of bullet proof vests, fire escapes, or wind shield wipers, all of which can be credited to women in our history, as ways to promote and encourage women of future generations to rise to the level of success that I have spoken of here today. From this great Chamber, to State legislative chambers, from the boardroom to the classroom, from corporate headquarters to local Head Start, women make a difference.

I am grateful for the opportunity afforded to me by those who have gone before me, and I hope in my tenure in the United States Senate to pave the way for many more young women from the great State of Arkansas.

I yield back the remainder of my time. Thank you, Mr. President.