

Kentucky has decreased as a result of that legislation, thousands of Kentucky farm families and communities still depend on the income from tobacco production. I have concerns about the effect this legislation might have on them.

Still, no one in this Chamber would deny that tobacco is hazardous to the health of those who use it. Everyone knows that. If the purpose of this bill is to reduce the harm it could cause the people who consume it, then forcing the Food and Drug Administration to do the regulating would be the wrong route to take.

Former FDA Administrator Dr. Andrew von Eschenbach has predicted that forcing the FDA to regulate tobacco would undermine the agency's core mission of protecting the public health and ensuring that foods, medicines, and other products don't pose a risk to American consumers. When the FDA approves a product, Americans expect the product to be safe, but as we all know, there is no such thing as a safe cigarette. It doesn't exist. Forcing the FDA to regulate cigarettes will not make them safer for the American people.

This legislation is flawed for other reasons as well. As Senators BURR, ENZI, and others have repeatedly pointed out, the FDA is already overworked in carrying out its core mission of protecting the public health. When it comes to contaminated peanut butter, tainted toothpaste, or unsafe drugs coming into the United States, Americans expect that all of FDA's resources are being used to protect them. Yet instead of freeing additional resources for the FDA to perform this important function, this legislation could divert the agency's limited resources toward an impossible task: Vouching for the safety of a product that cannot be made safe. The American people don't want the FDA's resources diverted on a fool's errand.

It is hard to understand what the supporters of this bill are trying to accomplish. If the goal is to reduce smoking, then why isn't there a single dime—not one dime—in this bill directed at smoking cessation programs? If there is no such thing as a safe cigarette, the best way to help smokers is to help them kick the habit. This bill doesn't do that. If the goal of this legislation is to launch a public campaign to reduce smoking and promote better health, then why is there no focus on Federal programs that are already in place to achieve this goal?

This legislation is the wrong way to regulate tobacco, and that is why Senator BURR will offer a thoughtful way to accomplish the goal. Senator BURR's proposal would create a new agency whose sole responsibility is to regulate tobacco. This would address the problem without undermining FDA's mission or straining its resources.

Forcing the FDA to regulate and approve the use of tobacco would be a distortion of the agency's mission and a

tremendous misuse of its overstretched resources. We should be focused on giving FDA the resources it needs to protect the public health, not burdening it with an impossible assignment.

HEALTH CARE REFORM

Mr. MCCONNELL. Mr. President, as we consider the best way to reform health care, some have argued that a so-called government option would not lead to a government takeover of health care. They promise safeguards to ensure a level playing field between private plans and a government-run plan. But no safeguard could ever create a truly level playing field. The reason is simple: Unlike private insurance plans, a government-run plan would have unlimited access to taxpayer money and could borrow as much money as it wants to subsidize the cost of services. The Federal Government is already planning to borrow \$1.8 trillion this year alone. If a company were allowed to borrow that much money, it could easily wipe out its competition, set prices, and create a monopoly. That is just what a so-called government "option" for health care will, in all likelihood, lead to.

A government-run plan would set artificially low prices that private insurers would have no way of competing with. Rates for private health plans would either skyrocket, leaving companies and individuals unable to afford them, or private health plans would simply be forced out of business. Either way, the government-run plan would take over the health care system, radically changing the way Americans choose and receive their care, from routine checkups to lifesaving surgeries. No safeguard could prevent this crowdout from happening, and no safeguard could, therefore, keep the millions of Americans who currently like the health care they have from being forced off of their plans and onto a government-run plan instead.

This isn't some fantasy scenario. We are already seeing in the government takeover of the auto industry how government interference in business forces firms out of the way by leveraging taxpayer dollars against their private competitors. Now that the government runs General Motors and has provided billions to its financing arm, GMAC, the company is offering interest rates that Ford, which hasn't taken any government money, and other companies which haven't taken any government money just can't compete with. What this means is that one American auto company that actually made the tough decisions so that it wouldn't need a government bailout is now at a competitive disadvantage to a company that is being propped up by billions of dollars of borrowed tax money. This is how the government subsidizes failure at taxpayers' expense and can unfairly undercut good companies, and this is precisely why so many Americans are worried about the trend of increased

government involvement in the economy. The government is running banks now. It is running insurance companies. As of this week, it is running a significant portion of the American automobile industry. Now it is thinking seriously about running the entire health care industry, and chances are Americans won't like the result any more than they like the government takeover of the banks or the auto industry.

Americans who now take for granted the ability to choose their care may suddenly find themselves being told by government bureaucrats that they are too old to qualify for a certain kind of surgery or that they have to go to the back of the line for a procedure they can now get right away. As I have said, Americans want health care reform, but this isn't what they have in mind. Americans don't want their health care denied and they don't want it delayed. But once government health care is the only option, bureaucratic hassles, endless hours stuck on hold waiting for government service representatives, restrictions on care, and, yes, rationing, are sure to follow. Americans don't want some remote bureaucrat in Washington deciding whether their mothers and fathers or spouses have access to a lifesaving drug. They don't want to share the fate of Bruce Hardy.

Bruce was a British citizen who was suffering from cancer. According to press reports, his doctor wanted to prescribe a new drug that was proven to delay the spread of his disease. But the government agency that runs Britain's health care system denied the treatment. They said it was too expensive—that Bruce Hardy's life wasn't worth prolonging, based on the cost to the government of the drug he needed to live. In a story discussing Bruce's plight, the New York Times noted that if Bruce had lived in the United States, he likely would have been able to get this treatment.

But that could change. What happened to Bruce Hardy could happen here. Americans who now have the freedom to find the care they need and to make their own health care decisions could be stripped of that right by a new government agency. This happens every single day in countries such as Britain. It happens to people like Bruce Hardy, against their will and against the will of their loved ones. As Bruce's wife put it:

Everybody should be allowed to have as much life as they can.

In America, we are free to make those decisions ourselves. If Congress approves a government takeover of health care, that freedom could soon be a memory.

Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period of morning business for up to 1 hour, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders, or their designees, with the majority controlling the first half and the Republicans controlling the second half.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

DETAINEE PHOTOGRAPHIC RECORDS PROTECTION ACT

Mr. LIEBERMAN. Mr. President, I rise to speak in morning business about supporting President Obama in his efforts to protect the safety and security of the American people, the American military, and the civilian personnel serving us all abroad. This goes to the question of the pending lawsuit by the American Civil Liberties Union that would require the publication of various photographs of treatment by Americans of detainees.

On May 13, President Obama announced that he would not release nearly 2,100 photographs depicting the alleged mistreatment of detainees in U.S. custody. Detainees are what we normally call "prisoners of war," except they have a lower status than that under the Geneva Conventions. Many of these photographs were the subject of a Freedom of Information Act lawsuit filed by the ACLU, while others were discovered during internal Department of Defense investigations into detainee abuse.

Last fall, as part of that lawsuit, the Second Circuit Court of Appeals in New York ordered the release of many of those photographs. Instead of appealing that decision to the Supreme Court at that time, government lawyers agreed to release the images, as well as others that were part of the internal Department of Defense investigation.

Senator LINDSEY GRAHAM and I strongly objected to that decision and wrote a letter to the President explaining our position. We know that photographs such as the ones at issue in the ACLU lawsuit are, in fact, used by Islamist terrorists around the world to recruit followers and inspire attacks against American service men and women. In particular, there is compelling evidence that the images depicting detainee abuse at Abu Ghraib was a great spur to the insurgency in Iraq and made it harder for our troops to succeed safely in their mission there.

After consulting with his commanders on the ground, including General Petraeus and General Odierno, President Obama decided to reverse the decision of the government lawyers and fight the release of these photographs. Of course, I feel very strongly that he made not only a gutsy decision but the entirely right decision.

The President said, in making that decision:

The publication of these photos would not add any additional benefit to our understanding of what was carried out in the past by a small number of individuals. In fact, the most direct consequence of releasing them, I believe, would be to further inflame anti-American opinion and to put our troops in great danger.

I strongly believe this decision was the right one by the President, acting as Commander in Chief. It will protect our troops in Iraq, Afghanistan, and elsewhere, and it will make it easier and safer for them to carry out the missions we have asked them to do. In fact—and this has become public in recent days, and I heard it earlier around the time the President made the decision—after learning that the release of these photographs was either possible or likely, before President Obama's decision to appeal, Iraq's Prime Minister Maliki said, according to these press reports, that "Baghdad will burn" if the photos are released, jeopardizing many of the remarkable security gains our military and civilian personnel have achieved in Iraq in recent years, putting our troops and personnel in danger.

To support the President's decision and establish a procedure to protect the release of similar photos in the future, for the exact same reason, Senator GRAHAM—my colleague and friend, who is now on the floor—and I introduced the Detainee Photographic Records Protection Act. That legislation would authorize the Secretary of Defense, after consultation with the Chairman of the Joint Chiefs, to certify to the President that the disclosure of photographs such as the ones at issue in the ACLU lawsuit would endanger the lives of U.S. citizens and members of the armed services deployed abroad. Essentially, our bill would codify the exact process that President Obama went through in arriving at his decision to fight the release of these photos.

Also, the language in the bill Senator GRAHAM and I introduced is clear, we believe, in that it would apply to the current ACLU lawsuit and block the release of these photographs, preventing the damage to American lives that would occur from that release.

The Senate unanimously supported the inclusion of a slightly modified version of the Detainee Photographic Records Protection Act in the supplemental appropriations bill for the wars in Iraq and Afghanistan. The Senate then approved the supplemental bill by a vote of 86 to 3 before we broke for the Memorial Day recess.

I rise today, along with my friend and colleague from South Carolina, to strongly encourage our colleagues in the Senate and in the House on the conference committee to include the modified version of the Detainee Photographic Records Protection Act in the conference report that is currently being negotiated.

We know there are those who are urging the conferees to delete this provision, or to water it down. That would be a terrible mistake. As President Obama well understands, nothing less than the safety and security and lives of our military service men and women is at stake—not to mention our non-military personnel deployed abroad, not to mention Americans here at home and throughout the world, who may be at risk of terrorist attack by an individual recruited to Islamist extremism and terrorism, as a result of the anger spurred by the release of these photographs.

Bottom line: American lives are at stake. Senator GRAHAM and I feel so strongly about this. I will speak for myself here and then allow him, in a moment, to speak for himself. Any decision to eliminate this provision from the Supplemental Appropriations Act, or to water it down so it has no meaning, would lead me, certainly, much as I support what is in the Supplemental Appropriations Act, to oppose that act, because I think a failure to back up President Obama in this matter would, as I have said, compromise safety and, ultimately, the lives of a lot of Americans, particularly those in uniform.

Let me be clear. By including the Detainee Photographic Records Protection Act in the conference report for the supplemental appropriations bill, Congress will not be condoning the behavior depicted in the photographs. In fact, the exact opposite is true. Such behavior has already been prohibited by Congress in the Detainee Treatment Act and the Military Commissions Act as well as by executive orders issued by President Obama.

We expect that those responsible for the mistreatment of detainees will be held accountable. And that is exactly what the Department of Defense has done with the internal investigations that are finished or are underway.

But the bottom line is that the release of these photographs, and potentially others that may be discovered, will endanger the lives of our military personnel and every U.S. citizen. Every American, whether in a military uniform or not, will always be a target for al-Qaida or supporters of al-Qaida around the world.

The public release of these pictures, which we know will be spread on violent jihadist Web sites around the world immediately after they are published, will only energize the efforts of our enemies.

With the inclusion of the Detainee Photographic Records Protection Act in the supplemental appropriations bill conference report, Congress has the opportunity to support the President in