In his Senate confirmation hearing, DOE Secretary Steven Chu said:

Nuclear power . . . is going to be an important part of the energy mix. It is 20 percent of our electricity generated today, but it is 70 percent of the carbon-free portion of electricity today. And it is baseload. So I think it is very important that we push ahead.

For that reason and every other reason, for the economy and for the environment and for our ability to provide our own energy in this country and lower our reliance upon foreign countries, I believe we need to move forward rapidly. We intend to do so with nuclear energy.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. I ask unanimous consent that all time in morning business be yielded back.

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

Morning business is closed.

FAMILY SMOKING PREVENTION AND TOBACCO CONTROL ACT—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the motion to proceed to H.R. 1256, which the clerk will report.

The legislative clerk read as follows:

A motion to proceed to the bill (H.R. 1256) to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. President, I rise to speak in support of the Family Smoking Prevention and Tobacco Control Act, a bill that will finally give the Food and Drug Administration the authority to regulate tobacco products.

This was the first bill for which I had the honor of voting in my new role as a member of the Health, Education, Labor, and Pensions Committee—the newest member—but it is the result of years of tireless effort by members of this committee and by their staffs. I especially commend its primary sponsor, our chairman, TED KENNEDY, who has long been committed to protecting our Nation's children from the dangers of tobacco and nicotine addiction, and Senator DODD, who is so ably leading that fight in his stead today. I thank them and our colleagues in the House for the efforts that have brought us this bill before the Senate today.

This legislation is long overdue and very much needed. Just last month, a three-judge panel of the U.S. Court of Appeals for the DC Circuit unanimously upheld the decision of the district court that the tobacco companies had engaged in racketeering. The court found that for at least 50 years, the companies have knowingly kept information from the American public about the health and safety risks of their products and that they continue to do so today. These companies have worked together to deceive the American public and cannot be trusted to regulate themselves.

As generations of customers died from illnesses related to smoking, the tobacco companies have kept their profits up by marketing their products to children through cartoon advertisements, candy flavorings, and sports sponsorships. Public health advocates, lawmakers, prosecutors, and family members who have lost loved ones to the ravages of smoking have attempted to take on the tobacco companies, but they confronted a coordinated effort backed by billions of dollars to protect this deadly business.

In the next year, 400,000 Americans will die from smoking-related illness and more than 450,000 children will become daily smokers. Every day, 3,500 kids pick up a cigarette for the first time.

Even those who do not smoke still pay a price—$96 billion each year in public and private health expenditures to treat illness caused by smoking. The companies will, of course, point to concessions and payouts over the years, but it is clearly not enough. As we work to reform our broken health care system, we cannot ignore this public health menace.

That is why it is vital that we finally pass this legislation. The FDA is the agency most prepared to take on the regulatory, scientific, and public health challenges created by tobacco products. This carefully crafted compromise bill gives FDA the tools necessary to take on the tobacco companies in three major areas: advertising and sales to young people, the composition of cigarettes, and representations of health effects of tobacco products.

We have wasted too much time fighting the same battles over the same issues for years. This legislation finally enacts tough but constitutionally sound regulations on advertising targeted toward young people. It puts a warning label on every pack of cigarettes that covers 50 percent of each side of the package. The companies will finally have to disclose the content of tobacco products, and FDA will have the authority to regulate hazardous ingredients. Tobacco product manufacturers will no longer be able to make unsubstantiated claims about their products—FDA will have to verify any health claim based on its impact on the population as a whole in order to protect tobacco users and potential tobacco users. This will be paid for by the tobacco product manufacturers and importers themselves, taking no resources away from the FDA's other vital missions.

So many of us have been touched by the ravages of smoking and lost family and friends. Yet we still see too many young people become addicted to cigarettes or pick up the newest smokeless tobacco product without knowing the real risks to their health. We cannot leave this to court settlements or to the industry itself. We have been waiting for 50 years, and the evidence shows we are still being deceived. Regulation is long past due. This bipartisan bill, with the support of over 1,000 public health, faith, education, and children's organizations, is the best opportunity to help protect our children from the menace of tobacco. We have delayed long enough.

I again thank Chairman KENNEDY, Senator DODD, and my colleagues on the HELP Committee for their hard work bringing this bill to the floor and getting us closer than any other point in the long history of this legislation to finally seeing the effective regulation of tobacco products.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

CRAIG THOMAS RURAL HOSPITAL AND PROVIDER EQUITY ACT

Mr. ROBERTS. Mr. President, I rise today to again pay tribute to one of the Senate's finest: our colleague, the late Craig Thomas from Wyoming. Two years ago this week, the Senate lost a steady hand and a man who did much for his State of Wyoming. Craig was dependable in the finest sense of the word. He defined the word ''dependable.'' He was the epitome of a workhorse, not a show horse.

On a personal note, for many Senators, why, Craig was not only a colleague but a dear friend. I will cherish that always. Craig was also a fellow marine. In this case, Semper Fidelis—always faithful—is most appropriate. If anyone faced trouble in their life, the one person you would want by your side would be Craig Thomas.

This is why I am proud and honored again to join with my colleagues KENT CONRAD and TOM HARKIN, and with the new Senator from Wyoming, JOHN BARRASSO, and the distinguished Senator from Utah, ORRIN HATCH, to introduce the Senate Rural Health Caucus bill in honor of Senator Thomas. The bill we are introducing is the Craig Thomas Rural Hospital and Provider Equity Act, with emphasis on the ''equity.''

The people of Wyoming and all of Craig's colleagues knew he fought for rural America and always put the needs of his State above all else. On the health care front, why, Craig was truly

a champion for strengthening our rural health care delivery system and providing relief to our hospitals and other providers in our rural areas.

He served for 10 years as the cochair of the Senate Rural Health Caucus. He actually took over the reins as cochair after my fellow Kansan, Bob Dole, retired from the Senate. And as I know personally, it is hard to follow in the footsteps of Senator Dole—for that matter, Senator Thomas.

However, Craig did this with great ease and great pride. His steady leadership put the caucus on the map, and he made great strides in showing all of our colleagues the true needs of rural health care. We will truly miss him during the current health care debate. I and the members of the caucus miss him and his leadership greatly.

One of the biggest accomplishments for Craig in the Rural Health Caucus was passage of the Medicare Modernization Act in 2003, which provided a big boost to our rural hospitals and providers. There was recognition and support from our colleagues from all of our geographical areas, large and small, for including these badly needed rural health provisions.

These provisions included in the Medicare bill provided much needed relief to rural health providers, enhanced beneficiary access to quality health care services, and improved provider payments in our rural areas. So many times those payments simply do not even come close to the costs of the provider and the service they provide to our rural citizens.

However, you would never know that it was Craig Thomas behind the scenes working to get these rural health provisions included in the Medicare bill. Craig was more concerned with getting the work done rather than taking the credit. So instead of taking individual credit for his hard work and his dedication on the Medicare bill, he applauded the entire Rural Health Caucus and patted everybody else on the back. It is this kind of leadership that set Craig Thomas apart from his colleagues.

However, Craig knew that while passage of the Medicare bill was a giant step for rural health, we still had much work to do to ensure our rural system can continue to survive. Sometimes when they ask me about health care reform—''they'' meaning most of the people interested in health care reform: the media, others, the health care providers—I simply say one of the things we want to do is to make sure we preserve what we have. This is why we were proud and honored to carry on his legacy by introducing the Craig Thomas Rural Hospital and Provider Equity Act in the 110th Congress, and again in this Congress. We can enhance Craig's legacy certainly in this way.

I wish to especially recognize a member of Craig's former staff who has always worked extremely hard to advance rural health care causes and who has remained a champion for Wyoming as a member of Senator JOHN BARRASSO's staff: Erin Dempsey. I know my staff has worked very closely with Erin over the years, and I have a great amount of respect for her hard work. We always have an expression: We are only as good as our staff here—or at least some of us do actually admit to that. Erin, thank you for being such a hero alongside Craig, and now Senator BARRASSO. We are proud of you for everything you have done on behalf of rural health care.

This Congress, with health care reform at the front and center, Senators BARRASSO, CONRAD, HARKIN, HATCH, and I will do our very best to lead in Craig's absence and to ensure that rural health does not get left behind. I have made a personal commitment to make sure we get this bill done and ultimately provide the much needed relief to our rural communities.

The Craig Thomas Rural Hospital and Provider Equity Act recognizes that rural health care providers have very different needs than their urban counterparts and that health care is not one size fits all.

The Craig Thomas Rural Hospital and Provider Equity Act—and the acronym of that, by the way—everything has to be an acronym in Washington—is R-HoPE—so the R-HoPE Act of 2009 makes changes to Medicare regulations for rural hospitals and providers. It recognizes the difficulty in achieving the same economies of scale as large urban facilities. This legislation equalizes Medicare's disproportionate share of hospital payments to bring the rural hospitals in line with our urban hospitals. This bill also provides additional assistance for small rural hospitals that have a very low volume of patients. Often these hospitals have trouble making ends meet under the Medicare payment system.

The Craig Thomas Rural Hospital and Provider Equity Act, R-HoPE Act, also provides a Capital Infrastructure Loan Program to make loans available to help rural facilities improve crumbling buildings and infrastructure. In addition, rural providers can apply to receive planning grants to help assess capital and infrastructure needs.

The bill extends to January 1, 2011, two incentive programs aimed at improving the quality of care by attracting health care providers to health professional shortage areas. The first is the Medicare Incentive Payment Program, which provides a 10-percent bonus payment to physicians who will practice in shortage areas. The second is the Physician Fee Schedule Work Geographic Adjustment—that is a mouthful—but it simply means it will bring rural doctors' Medicare fee schedules for wages more in line with urban doctors.

The bill also recognizes that other providers do play a great role in the rural health care delivery system. Our bill increases the payment cap for rural health clinics to keep them in line with community health centers. It provides a 5-percent add-on payment for rural home health services. And it provides a 5-percent add-on payment for ground ambulance services in our rural areas.

One of the provisions in the bill—and this is the one that Craig Thomas certainly championed—is a provision to allow marriage and family therapists and licensed professional counselors to bill Medicare for their services and be paid the rate of social workers.

Currently, the Medicare program only permits psychiatrists, psychologists, social workers, and clinical nurse specialists to bill Medicare for mental health services that are provided to our seniors. However, most rural counties—most rural counties—simply do not have a psychiatrist or a psychologist. Marriage and family therapists, however, and licensed professional counselors are much more likely to practice in a rural setting and are often the only mental health professionals available.

Finally, this bill uses technology to improve home health services and quality of care by creating a pilot program providing incentives for home health agencies to purchase and utilize home monitoring and also communication technologies and facilitates telehealth services across State lines.

Today I am proud and honored to introduce this bill on behalf of our former Senator and colleague, Craig Thomas. We miss him greatly as a personal friend, a confidante and colleague. Our thoughts and prayers are with his wife Susan, his sons Peter, Patrick, and Greg, and his daughter Lexie.

Mr. President, it is time to pass this bill.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

NATIONAL DEBT

Mr. GREGG. Mr. President, I rise today to return to a topic I have discussed on the floor a number of times but which I think needs to be discussed again because of the severity of its implications for our Nation; that is, the massive amount of debt which we are running up in our country.

This massive expansion of our debt, at levels which we have never seen in our history, as proposed by the President's budget and the budget which passed this Congress, threatens the value of the dollar. It threatens to create instability through massive inflation. And it clearly threatens the future of our children.

I am not the only one who thinks this way. As you look around the world, there are a lot of folks taking a look at where we as a nation are going and asking the question: Can we afford this debt as a country?

Interestingly, just a week and a half ago or so, Standard & Poor's, the rating agency, looked at the English situation and put out a statement that the triple A bond rating of England was in jeopardy. They essentially took the adjective ''stable'' out from their designation of that bond rating and said

they had a negative bias on the triple A rating. They did not reduce it, but they did put out a major warning sign.

What does that mean? Well, if your bond rating as a nation drops, that means the world community does not have a lot of confidence in your ability to repay your debt and it is going to charge you a lot more to lend you money. The effect of a bond rating change for a nation such as the United Kingdom—which is one of the most stable and industrialized countries in the world—is catastrophic. What brought about this decision by Standard & Poor's to put, at least on a watch list, so to say, the bonds of the United Kingdom? It is the fact that England has so expanded its debt that its debt now represents approximately 52 percent of its gross national product.

Well, where do we stand as a nation in our debt relative to our gross national product? This chart reflects the fact that historically, in the last 30 or 40 years, our debt has averaged between 30 percent and 40 percent of GDP, but in this economic downturn, we are seeing a dramatic increase in our debt as a nation. In the short run, I have said many times, we can tolerate this for the purpose of trying to float the economy, for the purpose of the government being the lender of last resort, for the purpose of stabilizing the financial systems. A short-term, huge spike in our debt is not desired, but it can be managed. We have done this in the past. During World War II, for example, our debt went up dramatically. But the key is, it has to come back down. It just can't keep going up.

Well, today, our debt is about 57 percent of our gross national product, our public debt. It is up around here on the chart. As we see from this line, under the budget proposed by President Obama, it continues to go up, almost in a perpendicular manner, to the point where, by the end of the budget as proposed by the President and as passed by this Congress, the public debt will be approximately 82 percent of gross national product. That is not a sustainable situation. Over the next 10 years, under the budget as proposed by the President, we will be running deficits which represent $1 trillion a year, on average—$1 trillion a year, on average. As a percentage of our gross national product, those deficits will be between 4 percent and 5 percent.

As I have said before on this floor, you can't get into the European Union if your deficit exceeds 3 percent of your gross national product and your debt exceeds 60 percent of your gross national product.

These are all big numbers and nobody can catch up with those numbers, but the basic implication is very simple. Under the present path we are on, the debt is going to double in 5 years, triple in 10 years, and the implications to our children are that they are going to inherit a country where the payments required on that debt are going to be the single largest item of the Federal Government—$800 billion a year which will have to be paid in just interest. For every American, they will receive $130,000 of debt—every American household will have $130,000 of debt on that household to pay off the Federal responsibility—and $65,000 in interest payments annually for every American household. That is more than many American households' mortgages and more than their interest payments on their mortgages, but that is what every American household is going to owe as a result of this dramatic expansion in debt.

What is driving this debt? Well, in the short term, obviously, it is the economic downturn. But we are not going to be in this economic downturn forever. Everybody is presuming we are starting to move out of it, and we will because we are a resilient nation. In the outyears, what is driving this debt is spending—it is that simple—new, additional spending put on the books or planned to be put on the books under this budget.

This blue line here, which flattens out where the debt stabilizes over the next 5 years, is if we had current law. In other words, if the law that was in place before the President's budget was passed were to take effect and stay in place, that is the blue line. That is what the debt would do; it would stabilize. But because the President has proposed so much new spending in addition to the spending that is going to come as a result of the retirement of the baby boom generation and the expansion of entitlements, this debt just continues up in an astronomical way.

This is a real concern for us. I recognize it is hard for a Congress to deal with anything but the next election—and what we are talking about here is really what we are doing to the next generation—but we should be very concerned—more than concerned, we should be really focused on this as our primary issue of domestic policy as we go forward as being a threat to our prosperity as a nation.

What are other governments saying? Well, China, which is our biggest creditor—we financed this debt by lending from China. They give us money to spend on our operations as a government. They have always looked on the U.S. debt as something that was a good investment, a safe investment, but the Chinese are having second thoughts. In an extraordinarily embarrassing incident, the Secretary of the Treasury, speaking before an audience of sophisticated college students in Beijing, was asked about the status of our debt that is held by the Chinese. He told them that Chinese assets are very safe, and the audience laughed. The audience actually laughed at the Secretary of the Treasury saying that Chinese assets are very safe. That is an anecdotal incident, but it would never have happened 6 months ago, 2 years ago, because these types of increases in debt as a percentage of our economy were nowhere in sight then—nowhere in sight.

Then Mr. Yu, who is the former adviser to the Central Bank, made the following statement just a couple of days ago. He said:

> The United States Government should not be complacent and it should understand that there are alternatives to China buying U.S. bonds and bills. Investments in Euros are an alternative, and there are lots of raw materials we can buy too. China should not close those options.

Well, if the Chinese Government starts to reduce its purchase of our bonds and our need to sell bonds is going up, what happens? That means the interest on the bonds is going to have to go up because we are going to have to find somebody who wants to buy these bonds and we are going to have to make them attractive around the world. As the interest on the bonds goes up, taxpayers end up having to bear that burden and the next generation ends up having to bear that burden.

So what is the solution? How do we get around the fact that we are now on an unsustainable course which will lead to a fiscal calamity for our Nation and potentially put us in the position where we will have to devalue the dollar or have massive inflation?

Interestingly enough, the Economic Information Daily, another Chinese publication, hit the nail right on the head. Maybe because they are looking from the outside in and because of all they have invested they can see these things, because they said the question that should be asked of Secretary Geithner is, How do you propose implementing fiscal discipline? How will you maintain the stability of the dollar after the crisis—and I emphasize ''after.'' What they are saying is, after we get past this recession and the need to stabilize the financial structure of our country and the need to float the economy, how do we bend this curve back to something reasonable and sustainable? That is the question we should be asking around here as a Congress. We need to start asking it pretty soon.

The President has said—he said it again yesterday—that one way you do this is by addressing the cost of health care, and he is absolutely right. Health care is the primary driver—one of the primary drivers—of this massive increase in expenditures at the Federal level. But the President has put nothing on the table so far that bends the curve on the question of the cost of health care—in fact, just the opposite. His budget proposed that health care spending would go up $1.2 trillion over the next 10 years and, more importantly than that, it sets up a series of entitlements which will cost hundreds of billions—as I said, $1.6 trillion in new spending. He is suggesting that instead of keeping health care spending at about 17 percent of gross national product, which is a huge amount of money, by the way, more than any other industrialized country spends by almost 50 percent—the next closest

country spends about 11 percent on health care—he is suggesting that instead of maintaining health care costs at 17 percent of gross national product, it be allowed to rise to 18, 19, and 20 percent of gross national product. Well, we can't afford that. We can't afford that.

What we need in the area of health care is to address the issue that the President said, which is to control the costs of health care, not by expanding the size of the costs of health care but by using the dollars in the health system more effectively and by getting better quality at lower costs, which can be done, by the way. There are a lot of proposals for doing exactly that. But one of them isn't to create a single-payer plan or a public plan which essentially puts the government in charge of health care and, as a result, drives up the cost of health care significantly and drives the spending up and the borrowing up that goes with it. So, yes, we have to address it, but we have to address it in a way that actually controls spending, controls the rate of growth in spending and health care, and that doesn't aggravate this additional debt.

It is hard to understate the significance of the threat this debt represents. It is hard to understate it. I know I have spoken on this floor about it a number of times, but that is because it is so critical to our future as a nation. We literally are bankrupting the futures of our children by putting this much debt on their backs, by doubling the national debt in 5 years and tripling it in 10 years. I am beginning to feel a little bit like Cato the Elder, who used to speak in the Roman Senate and begin and end every speech with ''Carthago delenda est.'' Finally, somebody listened to him, and they actually did destroy Carthage.

Well, I am saying let's get the debt under control. Let's control the spending of this government. Let's do something about this outyear spending before we get to a position where the world loses confidence in our dollar, loses confidence in our debt, before we get into the position where we have to inflate the economy or we have to place taxes on our children that are so high that they have no chance to have as prosperous and as competitive a life as we have had. It is not fair, as I have said before, for one generation to create this type of debt and pass it on to the next generation to pay. It is not fair. It is not right. It is something we have never done as a nation. Whenever we have run up debt significantly like this, we have always paid it down on an equally quick basis. After World War II, when our debt got to over 100 percent of GDP, we brought it down very quickly. We need to bring it down today. We need to have discipline around here that leads to getting the debt of this Nation back to a responsible level, which means something under 50 percent, hopefully closer to the historic norm of 40 percent; where we get the deficits back to a responsible level, which means under 3 percent, hopefully even headed toward balance; and where we can tell our children that we are passing on to them a stronger nation, not a weaker nation, a more prosperous nation, not a nation confronting massive inflation, leading to the devalue of the dollar or massive tax increases.

Mr. President, I yield the floor and make the point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mrs. GILLIBRAND). Without objection, it is so ordered.

Mr. BURR. Madam President, I needed to come to the floor and apologize for a misstatement I made yesterday on the current bill, the Kennedy tobacco bill. In yesterday's debate, I stated that the CBO, the Congressional Budget Office, report on the bill revealed that if enacted, smoking rates would decline 2 percent annually. In fact, I was wrong.

I prepared a chart yesterday that showed, based upon what CBO said, that we would reduce by 2016 the smoking rate in the country to 17.8 percent, and also the CDC's projection, which if we did nothing, we would reduce it to 15.9 percent, clearly showing the CBO estimate under the current bill we are considering would not bring the smoking rate down as much as doing nothing.

The mistake I made yesterday was I assumed the way I read it that the CBO estimate is it would reduce smoking 2 percent per year. In fact, what the CBO report actually said was it would reduce by 2 percent over 10 years. So, in fact, I have been way too generous to the current bill that it would reduce smoking to a point of 17.8 percent, which was figured based on a 2-percent-per-year reduction. In fact, the gap between doing nothing and passing this bill clearly is much bigger than I had anticipated; that by doing nothing, we get much more value, if the objective through passage of this legislation is to reduce the smoking rate in the United States.

The bill that is being considered does not change existing products. Let me restate that. We grandfather in all the tobacco products that are currently being marketed. What CBO has concluded is that then you have to permanently figure that about the same rate of Americans will continue to smoke because they do not have new options to turn to.

Let me make this pledge to my colleagues. If the CBO report that smoking will decrease by a scant 2 percent under the bill is because of new warning labels and graphic warning labels that are mandated in the bill, then let me say the substitute Senator HAGAN and I will offer provides for the same warning labels and the same graphic warning labels. If that is what gets the 2 percent reduction over 10 years, which clearly it has to be, then I am willing to cosponsor that bill right now and substitute it for the entire Kennedy bill, so we get the full 2 percent we get in the Kennedy bill over 10 years of reductions.

A simple warning label would be a tremendous improvement over this legislation—$787 million, a new mandate to the men and women in our military to pay for it, and it has been portrayed as an effort to reduce the usage of tobacco products with our youth.

I covered for all our colleagues yesterday the fact that when you go down and look at the CDC proposals to States on part of the $280 billion of MSA payments that the industry made to States, that the States had spent a pittance of what CDC projected on cessation programs to get people to stop smoking. But more alarming than the fact that States use the tobacco money to fill their budget gaps and build sidewalks rather than to fund programs to get people to stop smoking is the fact that in practically every case of 50 States, the marijuana prevalence use among youth was higher than the tobacco prevalence.

Let me say that again. Marijuana usage by our youth is projected by CDC to be higher in practically every State than what they have projected youth prevalence of tobacco use. It is actually smoking. That does not necessarily include smokeless.

For my colleagues, including myself, I have spoken on the fact that we must keep tobacco out of the hands of our children. It has an age limit. I would agree it has some problems on enforcement. But marijuana is illegal. It is supposed to be enforced in every community. It is supposed to be enforced in every State. Yet more kids use it than they do tobacco products.

In 1975, Congress commissioned the University of Michigan to track youth smoking rates. At that time, youth smoking was at an alltime high. However, those rates have started to come down and leveled off around 30 percent, all the way up to 1993.

For some unknown reason at the time, youth smoking rates started to increase around 1993, peaking at close to a new alltime high in 1997.

In 1998, 12th graders who said they tried cigarettes in the last 30 days was approximately 36 percent, according to the University of Michigan.

Congress did not have a good sense of why this was happening. Opponents of the tobacco industry started blaming all this on the alleged manipulation of young people by tobacco manufacturers through sophisticated marketing and advertising campaigns.

I heard a Member on the floor last night of the Senate basically blaming everything on these very creative marketing techniques. Trust me, if they

were that effective, every company would be figuring out how to adopt those techniques.

The tobacco industry has a checkered past, at best, when it comes to marketing and advertising. But what I am suggesting is, it may not have been all due to tobacco. There was another trend occurring in the 1993 to 1998 period that virtually mirrored that of youth smoking, and it was the increased use of illicit drugs by teenagers. Something much broader was happening among youths in our society during that time period. The Senate's answer to smoking rate increases was to pass a massive FDA tobacco regulation bill, the exact bill we are debating today. Congress said nothing else would work to save our kids and bring down youth smoking rates.

Senator KENNEDY made the following remarks during the 1998 Senate floor debate to emphasize the need to protect our children. I quote:

> FDA Commissioner David Kessler has called smoking a ''pediatric disease with its onset in adolescence.'' In fact, studies show that over 90 percent of the current adult smokers began to smoke before they reached the age of 18. It makes sense for Congress to do what we can to discourage young Americans from starting to smoke during these critical years. . . . Youth smoking in America has reached epidemic proportions. According to a report issued last month by the Centers for Disease Control and Prevention, smoking rates among high school students soared by nearly a third between 1991 and 1997. Among African-Americans, the rates have soared by 80 percent. More than 36 percent of high school students smoke, a 1991 year high. . . . With youth smoking at crisis levels and still increasing we cannot rely on halfway measures. Congress must use the strongest legislative tools available to reduce smoking as rapidly as possible.

Senator KENNEDY, on the Senate floor, May 19, 1998.

Of course, the Senate told the American public that passage of the massive FDA tobacco regulation bill back in 1998 contained the ''strongest legislative tools available'' to address youth smoking issue.

Congress did not pass the FDA bill we are debating today. What happened with youth smoking rates? They decreased since 1998 to current alltime lows. I am talking about record lows over a 34-year period. In 1998, we were told by some in the Senate that youth smoking rates would not come down absent a major bureaucratic expansion over tobacco at FDA. Those Senators were wrong, dead wrong.

Today, we continue the same debate over basically the same bill, and we are debating this as if nothing else has happened or changed. Obviously, something we are doing across this country is working, and it has nothing to do with what Congress is talking about doing. It has to do with the passage of the Master Settlement Agreement, advertising restrictions, awareness campaigns, and education.

None of these things are enhanced in H.R. 1256, the Kennedy bill. It is about design, not about keeping kids from smoking. CBO recently stated that if it was enacted, youth smoking would reduce, over the 10-year period, 2 percent—excuse me, 11 percent for youth, 2 percent overall. But according to the University of Michigan, youth smoking rates have declined by 5 percent over the last 5 years and 16 percent over the last 10 years.

If this is an indication of how youth smoking rates will go over the next 10 years, we will actually slow the decline by passing this bill.

Let me say that again. My colleagues do not understand. We slow the decline of youth usage by actually passing this bill. It is the University of Michigan, it is the Congressional Budget Office, all very reputable agencies.

I know I have a colleague on the floor who wants to speak. I am going to yield the floor to him. But let me remind my colleagues, we are talking about a massive expansion of regulation for the FDA, not a massive expansion of regulation over tobacco. There are a host of agencies currently that regulate tobacco. It is the most regulated product in the United States of America. Now we want to centralize that regulation into the FDA.

Let me read the FDA's mission statement:

> The FDA is responsible for protecting the public health by assuring the safety, efficacy, and security of human and veterinary drugs, biological products, medical devices, our Nation's food supply, cosmetics and products that emit radiation.

Just in the first phrase, ''protecting the public health,'' you are not protecting public health when you allow cigarettes to be sold. So the fact that we have constructed a bill that grandfathers every existing product but makes it practically impossible to bring to market reduced-risk products that allow Americans to give up the cigarettes and to move to something else, the CBO was right, it will slow the reduction in smoking rates. We do nothing for disease and death. We do more for disease and death by not passing legislation than we do by passing legislation. If the authors of this bill are, in fact, honest and the effort is to reduce youth access and youth usage, then the Members of the Senate should do nothing.

Hopefully, tonight Senator HAGAN and I will offer a substitute that brings as much regulatory authority to an entity outside the Food and Drug Administration but one under the Secretary of Health and Human Services. Why? Because I spent 15 years in Washington trying to protect the integrity and the gold standard of the FDA, so that when every American goes to bed at night and they take that prescription they got from a pharmacist prescribed by a doctor, they don't have any question as to whether, one, it is safe, or, two, it is going to work; that when they go to the hospital and all of a sudden a doctor shows them a procedure they are going to have and a medical device is involved, they are not sitting wondering: Is this going to work? Is it going to hurt me? Because the FDA has already said it is safe and effective; as we bring on this new line of biological products that are going to cure terminal illnesses that are very expensive, we are not going to do it in a way that hurts our health because the FDA's gold standard is in place; that when we go to the store and we buy food, we are going to be assured it is safe, something we haven't been able to do for the last few years—spinach contamination, salmonella in peanut butter. The list goes on and on.

Why, with an agency that is struggling to meet their core mission, would we ask them to take on a product that in legislation we say we know you cannot prove it is protecting public health or it meets safety and efficacy, but on that we want you to turn your head, we want you to ignore the core mission for this new jurisdiction we are going to give you, but for everything else, we want you to apply that gold standard, we want to ensure drug safety, device safety, food safety but not with tobacco.

To my colleagues, it is very simple. Read the bill. You won't vote for this bill. You want to reduce youth consumption of tobacco? It is real simple. We reduce it faster by doing nothing.

Again, I think there will be a substitute that all Members can vote for tonight. It accomplishes further reductions of youth usage, because we don't constrict less harmful products in the future from coming to the market. We don't lock an adult population in to only being smokers because they are addicted to nicotine. We give them options, such as Sweden gave their citizens, where they have reduced adult tobacco smoking at incredible rates because of innovative new products that deliver nicotine in a way that reduces the risk of disease and reduces the rate of death.

If the objective here is to reduce disease, to reduce death, to reduce youth usage, then I would encourage my colleagues tonight, when Senator HAGAN and I introduce the substitute, to listen very carefully and support the substitute. But at the end of the day, if your objective is to reduce youth consumption of cigarettes, in the absence of passing that substitute, it is very clear—the CBO and the University of Michigan says: Pass nothing.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. MERKLEY. Madam President, I ask unanimous consent to refer to these tobacco orb products during my speech.

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

Mr. MERKLEY. Madam President, I want to start by thanking Senator DODD for his tireless advocacy on this issue. The need to regulate tobacco products has been evident for many years, and for year after year it has been impossible to accomplish this

goal. It is frankly unbelievable that while we heavily regulate the production and sale of aspirin, a product that is not addicting and not destructive, tobacco, which is addictive and is destructive, goes without regulation.

This bill will go a long way in helping to keep these addictive tobacco products out of the hands of our children. This bill gives the FDA the legal authority it needs to reduce youth smoking by preventing tobacco advertising targeting children. It provides the FDA with the authority to prevent the sale of tobacco products to minors as well as the authority to prevent the tobacco industry from misleading the public about the dangers of smoking.

Additionally, this bill takes important steps in the regulation of smokeless tobacco. We are all familiar with the dangers posed by cigarettes—the health effects have long been documented—both on users and bystanders. We are also familiar with the steps being taken in many cities and many States to rid our public areas of secondhand smoke. These actions, thankfully, have been quite successful, but they lead to a major dilemma for tobacco companies: if smoking becomes socially unacceptable, how can the industry replace the hundreds of thousands of tobacco addicts who die every year? The industry's response has been to bet heavily on smokeless tobacco products and to bet on addicting youngsters to those products.

Chewing tobacco has been around for a while, but it has its own limitations. There aren't many places—outside of this very Chamber—in the United States where you can find a spittoon. So the tobacco companies are looking for hip new smokeless tobacco products that don't require spitting and that can appeal to a new generation of children.

This picture was taken just a few blocks from this Capitol. It is of a new product called ''Snus'' that R.J. Reynolds is selling nationwide. It is a flavored, pouched tobacco product advertised as not requiring spitting. And as you can see here, it is advertised next to displays of candy and Peppermint Patties. I should note that this container was not the original designed for the Snus container. The original container was round. As reported by the Portland Oregonian last December, it came in containers similar to chewing tobacco, but teachers in schools noticed these containers in their students' pockets.

So now R.J. Reynolds has redesigned them so that teachers can't recognize that these are smokeless tobacco products in their students' pockets.

Clearly, the marketing is aimed at young people. But it gets even worse. Now R.J. Reynolds has come out with another product that they are test marketing in three cities across the country, one of which is in my home State of Oregon. Portland, OR, is a site for the test market of tobacco candy.

Tobacco candy, as you see here, also comes in what was designed to look like a cell phone in your pocket rather than a traditional can of smokeless tobacco. They have done two other things to make this product appealing, and I have a sample right here. First, they come in candy flavors. This one is euphemistically called ''fresh.'' It is a mint candy. This one is euphemistically called ''mellow.'' It is a caramel-flavored candy. So they have thrown in the candy flavoring and a really cool dispenser. And not only does the dispenser look like a cell phone—so teachers can't tell what it is—but it has a feature taken from the world of the Pez candy dispenser. You pop it open, and out pops a single tobacco tablet. You close it and shake it around, open it up again, and out pops another one. So we have three features here designed specifically to market to children: the cell phone shape, the candy flavoring, and the Pez-style dispenser.

Now, why is it tobacco companies need to market to children? It is because when adult testers try out a tobacco product, they rarely continue using it. Therefore, they rarely become a customer of a tobacco company. A teenager who tries one of these products—whose brain is still being wired and, therefore, is much more susceptible to the influence of nicotine—is much more likely to become addicted and become a lifelong customer or reliable customer. That is why the tobacco companies are marketing tobacco candy to our children.

There is no question that this tobacco candy is dangerous. The Indiana Poison Control has estimated that each tablet delivers 60 to 300 percent of the nicotine in a single cigarette. The product is addictive. The product causes cancer. And unless we pass this bill and give the FDA the authority to regulate, soon you will see this tobacco candy in a convenience store near you, and we will see more displays such as the one shown here in Portland—tobacco candy advertised right next to ice cream.

Once the companies master the technique of turning tobacco into kid-friendly candy, there is no end to the variety of products that can be turned out. Already RJR has announced they are planning to launch two new forms of tobacco candy; sticks, which look like toothpicks you suck on, and strips, which are nearly identical to breath mint strips that dissolve on your tongue.

Everywhere I go and talk about these products, people are outraged. Meanwhile, the tobacco industry and its champions are trying to justify these products as safe alternatives to smoking. That just isn't so. And that rhetoric poses a real danger to consumers who might think smokeless tobacco is harmless. In fact, this very rhetoric shows why we need to have the FDA regulating this product. In fact, the Surgeon General has determined the use of smokeless tobacco can lead to oral cancer, gum disease, heart attacks, heart disease, cancer of the esophagus, cancer of the stomach.

This is not a safe product. This is not safe tobacco. It is a product like cigarettes that causes cancer and kills. Further, it is not a method of helping smokers to quit smoking. The purpose of smokeless tobacco candy is not to help people quit tobacco products, it is designed to addict them to tobacco products. The idea that the tobacco companies would be out marketing a product designed to get people to quit using tobacco products is, quite frankly, obviously ridiculous. Unlike Nicorette or the nicotine patch, which are designed to help people quit smoking, tobaccoless candy does not help you quit and the doses do not get any lower over time.

The U.S. Public Health Service Clinical Practice Guideline notes:

> The use of smokeless tobacco products is not a safe alternative to smoking, nor is there evidence suggesting it is effective in helping smokers quit.

It is no secret these products are dangerous. Six years ago to this very day, Surgeon General Richard Carmona talked about what he called the ''public health myth'' that smokeless tobacco is a good alternative to smoking. He emphatically said that was simply not true, and I think it is worth quoting him at some length:

> I cannot conclude that the use of any tobacco product is a safer alternative to smoking. This message is especially important to communicate to young people, who may perceive smokeless tobacco as a safe form of tobacco use. Smokeless tobacco is not a safe alternative to cigarettes. Smokeless tobacco does cause cancer.

That statement is from a 2003 House hearing on tobacco harm reduction, and I ask unanimous consent, Madam President, to have printed in the RECORD the entire prepared testimony delivered that day.

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

TESTIMONY BEFORE THE SUBCOMMITTEE ON COMMERCE, TRADE, AND CONSUMER PROTECTION, COMMITTEE ON ENERGY AND COMMERCE, UNITED STATES HOUSE OF REPRESENTATIVES

CAN TOBACCO CURE SMOKING? A REVIEW OF TOBACCO HARM REDUCTION

Statement of Richard H. Carmona, M.D., M.P.H., F.A.C.S., Surgeon General, U.S. Public Health Service, Acting Assistant Secretary for Health, Department of Health and Human Services

Mr. Chairman, distinguished members of the Subcommittee, thank you for the opportunity to participate in this important hearing. My name is Richard Carmona and I am the Surgeon General of the United States of America.

Let me start with a few statements that were once accepted throughout society that have now been relegated to the status of myth.

Men do not suffer from depression.

Domestic violence is a 'family' or 'private' matter.

The HIV-AIDS epidemic is of no concern to most Americans.

All of us here know that these three statements are very dangerous public health myths.

My remarks today will focus on a fourth public health myth which could have severe consequences in our nation, especially among our youth: smokeless tobacco is a good alternative to smoking. It is a myth. It is not true.

As the nation's Surgeon General, my top responsibility is to ensure that Americans are getting the best science-based information to make decisions about their health. So I very much appreciate the opportunity to come before this Subcommittee today and help refute this dangerous idea.

First, let me emphasize this:

No matter what you may hear today or read in press reports later, I cannot conclude that the use of any tobacco product is a safer alternative to smoking. This message is especially important to communicate to young people, who may perceive smokeless tobacco as a safe form of tobacco use.

Smokeless tobacco is not a safe alternative to cigarettes.

Smokeless tobacco does cause cancer.

Our nation's experience with low-tar cigarettes yields valuable lessons for the debate over smokeless tobacco.

Tobacco use is the leading preventable cause of death in the United States.

Each year, 440,000 people die of diseases caused by smoking or other form of tobacco use—that is about 20 percent of all deaths in our nation.

The office I lead as Surgeon General has long played a key role in exposing the risks of tobacco use. In 1986, the Surgeon General's Report The Health Consequences of Using Smokeless Tobacco reached four major conclusions about the oral use of smokeless tobacco:

1. Smokeless tobacco represents a significant health risk;
2. Smokeless tobacco can cause cancer and a number of non-cancerous oral conditions;
3. Smokeless tobacco can lead to nicotine addiction and dependence; and
4. Smokeless tobacco is not a safer substitute for cigarette smoking.

Recognizing these serious health consequences, Congress passed the Comprehensive Smokeless Tobacco Health Education Act in 1986. This law required the placement of Surgeon General's warnings on all smokeless tobacco products.

Mr. Chairman and Members of the Subcommittee, I respectfully submit that smokeless tobacco remains a known threat to public health just as it was when Congress acted in 1986.

Conversely, time has only brought more disease, death and destroyed lives.

The National Toxicology Program of the National Institutes of Health continues to classify smokeless tobacco as a known human carcinogen—proven to cause cancer in people.

As Surgeon General I cannot recommend use of a product that causes disease and death as a 'lesser evil' to smoking. My commitment, and that of my office, to safeguard the health of the American people demands that I provide information on safe alternatives to smoking where they exist.

I cannot recommend the use of smokeless tobacco products because there is no scientific evidence that smokeless tobacco products are both safe and effective aids to quitting smoking.

Smokers who have taken the courageous step of trying to quit should not trade one carcinogenic product for another, but instead could use Food and Drug Administration-approved methods such as nicotine gum, nicotine patches, or counseling.

While it may be technically feasible to someday create a reduced-harm tobacco product, the Institute of Medicine recently concluded that no such product exists today. When and if such a product is ever constructed, we would then have to take a look at the hard scientific data of that particular product.

Our nation's experience with low-tar, low-nicotine cigarettes is instructive to the issue at hand. Low-tar, low-nicotine cigarettes were introduced in the late 1960's and widely endorsed as a potentially safer substitute for the typical cigarette on the market at that time. Within a decade, the low-tar brands dominated the cigarette market. Many smokers switched to them for their perceived health benefits.

Unfortunately, the true health effects of these products did not become apparent for another 10 to 20 years. We now know that low-tar cigarettes not only did not provide a public health benefit, but they also may have contributed to an actual increase in death and disease among smokers.

First, many smokers switched to these products instead of quitting, which continued their exposure to the hundreds of carcinogens and other dangerous chemicals in cigarettes. Second, to satisfy their bodies' craving for nicotine, many smokers unwittingly changed the way they smoked these low-tar cigarettes: they began inhaling more deeply, taking more frequent puffs, or smoking more cigarettes per day.

In fact, we now believe that low-tar cigarettes may be responsible for an increase in a different form of lung cancer, adenocarcinoma, which was once relatively rare. This cancer is found farther down in the lungs of smokers, indicating deeper inhalations, and appears linked to a specific carcinogen particularly present in low-tar brands.

We must learn the lessons of the low-tar cigarette experience. Not only did they fall to reduce an individual's risk of disease, but they also appear to have increased population risk by delaying quitting and potentially contributing to initiation among young people. This has taught us that we must move cautiously in recommending any supposedly safer alternative for people trying to quit smoking—because now, with more knowledge and the benefit of hindsight, the science does not support early recommendations on low-tar cigarettes.

Mr. Chairman, in the interest of time I will shortly ask that the remainder of my statement and the scientific information contained in it be considered as read and made part of the record. But before I do that, I would like to ask for this Subcommittee and the Congress' help in getting the message out about the dangers of the myth of smokeless tobacco.

All of us in this room are very concerned about our nation's youth. Kids growing up today have a tough time of it. In addition to the normal struggles of puberty, many kids are facing a host of other challenges. Many, especially minority kids, must struggle to find their way in unsafe neighborhoods.

So the temptation to engage in behavior that is not healthy, and the opportunity to do so, is very hard for our young people to resist.

According to a 2000 survey by the Substance and Mental Health Services Administration (SAMHSA) (The National Household Survey on Drug Abuse), about 1 million kids from age 12–17 smoke every day. Another 2 million kids smoke occasionally.

And we know that smoking is often not a ''stand-alone'' risk behavior; it travels with others. The SAMHSA survey found that youth who were daily cigarette smokers or heavy drinkers were more likely to use illicit drugs than either daily smokers or heavy drinkers from older age groups. More than half of 12–17 year olds who were daily smokers had also used illicit drugs within the past month.

Every day, more than 2,000 kids in the U.S. will start to smoke, and more than 1,000 adults will die because of smoking. We have to get youth to stop starting. But the answer is not smokeless tobacco.

We have evidence to suggest that instead of smokeless tobacco being a less dangerous alternative to smoking, just as smoking is a gateway to other drugs, smokeless tobacco is a gateway to smoking.

So we must redouble our efforts to get our youth to avoid tobacco in all forms.

We have some real work to do on the ''culture'' of smokeless tobacco, which is glamorized by some sports stars. Chicago Cub Sammy Sosa, who has made a public commitment to avoiding smokeless tobacco, is a great example for kids. Past baseball great Joe Garagiola is now Chairman of the National Spit Tobacco Education program, and regularly lectures young players against the dangers of smokeless tobacco.

As Members of Congress, you can lead by example too, not just in legislation, but in your own lives. I encourage you to avoid tobacco in all its forms. Do not fall for the myth—a very dangerous public health myth—that smokeless tobacco is preferable to smoking. Do not let America's youth fall for it, either.

From the perspective of individual risk, the cumulative effect on smokers of switching to smokeless tobacco is simply not known. But we clearly know that use of smokeless tobacco has serious health consequences. Overall, smokeless tobacco products have been classified as a known human carcinogen. And limited scientific data indicate that former smokers who switch to smokeless tobacco may not have as great a decrease in lung cancer risks as quitters who do not use smokeless tobacco.

From the perspective of population risk, there are even more unanswered questions. Even if there was some decreased risk for smokers who switch to smokeless tobacco, that benefit may be more than offset by increased exposure of the overall population to this known carcinogen.

The marketing of smokeless tobacco as a potentially safer substitute for cigarettes could lead to:

More smokers switching to smokeless tobacco instead of quitting tobacco use completely;

A rise in the number of lifetime smokeless tobacco users if more youth begin using smokeless tobacco;

A rise in the number of cigarette smokers as a result of more youth starting to use smokeless tobacco and then switching to cigarette use; and

Some former smokers returning to using tobacco if they believe that smokeless tobacco is a less hazardous way to consume tobacco.

Concerns about youth initiation are especially troubling. The scientific evidence is clear that use of smokeless tobacco is a gateway to cigarette use. Young people may be especially attracted to smokeless tobacco if they perceive it to be safer than cigarettes. Studies show that more than one in five teenage males have used smokeless tobacco, with age 12 being the median age of first use. Surveys also show that more than two in five teenagers who use smokeless tobacco daily also smoke cigarettes at least weekly. Finally, independent research and tobacco company documents show that youth are encouraged to experiment with low-nicotine starter products and subsequently graduate to higher-level nicotine brands or switch to cigarettes as their tolerance for nicotine increases.

Finally, we simply do not have enough scientific evidence to conclude that any tobacco product, Including smokeless tobacco,

is a means of reducing the risks of cigarette smoking. At this time, any public health recommendation that positions smokeless tobacco as a safer substitute for cigarettes or as a quitting aid would be premature and dangerous. With the memory of our experience with low-tar cigarettes fresh in our minds, we must move extremely cautiously before making any statement or endorsement about the potential reduced risk of any tobacco product.

Finally, my strong recommendation as Surgeon General is a call for sound evidence about tobacco products and their individual and population based health effects. We need more research. We need to know more about the risks to individuals of switching from smoking to smokeless; and we need to know more about the risks to the entire population of a promotion campaign that would position smokeless tobacco as a safer substitute for smoking.

Until we have this science base, we must convey a consistent and uncompromised message: there is no safe form of tobacco use.

Thank you. I would be happy to answer any questions.

Mr. MERKLEY. Madam President, it is a travesty that R.J. Reynolds can launch an addictive carcinogenic candy targeted at children with no review by the Food and Drug Administration. Nicorette—designed to help you quit smoking—went to the FDA for approval, but caramel tobacco candy or mint tobacco candy—designed to hook kids on tobacco—is on the shelves in Portland, OR, right now with zero oversight.

This bill will finally bring some transparency and common sense to the regulation of tobacco. Finally, the FDA will be able to address the single greatest public health menace in our Nation. I am pleased that this bill does include an amendment that Senator BROWN and I authored to require the Tobacco Advisory Committee to expedite the review of tobacco candy. I look forward to passing this bill and to keeping tobacco candy from store shelves before the industry succeeds in hooking a whole new generation of our children.

Madam President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. REED. Madam President, I rise today in support of the Family Smoking Prevention and Tobacco Control Act, but first, I would like to take a moment to recognize the outstanding leadership of Chairman KENNEDY on this important public health issue. This is not the first time he has ushered a bill on this topic from committee to the Senate floor. I am confident that my colleagues, in recognition of the tremendous, hazardous effects that tobacco has on children, adolescents, adults, and seniors, will join me in fulfilling one of chairman KENNEDY's wishes, and mine, of finally seeing this bill signed into law.

I would also like to thank Senator DODD for his dedication in carrying out the aggressive schedule of the HELP Committee set forth by the chairman so we can bring this legislation to the floor.

As a cosponsor of this legislation, I firmly believe that we cannot afford to wait another day for it to be enacted. This is not the first time that I have risen to speak on the importance of regulating the sale of tobacco products, but I am hopeful that with this legislation we will take a giant leap toward eradicating the use of nicotine, by discouraging our youth from ever lighting-up, and chip away at skyrocketing smoking-related healthcare costs.

Every year that passes, and this legislation is not enacted, another 4,700 children in Rhode Island try a cigarette for the first time—that amounts to 1,400 children in my State alone becoming regular, daily smokers each year. These new smokers become part of the 8.6 million individuals nationwide suffering from smoking-caused illnesses; they become part of the 400,000 deaths every year attributed to tobacco use. We can and must do more to curb the use of this very serious and deadly poison. This is a public health emergency that demands action.

Over the years, the tobacco industry has been confronted with opportunities to do the right thing—to be honest about the health effects of tobacco or even the intended targets of various marketing campaigns. In every instance they passed up that opportunity and actively fought to continue alluring generation after generation to use tobacco products.

I would like to use the time that I have today to walk through some of those occasions in an attempt to demonstrate how important the Family Smoking Prevention and Tobacco Control Act is to the American people, not only to our health, but to our economic prosperity.

In 1994, while I was in the House of Representatives, seven executives from the tobacco industry took an oath before a House committee that they would tell the truth about tobacco. In their statements and responses to questions from members on the committee, all seven individuals stated that they believed nicotine was not addictive, and that new marketing practices were not designed to reach younger and younger age groups, below the legal smoking age of 18.

In order to support these claims, the executives cited research councils and institutes. But these statements were contrary to what many public health officials were saying, and what I believed. This further obscured the notion that smoking was a direct cause of disease.

A total of 46 States—including my own—States in which the majority of my colleagues represent—then proceeded to call their bluff, one lawsuit at a time.

Through these cases, the American people learned that the lies and deceit of the tobacco industry extended far beyond that of a Congressional hearing room. The suits unearthed that the tobacco industry had established and funded the councils and institutes claiming tobacco was not a health hazard; and had internal documents stating that No. 1, nicotine is addictive; No. 2, smoking is a habit of addiction; and No. 3, that in order to continue to prosper, cigarettes must be marketed to younger and younger age groups—below the legal smoking age of 18.

The tobacco industry settled these lawsuits. The agreement, totaling nearly $206 billion, was ordered to be distributed to the States in an effort to recoup Medicaid dollars spent on smoking-related health care costs. While $206 billion seems like a lot to you and me, this amount of money only accounts for approximately 7 years of the Medicaid budgets of the 46 States.

The fact that the industry did settle should have been a clear sign that tobacco production and marketing needs to be regulated. Unfortunately, around the same time that the settlement occurred, the Supreme Court narrowly ruled—on a 5-to-4 margin—that the FDA did not have such authority to regulate their products. The tobacco industry continued to aggressively market tobacco products.

Nearly 10 years later, this past December, the Supreme Court upheld that tobacco firms could, in fact, be charged at the State level with deceptive advertising practices of cigarettes. We have on the one hand, no regulation; on the other hand, the possibility of State enforcement.

These two Supreme Court decisions further complicate the message received by Americans regarding the use, marketing and distribution of tobacco. In essence, the industry could be held liable for certain advertising practices, but direct, regulatory oversight of those practices does not exist. Appropriate guidelines do not exist. With this bill, we have the opportunity to ensure that guidelines are established.

To add yet another layer to this debate, only 2 weeks ago, the U.S. District Court of Appeals for the District of Columbia ruled that the tobacco industry falsely advertised ''light'' and ''low-tar'' cigarettes under the guise that they were less dangerous than other products. This ruling comes after 10 years from the date the suit was originally filed—10 years too late to prevent 10,000 Rhode Island children beginning to regularly use tobacco. Had we enacted the Family Smoking Prevention and Tobacco Control Act, or a similar version of this legislation, years ago, we could have prevented some of those in my State and across the country from ever smoking. Instead, the debate has dragged on for 10 years.

Unfortunately, this debate will continue to drag on. The tobacco industry has already publicly stated that it will

continue to argue the decision that was recently rendered. Rather than taking the tortuous, time-consuming and very expensive path of taking the case through litigation, I think we have to give the FDA the authority to regulate tobacco products.

We have the opportunity before us to put an end to the courtroom drama. With the Family Smoking Prevention and Tobacco Control Act, we can give the FDA the authority to regulate tobacco, restrict illegal advertising practices targeting children, prevent the unlawful sale of tobacco to our Nation's youth, and strengthen warning labels.

With this legislation, everyone wins. The tobacco industry would have clear guidance on advertising practices which could help them avoid lengthy litigation; young people will not be targeted by aggressive tobacco media campaigns; and the public health crisis caused by tobacco use—which costs the American people in health care dollars, in lost productivity, and in loss of loved ones—tremendous prices—would hopefully begin to fade.

In preparation for our discussion, I looked back at some of the past statements that I have made in support of regulating tobacco—and one sticks out in my mind: the tobacco industry has worked hard to earn the trust of the American people.

We must try to win that trust back. We must empower the FDA to regulate tobacco in order to rein in the use of tobacco by children, control the access that our children have to tobacco, and warn the American public about its dangers.

The Senate is finally once again on the path to having a meaningful debate about our Nation's health care system. It is my hope that this debate will result in appropriate, high quality health care coverage and access for every American. Of course, we hope to do all of this at the lowest possible cost.

If we are serious about reforming our health care system, why wait? Smoking-related health care costs are skyrocketing. Today the average cost of a pack of cigarettes in the country is about $5 but the social cost is much more.

Every year, the public and private health care expenditures caused by smoking total approximately $100 billion, and $100 billion in lost productivity. These are staggering totals.

I will repeat: we literally cannot afford to wait another day for this legislation to be enacted.

We have the opportunity to begin charting a new course today. With this bill, we will begin to chip away at health care costs, steer our youth away from smoking, and pave the way for a healthier future for our Nation.

I look forward to working with my colleagues to enact this important piece of legislation and set forth on this new path for a healthier and more prosperous America.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. HAGAN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SANDERS. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. SANDERS. Madam President, I am very pleased that we are finally taking up this very important legislation. Regulating tobacco through the FDA is an essential part of addressing public health issues related to tobacco use, and I fully support this long overdue legislation. The cost of smoking is estimated at $96 billion a year in health care costs. The human toll is even more appalling: 440,000 smoking-related deaths per year. Tobacco is responsible for one-third of all cancer deaths in the United States each year, and tobacco use is the most preventable cause of death in the country.

There are many important provisions in this bill, but this issue is primarily about our children. It is appalling that in Vermont, one in every six high school students smokes cigarettes, and nationally 20 percent—one in every five high school students—smoke. Every day, about 3,600 children between 12 and 17 years of age smoke their first cigarette; 1,100 of them will become regular smokers, and 300 of those will ultimately die from this habit. That is condemning over 100,000 kids every year to a certain early death caused by tobacco. No wonder that 70 percent of voters strongly support FDA having the authority to regulate tobacco.

Make no mistake, tobacco marketing and marketing to kids is big business. The tobacco industry spends about $36 million every day marketing and advertising its addictive products in the United States. That is over $13 billion a year. The multinational corporations that market tobacco are not spending that kind of money if they don't expect a big return. Some of these ads are not just trying to get older addicted smokers to switch brands, they are marketing to girls and young women to get them to start smoking and they are marketing to teenage boys to get them to start smoking. They are adding candy flavors to get young people to start smoking.

That our Nation's most vulnerable are subjected to these kinds of marketing campaigns of multimillion-dollar profit companies is a disgrace and an outrage. Can one imagine a company trying to addict our young people to a habit which will prematurely kill them? I am not quite sure what kind of morality exists on the part of people who do this. We are talking about an industry where the largest company, Philip Morris, brought in $18.5 billion in revenue in 2007 from their U.S. business alone and over $64 billion in total revenues internationally. The tobacco industry spent nearly $28 million lobbying Congress in 2008, and from 1998 to 2006, they spent over $248 million to prevent Congress from acting to protect the children and the citizens of our country from this addictive practice. Given these figures and the fact that profit margins are estimated at 46 cents per pack for Philip Morris, I cannot understand any argument against legislation to regulate the marketing, advertising, and product standards of cigarettes and other tobacco products.

Tobacco has been considered more addictive than heroin. Let me repeat: Tobacco has been considered more addictive than heroin. In fact, there are a number of anecdotal stories of former heroin addicts who were able to kick their heroin habit but not their tobacco habit. It was just too hard to quit tobacco compared to heroin. Imagine that.

Tobacco companies are adding nicotine and other chemicals to their products to make these products even more addictive. And they are not regulated. Nobody regulates them. They can add whatever they want whenever they want. So we have multinational corporate executives in three-piece suits making huge amounts in compensation packages based on selling a killing and addictive product to the American people and to our children. We should be very clear when we take a look at these CEOs and understand that they are nothing more than high-priced and high-paid drug pushers. This Congress has spoken out repeatedly against those horrendous people, the lowest of the low, who are trying to get our kids into heroin and other drugs. We should look at these CEOs in the same way and say to them: How dare you try to sell addictive products to our kids, get them hooked into smoking cigarettes, and force them to end their lives prematurely and, in many cases, very painfully.

While one major part of this issue is stopping tobacco use before it starts, Congress will also need to take up the issue of cessation. About 70 percent of all smokers say they want to quit smoking, but tobacco is so addictive that even the most motivated may try to quit eight or nine times before they are able to do so. I look forward to working with my colleagues in the Senate to address what I see as an addiction that leaves hard-working people struggling to make ends meet with limited choices in terms of cessation programs. What we have to do as a nation—and I know it is outside the scope of this particular bill—is to make it as easy as possible for anyone in America who wants help in order to stop smoking and kicking the habit to be able to do so. We are not there right now. Sometimes it is complicated. Sometimes it is expensive. Sometimes people do not know how to access cessation programs. But I think that is a goal we must strive for.

Studies have shown smoking has become even more concentrated among populations with lower incomes and with less education. Why do low-income people smoke? Medical research

shows that being poor is, needless to say, extremely stressful. And as anyone who has ever been addicted to tobacco knows, being anxious, being stressful makes you reach for a cigarette.

We have a lot of work in front of us. I think this bill is a very good step forward. The bottom line is, this Congress has to, through the FDA, regulate tobacco. Our goal has to be for these companies to stop pushing their dangerous and addictive product onto our people, especially our kids. Our goal has to be to come up with programs to make it as easy as possible for people to get off their addiction.

So we have a lot of work in front of us. I think this bill is a very good step forward.

Having said that, Madam President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

(The remarks of Mr. FEINGOLD pertaining to the introduction of S. 1173 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. FEINGOLD. Madam President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. UDALL of New Mexico. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. UDALL of New Mexico. Madam President, I rise to support the Family Smoking Prevention and Tobacco Control Act, and I wish to start by thanking Senator KENNEDY and all those who have fought for this legislation over the years.

Watching this debate, I can't help but think of the movie ''Groundhog Day.'' In that movie, Bill Murray has to live the same day over and over. Like him, I have been here before. We have all been here before.

The FDA first attempted to regulate tobacco products in August 1996, almost 13 years ago. In 2000, a narrow majority on the Supreme Court ruled that the Congress had not given the FDA authority to regulate tobacco. But even as the Court struck down the FDA rules, it noted that tobacco poses ''one of the most troubling public health problems facing our Nation today.''

Immediately after that decision, this body considered legislation to provide the needed authority. That legislation was introduced by the Senator from Rhode Island and our senior Senator from New Mexico. They argued that the FDA regulation of tobacco was ''long overdue.'' They pointed out that every day we delayed, more kids would start smoking and more citizens would face disease and death. That was almost a decade ago.

Since the FDA first tried to regulate tobacco, more than 20.6 million American kids smoked their first cigarette, and more than 2.6 million of those kids will die because they did. Almost $1 trillion has been spent on health care costs associated with smoking, and 4.6 million Americans have lost their lives to cigarettes.

We do not know how many young people would not be addicted today if these companies had been prevented from advertising their products to our children. We do not know how many cases of lung cancer and heart disease could have been prevented if tobacco companies had not boosted nicotine levels and marketed light cigarettes as if these cigarettes weren't killers. We don't know how many lives were lost while Congress failed to act. But we do know that number is too high—much too high.

I first became involved with this issue when I was New Mexico's attorney general. In May of 1997, we joined a lawsuit that would eventually involve 46 States and 6 territories. In some ways, this lawsuit was like any other. My client, the State of New Mexico, had lost thousands of lives and billions of dollars because of the defendant. Our suit simply demanded restitution and damages.

But on a broader level, the tobacco cases were unprecedented. We were responding to a threat that impacts every American. The suit began in Mississippi and it spread to almost every State, regardless of politics or geography. We were addressing a national problem because the Congress had failed to act.

In 1998, we negotiated a Master Settlement Agreement that was an important step forward. But we knew there was more to be done. Some have claimed the settlement makes FDA regulation of the tobacco industry unnecessary. As somebody who helped negotiate that agreement, let me tell you that nothing could be further from the truth.

The settlement was not intended as a substitute for adequate Federal regulation. In fact, the agreement originally called for FDA regulation as an integral part of efforts to protect the public. The National Association of Attorneys General recently filed an amicus brief saying the settlement has not stopped tobacco companies from marketing to kids.

In fact, tobacco company memos demonstrate that their business depends on recruiting what they call ''replacement smokers.'' Companies used to strategize about how to attract customers as young as 13, and evidence suggests this strategy has not changed. Even after the 1998 settlement agreement, one tobacco company noted, ''market renewal is almost entirely from 18-year-old smokers.'' They do not say they are targeting minors. That would be illegal. But somebody is going to have to explain to me how you can focus your business model on 18-year-olds without marketing to 17-year-olds.

When I came to Congress after my service as an AG, I strongly supported FDA regulation of tobacco. I knew then the settlement did not provide the kind of flexibility needed to effectively control tobacco industry actions. Since the settlement was signed, the tobacco companies have shown us they will evade it at every opportunity. On May 22, the DC Circuit Court of Appeals affirmed the 2006 ruling that found tobacco companies guilty of racketeering and fraud. The original ruling contained 1,300 pages describing tobacco company efforts to endanger the public health and to cover up their activities. Many of these actions were taken after the settlement agreement.

The court found the tobacco companies ''began to evade and at times even violate the settlement agreement's prohibitions almost immediately after signing the agreement.'' After disbanding a research program, according to the terms of the agreement, the companies initiated a new research program with the same office, the same board, and even the same phone numbers.

Given the obvious dangers of tobacco products and the behavior of the tobacco company executives over the years, why isn't this product already regulated by the FDA? This question was answered implicitly by the Supreme Court in 2000, and the answer is instructive. The Court found that tobacco, unlike other FDA-regulated drugs, has no health benefits. In other words, tobacco is too unhealthy to be regulated.

Whatever you think of that ruling, it poses a serious question. Should an agency that regulates Tylenol be unable to regulate a substance that kills 440,000 Americans every year—more than—and think about this for a minute—more than alcohol, AIDs, car crashes, illegal drugs, murders, and suicides combined? Tobacco kills more than all those combined. Is it possible that one of the world's most deadly addictive substances should be immune from the rules that govern almost every other addictive substance that can be legally sold in this country?

Some of those who have spoken on this bill have pointed out the FDA cannot solve the most significant problem with tobacco—that when used as directed, it kills the user. But the FDA can stop tobacco companies from adding ingredients that make their products more addictive and more deadly. It can stop them from lying to consumers about the health impact of their products, and it can stop them from marketing to our children. In

fact, the FDA is particularly qualified to do these things.

As I was preparing to come to the floor today, I got an e-mail from one of my constituents in Hobbs, NM, and she reminded me why this bill is so important. She had received an e-mail from a tobacco company. The company thought she was one of their customers, and they asked her to send me a form e-mail opposing this legislation. She forwarded their e-mail, and at the beginning of the e-mail she wrote:

They strongly urged me to copy the following message to you and to vote against it. What they don't know is I don't smoke. But my 12 and 7-year-olds do because they have to go visit their dad, who smokes around them. Not only do they get a lot of secondhand smoke, but my oldest one idolizes her dad and will probably end up smoking because of him. So by all means, pass the bill.

Congress has waited too long to protect this woman and her children. It is time to get this done.

In ''Groundhog Day,'' Bill Murray wakes up to a different day when he finally does the right thing. I am hoping we will all wake up after this vote to a new day—a day when our citizens have the health protections they should expect from their government. I would ask you to join me in supporting this commonsense legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Madam President, I yield 45 minutes postcloture time to Senator BURR.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. BURR. Madam President, let me say to my colleague, who had his constituent send him a letter and who served in an incredibly effective fashion as State attorney general and who was involved in the MSA, the MSA was very clear. States extorted—that is what I call it—money from the tobacco companies to pay for health care costs. That money that was part of the Master Settlement Agreement was laid out on behalf of the tobacco industry to address the health care costs in those States but also to provide the resources so those States could, in fact, do cessation programs for adults to stop smoking.

What is our experience in the country relative to the recommendations given by the Centers for Disease Control to those States in terms of what they ought to spend on programs to get individuals to stop smoking? Well, in the State of New Mexico, they have done very well. They have actually spent 44 percent of what the CDC suggested they spend.

But I think you would also find it shocking to know that the prevalence of marijuana usage in that State is 1 percent higher than the prevalence of smoking by youth. The prevalence of youth marijuana usage is 1 percent higher than the prevalence of smoking cigarettes by youth. In addition to that, I might add that the prevalence of alcohol among the youth there is almost double what the usage is of smoking or the prevalence of marijuana usage.

There are two objectives to regulating differently an industry that is currently the most regulated industry in America, and the sponsors of this bill have stated it numerous times: No. 1, to reduce youth usage; No. 2, to reduce disease and death. That is the public health component, and I agree totally with it. But I think what we have to look at is the experience of what is happening today and what the assessments are of the bill that is being considered that would grant FDA jurisdiction of this product.

Today, the Centers for Disease Control says smoking is being reduced annually by 2 to 4 percent. The Congressional Budget Office has looked at the Kennedy bill and assessed that over the next 10 years the bill would reduce consumption by smokers at 2 percent. Let me say that again. Currently, doing nothing—not spending billions of dollars, not giving new authorities to the FDA—we reduce smoking by 2 to 4 percent per year. But if we put this bill into effect—at $787 million annually—and we give the FDA authority and jeopardize the gold standard of the agency which approves drugs and biologics, medical devices and food safety, we are actually not going to reduce smoking usage as much as if we did nothing.

Why is that? This is very important because you will hear me talk over the next several days about reduced-risk products. Reduced-risk products are products that deliver the nicotine needed for the addiction but reduce the risk of disease and death because it may be moved from smoking products to smokeless products. The truth is, under the Kennedy bill, we basically eliminate any product that wasn't marketed in February of 2007—over 2 years. We have put a marker in the bill that says if there is a product in the marketplace that was not sold in February of 2007, it can't be sold any more. But if it is a product that was sold before February 2007, the FDA can't change it one bit. It is grandfathered in.

So what is the CBO's assessment? What the Kennedy bill does is it grandfathers every cigarette that was on the market 2½ years ago and it doesn't allow the FDA to change it in any way. The only thing it does is to increase the warning label. I stated on the floor earlier today that if putting a warning label on it reduces the usage of cigarettes, I am willing to do it today. I will cosponsor it with anybody. The truth is, what this bill does is it locks in these products; therefore, it eliminates the choices adults have to try to get off of cigarettes and move to a reduced-risk product.

My colleague pointed to the Supreme Court ruling on the tobacco industry, and he was partially correct. He just didn't tell the whole story. The whole story was the Court said, in 1998, when the FDA Modernization Act was written and passed and signed into law, Congress opened the entirety of the FDA Act and had the opportunity to give the FDA tobacco jurisdiction and chose at the time not to do it. That was 11 years ago; 11 years ago, the FDA Modernization Act was passed. I was the lead sponsor of that bill, writing that bill in the House of Representatives. It took 2½ years to construct it. Every Member believed that the gold standard of the FDA was so important that we never lost focus on the fact that we had to maintain the integrity of the mission statement of the FDA. But no Member of Congress ever attempted to extend jurisdiction over tobacco to the FDA because they were concerned at the time that to do that would lessen that gold standard at the FDA.

How can you tell an agency that has a regulatory responsibility to protect the safety and effectiveness of those products they regulate that we want you to do it on drugs and biologics and medical devices, but we don't want you to do it on this new product of tobacco? The risk and concerns and fears at the time were that this might diminish the effectiveness of the FDA.

What has happened in 11 years? For 11 years, we have had a steady decrease in smokers. Now we are going to adopt a bill that potentially locks us into just the products in 2007. Why have we had a reduction? Because new reduced-risk products have come to the marketplace. We ought to continue to bring new reduced-risk products to the marketplace. Unfortunately, this bill does not do that. As a matter of fact, in section 910 of this bill, a so-called new tobacco product would not be marketed unless these three things were met: No. 1, it can show the marketing is appropriate for the protection of public health; No. 2, the increased likelihood that existing users of tobacco products will stop using such products; and No. 3, the likelihood that those not using such products will not start.

Let's take the first requirement and put it into English. Before a company could market a new tobacco product, it would have to show that its use is appropriate for the protection of public health. Who in the world can show that the use of a tobacco product is appropriate for public health? It is impossible. In other words, this new tobacco product—be it a cigarette, raw tobacco, perhaps an alternative tobacco product—the companies would have to show that this new product is appropriate for the protection of public health. Somebody is going to have to explain to me how a cigarette can be appropriate for the protection of public health. It cannot be done. Therein lies why I grandfathered products before 2007.

Even if by some miracle the inventer could show a product was appropriate for the protection of public health, this would only meet a third of the qualifications for a new product to come to

market. It would also have to show that the product will make smokers or those using chewing tobacco less likely to smoke or chew and will prevent new people from starting. Again, somebody will have to show me how you can provide an example of a tobacco product currently for sale that would satisfy these standards: it discourages people from smoking, and it deters young people from starting. The bill's manager, the author of the bill, could not share with us exactly how you accomplish that.

How does one go about assembling the data that is needed for new products when, in fact, you cannot actually ask consumers about a product that has yet to have an application approved. It is a catch-22. It sounds good.

Let me highlight another problem with the bill as it relates to harm reduction. You heard me discuss harm-reduction products or products that are less harmful. These are not found in H.R. 1256.

I am sure my colleagues are aware that the legislation would ban several products not sold in 2007. One of the products is a product called snus. We have seen the can. It is a Swedish smokeless tobacco, it is pasteurized, and it doesn't require one to spit. It is a tool that in Sweden has been used to get people off of cigarettes. Yes, it is still the use of tobacco products, but it meets the threshold of diminishing the risk of death and disease. Some suggest because there is a wintergreen and there is a spice, that this is attractive to kids. That is not the case. If that were the case, we would see wintergreen marijuana, because the usage or preference among youth is higher. The truth is, that has nothing to do with it. As I understand it, the product does not require the burning of tobacco. It does not require the actual smoking of tobacco. It generates no secondhand smoke. It will not affect the children near a user. According to the research done by a host of reputable scientists and public health organizations, use of this product instead of cigarettes can actually reduce death and disease associated with smoking. Why would you ban this product if the pretext of passing this bill is to reduce the risk of death and disease? You would not. But we eliminate the ability for this product to come to market in the future, and that which is at market today we ban from the market. In other words, it is clear that snus is far less dangerous than cigarettes, and it would be appropriate for the protection of public health because it eliminates secondhand smoke, it moves people away from smoking cigarettes. It would meet much of the standard of the bill, but the legislation still mandates that the manufacturer of snus demonstrate that snus will not encourage nonusers to start.

Again, I am not sure how you communicate with the general public—which is strictly prohibited in the bill until you have an approved application. If you need to communicate with the public in order to understand whether the product would cause nonusers to start for a reduced product approval application but you cannot communicate with consumers until you have an approved application, how would you ever get approval under section 911? The devil is in the details. In fact, you cannot communicate, but you have to communicate to be able to pass the third threshold of allowing the product to come to the marketplace.

So it is disingenuous to suggest that this bill is for the purposes of reducing death and disease when, in fact, those things that are proven to reduce death and disease have strictly been forbidden. And in the case of those that are at market today, they would be pulled from the marketplace.

It would be fair to say that what we are doing is freezing the marketplace for cigarettes and chewing tobacco. In 2007, I raised the issue with the HELP Committee because this same bill was brought up. The answer I was told then was that it may be difficult to bring a reduced-risk product to market. Bringing a reduced-exposure product to market is much simpler. So I said: Let's take a look at it. Maybe a cigarette with less benzene or nitrosamines can work, so I read the reduced-exposure portion of section 911.

The first part of the reduced-exposure language reads that in the absence of conducting a 20- to 25-year study on tobacco products, if you can show a reduction in a harmful constituent in the product, you can classify it as reduced exposure. That seems reasonable.

Then, in addition, those little pesky words pop up: ''additional findings.'' The reduced-exposure language states that you must show how the product would actually be used by consumers. Once again, catch-22—you can't talk to consumers until you have an approved application. You can't show how the product is going to be used by consumers unless you can talk to consumers. Therefore, there is no such thing as reduced exposure.

The bottom line? The bill that is being considered to give FDA jurisdiction brings no new harm reduction to tobacco users in America. It does to smokers exactly what the bill states, it locks in place all the cigarettes that were sold prior to February 1, 2007. Any of the reduced-risk product that has been introduced in over 2½ years automatically goes off the market, and the pathway through FDA for any new technology that might not burn tobacco or that might use tobacco in a different way that enables somebody to quit smoking and reduces death and disease—there is no pathway for it to happen because there is no way to communicate with the public until you have an application, and a part of the application process means you have to communicate with the public to meet the test that has been designed.

You know what this is typical of what the American people think about Congress, that we say one thing and we do something else. That is exactly what we are doing here.

I will offer a substitute with Senator HAGAN tonight, I believe. That substitute will bring full regulatory authority to an entity to regulate this industry. I am not up here saying we cannot regulate it better than we do today. It is the most regulated product in America. It is regulated by more agencies than any product that is sold today. Can we do it more extensively? Sure. Can we have better warning labels? Absolutely. Can we be graphic in our description of what these products cost? Certainly. But the question is, Where is it more appropriate to do the regulation?

I suggest that creating a new entity under the Secretary of Health and Human Services, where they have full authority to regulate this product, to limit its advertising, to eliminate its advertising, is a more appropriate place than to give it to the FDA, where their mission statement is to prove the safety and efficacy of all products they regulate, but they can never do it on tobacco products; to put it under the same guidance of the Secretary of Health and Human Services, who also oversees the FDA.

What is so magical about putting this at the FDA? I will tell you, because they have attempted to do it for 10 years. It is because when you put it there, over time you will be able to outlaw this product—or you think.

I go back to this chart from the CDC, the Centers for Disease Control, where in 48 out of 50 States the prevalence of youth marijuana usage is higher than the prevalence of youth smoking. Don't think just because you outlaw it you are going to reduce this country's youth usage. As a matter of fact, you may find out you have increased youth access.

The way to do it is to take the money the manufacturers gave to the States and use the money to provide the education, to provide the cessation programs, to provide the reduced-use products that will allow individuals to get off cigarettes and go to something that really does reduce death and disease. But if you pass the Kennedy bill, that is not what we are doing. What we are doing is we are locking in forever the 21 or 22 percent of the American people who are going to smoke. In fact, the Centers for Disease Control said that if we do nothing, by 2016 we will reduce, from 21 or 22 percent, the smoking rate in America to 15.9 percent. We will actually reduce it over 6 percentage points by doing nothing.

Yet we are getting ready, if we don't support the substitute, to lock in a measure that assures us indefinitely into the future that 21 or 22 percent of the country will choose cigarettes as their means of tobacco usage. It means we will continue the rate of death and disease. We may look back and say: But we picked the strongest regulatory agency that we could to be in charge of

the regulation of this product. Tell that to a patient waiting for a lifesaving drug and the reviewer who was reviewing the application was moved over to the tobacco section, because this new responsibility they had made them take senior reviewers and get them over because they had to regulate this product from day one. Tell the individual in America who is harmed because of a medical device that should have never been approved but got through the system because the gold standard of safety and efficacy was not adhered to at FDA because they were asked to turn to tobacco and not prove that public health was important on this product and, therefore, new reviewers looked at it and said: We don't have to be 100 percent accurate on devices. Or the biologic companies, when they see a delay in the approval of an application, that actually invest billions of dollars to bring a lifesaving biologic to the marketplace that ends a terminal or chronic illness, what if this product doesn't come because of what we do?

These are questions we should be asking ourselves. The American people deserve us to fully vet this. But in 2 days of markup on this bill, when questions were asked, the answers were ignored. They were more interested in the speed with which we pass this than the accuracy of the policies that we put in place. I have tried to keep the debate since yesterday on facts. I have tried, when I made a claim, to produce the numbers. The CDC is typically a credible source. The Congressional Budget Office is usually a credible source. The University of Michigan, many have come on the floor and used it as a credible source. This is not industry hype. These are institutions that we come to the floor and use to make our claims every day. What all of them say is: Don't pass this bill. But they don't say not to do something.

Tonight Members will have an opportunity to vote for a substitute, a substitute that gives the same level of authority, that does away with advertising in total, that puts the same descriptive labels on so that people cannot only read it in plain English but see it in detail. It just doesn't put it at the FDA. Why? Because I spent 2½ years of my life trying to modernize the Food and Drug Administration through a piece of legislation we passed in 1998. Why did it take so long? Because the FDA regulates 25 cents of every dollar of our economy. When the American people go to bed at night, they know if they take a drug that was prescribed by a doctor and filled by a pharmacist, it will not hurt them. More importantly, it is probably going to help them. It will make them better. Or when they go to the hospital or the doctor's office and they use a device, they know it has been reviewed and it is safe. They know that when they go to the grocery store, there is an agency called the Food and Drug Administration that is responsible for food safety. What they buy and what they eat is actually not going to kill them.

Yet we have seen instances over the last 3 years where spinach is sneaked through and peanut butter is sneaked through. And as we become a more global economy, our concerns about where it is made and what they put on it mean that our review of food safety has to be as stringent as everything else. The FDA is struggling today. The biggest mistake we could make is to give them another product and say, regulate this, and don't regulate it based upon the same standards you do everything else. But that is what we are doing.

If you want to reduce youth access, youth usage, if you want to reduce death and disease, vote for the substitute tonight. Reject the base bill. If we do that, we will have successfully done our job. If, in fact, we fall prey to jeopardizing the gold standard of the FDA, mark my words, this body will be back at some point fixing a mistake they made.

My only hope today is that there won't be an American who loses their life by the actions we have taken. I am willing to concede that if the FDA gets the jurisdiction, the authority to regulate this industry, we will miss the opportunity to take a lot of Americans off of cigarettes and move them to other products, other products that are better for their health and not as likely to kill them. The statistics say that that will happen. Ask yourself, knowing that, is it worth risking that you might change the gold standard at the FDA, that you might lower the bar for drug or device approval, that we might actually slip on food safety. I am not sure the risk is worth it.

This is about our kids. Vote for the substitute. This is about the status quo. This is about letting an outside group have a win that has fought this for 10 years because they are in some battle with an industry.

Is it worth it for us to give them a win versus the American people? I don't think so. I encourage my colleagues to support the substitute tonight. Reject the base bill.

I yield the floor and suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

Mr. DURBIN. 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.

Mr. DURBIN. Mr. President, pending before the Senate now is consideration of a bill that would dramatically change the way we regulate tobacco and tobacco products in America. This is an issue which has meant a lot to me during the course of my time in the House and in the Senate.

Many years ago—over 20 years ago—I offered an amendment which was the first successful attempt to regulate tobacco. I should say, earlier efforts at warning labels go back many years. But this was the first successful attempt to regulate the use of tobacco product.

What we did 20 years ago was suggest that the old days and the old ways of allowing people to smoke on airplanes had to change. Some of us are old enough to remember those days when you would make a reservation to fly on an airplane and you would tell them whether you wanted to sit in the smoking on nonsmoking section—as if there was any difference. For the most part, if you happen to be seated, at least, in the last seat of the nonsmoking section, you might as well be smack dab in the middle of the smoking section.

So we decided to eliminate smoking on airplanes. That was an amendment I offered in the House of Representatives over 20 years ago. It had the opposition of the tobacco lobby and the opposition of all the political leadership in the House of Representatives—Democrats and Republicans. They all opposed it for a variety of different reasons. But we called it anyway, and the amendment was successful. What it taught me was that Members of Congress are members of the largest frequent flyer club in America. We spend more time on airplanes than most. If there is something we want to change, it affects us personally. And this did.

So Democrats and Republicans came forward, and we started a trend which I think has been very beneficial for this country because once I passed that amendment, Senator FRANK LAUTENBERG of New Jersey took it up here in the Senate. He successfully passed it. We worked together to eventually eliminate smoking on airplanes, and the American people noticed. They liked it. They reached an obvious and rational conclusion: If secondhand smoke is dangerous in an airplane, then it is also dangerous in a train, in a bus, in an office, in a school, in a hospital, in a restaurant. Of course, the dominoes just kept falling. As they fell, there were more and more restrictions on smoking in public-type places.

So there were many things still to be done, and we started thinking about the obvious need for change. We knew we were up against one of the most powerful lobbies on Capitol Hill with the tobacco lobby. Not only were they very wealthy, with a lot of revenue from the sale of their product, but they also had ingratiated themselves to many Members of Congress of both parties. They did it in obvious ways: in contributing to campaigns. They were a major factor in some districts where they either manufactured their product or tobacco was grown. But they also befriended many Members of Congress, providing charitable contributions to hometown charities for Members of the House and Senate. It went a long way to build up good will and to convince Members of Congress to oppose any other changes when it came to tobacco regulation.

Well, there were things we knew needed to be done. You see, each day in America, 3,000 to 4,000 children start smoking for the first time—3,000 to 4,000 a day. During the course of that decisionmaking, about a third or a fourth of them will decide to stick with it. They will stick with it long enough that the nicotine chemical in the cigarette creates a craving and satisfies an addiction which is tough to break.

Oh, I have seen people walk away from a lifetime of smoking in a few days. But I have also seen people struggling for their entire lives trying to break that smoking habit—patches notwithstanding and hypnosis and all those things. For a lot of people, it is a very hard thing to do.

The tobacco companies know if they are going to have 400,000 of their customers die each year, they have to replace them with children. If people wait until they are 18 years old or 21 years old, they are likely to be smart enough not to start smoking, but if you are 12 or 13, it is an adventure. It is something that is forbidden, and it shows that you are just like a grownup, and kids try it.

The tobacco companies know that. Although they deny it, they market to kids. They sell their products in a way that appeals to children, hoping that teenagers and even younger will start taking up this tobacco habit because it is not only cool, it tastes good. The advertising is appealing. Tobacco companies spend over $13 billion a year promoting their products and many of those marketing efforts are directed right at our kids.

Mr. BROWN. Mr. President, would the assistant majority leader yield for a moment?

Mr. DURBIN. I would be happy to.

Mr. BROWN. Mr. President, I wanted to reemphasize the words of the assistant majority leader for a moment because I was walking through and heard his comments about tobacco companies' efforts to get children addicted.

As the assistant majority leader said, more than 1,000 Americans a day—400,000 a year—die from tobacco-related illnesses. I remember 15 years ago sitting in the House Energy and Commerce Health Subcommittee listening to tobacco executives talk to us about a whole host of things that they weren't exactly truthful about. But from the point Senator DURBIN makes that 400,000 Americans die a year from tobacco-related illnesses, it is clear that what the tobacco companies know they have to do is they have to replenish their customers. They have to find more than 1,000 new customers a day. They don't go to our age group. They do not go to 50-year-olds and 60-year-olds or 40-year-olds or even 30-year-olds; they go to the people the age of the pages sitting in front of us. They go to teenagers. Those are the people whom they know they must addict to replenish their customer base, if you will. That is why this legislation is so important and why the efforts of the assistant majority leader over the last 20 years, as a Member of the House and Senate, are so important, the victories he has had such as stopping smoking on airplanes and all of those other places. This legislation is extraordinarily important.

I yield back to the assistant majority leader.

Mr. DURBIN. Mr. President, I thank my colleague from Ohio for joining in. He certainly recalls those infamous hearings in the House of Representatives when the tobacco company executives stood up and ceremoniously testified under oath that nicotine was not addictive. That, I think, was the beginning of the end of the tobacco lobby in Washington, DC. Everyone knew that they were, at best, misleading and, at worst, just plain lying to the American people. When it came to their advertising, they denied for years that kids were their targets. They said it hadn't been the case.

Then one can take a look at some of the tobacco companies' internal documents that came out during the course of lawsuits, and let me tell my colleagues some of the things they found.

The Lorillard Tobacco Company was quoted as saying: ''The base of our business is the high school student.''

Philip Morris, in their internal documents, said: ''Today's teenager is tomorrow's potential regular customer.''

U.S. Tobacco: ''Cherry Skoal is for somebody who likes the taste of candy, if you know what I'm saying.'' I think I know what they are saying.

R.J. Reynolds, in an internal document, said:

> Many manufacturers have ''studied'' the 14–20 market in hopes of uncovering the ''secret'' of the instant popularity some brands enjoy to the almost exclusion of others. . . . creating a ''fad'' in this market can be a great bonanza.

So make no mistake about it. We know. We all know. Tobacco companies have directed their ad campaigns and their recruitment at our children. I have said it before; it bears repeating. I have never met a parent who has said to me, I got the greatest news last night. My daughter came home and announced she had started smoking.

I have never heard that. I don't think I ever will. Most parents know that is a bad decision and one that can be fatal.

Cigarette companies claim they have finally stopped intentionally marketing to kids and targeting youth in their research and in their promotions, but they continue to advertise cigarettes in ways that reach these populations. They continue to make products that appeal to kids.

For example, take a look at this one on this chart. This is a product called Liquid Zoo. The packaging is powerful, and the cigarettes come in fun flavors: Coconut cigarettes. How about that one? Vanilla cigarettes. Strawberry cigarettes. Liquid Zoo offers these. It is almost as if you are going into an ice cream store, which most kids like to do, because you are offering the flavors they will find in the ice cream.

Look at the Sweet Dreams and Chocolate Dreams cigarettes over here; again, a variety of kid-friendly flavors. This time, the cigarettes themselves, if you will notice down here, are pastel colors to make them even more appealing to children. Not only are these cigarettes designed to appeal to kids, but the tobacco companies buy the ads in magazines that teenagers read and try to draw them to their brands through advertising.

Here is a familiar one: Camel. Look at this ad for Camel cigarettes that ran in Rolling Stone Magazine, Cosmopolitan, and Vogue in 2004 and 2005. You can see from this ad it is appealing. These packages are designed in ways to appeal to young people, and the advertising as well. It took 39 State attorneys general to get on the tobacco companies' case before they finally agreed to stop marketing these cigarettes.

So what is next? Well, until we pass this legislation, it is inevitable that these tobacco companies will dream up another way to market their product to the kids.

This bill before us will make a difference. For the first time we are going to get serious about this. Tobacco products are one of the few, and maybe the only, products in America that go unregulated. You can't sell food or medicine in America without the Food and Drug Administration, or even the U.S. Department of Agriculture, taking a look at it. I will concede they don't inspect every package of food you will find in the store, but they have an overall responsibility to make sure that that product is safe for Americans to consume. But tobacco is an exception. Tobacco is not regulated. Tobacco is not inspected. They somehow manage to wiggle their way somewhere between food and drugs, saying, Oh, we are not a food product, and we are definitely not a drug product you would find in a pharmacy. But we know better. Even though it is an odd way to deliver a chemical—a drug—tobacco delivers nicotine and a lot of other chemicals as well. So even though they were successful in Congress for decades exempting themselves from coverage and inspection by the Food and Drug Administration, this bill is going to change that.

Senator TED KENNEDY is recovering from cancer, a brain tumor he has been fighting for many months now, and we all wish him the very best. He was the one who pushed this bill. He is the one who believed that the Food and Drug Administration should regulate tobacco products. I am sorry he can't be on the floor, because I would like to give him a big shout-out for the years he put into this effort. But we are here, and we have a chance to pass this legislation.

Here is what the bill does. It prohibits the colorful and alluring images in advertising that these tobacco companies shamelessly use to appeal to

children. This bill also limits ads to only black-and-white text in newspapers and magazines with significant young readership, and in stores that are accessible to children. It makes it harder for them to reach out to these kids and to dazzle them with their artwork and all of their images. It bans outdoor advertising near schools and playgrounds so kids won't be standing, waiting to go into school, looking up at a billboard suggesting that after school, you better get a pack of cigarettes. It ends incentives to buy cigarettes by prohibiting free giveaways with the purchase of tobacco products, and it finally puts a stop to tobacco sponsorship of sports and entertainment events.

I wish to tell my colleagues that most of us know the warnings that have been on cigarette packages for more than 40 years have outlived their usefulness. Does anybody notice them anymore? They put them on the sides of packages. They are really routine. Folks don't pay attention.

Well, we are going to change that. We are going to have much more effective warning labels on these products. This bill requires large, clearly visible warning labels at least covering half of the front and half of the back of the package of cigarettes. These labels will have large text and graphics displaying the dangers of smoking. Some people say, Why waste your time warning people? They know it already. Maybe they do. Maybe they need to be reminded. But we have an obligation as a government, as a people, to do everything we can to discourage this deadly addiction.

We are also going to require much larger warning labels in print ads for products. Some of these pictures I have shown my colleagues, you almost need a magnifying glass to find the Surgeon General's warning, which sadly has gone ignored too often. We are going to improve that by requiring that warning messages take up at least 20 percent of any advertisement they have in a magazine or on a billboard.

Study after study shows that advertising can influence young buyers. We certainly want to influence them to make a healthy decision when it comes to tobacco. This bill makes critical changes to limit kids' exposure to tobacco ads, and we know that is going to prevent kids from trying cigarettes and getting addicted.

One of the things we do in this bill as well is finally tell those who buy tobacco products what they are buying. If you believe a cigarette is just tobacco leaves ground up and put into a paper cylinder, you have missed the point. Those cigarettes are loaded with chemicals, not just the obvious naturally occurring nicotine but added nicotine to increase the addiction of smokers, as well as other chemicals which they think will make the taste of tobacco more appealing and will in some ways help the new smoker get through that first two or three cigarettes where they might be coughing. They are trying to make it a smooth transition from ordinary breathing to breathing with tobacco smoke, so they load up the cigarettes with these chemicals.

If you go in and buy a box of macaroni at the store and take a look at the side of the package, you will see the contents. What is that macaroni made of? It will have 6 or 8 or 10 different things and a nutrition labeling box. If you pick up one of these packs of cigarettes and look for the ingredients, what is included in that cigarette, you won't find it. Why the exception? Because the tobacco lobby made sure there was an exception. They don't want you to know what is in that little paper cylinder of tobacco. Now that is going to change. This bill before us is going to give the Food and Drug Administration the authority to require disclosure of ingredients so that consumers know what they are getting into, and, of course, in the process, give us information we need to find out what kind of dangerous, toxic chemicals are being added to cigarettes. Those listening may say, Well, this Senator is getting carried away calling them toxic chemicals. In fact, they are. They are toxic, and they are carcinogenic, they are dangerous, and they make that smoking experience even more hazardous for the people who are involved in it. Don't we owe that warning to consumers across America? Don't we owe it to our kids? Shouldn't we try to protect the American people from the dangers that are associated with the No. 1 preventable cause of death in America today, tobacco-related illness?

This bill has been a long time coming. Some of us have been battling this tobacco industry for two decades, and more. Now we have a chance to do something. We had a press conference earlier with Senator CHRIS DODD of Connecticut, and he has kind of picked up this standard and is carrying it for Senator KENNEDY, who is the inspiration for most of us when it comes to this issue. Senator DODD just completed the Credit Card Reform Act a couple of weeks ago, a measure we have been trying to bring to the Senate floor for 25 years. He successfully guided it through. Here he is back 2 weeks later with an issue that has been waiting in the wings for at least 10 or 20 years. I salute Senator DODD for his extraordinary leadership on these two historic issues.

Senator LAUTENBERG, my colleague when it came to banning smoking on airplanes, was at the press conference. Senator JACK REED of Rhode Island, who has always been stalwart when it comes to this issue, was there. I said at the press conference: I wonder if 20 years from now, a child or grandchild of one of these Senators will come up and say Granddad, explain to me. You mean you actually sold these cigarettes with warning labels people couldn't read and they didn't have to disclose their ingredients, and they could sell them to kids and they could advertise to kids? You mean that actually happened? Well, it is happening right now, and unless we pass this bill, it will continue to happen. Unless we pass this bill, 1,000 of our children today and every single day will start smoking and start an addiction which will lead to the deaths of at least one out of three. That is the reality. We can face our responsibility here, pass this bill on a bipartisan basis and say to America, it took a long time, but this Congress of the United States of America has finally put the public health of the people we represent ahead of the tobacco lobby.

Mr. President, I yield the floor and suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

Mr. BOND. Mr. President, I ask unanimous consent that I may be permitted to proceed as in morning business for up to 12 minutes.

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

NORTH KOREA

Mr. BOND. Mr. President, East Asia is a very interesting and challenging area. There are tremendous opportunities. We have great friends there. The potential for trade and better relations continues to grow in many ways, and there are many good things that are happening that we need to pursue in that part of the world, but they are also coupled with some immense challenges. There are some real problems there. Unfortunately, we were reminded of one of those key challenges most recently; that is, North Korea.

One of the world's most secretive societies, North Korea has increased its isolation from the rest of the world by continuing to pursue its nuclear ambitions, along with its missile capability potentially to deliver those weapons.

As one of the countries still under Communist rule, Supreme Leader Kim Jong-il heads a rigid, state-controlled system where no dissent is tolerated. Its destroyed economy has suffered from natural disasters, poor planning, and a failure to keep up with its burgeoning neighbors—China and South Korea.

North Korea, officially named the ''Democratic People's Republic of Korea''—and that in itself is an oxymoron—maintains one of the world's largest armies, but the standards of training, the discipline, and the equipment are reported to be very poor.

The Korean war ended with the armistice of 1953. But when one visits the demilitarized zone, as I did in March of 2006, the tension of the zone feels as if

the war has done anything but end. The north has recently fueled the tension by launching six short-range missiles, renouncing the 1953 armistice, and threatening continued attacks on South Korea.

After 15 years of negotiations, bilateral and multilateral talks, and a state of affairs worse than when we started, it is time for tougher action, barring all-out war. We hear people say: We want to talk with them, we want to negotiate with them, we need to pass a resolution. The bottom line, as we say in the old country music song: We need a little less talk and a lot more action. Talk has not gotten the job done. We need action.

A key to the successful resolution of this difficult situation is our good friend China. China provides as much as 90 percent of the north's energy, 40 percent of its food. Like Russia, it has used its Security Council veto, regrettably, against attempts to isolate Pyongyang. Without its support, its poor neighbor would struggle to survive. And it appears that the North Koreans may be exhausting Beijing's patience. Recent nuclear tests, last month's rocket launch, increasing threats, and the suspected restarting of the Yongbyon nuclear plant have reignited debate about how best to deal with this very troublesome neighbor. Beijing was swift to slap down the recent nuclear test. I hope that was the final straw for China.

We need China to play a constructive leadership role and support the Security Council resolution in toughening existing sanctions and implementing them. When you look at the sanctions that have been applied to Iran, sanctions should be applied to North Korea that are at least as tough if not tougher than those on Iran. After all, it is North Korea that has actually tested and detonated a nuclear weapon and fired missiles over Japan and throughout the region. And the North Koreans' continued sabre-rattling could lead to proliferation in the region and alter balances of power. Our friends there may not be willing to see a nuclear North Korea unchecked and unbridled, posing threats to them. We do not need to put our allies and friends in a position where they believe they must have a nuclear counterweight.

After 15 years of happy-talk and discouraging attempts during the last months of the Bush administration to turn the six-party talks into two-party talks, the time for tougher action is way overdue. My personal opinion was the two-party negotiations last fall were a tragic mistake. Obviously, they did not stop what has happened since.

North Korea poses security and humanitarian challenges to the world and particularly to China's core interests. China's ability to contain North Korea is critical in demonstrating it will provide leadership on the world stage, but it is certainly not fair to ask China to handle it all. This is the world's problem, and I believe we can work together with China and our critical allies in Japan and South Korea to defuse this situation.

South Korea's President Lee Myungbak, unlike his predecessor, has embraced the United States instead of North Korea. He has embraced working constructively within the six-party framework and with the United States, and we certainly ought not to be getting into bilateral negotiations. The six-party talks at the minimum are absolutely essential.

South Korea is one of our most important security partners in the region. I was proud last year to support the United States-Korea Defense Cooperation Enhancement Act to strengthen this important alliance. We must take the next step and approve the United States-Korea Free Trade Agreement to further strengthen our economic and strategic partnership. It is in our interest, their interest, and the interest of peace and prosperity in the region.

Japan is steadily increasing the role it is playing in international security affairs. We must continue to support these initiatives. Japan and the United States work very closely together on the AEGIS missile defense system, and robust support for ballistic missile defense is now more important than ever.

We have seen that these countries have the ability to shoot off missiles. We used to think we have mutually assured destruction. We feared the only place that would be sending missiles at us might be the former Soviet Union. That ain't so. North Korea has shown its ability, and others are working on it.

But we have made progress. According to the head of the Missile Defense Agency, LTG Patrick O'Reilly, the United States has fine-tuned its ability to shoot down long-range missiles launched by North Korea, based on a trio of tests mimicking such an attack. At a recent conference at the National Defense University, he went on to say:

> We have made adjustments to give ourselves even higher confidence, even though we intercepted three out of three times in that scenario.

General O'Reilly, in response to a question, said the U.S. ability to hit a specific spot on a target missile had improved ''dramatically'' during the tests. ''So, do I think it is likely that you're going to intercept if somebody launches out there?'' He said, ''Yes, I do. And the basis is those three tests and what we know about the threat. . . .''

I can tell you that President Obama was fully engaged, working with our National Security Council, to be able to use the resources we have at our disposal should a North Korean missile launch have threatened the United States or other of our close allies or our interests. I congratulate him on that. I applaud him for having that in place and being willing to use what was necessary. But unfortunately—and I don't understand why, with the threats we have—President Obama's defense budget reduced funding for more ground-based interceptors in Alaska and California. It scaled back funding for the airborne laser interceptor and canceled further research and development for multiple kill vehicles—all of this at a time when North Korea is increasing its sabre-rattling and Iran is showing no signs of reducing its program and continues to issue threats to Israel and its neighbors in the Middle East.

When I visited Israel in December, I went over to talk about intelligence. They only wanted to talk about one thing. They needed missile defense—short-range, medium-range, long-range—because they are looking at weapons coming in, missiles coming into them: short range, potentially ultimately long range. To protect our allies and Israel, we are working with them on the Arrow and certain other programs that I am proud to support that give them that defense, but they are in a position where they are subject to attack, not only from long-range and medium-range missiles but very short-range missiles, and we have to provide them that kind of capability.

I hope my colleagues will reconsider the proposed cuts to ballistic missile defense. It is a threat that is here, it is now, it is threatening our allies and, yes, possibly, even the United States.

As far as North Korea goes, in addition, I have recently agreed to cosponsor Senator BROWNBACK's North Korea Sanctions Act. The legislation would require the Secretary of State to relist North Korea as a state sponsor of terrorism. This requirement could be waived by Presidential certification as provided for in the bill. But we were able to hurt North Korea significantly when we imposed sanctions on the bank, the Bank of Asia, which was handling their transfer of funds. But in a very unfortunate, misguided effort to try to win the friendship of North Korea, we took off those sanctions last year. That was a mistake.

This is a challenging area. It is one in which I hope others will pay great attention, and I look forward, when the budgets come before us, to talking about the need for ballistic missile defense. We are seeing that threat. It is being visited on a daily basis on our allies in Israel. It is no time to back away from the tremendous technology we have that could protect us, our allies, and our interests around the world.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BURRIS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BURR. Mr. President, while the Senate is in consideration of a bill to regulate tobacco, I think it is extremely important that Members of

the body understand that tobacco is not an unregulated industry today. Let me preface this by saying that I am not proposing that we do not do something additionally in the Senate. I think we can regulate more effectively. But what I have put up—I know it is hard for the Presiding Officer to see—is the current regulatory structure of the tobacco industry in America. It shows every Federal agency that currently has a regulatory jurisdiction over tobacco: Department of Transportation, Department of Treasury, Department of Commerce, Department of Justice, the Executive Office of the President, Department of Health and Human Services, Department of Education, Department of Labor, General Services Administration—the GSA—the Department of Veterans Affairs, Federal Trade Commission, Department of Agriculture, the Environmental Protection Agency, the U.S. Postal Service, and the Department of Defense. These are all Federal agencies that currently, today, regulate the product of tobacco. For any person to come to the floor of the Senate and claim that there is not sufficient regulation of this industry right now is ludicrous. As a matter of fact, this is the most regulated product sold in the United States of America currently.

The proposal Senator KENNEDY has introduced is a proposal that concentrates all the regulation of tobacco in the Food and Drug Administration, an agency that was created for the sole purpose, by its mission statement, of approving the safety and efficacy of drugs, biologics, medical devices, cosmetics, products that emit radiation, and responsibility for food safety.

We are going to shift from all these Federal agencies and all the flowcharts underneath them of different aspects of regulation currently for the tobacco industry, and we will concentrate this in the Food and Drug Administration. It probably makes a lot of sense from the standpoint of consolidation, but what I want my colleagues to understand is that this truly today is the most regulated product sold in America, when we look at the expanse of the regulatory framework that exists today.

The authors of the bill have suggested we have to allow the FDA to have jurisdiction because there should be two objectives. One is to reduce death and disease, and the other is to reduce youth usage of tobacco products. These are two goals I embrace wholeheartedly.

Let me share this chart. It starts with a product I consider to be the base: 100 percent of these products presents a health risk. What is the product? Nonfiltered cigarettes. I know the President of the Senate probably remembers when all his friends smoked nonfiltered cigarettes. The truth is, we probably still have some friends who do it today. The continuum of risk goes down in the next category, filtered cigarettes. The industry introduced filtered cigarettes at some point, probably before I was born. The risk is only reduced by 10 percent. It meant it was 10 percent less likely to have a risk involved in it. But still, clearly, 90 percent of users having the risk is pretty unacceptable.

Then we go to a category that never hit the market, except for experimentally through market testing. That was tobacco-heated cigarettes, a product that didn't actually burn tobacco, but it had a ceramic disk in the front that glowed and got hot. As that hot air was pulled through the tobacco, the nicotine was extracted and delivered, but the product never burned. It never created secondhand smoke. In fact, it never had any smoke that actually was emitted afterward. Whatever was emitted was a vapor, and it dissipated.

Then we have a new category called electronic cigarettes, a fascinating product, rather expensive. It actually runs off a battery. It extracts the nicotine and delivers it into the system in a totally different way than the tobacco-heated cigarette. But, clearly, we see that in two new iterations, we have gone from 100 percent risk to 90 percent risk to 45 percent risk and now, with this new electronic cigarette, to a risk of less than 20 percent. One would say, moving from here to here from the standpoint of risk is an advantageous opportunity for people who use nonfiltered cigarettes. If we could get them over here, we have reduced the risk of death, and we have reduced the risk of disease.

Let me move out to the next category, which is smokeless tobacco, U.S. smokeless tobacco. I need to draw the distinction because globally there are new types of smokeless tobacco. But U.S. smokeless tobacco all of a sudden reduces the risk to 10 percent. We have gone from 100 percent to 10 percent. We have reduced by 90 percent the risk presented by the use of tobacco products. Now we move to the next category, which is probably hard to see. I would equate this to about 2 or 3 percent risk. This is Swedish smokeless snus, a pasteurized product. It is actually spitless. It can be swallowed because of the pasteurization. But, again, products that deliver the nicotine need to allow somebody to go from a nonfiltered product all the way over here to a U.S. smokeless or to a Swedish smokeless. We have now gone from 100 percent risk to 2 or 3 percent risk.

Now a new category, not even on the market, a category already targeted as a product that should not be: dissolvable tobacco, a product that dissolves in the mouth. That delivers what this person needs over here from the standpoint of being addicted to nicotine but puts the category of risk somewhere down in the 1 percent category. As innovation has taken place, we have allowed the opportunity for people to come off products that had 100 percent risk down to products that reduce the risk by 99 percent. Then we have therapeutics, such as gum and patches and lozenges, that have minimal risk and pharmaceutical products that allow people to actually either reduce or quit the habit of tobacco usage.

When we look at the goal of a tobacco bill—and the authors have said the goal is to reduce disease, death, and youth usage—I ask the Presiding Officer, if you reduce from 100 percent the risk to 10 percent for U.S. smokeless or 2 percent for Swedish smokeless, does that embrace the spirit or intent of what the author of the bill is trying to do? I say yes. But what I have to share with my colleagues is this category that is at 2 percent, under the current bill being considered, would be banned. Why? Because of an arbitrary date that they have chosen to say if the product wasn't sold in the United States before February of 2002, then this product is not allowed to stay on the marketplace.

My point is, if the authors say the objective of the legislation is to reduce the risk, as you reduce the risk, you reduce the likelihood of disease, the severity of death, isn't this the category we would like more smokers to move to? I think the answer is obviously yes. We would like to move people away. We would like to reduce the health cost. We would like to reduce death. If we can do that by bringing this new age of products to the marketplace, this is beneficial to everybody. It makes a lot of sense.

That is not what the legislation does. I have spent this day coming to the floor trying to emphasize with my colleagues that what the legislation does is grandfathers two categories, nonfiltered cigarettes and filtered cigarettes. It says these are the only products that will be allowed to stay on the market. It means the 20 percent of Americans who currently have chosen to smoke, hopefully adults, are not locked into these categories from the standpoint of choice. Yet in Sweden, they created this new product, and they have had a massive movement of people from these two categories to this category. This is not something I have made up. The data is there to show.

The authors of the bill would suggest we allow this product to be created, but there are three thresholds they have to meet. The three thresholds they have set are absurd. Let me focus on the third threshold. They suggest that the manufacturer would have to prove this product wouldn't be used by a nontobacco user. For you to accumulate data to know whether a nontobacco user would be interested in using this product, you would have to go out and present the product to them and explain it before they could comment on whether they would be inclined to want to try it. But the bill forbids any communication about a product that hasn't been approved. So I ask, how do we get a product approved if the threshold is to tell them what the likelihood is of people who haven't used tobacco products using it, if you can't talk to people who haven't used

tobacco products about using the product because the product hasn't been approved?

In Washington we call this a quite crafty way of making a claim but reversing in the bill the ability to use it. In essence, the bill that is under consideration creates these two categories indefinitely and says: It is OK if we have 20 percent of the American people who choose to use those products. Hopefully, over time, more adults won't choose to use them. We are willing to accept that 20 percent are using them, and they are going to die or have severe disease.

If that is the case, then how can you come out and claim that this is a public health bill, that we are going to pass this bill because of the responsibilities we have to public health?

Since 1998, smoking rates in America have dropped from approximately 23.5 percent to 19.5 percent. The Centers for Disease Control and Prevention, the agency that many come to the floor and quote with great frequency because of their expertise, says if the Senate does nothing, if we don't pass a piece of legislation, by 2016, the rate of smokers in America will drop to 15.7 percent. But if we look at the Congressional Budget Office that has had an opportunity to see the Kennedy bill, they estimate the Kennedy bill will reduce smoking 2 percent over the next 10 years. Meaning in 2019, the rate will fall from 19.5 percent to 17.5 percent. You get where I am going? By giving the FDA regulatory authority, we are going to increase by over 2.5 percent the number of smokers in the country than if we did nothing. That doesn't make much sense, does it?

Let me explain. When we lock in these two categories and we eliminate the ability for somebody who is a smoker to find one of these products to move to, we have now locked in the category of smokers. When we explain it to somebody, it makes tremendous sense. The question is, Why would we do this? I expect Sweden to be up here arguing that this is the right strategy. Yet Sweden is the one that is the most progressive. Why? Because they are truly focused on the health of Swedes. The fact that we claim that we are doing this because of death and disease isn't true. We are doing this because 10 years ago somebody wanted to do something punitive to an industry. As a matter of fact, the date that is set in the Kennedy bill is February 2007, meaning if the product wasn't sold before 2007, it is banned from the marketplace. Why did they use February 2007? Because they wouldn't even change the bill they passed out of committee in 2007 to reflect 2009, which is the current date. There was so little attention paid to this piece of legislation that they didn't even go through to purge the date and change it. They printed the same page of the bill they had last time.

I have said several times throughout, the only thing I ask Members to do before they vote on this bill is to read it. I don't think that is too much to ask. If they read the bill, they will never vote for it. If they read the bill, they will understand that, one, this makes a lot of sense. But, two, remember, when I went over the current regulatory structure, I didn't mention the Food and Drug Administration. I did mention the Department of Health and Human Services. As we go down this flowchart of things under the HHS, there is no FDA. We are choosing an agency of the Federal Government that has never regulated tobacco. How can that possibly make sense? Maybe if you claimed you were going to put it at the Centers for Disease Control, they actually have some responsibility within the framework currently of regulating tobacco. But not the FDA. We may have taken the only piece of the Federal Government that doesn't currently have any jurisdictional responsibilities to regulate tobacco, and we are giving them 100 percent of the requirement to regulate tobacco.

The truth is, we don't need the FDA to do it. We can do it by creating a new entity under the Secretary of HHS, the same person who is over the FDA today, and we would suggest doing that by creating a new center. That new center would be responsible to regulate in total tobacco products throughout the industry.

It is a Harm Reduction Center. Think about that: Harm Reduction Center. Let me go back to this chart: The continuum of risk. If the objective is to reduce death and disease, then you have to drive the risk down. To drive the risk down, you have to bring less harmful products to the marketplace. So you have two choices. You have a bill that will do that through creating a Harm Reduction Center that regulates with all the authority the FDA has or you can choose the Kennedy bill, which basically isolates these two categories of 100 percent risk and 90 percent risk; and you put that into statute that the FDA cannot touch products that are over here, as shown on the chart, but, more importantly, you structure it in a way that the FDA could never approve any new products that are less harmful.

The Harm Reduction Center actually has two responsibilities. One, it is to regulate the entire tobacco industry and, two, to facilitate smokers moving over to lower risk options because we want to reduce the harm that potentially can be caused.

I am going to speak later tonight, as I offer this substitute, which I hope every Member will take the opportunity to read on behalf of Senator HAGAN and myself. I am sure we will both speak tonight and throughout the day tomorrow as we get ready to have a vote. It is my hope Members will take the opportunity to review the substitute.

Let me put Members on notice right now, some will come to the floor and claim: Well, this is a substitute that the HELP Committee considered and they rejected it 12 to 8, 13 to 8—I cannot remember exactly what it was. Let me put Members on notice before they come down here and make claims on it, it is not the same bill. It is not the same substitute. I am sure staff now is going to scramble to figure out what is in this new bill.

We listened to criticism. Where we thought we could better the bill, we did that. The fact is, there are still going to be Members who come and make claims tonight, tomorrow—before this is all settled—that are not accurate. I put them on notice now: I will come to the floor and expose exactly what you say.

This is not a debate where we are going to use the charts we had 10 years ago and say they are relevant today. This is not a debate where we are going to have information that was produced in 1990 for an issue we are discussing and debating in 2009. It is not right to do that to the American people.

In concluding—because I see my colleague is here wanting to speak—I pointed out earlier that in 1998 the industry made a massive payment to the 50 States of this country. It was called the Master Settlement Agreement, MSA. Mr. President, $280 billion that the industry, over a fixed period of time, was paying out to States. It was for two purposes: No. 1, to subsidize health care costs—the Medicaid costs in States—that might have been from the direct cause of tobacco usage; and, No. 2, so States would have the resources they needed to create cessation programs so people would move from this category, as shown on the chart, to this category or quit tobacco use all together.

I came to the floor yesterday—and I will say for the purposes of the Presiding Officer in the Senate, who is from Illinois—CDC made recommendations to every State to do this every year: How much of the money they got that year should be used for cessation programs.

Well, in Illinois, Illinois devoted 6.1 percent of what the CDC recommended for cessation programs to cessation programs—6.1 percent. Mr. President, 19.9 percent of the youth in Illinois have a prevalence to smoking—way too high. In Illinois, though, 43.7 percent have a prevalence to alcohol use. In Illinois, 20.3 percent have a prevalence of marijuana use. I am not picking on the Presiding Officer of the Senate, and I am certainly not picking on Illinois. I will have used all 50 States before this is over with.

As I said, one of the shocking things to me, as I explored this chart, was that I found that, I believe it was, 48 out of the 50 States have higher youth prevalence in marijuana use than of smoking.

Well, some are going to claim the reason you have to give FDA jurisdiction over this is because the age limitation of 18 is not working, that youth are getting products. Well, you know

what. There is no age where it is legal to buy marijuana, especially for youth. Yet in 48 out of 50 States, the prevalence of marijuana usage is higher than the prevalence of smoking.

Do not believe for a minute you are going to construct a regulatory regimen here that is going to take a product that is legal to people over 18 and it is going to allow a framework where people under 18 are not going to get it, when a higher percentage of them can get a product that is illegal for everybody in America.

I might also say to the Presiding Officer, his State is not the lowest from the standpoint of the percentage they chose of the CDC recommendation to devote to cessation programs. As a matter of fact, one State had a commitment of 3.7 percent.

Now, $280 billion—paid for by the tobacco industry to cover health care costs and cessation programs—I would suggest to you, if the States had all spent 100 percent of what the CDC told them they needed to spend, we would not be here talking about the regulation of the tobacco industry because cessation programs would have worked and the rate of 19.6 percent today of smokers would have reduced drastically.

I would remind you that the CDC says, if we do nothing, by 2016, we reduce the rate to 15.7 percent of the American people. But when CBO looked at the Kennedy bill, they said, in 10 years, in 2019, the Kennedy bill would reduce smoking to 17.5 percent. If we do nothing, we get to 15.7 percent. If we pass this bill, we get to 17.5 percent. If the objective is to have less smokers, the answer is: Do nothing.

But tonight, sometime around 6 o'clock, Senator HAGAN and I will come to the floor not to suggest to our colleagues that we do nothing but to suggest to our colleagues we do the right thing, that we find the appropriate place to put regulation, that we give it the same teeth the FDA has, that we give them the ability not just to have black-and-white print advertising—such as the Kennedy bill does—I suggest in my substitute we eliminate print advertising, we do away with it in total.

We do not worry about whether Vogue magazine, which is typically bought by an adult woman, might be looked at by a teenage girl. If we just eliminate print advertising, we do not have that problem. The Kennedy Bill limits it to black and white. We ban it in total.

If Members will take the opportunity to read both bills—to read the substitute, to read the base bill—they will find out we are actually more expansive from the standpoint of regulation. We actually accomplish the task of reducing disease and death. I believe, by some of the things we do, we actually reduce the amount of youth usage, such as by eliminating print ads.

But there is a big difference. I do not turn it over to the FDA. I do not do that for a selfish reason—purely selfish. I spent 2½ years, 15 years ago, when I got to the U.S. House of Representatives, where I was tasked by the chairman of the Energy and Commerce Committee to write a bill that modernized the Food and Drug Administration. It took 2½ years to do. It was signed into law in 1998.

We opened the entirety of the Food and Drug Administration and revamped all the ways it worked to make sure we could reach new efficiencies in the approval of lifesaving drugs, biologics, which were new, devices. We spent a meticulous amount of time going through this with one goal in mind: Do not lower the gold standard the American people have come to expect through the FDA; do not lower the standard an applicant has to reach so we can assure the safety and efficacy of the products we regulate.

Well, I thought that was important, and in 1998 it became law. And you know what. When we had the entirety of the FDA bill open to every Member of the House and the Senate, no Member of Congress offered an amendment to give the FDA authority over tobacco because they knew, at the time, the integrity of the FDA was more important than who controlled it from a regulatory standpoint. They did not want to jeopardize the integrity of what the FDA core mission was.

But here now, 11 years later—I might also say, the Supreme Court ruled in a court case that the FDA did not have jurisdiction over tobacco. The reason they chose was, in 1998, the Congress opened the FDA Act and did not give FDA authority. Therefore, it was not the intent of Congress for FDA to have authority.

So those who claim this is part of the FDA—should have been, always would be—it is not the case. Because Members of Congress had the opportunity and did not do it. Why? Because of the integrity of the Food and Drug Administration. Why in the world would we have changed, in 11 years, to where we would risk the gold standard of drug approval, of biologic approval, of medical devices approval? Why would we risk at a time where, every year for the past 3 years, we have had an issue on food safety—we have had salmonella in peanut butter; we have had tainted spinach; we have had imported products that have killed Americans; and the FDA is the agency responsible for the regulation of food safety—why would we dump on an agency today that is struggling to meet their core mission of food safety a new product such as tobacco?

Why would we take an agency, such as the FDA, that regulates 25 cents of every $1 of the U.S. economy, and say: You know what. You have never regulated tobacco before, but we would like you to do it now. We would like you to take senior reviewers who are approving lifesaving applications for drugs, and we would like you to move them over to the tobacco area.

What else can they do? You cannot go out in the world and find people automatically at the FDA who have ever regulated tobacco. So they are going to take their most senior folks. What does that mean? The likelihood is, we are going to wait longer for that lifesaving drug. We are not going to reduce health care costs because chronic disease is not going to have new therapies because the applications will not be acted on. Heaven forbid we do this and all of a sudden somebody dies as a result of an FDA reviewer who looked at it and said: Well, you know, I know our core mission is to prove the safety and efficacy of all the products we regulate—with the exception of tobacco because you cannot prove it is safe and effective—so if I am going to turn my head on tobacco, maybe I will turn my head on this medical device because it does not look too bad, and all of a sudden somebody dies from it.

This is a huge mistake for the Senate to do. I urge my colleagues: Read the bill. You will not vote for it. Read the substitute, it will supply the sufficient amount of regulation to an industry that can be better regulated, should be better regulated—more importantly, a substitute that goes much further from the standpoint of reducing youth usage of tobacco, which gets at the heart of death and disease.

In fact, the substitute is the only bill that accomplishes what the authors of the current base bill suggest is the reason we are debating this issue. This chart I have in the Chamber proves it. It does it in the most visual of ways. If we do not allow these products to come, you have now locked it into this. That is not what the authors suggest is the objective.

I urge my colleagues, tonight, when given the opportunity, listen intently, read the bills. Tomorrow, when you are given an opportunity to vote, vote for the substitute. Do not support the base bill.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I wish to express my appreciation to Senator BURR for his hard work on this issue. He is one of our most able Members. I think the fundamental premise of the study that showed his bill will reduce smoking more than the bill on the floor, the Kennedy bill, is something that should give us pause. I know they have worked very hard on it. He has worked very hard on it, and I hope my colleagues will avail themselves of his suggestion to read it—both bills—and make a judgment on what they think is best for the country.

UNPRECEDENTED BUDGET DEFICITS

Mr. President, the unprecedented budget deficits we see today are creating fears of a surge in bond interest yields and a fall in the U.S. credit rating. I wish to talk about that. I have talked about it previously. But I would repeat my fundamental assertion that nothing comes from nothing, nothing

ever could, as Julie Andrews said. Debts must be paid, and they will be paid one way or the other. Either somebody is going to lose—either you are going to print money and inflate the money or you are going to pay back the debt with interest to whomever will loan you the money to fund the debt. We are moving into a decade of the most unprecedented deficits in the history of our country. Nothing has ever been seen like it before. It is irresponsible. We have not discussed it enough. It is breathtaking to people who examine it.

The estimated deficit for fiscal year 2009, the one we are in, ending September 30, is expected to be $1.84 trillion. That is a lot of money. That number dwarfs even the $500 billion maximum, inflation-adjusted deficit—nearly the same dollars to dollars—during World War II. It was only $500 billion in World War II. So this year, the deficit is projected to be 12.9 percent of the gross domestic product. In 1 year, the deficit will be 12.9 percent of the gross domestic product of the United States of America. That is a level not seen since World War II.

David Walker, the former Comptroller General of the United States—that is what we call the Government Accountability Office—has been speaking out for a number of years on deficits. He criticized President Bush for deficits. He continues now to speak out since he has left government. He has concluded that the United States of America is in danger of losing our AAA credit rating. He points out that the cost of insuring U.S. Government debt has risen so much that it recently cost more to buy protection on U.S. debt than debt issued by McDonald's Corporation. That is his statement. In fact, a Wall Street Journal editorial in March noted that the insurance rate for U.S. Government bonds rose 700 percent to 100 basis points between March of 2008 and March of 2009. That means in this past month of March, it costs $10,000 to insure $1 million in Treasury bonds. Who would think you would have to get insurance to guarantee the payment of U.S. Treasury bonds? As of May 28, that insurance cost had fallen to 45 basis points, but that is still more than three times what it was in March of 2008, just a year ago. Not only that, as of May 28, the cost of insuring our government's debt is higher than that of France and Germany.

Mr. Walker goes on to note that the United States has had a AAA credit rating since 1917. Furthermore, he states that given the current national debt and deficit, the United States may not deserve the AAA rating we have today. That is a warning. I hope that is not so. I hope we don't see a reduction of our AAA rating, which has a real impact in how much we have to pay to borrow money, and we are borrowing a lot. But I think this man deserves hearing. This is a serious commentator on American deficits and debt.

So the idea he has proposed is not farfetched. In fact, the Standard & Poor's—S&P—a few weeks ago lowered its outlook on Great Britain's debt. They put it on a negative outlook. While the United Kingdom is keeping its AAA rating for now, the Wall Street Journal notes that the negative outlook that S&P has found is a precursor to a downgrade. They also note that Japan's debt, in fact, has already been downgraded to AA2 from AAA. So the question is, are we next?

Not only is our credit rating in danger, but it is costing more and more to borrow. This is very important. While it may appear to be a separate problem, I think it is related to us spending more and borrowing too much. The yield on the 10-year Treasury bond, which rises with the increased government debt and expectations of inflation, has surged 54 percent this year, from 2.4 percent to 3.7 percent as of yesterday. It was 3.2 percent 2 weeks ago. Yesterday it was 3.7 percent. That is a significant surge.

So let me say it this way, and to repeat: We will borrow this year a record amount of money. Not only that, over the next 10 years, we will continue to borrow at unprecedented rates. We are borrowing because we are spending more than we take in—a lot more than we take in—and nothing comes from nothing.

How do we spend more than we take in, in taxes? How do we do it? We borrow the money. How do we borrow the money? We sell Treasury bills. We ask people to take their money out of their bank account and buy U.S. Treasury bills. We have had an unusual situation with interest rates being low, because people were so afraid if they bought stock or private bonds, that companies may go bankrupt, and they were interested in buying government bonds, Treasury bonds, presumably the most secure bonds in the world. So we have had a bargain and we have been taking advantage of it. But all of a sudden now we are beginning to see a surge in these interest rates, because people are thinking: Well, if I don't get a 3-percent return when I buy a Treasury bill, and inflation next year is 5 percent, and my money is tied up for 10 years, I am losing 2 percent a year. I am not gaining money; I am losing money. The world looks at it like that. The Chinese and people in Saudi Arabia who have excess wealth and bought Treasury bills are looking at this too and they are demanding higher interest rates. That is why it is going up. That means each year we will pay a larger percentage of the tax money we take in to pay interest on the debt than we would have if that had not been the case.

I am told that this rampant rise in Treasury rates is the talk of Wall Street. How has it happened? Net debt sales; that is, the net sales of Treasury bills and the borrowing the government has done, increased from $332 billion last year to $1.555 billion this year. That is a lot. That is almost five times. When you put too much of a product on the market, things happen, and people start demanding better returns. Two weeks ago, Barron's reported as big news that the U.S. Department of Treasury bond yields could top 4 percent this year. And it seems, since it already hit 3.7 percent yesterday, that we may get there sooner than Barron's even anticipated.

So how does all this stack up with what the President estimated when he submitted his budget earlier this year? His budget estimated an average yield on Treasury bonds at 2.8 percent for the entire year. We already hit 3.7, and Barron's said we are going to hit 4, so we are ahead of Barron's schedule already. So the 10-year Treasury bill is increasing, and hopefully, it won't surge out of reason. Some are worried about that. It does look like it may well reach that 4 percent or more this year. That is bad news for American taxpayers.

So we are like the credit cardholder. When interest rates go up, it costs us more. When the interest rates on Treasury bills go up, we have to pay more to get people to loan us money so we can spend it. I guess it is fair to say we have only ourselves to blame.

Even if you took the President's assumptions, interest on the debt is supposed to be $170 billion this year. So this Nation will pay on the debt we already have accumulated $170 billion in interest this year. That is a lot of money. We spend $40 billion on the Federal highway program. We spend less than $100 billion on Federal aid to education in America. We are already spending, and will spend this year, $170 billion on interest, on debt we have run up before. That equals $1,435 per household. That is a lot of money, $1,435. By 2019, according to the Congressional Budget Office, our own Budget Office's evaluation of what the President's budget is going to be, 10 years from now, the interest on the debt will not be $170 billion; it will be $800 billion. That would be $3,433 per household, more than twice the current debt interest payment that each household in America is to incur. Why? Because we are spending too much. We are spending money we don't have. We spent $800 billion on a stimulus package. We are spending $700 billion on the TARP Wall Street bailout. Our increase in spending for the underlying Federal budget this year, the nondefense, the discretionary spending was a 9-percent increase. That is huge, many times the rate of inflation, a 9-percent baseline increase. Most of my colleagues know that if you increase spending, or have an interest rate of 7 percent, your money will double in 10 years. So at 9 percent, in less than 10 years, the amount of our spending would double; entire government spending in 8 or 9 years would be doubled. That is why we are running up debt. But the most troubling thing is, it is going to continue.

We have heard the President say, I am worried about this. We are going to

have to talk about this in the future. Have you heard that? Oh, yes. This is a big problem. We are going to have to do something about it in the future. Well, the future is becoming now. The budget that he submitted to us didn't do anything about it in the future. Let me be frank with my colleagues. The budget this year, the deficit this year the President projected would be $1.76 trillion. That has already been proven to be low. They are now estimating $1.84 trillion in 1 year. And they project it dropping down to maybe $500 billion in 3 or 4 years, assuming the economy is growing well. But over the 10 years, in the tenth year of his budget deficit, the annual deficit in the tenth year, is over $1 trillion. And over the 10 years, the average deficits from the President's own submitted budget would be almost $1 trillion a year, and the highest deficit prior to this we have ever had was $455 billion last year. So this is averaging almost twice, really twice the highest deficit we have ever had.

The President has said, correctly, that these trends are unsustainable. He recognizes that. He also said, according to Bloomberg at a townhall meeting in New Mexico on May 14, that current deficit spending is unsustainable. He warned of skyrocketing interest rates for consumers if the United States continues to finance government by borrowing from other countries. So I agree with him on that, but it is time to start doing something.

China remains the biggest foreign holder of United States debt in Treasuries, and Prime Minister Wen Jiabao stated in March that China is worried about its investments.

Not only that, but yields are currently rising despite an extremely unusual move by the Federal Reserve to directly purchase Treasury bonds. So the U.S. Federal Reserve—our banking gurus—have decided they will take money and purchase U.S. Treasury bonds to keep the interest rates from going up so fast, because there are not enough people out there to buy them all, I suggest. It holds the interest rates down somewhat.

The Fed has not done anything like this since the 1960s. It is very unusual. Even then, it was a much smaller operation. They announced a $300 billion purchase plan in March and have made $100 billion in purchases so far. If those purchases are not carefully managed, they could lead to inflation down the road; there is no doubt about it. Not only that, but the Fed could get stuck with sizable losses if the yield on those Treasury bills continues to rise.

According to Barron's, if rates rise 1 percentage point, it could lead to a $140 billion loss for the Fed in that deal of purchasing these bonds. That is $140 billion. The Federal highway spending in America is $40 billion. This is a huge sum of money.

Let's look at the deficit and debt that are driving our interest rates higher as part of his detailed budget released in May. The President raised his estimate of a deficit from $1.75 trillion to $1.84 trillion. I ask, do we remember that at that same time when the President released his budget, he also released a plan that was going to show that he was committed to frugality, and it would supposedly save $17 billion? Remember that? Some people had to laugh at it, really. It was pretty amazing. There were these numbers out there, and he announced this frugality package to save $17 billion. It wasn't clearly understood, in my view, how insignificant that was, because at the same time they were announcing saving $17 billion, the reaccounting of the projected deficit for this very fiscal year jumped $90 billion. So it dwarfed the $17 billion in spending cuts that were announced at that time. So we had a $17 billion efficiency project, which remains to be seen whether it will be successful, and the total deficit expectation jumped $90 billion.

The President's budget proposes to take us to a debt level of 82 percent of GDP by 2019. In 2019, the amount of debt, in the country at that point would amount to 82 percent of our entire gross domestic product in America. That is a level not seen since 1946, at the height of World War II. The difference between now and then, of course, is that that was during a war. It was widely known that those expenditures were temporary, and when the war was over, they would end; and, in fact, they did.

However, today, the President is projecting deficits averaging nearly $1 trillion as far as the eye can see, with no projections to show them drop, or be reduced. It has been popular to complain that, well, President Bush had deficits—and he did. I criticized him for that, and I think he could have done a better job. His highest deficit was $455 billion. This year's deficit will be $1.8 trillion, and they will average $900 billion over the next 10 years. Not 1 year in the next 10 years, according to the President's own budget, will his deficit be as low as the highest deficit President Bush had, which was $455 billion. Even as a percentage of the total gross domestic product, it is astounding. President Bush's deficits averaged 3.2 percent of GDP. President Obama's budget, over the next 10 years, will average 7.3 percent of GDP each year—twice what President Bush's averaged.

I am worried that we are not getting the kind of bang for our buck that we hoped to get. We got an $800 billion stimulus package that was supposed to go out there and build infrastructure and create jobs now. It was money that had to be spent in a hurry. The truth is, though, that most of that money is not going to be spent until after 2010. It takes time to get that money out. The CBO estimated that $162 billion of the $311 billion now appropriated won't be spent until 2011, or later—not to mention that there is no evidence of the government ever taxing and spending its way out of a recession. That is not, historically speaking, proven to work.

Christina Romer, the Chairman of President Obama's Council of Economic Advisers, wrote about this in 1992, in a paper titled ''What Ended the Great Depression?'' in the 1930s. She concluded:

> Nearly all of the observed recovery of the U.S. economy prior to 1942 was due to monetary expansion [from gold inflows].

She gives almost no credit to the increased spending that occurred.

Another report with Ms. Romer's name on it, one that the President's economic team put out this January—and she is the head of the team—was titled ''The Job Impact of the American Recovery and Reinvestment Plan.'' It estimates that the $800 billion stimulus package will lower the unemployment rate and create 3.6 million new jobs, and it includes a chart. The chart, if you look at it today—and it has been examined by others, such as Greg Mankiw, Chairman of the Council of Economic Advisers—it shows that their projected unemployment rate, without the stimulus package—that rate would hit a certain level. Now that we have had the $800 billion stimulus package, what does it show? That we are trending, on unemployment, exactly where they projected the unemployment rate would be if there were no stimulus package at all.

Indeed, if you look at the numbers, very little of it has gotten out of there, and you can see how little was stimulative, or job creating, or how much of it was spent on things it should not have be spent on. Indeed, this Senate rejected and failed to adopt my amendment that would have said at least the employers who hired people with this money ought to run the E-Verify system to make sure the people they hire are here legally in America and are entitled to work. That wasn't even part of it.

Unemployment continues to go up. It was 8.9 percent in May, and a lot of people think it may hit 10 percent. I hope not, but I think it is likely to continue above 9 percent, which is higher than what was projected, for sure.

I say all this to point out that some of the brilliant thinkers in our country believe we had to do all this; if we had not, the country would sink into the ocean. We could have this problem and that problem. But the testimony we had in the Budget Committee from the Congressional Budget Office, whose numbers have held up pretty well so far, and they are basically hired by the Democratic majority here, but they are nonpartisan and do a good job. They projected only a slight difference in unemployment, if you had a stimulus package—only slightly better than if you didn't have one at all. But, more importantly, they concluded that over 10 years, the stimulus package, if we passed it, would have a net negative effect on the economy. It should help some in the 2 or 3 years from the moneys being pumped out—it has to help some out soon.

But the crowding out of private borrowing, the interest that will have to be paid on the debt over the 10-year period, will mean that the economy will be less healthy at the end of 10 years than if we hadn't had the bailout package or stimulus package at all, which confirms my view that nothing comes from nothing. There is no free lunch. Debts have to be repaid. You cannot create something out of thin air. If you spend something today and you have resources today to spend today, and you took them from tomorrow, they are not going to be there tomorrow. Somebody is going to have a greater burden to carry—our young people—than if we hadn't taken their money and spent it today.

I have to say that I am not happy about this. I am worried about it. I do believe deficits matter. People who say deficits don't matter—and some Republicans used to say that—what planet are they from? Of course, deficits matter. You can cover them up, the Fed can help, and smart monetary policy and spending policies may make a difference here and there, but in the long run, it drives you down, and we have to be serious about it. I hope as time goes by, we can work together in a bipartisan way to try to establish some control over our spending.

Just Monday, GM went into bankruptcy. We already have $20 billion in Federal Government money going into General Motors prior to bankruptcy, and the White House plans to add another $30 billion. That is a substantial additional investment. This is what the numbers show. First, the White House said we are going to be out of GM and get our money back in 5 years. That is their goal, right? You heard that we are going to get the money back. But the Wall Street Journal has calculated this, and they have said for the Federal Government to get their money back out of GM, they would have to sell their stock, and GM's market cap, the total value of their stock, would have to reach a value of $80 billion. So to get our money back in 5 years, the market cap or value of GM stock would have to total $80 billion. Let me remind you that at its peak, in 2000, the highest GM ever got as a market cap was $56 billion. Their current market cap is less than $1 billion—$441 million dollars. It goes beyond rationality to believe that in 5 years—or maybe ever—we are going to get our money back out of GM. I am worried about that.

That is one more example of the kind of spending we are doing, and the money is being spent in a way that is not controlled. How does the Secretary of the Treasury decide how much money to give? And to what corporation? What about suppliers of GM? What about automobile dealers, who are losing their shirts and going into bankruptcy? Nobody bailed them out.

Somewhere along the way, it has been decided that we need to do this. It should have been done according to the established constitutionally-approved reorganization policies of bankruptcy. The U.S. Government could have put some money into GM in an effective way, I think, and had a positive benefit. But just to pour the money in, as we have, in an unprincipled way, is not good.

I will repeat one more time my concern about the unlawful way, the unprecedented way, in which this money is allocated.

The money comes from the TARP, the Wall Street bailout. I opposed it because I thought the language was too broad, but even I didn't know it was this broad. But we were told if we passed the TARP bill, Secretary Paulson and the Treasury Department would buy toxic assets. He was specifically asked at a House committee meeting whether he would buy stock in banks. He said: No. His goal was to get the money flowing again in the financial markets, and we had to do something about the financial markets. Senators were eventually convinced, and it was rammed through here in the very shortest period of time—in a panic, really. A week had not gone by when he had decided to buy stock and not buy toxic assets, not to buy toxic mortgages. As time has gone by, that same money is used to buy stock in what was once a private corporation.

I think this is unbelievable. There are no hearings on where the money is going. There is no public ability to understand what kind of justification these banks, GM, or Chrysler had to put forward to receive billions of dollars from the taxpayers. It was all done basically in secret, as far as I can understand. They are telling the company they have to do this and that and firing the CEO and all of those kinds of things that have been occurring. I don't think the American people are happy with that. The American people are very concerned—I believe they are rightly concerned—because we are doing some things that have never been done in the history of our Republic. It is not healthy.

I hope that somehow we can get our footing again, get our balance, and return to the tried-and-true principles that made this country great.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

HEALTH CARE

Mr. BENNETT. Mr. President, we have just heard from the President of the United States with respect to an effort to get a bipartisan health care plan. I have been to the White House summit on health care. I have heard the President speak directly to this issue. I applaud him in his effort to make sure we deal with this problem intelligently, and I accept at face value his desire that it be done in a bipartisan manner.

But as we have this discussion about doing this in a bipartisan manner, it all ultimately comes down to one sticking point that seems to be firmly established in the President's position and firmly established in the position of those who sit on this side of the aisle. At the moment, that sticking point seems to be irreconcilable. I want to talk about it in direct terms so that we understand what it is we are talking about and those who listen will understand why those of us who are Republicans are determined to stand firm on this point.

This is the point: Shall there be a public plan, a government-run option in the choices that are available to people with respect to health care?

Along with Senator WYDEN of Oregon, I have cosponsored the Healthy Americans Act, which is determined to create as many options as possible, to create a wide range of choices for Americans to make with respect to their health care.

We recognize we are going to have to change the tax laws in order to give people control over their own health care dollars. Right now, health care is the only part of the economy where the individual receiving the goods or services does not control the money that pays for the goods or services. So it is obvious that you will not have market forces available in that circumstance. If the individual who is receiving the goods or services controls the money that pays for the goods or services, he or she will make a different choice than if someone else is controlling the money. But in health care, somebody else makes the choice, and that is why the core function of the Healthy Americans Act, which Senator WYDEN and I are cosponsoring, says individuals should be in control of their own money and we should have as many choices as possible so that individuals can go out in the market.

There will be competing forces. Competition brings prices down. Competition creates new opportunities. Competition fills niche markets. We believe all of that will happen if we have this degree of choice.

When we have had this conversation with officials of the administration, they don't disagree. As a matter of fact, many officials of the administration have said to me: We really like what you are doing with Senator WYDEN, and we applaud you, Senator BENNETT, for reaching out in a bipartisan way to try to solve this problem. But we just have one additional factor we would like to add to your bill. We would like to say that as a backup, as a final option, we want a government-run plan to be there as one of the available choices, just in case none of the others work. That is, as I say, the sticking point here.

I have said to members of the administration: If we end up with a government-run plan as one of the options in my bill, I will vote against my own bill.

The government-run option will change the playing field, will ultimately drive out all of the other choices because the government is in a position to subsidize it. The government is in a position to make it more

attractive than anything else and thereby gain the blessing of the voters because the voters will say: The government took care of those greedy companies that would otherwise make me pay this, that, or the other. Here, the government choice is cheaper; isn't it wonderful that the government is looking out for me? Ultimately, we would end up with a government plan, single payer for the whole country.

I know there are many of my friends on the other side of the aisle who want that, and they are very open about it and very direct about it. They say a number of things. They say the government plan is cheaper, the government plan provides health care for everybody, the government plan is fairer, and that is what we ought to have.

I wish to spend a little time talking about the experience of those countries that have adopted that attitude. If I may be personal and give my own example before I get into the statistics, I will tell you about a situation when I was living in Great Britain and had a medical problem. I won't bore you, Mr. President, with the details of the problem, simply that I went to a doctor in Scotland to see if anything should be done. The doctor first signed me up because under the British system a doctor—this shows how long ago it was, but the system has not changed—got a shilling a week for every patient he signed up on his list. So immediately he wanted to sign me up so he would get that shilling for having me there, which would be a decimal of a pound today rather than that old designation.

Once he had me signed up, as I say, he examined me. He said: Yes, you do need treatment. And he gave me a piece of paper that would allow me to go to the Edinburgh Royal Infirmary, where I was to see a surgeon. So I went to the Edinburgh Royal Infirmary and sat there for most of the day before a doctor could finally see me.

The doctor saw me and checked me out and said: Yes, indeed, you should be scheduled for surgery.

I said: Fine. I have a schedule. Can you give me some idea when the surgery will be so I can arrange my affairs to be available?

He said: My guess would be 9 months.

I said: I am going to be returning to the United States in less than 9 months, so I guess we can just forget this.

I communicated that to my father, who was in the United States, and he said: I don't think so. Can you get a surgeon who would operate on you right away?

So I inquired and I was told: Yes, you can get a private surgeon, but the private surgeon cannot take the health care system dollars or pounds. He is outside of it. If he stays in private practice, he cannot participate in the national health system at all.

I said: OK, that is fine.

My father said: I will pay it. Where can you go?

I went to the private surgeon and, yes, he had a practice where he took only patients who were outside of the health plan. He looked at it and said: Yes, you need surgery.

I said: All right. When?

He said: Will Wednesday be soon enough?

This was on a Monday.

I said: All right.

We went into a private hospital. It was separated from the national health service. He performed the surgery. I paid him cash, got the thing taken care of, and finished my time in Great Britain with that particular problem solved.

I would like to think that was only the case back when I was younger, but I find it is still the case, not only in Great Britain but in other countries that have this kind of problem.

Let me share a few statistics with you of what happens with respect to this single-payer system.

One of the things we are told by those who support single payers is that the outcomes in these other countries are really not any different than they are in America, that we are paying far more in America and the outcomes are basically the same. The statistic they usually use in order to prove that America is not any better is life expectancy and infant mortality. They say as a country, our life expectancy is not that much better than anybody else's and our infant mortality rate is as high or higher than other countries. Shame on us, we are not getting good health care that we are paying for.

Life expectancy is tied in very many cases to either ethnic or geographic locations. The life expectancy, for example, in Utah, where the behavior is a little different than it is in some other places, is substantially higher and has little or nothing to do with the health care. It has to do with the culture in Utah that causes people to behave in a healthier lifestyle.

Let's go beyond this broad-brush approach and look at some specifics.

The largest international study to date has found that the 5-year survival rate for all types of cancer among both men and women is higher in the United States than in Europe. Isn't that a statistic showing that we are getting a better result in America than in Europe? A cancer survival rate is not something that is due to the geography of where you are born. If you are born in the inner city, that has something to do with infant mortality rates, or if you live in a healthy environment, that has something to do with life expectancy. Cancer survival rate has to do with health care, and the health care in the United States is better than it is in Europe and has produced a higher survival rate for both men and women.

In Britain, there are one-fourth as many CT scanners per capita as there are in the United States and one-third as many MRIs. If we think the CT scanner and the MRI produce a better result in terms of health care, we want to be in the United States. We do not want to be in one of these single-payer, government plans of the kind President Obama wants as an option destroying the other options and choices there would be if we pass the Healthy Americans Act.

The rate for treating kidney failure—dialysis or transplants—is five times higher in the United States for patients between the ages of 45 and 84 and nine times higher for patients 85 years and older. Again, there is a personal interest here because members of my family have kidney disease. I want them in the United States with the kind of system we have where they do not have to wait and they do not have to worry about government regulations. I want them here where it is five times better than it is in Europe with respect to kidney disease.

Right now, nearly 1.8 million Britons are waiting for hospital or outpatient treatments at any given time—1.8 million waiting in the circumstance that I described in my own situation. In 2002 to 2004, dialysis patients waited an average of 16 days for permanent blood vessel access in the United States, or 20 days in Europe, and 62 days in Canada.

We often hear about the benefits of being in Canada. I have constituents who come from Canada, who have moved to Utah. Every time this comes up, they come to me and say: Senator, whatever you do, do not give us the Canadian system. Whatever you do, make sure that America doesn't go in the direction the Canadians have gone.

Let me give you some examples to demonstrate why that is good advice. This is one that broke out in the debate in the Canadian Parliament. A woman by the name of Emily Morely, in March of 2006, was informed by her doctor that her cancer had spread and she needed to see an oncologist, and then she was told: You will not be able to get an appointment for months. Well, if my cancer is spreading, I don't want to wait months for an appointment. Her family raised a ruckus, they called the local newspaper, a petition was signed by her neighbors demanding she get care, and then, in response to that, the government got her to a specialist. Once again, in the government, you respond to the voters. If you are getting bad publicity in the press, or the voters don't like what you are doing: Oh, let's take her to a specialist. So she got to a specialist and he told her she had only 3 months to live.

Well, she at least had time to put her affairs in order. Had she not had the intervention of her family and her neighbors, it is quite likely she would have died before even seeing an oncologist for the first time.

But let's go to another example that may be even closer to home to the legislators. A member of Parliament in Canada, Belinda Stronach, strongly supports the Canadian health care system, and she would object to this kind of argument that the Canadian health care system isn't very good. But where did she go when she was diagnosed with

cancer in 2007? She went to California and paid for the treatment out of pocket. Even a member of Parliament who supports the Canadian system recognized that the government plan didn't work for her. And with her own health at risk, she came to America and took advantage of what we offer here.

There is the case of the mother in Calgary, Alberta who was expecting quadruplets. I am the father of twins, and they came as a great surprise. Quadruplets is something I am not sure we could handle, and certainly they would require very good facilities to deal with a pregnancy that produces quadruplets. She is in Albert, Canada, and she is flown to Great Falls, MT, to deliver the quadruplets. Great Falls, MT, is not thought of as one of the great centers of health care excellence in the United States. Yet the facilities in this small town in Montana were better than any facility available anywhere in Alberta.

These are the examples of a government-run plan and because people who are getting the service don't control the money the government plan can end up focusing on overall cost control to the detriment of the people who are trying to access it. I don't think ultimately the American voters, having gotten used to the access that they currently have—being used to the idea that they do not have to wait—would ultimately tolerate a government plan.

My consult to President Obama and to my colleagues here in the Senate is to slow down a little. We are talking about restructuring 18 percent of the entire economy. We spend 18 percent of our GDP on health care. I agree absolutely that it is long past time that we addressed this issue; that we rationalize the challenge; and that we do things that make it far more effective.

As I have spent the last 3 or so years working with Senator WYDEN to try to understand the problem and fashion the Healthy Americans Act in a way that will solve the problem, I have discovered a great truth that I didn't realize before, and that is this: The greatest cost control factor in health care is quality. The best health care is the cheapest health care. And it has been achieved in those places that have focused on quality first and the patient first, and it has not involved any government intervention.

Dartmouth has done a study and told us the three cities in the United States where you get the best health care. They are Seattle, WA; Rochester, MN; and Salt Lake City, UT. I take some pride in that fact. And then the Dartmouth study goes on to say that if every American got his or her health care in Salt Lake City, UT, it would not only be the best in the United States, it would be one-third cheaper than the national average.

Those are the kinds of examples we should be focusing on and learning from, and then doing our best to write legislation that would support that. Slow down. We are not going to understand this in time for any artificial deadline set for some political agenda. I understand the sense of urgency that the Obama administration feels on this issue, and I share the idea that now is the time to address it. This is the Congress in which we should pass it. But I don't think setting a deadline to say it must be done in July, when we are talking about 18 percent of GDP, is that persuasive.

We can examine these alternatives a little more carefully than the present deadline will allow us to do. We can say: All right, why is quality the best cost control, and does our bill create the kinds of incentives and rewards focused on quality that will produce that result, instead of saying: Whatever else you do, you have to have a government option in there. You have to have a government plan that can compete with all the rest of this, and thus set us up for the kind of situation where we would move as a nation to imitate Great Britain or Canada or the others that have produced the kinds of examples I have talked about here.

So I am more than willing and I am anxious to work with President Obama and his administration, to work with my friends across the aisle. I have worked with Senator WYDEN for these past 3-plus years to try to fashion an intelligent solution. But I repeat what I said at the beginning: The sticking point in this entire debate is the demand on the part of the Obama administration that the final product have within it a government plan as one of the options. And if that happens, I vote against my own bill. If that happens, I do everything I can to say no. Because I am convinced if that happens, we end up with a situation where there is only one option that survives.

One of my colleagues has described this, I think, quite well. He says: Having a government plan as one of the options is a little like taking an elephant into a room full of mice and then saying: All right, this is a roomful of animals, let's let them compete. And as the elephant walks around the room, pretty soon there aren't any mice left. A government plan is the elephant in the room.

Those of us who want to solve this problem intelligently say: Let's learn from the examples of those people who have adopted a single-payer system. Let us realize that the American experiment in health care produces better outcomes in all of the areas I have outlined. And as politicians, let's realize that the American voter will never stand for the kind of rationing by delay that seems to have crept into every other system. Let's take our time to do it right. There is a bipartisan consensus to get it done. We can work together and make that accomplishment, if we are not quite so insistent that the government plan ultimately is the only way to go.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The 30 hours postcloture under rule XXII has expired. The question is on agreeing to the motion to proceed to H.R. 1256.

The motion was agreed to.

FAMILY SMOKING PREVENTION AND TOBACCO CONTROL ACT

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, I ask unanimous consent the only amendments in order today after the amendment is offered by myself, Senator DODD, the HELP Committee substitute amendment, be the Lieberman amendment re: TSP, and the substitute amendment of Senators BURR AND HAGAN.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

ORDER FOR RECESS

Mr. DODD. Mr. President, I now ask unanimous consent the Senate stand in recess from 6 p.m. to 6:30 p.m. My intention would be to address for a few minutes some comments and then would defer to others who may want to speak until we recess at 6 p.m.

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

The clerk will report the bill.

The assistant legislative clerk read as follows:

A bill (H.R. 1256) to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes.

Mr. DODD. Mr. President, I rise to offer an amendment in the nature of a substitute to H.R. 1256.

As I understand it from the leadership, while there will be some comments I will make this evening, briefly, about the substitute, and others may have some comments to make before the evening concludes, there will be no votes this evening. The leadership has notified us of that, so colleagues ought to be aware there will be no votes at all this evening.

If I could, I wish to take a few minutes to describe the substitute amendment, and I will yield the floor to others who want to talk before the 6 p.m. hour arrives and others who may come back around 6:30 to make some additional comments.

AMENDMENT NO. 1247

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows.

The Senator from Connecticut [Mr. DODD] proposes an amendment numbered 1247.