

Fazio	Latham	Roemer	Schiff	Talent	Wise
Flake	LaTourette	Rogan	Souder	Waxman	Yates
Foley	Lazio	Rogers			
Forbes	Levin	Ros-Lehtinen			
Ford	Lewis (CA)	Rothman			
Fowler	Lewis (GA)	Roukema			
Fox	Lewis (KY)	Roybal-Allard			
Franks (NJ)	Linder	Royce			
Frelinghuysen	Lipinski	Rush			
Frost	Livingston	Ryun			
Gallegly	LoBiondo	Sabo			
Ganske	Lofgren	Salmon			
Gekas	Lucas	Sanchez			
Gibbons	Luther	Sanders			
Gilchrest	Maloney (CT)	Sandlin			
Gillmor	Maloney (NY)	Sanford			
Gilman	Manton	Sawyer			
Goode	Manzullo	Saxton			
Goodlatte	Markey	Scarborough			
Goodling	Mascara	Schaefer, Dan			
Gordon	Matsui	Schaffer, Bob			
Goss	McCarthy (MO)	Schumer			
Graham	McCarthy (NY)	Scott			
Granger	McCollum	Sensenbrenner			
Green	McCrery	Serrano			
Greenwood	McDade	Sessions			
Gutknecht	McGovern	Shadegg			
Hall (OH)	McHale	Shaw			
Hall (TX)	McHugh	Shays			
Hamilton	McInnis	Sherman			
Hansen	McIntosh	Shimkus			
Harman	McIntyre	Shuster			
Hastert	McKeon	Sisisky			
Hastings (FL)	McKinney	Skaggs			
Hastings (WA)	Meek	Skeen			
Hayworth	Menendez	Skelton			
Hefley	Mica	Smith (MI)			
Hefner	Millender-	Smith (NJ)			
Herger	McDonald	Smith (OR)			
Hill	Miller (FL)	Smith (TX)			
Hilleary	Minge	Smith, Adam			
Hilliard	Moakley	Smith, Linda			
Hinches	Mollohan	Snowberger			
Hinojosa	Moran (KS)	Snyder			
Hobson	Morella	Solomon			
Hoekstra	Murtha	Spence			
Holden	Myrick	Spratt			
Hooley	Nadler	Stabenow			
Horn	Neal	Stark			
Hostettler	Nethercutt	Stearns			
Houghton	Neumann	Stenholm			
Hoyer	Northup	Stokes			
Hulshof	Norwood	Strickland			
Hunter	Oberstar	Stump			
Hutchinson	Obey	Sununu			
Hyde	Ortiz	Tanner			
Inglis	Packard	Tauscher			
Istook	Pappas	Tauzin			
Jackson (IL)	Parker	Taylor (MS)			
Jackson-Lee	Pascrell	Taylor (NC)			
(TX)	Pastor	Thomas			
Jenkins	Paul	Thompson			
John	Paxon	Thornberry			
Johnson (CT)	Payne	Thune			
Johnson (WI)	Pease	Thurman			
Johnson, E. B.	Peterson (MN)	Tiahrt			
Jones	Peterson (PA)	Traficant			
Kanjorski	Petri	Turner			
Kasich	Pickering	Upton			
Kelly	Pickett	Velazquez			
Kennedy (MA)	Pitts	Visclosky			
Kennedy (RI)	Pombo	Walsh			
Kennelly	Pomeroy	Wamp			
Kildee	Porter	Watkins			
Kilpatrick	Portman	Watt (NC)			
Kim	Poshard	Watts (OK)			
Kind (WI)	Price (NC)	Weldon (FL)			
King (NY)	Pryce (OH)	Weldon (PA)			
Kingston	Quinn	Weller			
Klecza	Radanovich	Wexler			
Klink	Rahall	Weygand			
Klug	Ramstad	White			
Knollenberg	Redmond	Whitfield			
Kucinich	Regula	Wicker			
LaFalce	Riggs	Wolf			
LaHood	Riley	Wynn			
Lampson	Rivers	Young (AK)			
Lantos	Rodriguez	Young (FL)			

NOT VOTING—30

Army	Gonzalez	Moran (VA)
Becerra	Jefferson	Nussle
Boehner	Johnson, Sam	Oxley
Brown (CA)	Kolbe	Rangel
Castle	Largent	Reyes
Diaz-Balart	Leach	Rohrabacher
Fawell	Martinez	
Foglietta	Meehan	
Furse	Metcalf	

□ 1115

Mr. KILDEE and Mr. NADLER changed their vote from "yea" to "nay."

Mr. OLVER changed his vote from "nay" to "yea."

So the motion to adjourn was rejected.

The result of the vote was announced as above recorded.

PARLIAMENTARY INQUIRY

Mr. MENENDEZ. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore (Mr. CALVERT). The gentleman will state his inquiry.

Mr. MENENDEZ. Mr. Speaker, I have a parliamentary inquiry that goes to the integrity of the House.

My question is, Could the Speaker advise the House of that provision of the rules which prohibits former Members of the House from coming onto the House floor and lobbying when they have a direct personal or pecuniary interest in a matter pending before the House?

The SPEAKER pro tempore. Pursuant to clause 1 of rule XXXII, former Members have the privileges of the floor or rooms leading thereto subject to the provisions of clause 3 of that rule.

Mr. MENENDEZ. And that is the controlling provision as it relates to former Members not lobbying in the House in that respect, Mr. Speaker?

The SPEAKER pro tempore. The gentleman is correct.

GENERAL LEAVE

Mr. PORTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill (H.R. 2264) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1998, and for other purposes, and that I may include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

The SPEAKER pro tempore. Pursuant to the order of the House of Thursday, July 31, 1997, and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2264.

□ 1118

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2264) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1998, and for other purposes, with Mr. BARRETT of Nebraska, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Tuesday, September 16, 1997, amendment No. 41 by the gentleman from Michigan [Mr. HOEKSTRA] had been disposed of and section 515 was open for amendment.

Are there further amendments to this section of the bill?

PARLIAMENTARY INQUIRY

Mr. MENENDEZ. Mr. Chairman, parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state his inquiry.

Mr. MENENDEZ. Mr. Chairman, what rules of the House permit a former Member of the House to accost verbally another Member of the House on a matter that affects that Member?

The CHAIRMAN pro tempore. The Chair is not aware of any such rule that permits that.

Mr. MENENDEZ. Well, Mr. Chairman, what procedure does a Member of the House have when they are accosted by a former Member of the House to have that Member removed?

The CHAIRMAN pro tempore. The Chair will consult with the gentleman on that question.

Mr. MENENDEZ. Well, I would like an answer, because I have just had Mr. Dornan, a former Member of this House, come up and verbally accost me. And I do not expect in the greatest democratic institution in the world to have to take what my foreparents did not do, in a country in which they left to avoid, is that to have to come to this body and listen to a former Member of the House proceed in that way and to use words that were both profane and at the same time to use words that were demeaning.

So I want to know, in public, what procedure do we have to not have that type of action happen on the House floor?

The CHAIRMAN pro tempore. The Chair will consult with the gentleman and the Sergeant at Arms on that question.

Mr. MENENDEZ. Further parliamentary inquiry, Mr. Chairman.

If in fact a Member of the House, a present Member of the House, were to make comments that were inappropriate, their words could be taken down. They would not be allowed to speak. I want to know whether or not there is a procedure existing that in fact will create the opportunity to not have this type of occurrence that happened on the House floor.

The CHAIRMAN pro tempore. The Chair can direct and will direct the Sergeant at Arms to maintain decorum in the House.

Mr. MENENDEZ. And I will hold the Chair to that expectation.

The CHAIRMAN pro tempore. I thank the gentleman.

AMENDMENT NO. 67 OFFERED BY MRS. LOWEY

Mrs. LOWEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mrs. LOWEY:

Amendment No. 57: Page 102, after line 24, insert the following new section:

SEC. 516. Subsection (k) of section 9302 of the Balanced Budget Act of 1997, as added by section 1604(f)(3) of the Taxpayer Relief Act of 1997, is repealed.

Mr. OBEY. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN pro tempore. The point of order is reserved.

Mr. PORTER. Mr. Chairman, I reserve a point of order.

The CHAIRMAN pro tempore. The point of order is reserved.

POINT OF ORDER

Mr. HOYER. Mr. Speaker, the Member continues to be harassed and that is not consistent with our rules.

The CHAIRMAN pro tempore. Former Members are requested to observe the rules.

The gentlewoman from New York [Mrs. LOWEY] may proceed.

Mrs. LOWEY. Mr. Chairman, I am offering this amendment with the gentlewoman from New Jersey, Mrs. MARGE ROUKEMA, my distinguished colleague and coauthor of this amendment, who has been an important leader on this issue.

I am offering this amendment today to repeal a disgraceful giveaway to the tobacco industry that was slipped into the budget bill at the last minute. The other body voted 95 to 3 to repeal this provision last week, and I introduced legislation to repeal this provision that has over 60 cosponsors from both sides of the aisle.

Mr. Chairman, the Republican leadership slipped this infamous \$50 billion tobacco tax giveaway into the budget bill in the middle of the night. Now we are going to shine a spotlight on this provision and see who will stand with the American people and who will stand with the big tobacco companies.

At the heart of this issue is the understanding that American taxpayers should not be subsidizing big tobacco companies, but that is exactly what has happened. When asked about this provision, Kenneth Kies, the staff director of the Joint Committee on Taxation, said, "The industry wrote it, submitted it and we just used their language."

This is unacceptable. The Congress should be passing laws to protect the health of all Americans; it should not be lining the pockets of the tobacco industry.

Tobacco products, Mr. Chairman, kill 400,000 Americans every year. Americans spend \$50 billion each year to respond to the adverse health effects of smoking. Every day more than 3,000 American teenagers start smoking. One in three will die from cancer, heart disease and other illnesses caused by smoking. American taxpayers, Mr. Chairman, should not be subsidizing this deadly product.

I urge all of my colleagues to stand up for the health of the American people and vote for this amendment.

Mrs. ROUKEMA. Mr. Chairman, will the gentlewoman yield?

Mrs. LOWEY. I yield to the gentlewoman from New Jersey, the coauthor of this amendment.

Mrs. ROUKEMA. Mr. Chairman, I thank my colleague from New York and really appreciate this opportunity. I will ask for my own time later, but I do want to commend her for approaching this subject and really make a presentation to our appropriators, the ranking member and the chairman.

Mr. Chairman, I have got to say that this is a very important amendment. This is a relevant issue; relevant because the President today is making a presentation on the tobacco pact, relevant because just last week the Senate past the identical provision to the identical bill.

I would suggest, and here I do not want to be too facetious, and I do not intend to be a William Weld here. I believe in following the rules and normal procedures of the House. But what we are asking here today of the appropriators is that we be given permission under this circumstance to use the rules of the House where waivers are permitted for this very particular issue that is high profile. This amendment is relevant and is an answer to our tax-paying public that we are not giving a tax favor to the tobacco industry on the backs of the taxpayers of this country.

Mr. OBEY. Mr. Chairman, will the gentlewoman yield?

Mrs. LOWEY. I yield to the distinguished ranking minority member, the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, this amendment is not in order under the rules of the House. It is a nongermane amendment. Unlike the other body, this House does have rules which relate to germaneness. I do not think either I or the gentleman from Illinois [Mr. PORTER] want to stand in the way of getting something done which is obviously the will of the House, but we have a long way to go on this bill.

The Durbin amendment, make no mistake about it, is going to be accepted in conference. I congratulate both of the gentlewomen for being interested in this, and I would be willing to withdraw my reservation if we have an understanding that this is going to take very little time of the House today. If we are going to debate something for a considerable period of time, and we have a tight schedule with many other

Members who have noticed germane amendments, then I would be constrained to object, even though I do not want to.

Mr. PORTER. Mr. Chairman, will the gentlewoman yield?

Mrs. LOWEY. I would be delighted to yield to the chairman, the gentleman from Illinois.

Mr. PORTER. Mr. Chairman, I would say to the Members that the day that Senator DURBIN offered and passed the amendment in the Senate, he came to me and asked me if I would do everything possible to see that it was sustained in conference, and I assured him that I would.

□ 1130

I assured him, also, that I was certain that the conference would sustain the position of the Senate on this disgraceful tax giveaway to the tobacco industry that should never have found its way into earlier legislation.

My colleague, the gentleman from Wisconsin [Mr. OBEY], is correct, this is not a matter that is germane to this bill. But in a broader sense, it really is. Tobacco causes many of our health problems in this country, and I think it is appropriate that we address this matter in our conference and end this tax giveaway.

If this amendment were to be adopted, there would be identical provisions in both the House and Senate bills. The provision would not be suspect to conference. The provision would be accomplished without any further discussion.

The CHAIRMAN. The time of the gentlewoman from New York [Mrs. LOWEY] has expired.

(On request of Mr. PORTER and by unanimous consent, Mrs. LOWEY was allowed to proceed for 5 additional minutes.)

Mr. PORTER. Mr. Chairman, if the gentlewoman will continue to yield, I feel, as the gentleman from Wisconsin [Mr. OBEY] does, that if we can expeditiously finish this matter very quickly on the floor in this bill, that is a proper way to proceed.

Finally, Mr. Chairman, let me say that the gentlewoman from New Jersey [Mrs. ROUKEMA] and the gentlewoman from New York [Mrs. LOWEY] have shown tremendous leadership on this issue. I am delighted that both of them can offer this amendment together, and I hope that we can wind up debate very quickly and allow this to become a part of our bill.

Mr. OBEY. Mr. Chairman, will the gentlewoman yield?

Mrs. LOWEY. I thank the chairman, and I am delighted to yield to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Chairman, let me say that I think every thoughtful Member of this House understands what happened on the tax bill was an outrageous sneak play which delivered an illegitimate benefit to an industry that is not entitled to it. I would insist on its being eliminated and the Durbin amendment being accepted even if this amendment were not offered.

But in the interest of driving home the message and saving time, I would be willing to withdraw my objection and support the amendment under the conditions that we just described.

Mr. DOGGETT. Mr. Chairman, will the gentlewoman yield?

Mrs. LOWEY. I yield to the gentleman from Texas.

Mr. DOGGETT. Mr. Chairman, it is correct that this particular provision was tucked in under a title of the balanced budget amendment, the balanced budget agreement, somewhere around page 300 or 400, under the misleading title of Technical Amendments to Assist the Small Business Protection Act. And the small business that was protected here was the tobacco industry.

I have been on this floor on a number of occasions prior to this morning asking that the removal of this \$50 billion tax giveaway be scheduled on the same day that we have reform of the soft money provisions in campaign finance, because I do not think it is a coincidence that the No. 1 soft money contributor to the Republican Party is Philip Morris, the No. 2 contributor is R.J. Reynolds. And I do not think it is a coincidence that this morning if we conducted a political paternity test, we could not find anyone willing to take the test.

This provision did not appear in this bill through divine intervention. It occurred because of the involvement and the corruption of our political system. Not one minute, not one second was devoted on the floor of this House or the U.S. Senate to debate this provision. It was wrong. It is the very kind of thing that the people of America are caused to be most cynical about this institution.

So I am pleased that we are taking the leadership to remove it, but we ought to get at not only the symptom, the \$50 billion tax break. It is a symptom of the corruption of this system. We ought to get at the source and the cause, and that is the interference and corruption, not only by the American tobacco industry, but by others.

Every American ends up paying through tax breaks just like this that get stuck into this legislation because the soft money political system is corrupt and it is wrong. And until Speaker GINGRICH comes out here and schedules it for debate, this kind of thing will keep recurring again and again and again, and we will be forced to come to the floor to undo it whenever we find out about the fact that we are facing \$50 billion tax breaks.

Mrs. LOWEY. Mr. Chairman, reclaiming my time, again I am very pleased that the chairman and the ranking minority member are in support of this amendment that my colleague, the gentlewoman from New Jersey [Mrs. ROUKEMA] and I are offering. We expect that this amendment will be accepted by the committee as we move forward in the process.

The CHAIRMAN pro tempore (Mr. BARRETT of Nebraska). The Chair

would inquire, does the gentleman from Illinois withdraw his reservation of a point of order?

Mr. PORTER. Mr. Chairman, I am concerned that we are going to get off the subject, as we did just a moment ago, and this will turn into a long and lengthy debate. I do not want that to happen. If it does, I would insist upon my point of order. Can I continue to reserve that point?

The CHAIRMAN pro tempore. The gentleman from Illinois may continue to reserve his point of order.

Mr. PORTER. I continue to reserve.

Mrs. ROUKEMA. Mr. Chairman, could there be an agreement on the time limit rather than a point of order? Is that possible?

Mr. PORTER. It is certainly possible if we ask unanimous consent. I have not consulted either side as to what time they might want. Let me ask.

I ask unanimous consent that all debate on this amendment and all amendments thereto cease in 10 minutes, with 5 minutes to the majority and 5 minutes to the minority.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mrs. ROUKEMA. Reserving the right to object, Mr. Chairman, I am looking for 5 minutes myself. Could it be a 10-minute time period?

Mr. PORTER. Yes, Mr. Chairman.

Mrs. ROUKEMA. Mr. Chairman, I withdraw my reservation of objection.

Mr. RIGGS. Mr. Chairman, reserving the right to object, I would like to simply inquire of the Chair what amendment we are on now? That is my first inquiry; and second, to ascertain if in fact it is still the intention of the House to rise today, at least for the purposes of votes, by 4 p.m.?

The CHAIRMAN pro tempore. The Chair advises the gentleman from Wisconsin that the Committee is on the Lowey amendment, preprinted, No. 67.

Mr. RIGGS. Further reserving the right to object, Mr. Chairman, did I understand the unanimous-consent agreement would also include any amendment to this amendment?

The CHAIRMAN pro tempore. The gentleman is correct.

Mr. RIGGS. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Does the gentleman from Illinois modify his request as to 10 minutes on each side?

Mr. PORTER. I do, Mr. Chairman.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN pro tempore. The gentlemen from Illinois [Mr. PORTER] and the gentleman from Wisconsin [Mr. OBEY] each will control 10 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Chairman, might I just indicate that I hope the gentleman from Illinois [Mr. PORTER] can yield back my 10 minutes without using them. I think we cannot afford this

much time on a nongermane amendment if we are going to finish this bill.

The CHAIRMAN pro tempore. Does the gentleman from Illinois continue to reserve his point of order?

Mr. PORTER. Mr. Chairman, I do not continue to reserve my point of order.

Mr. OBEY. Mr. Chairman, I withdraw my reservation of a point of order.

The CHAIRMAN pro tempore. The point of order is withdrawn.

Mr. PORTER. Mr. Chairman, I yield 5 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA], the cosponsor of the amendment.

Mrs. ROUKEMA. Mr. Chairman, I thank the gentleman for yielding the time.

Let me say that that this amendment which the gentlewoman from New York [Mrs. LOWEY] and I have presented deals in a legally binding way to repeal the \$50 billion tax windfall that, was surreptitiously inserted into the tax bill in the dead of night without the knowledge of the Congress and the voters.

Particularly, I want my colleagues to understand that the taxpayers would be required to pick up the cost of that \$50 billion, removing it from the assessment on the tobacco industry. So this is about relieving taxpayers and reducing their taxes.

I want to say also that it is coincidental but very timely that we are taking it up right now, since today, as we know, not only the President but many Members of both parties have expressed concerns and objections to the so-called tobacco pact. And I think that we really should be taking a tough stance not only to protect the taxpayers but to protect American health.

Remember, we are talking about taxpayers bailing out the tobacco industry. Now let me say, in addition to what my colleague, the gentlewoman from New York [Mrs. LOWEY], has already laid out, that this vote will make us accountable to the voters. This was put in the tax bill without anybody's knowledge. And I think the cynical voters out there are ready to throw up their hands and say, "Oh, boy, that is that Washington crowd doing it again" if we do not permit a vote on this issue.

Let me say this makes us accountable, but I also want to stress this is the only way we can do it with legal standing. Any other alternative is just instructive and has no standing in the conference with the Senate. Whether we use it as an amendment to another bill or whether we do a motion to instruct the conferees, it does not have the standing that the Durbin-Collins amendment from the Senate has on their bill. We should have that same parallel provision on our bill.

And so I respectfully must say that this vote will say to the American people that we stand for their health and for their children's health, and that the taxpayers should not be required to pay and bail out the tobacco industry. We must correct the wrong that was done in that budget deal in that tax

package, and we can help regain the confidence of the American people and restore some credibility to this House.

I want to thank my colleague, the gentlewoman from New York [Mrs. LOWEY]. I want to thank the chairman and ranking member of the Committee on Appropriations for understanding how critical this is and for permitting us under the rules to use the waiver rule in the House to bring this issue before our colleagues.

Ms. DELAURO. Mr. Chairman, I rise today in strong support of this amendment to repeal the tobacco tax giveaway. For years, the tobacco industry has denied the truth—that smoking kills. Its ads have made smoking appear glamorous and cool, and they have blatantly targeted children with characters such as the omnipresent Joe Camel.

But the truth isn't as comforting as tobacco commercials would have you believe. The truth is, every day 3,000 people under the age of 18 become regular smokers. The truth is, one out of every three of these kids will die of a tobacco-related illness like cancer or heart disease. The truth is, cigarettes kill more Americans than AIDS, alcohol, car accidents, murders, suicides, illegal drugs, and fires combined.

The way the tobacco industry targets children is a crime. And now that we are at the brink of a settlement that will force the industry to pay for its crime, a \$50 billion tax giveaway for big tobacco is snuck into the tax bill in the dead of night. We don't know who put it there. No one will stand up to take responsibility.

It truly boggles the mind. This is not an industry that markets games or toys. We are talking about an industry that markets a product which is proven to cause cancer, heart disease, and lung disease. It has tacitly admitted to targeting children by retiring characters such as Joe Camel. And last month, the head of Philip Morris admitted in a court of law that 100,000 Americans might have died from smoking-related illnesses. That same day, another story ran where the Speaker of this House defended this tax giveaway as fair.

My friends, we shouldn't even be here today debating this amendment. In 1993 alone, taxpayers spent over \$50 billion in health care costs to care for people who were stricken by cancer and other diseases caused by tobacco.

We should be ashamed of ourselves for even considering helping the tobacco industry to pay for its mistakes. The tobacco industry does not deserve to be bailed out by taxpayer dollars. I urge every member of this House to support this amendment to repeal the tax giveaway.

[From the Washington Post, Aug. 22, 1997]

SMOKING MAY HAVE KILLED THOUSANDS, CEO AGREES

WEST PALM BEACH, FL.—About 100,000 Americans "might have" died from smoking-related diseases, the head of Philip Morris Cos. Inc. conceded today to state lawyers suing his company.

Geoffrey C. Bible, chairman and chief executive officer of the nation's largest cigarette maker, made the admission at the end of nearly two hours of questioning in preparation for trial of a lawsuit.

Ron Motley, a lawyer representing the state, called Bible's statement a major breakthrough because except for one maverick, other industry leaders have not made such a concession. Bennett S. LeBow, chief

executive officer of the smallest of the major cigarette makers, Liggett Group, Inc., has said that cigarettes kill and are addictive.

Members of Congress are pressing the tobacco industry for admissions before they consider approving a \$368 billion settlement that would wipe out most lawsuits against the industry.

Florida was the first of 40 states suing the major tobacco companies to bring a case to trial. It seeks \$12.3 billion for the public cost of smoking related illnesses. Jury selection began Aug. 1 and continues during the taking of depositions.

Motley asked Bible: "Would Philip Morris agree that a single American citizen who smokes their products for 30 or more years, a single one, has ever died of a disease caused in part by smoking cigarettes?"

Bible answered, "I think there's a fair change that one would have, might have."

Motley followed up, "How about a thousand?"

Bible said, "Might have."

Motley pressed, "How about 100,000?"

Bible responded, "Might have."

"I salute Philip Morris for the first time in 40 years being forthright and candid," Motley said on CNN afterward. "It's a very public, health-spirited way of looking at things."

Responding to allegations that cigarette makers manipulate nicotine levels in cigarettes to capitalize on its addictive qualities, Bible said, "I wouldn't even let them discuss adding nicotine, let alone adding nicotine to attract children."

GINGRICH DEFENDS TOBACCO TAX BREAK—\$50 BILLION CREDIT IS PART OF FAIR OVERALL DEAL, SPEAKER SAYS

MARIETTA, GA.—House Speaker Newt Gingrich (R-Ga.) today defended a new \$50 billion tax credit for the tobacco industry as part of an overall plan that is fair.

"I think people were misreading the tax provision," he said. "We're not cutting a break for the tobacco folks."

The credit is part of a bipartisan tax bill that includes a 15-cents-a-pack tax increase on cigarettes. The tax proceeds would be credited against the money tobacco companies agree to pay in a proposed \$368 billion settlement of state lawsuits against the industry.

The tax will pay for expanded child health care programs.

Clinton administration officials have said they will seek to offset the \$50 billion tax credit when the proposed tobacco deal is reviewed by Congress.

State attorneys general have threatened to withdraw support for the deal unless the credit is blocked. Tobacco companies said any increase in the settlement's costs could kill the deal.

Gingrich said the tax credit is only part of the final deal with the tobacco companies.

"Whatever the final package is, we want to make sure that it's real," he said. "It's all one pot of money, and I'm in favor of maximizing the amount of money available for children's health."

Gingrich spoke to reporters after touring a vocational training center in his congressional district north of Atlanta.

Mr. BENTSEN. Mr. Chairman, I rise in strong support of the Lowey-Roukema amendment to H.R. 2264, the Labor, Health and Human Services, and Education appropriations bill. This amendment would repeal the stealth, windfall tax credit that was given to the tobacco industry as part of the Taxpayer Relief Act. This \$50 billion tax credit was not included in either the House or Senate versions of the tax bill and was adopted without

debate and review. This tax provision should never have been enacted and should be repealed as quickly as possible.

I am pleased to be a co-sponsor of legislation sponsored by Representative LOWEY to repeal this tax credit and strongly support this effort to eliminate this ill-advised tax provision. The House of Representatives should approve this amendment, just as the Senate did earlier this month by a vote of 95 to 3.

The balanced budget agreement we enacted in July raised the cigarette excise tax by 15 cents per pack to help pay for a children's health care initiative to provide insurance coverage for uninsured children. The tobacco tax credit completely undermined this intent by subtracting the increased excise tax paid by the industry from whatever they would have to pay as part of a global tobacco settlement. In essence, the children's health initiative would have come at the cost of important public health and smoking cessation initiatives that were to be funded by the global agreement. The children's health initiative was intended to be in addition to these other initiatives, not an alternative to them. The Lowey-Roukema amendment restores this clear congressional intent.

The children's health initiative and the cigarette excise tax to fund it are completely separate issue from the global tobacco agreement and ought to be considered by Congress as such. The Lowey-Roukema amendment makes this clear and allows us to consider these issues separately. Let us pass this amendment and repeal the tax credit now, then give the global tobacco settlement and the President's proposals to reduce underage smoking the careful and thorough deliberation they deserve. President Clinton today announced that he would support raising cigarette excise taxes by \$1.50 per pack if tobacco companies fail to reduce smoking among young people. The administration proposal would stipulate targets to cut teen smoking and if these targets are not met, tobacco companies would pay higher penalties that would not be capped or tax deductible as a business expense. I look forward to reviewing these proposals with the goal of crafting legislation that reduces underage smoking and protects the public health.

I urge my colleagues to vote for the Lowey-Roukema amendment to repeal this unfair, irresponsible tax credit provision.

Mrs. ROUKEMA. Mr. Chairman, I yield back the balance of my time.

Mr. OBEY. Mr. Chairman, could I inquire of the gentleman from Illinois [Mr. PORTER], is he prepared to yield his time back if we do the same here?

Mr. PORTER. Mr. Chairman, I have no further requests for speakers, and I would be prepared to yield my time back, yes.

Mr. OBEY. In that case, Mr. Chairman, I yield back the balance of my time.

Mr. PORTER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentlewoman from New York [Mrs. LOWEY].

The amendment was agreed to.

AMENDMENT NO. 36 OFFERED BY MR. COBURN

Mr. COBURN. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 36 offered by Mr. COBURN: At the end of the bill, insert after the last section (preceding the short title) the following section:

SEC. 516. None of the funds made available in this Act may be used by the Centers for Disease Control and Prevention, or any other part of the Public Health Service, to conduct or support any program in which blood samples are collected from newborns and tested for the human immunodeficiency virus in circumstances in which the samples do not indicate the identity of the newborns, from whom the samples were taken.

Mr. COBURN. Mr. Chairman, my friend the gentleman from New York [Mr. ACKERMAN] is not here and will be arriving on the floor shortly. This really is his amendment that I have agreed to introduce with him, and I want to give him credit for it.

In 1995, the CDC was practicing what I believe to be an unconscionable practice, and that was blindly testing newborn infants' blood for the HIV virus, discovering who was positive, yet never telling the mother, never notifying the parents that in fact their children were positive for HIV, which also implied that the mother was positive for HIV.

The tremendous amounts of moneys that have been spent by this country on research to treat this deadly virus have succeeded in bringing us very new, very good, very effective treatments in terms of delaying the ravages of this disease.

Each day, approximately 20 infants in this country are born to HIV-positive mothers. Thanks to the new treatments and thanks to the ban that was agreed to by the CDC in terms of withdrawing this blind testing, most moms now are being identified during their pregnancy, they are being treated, and their children are not becoming infected with HIV. However, concerning to Mr. ACKERMAN, as well as myself, was an indication by the CDC in the last 3 months that they intended to resume blind testing.

What I think is important is we would want the American public to know that we feel that this is a tremendously unethical practice to identify someone with a disease and have medicines available that could prevent that disease, first, second, markedly increase the quality of someone's life, and third, markedly prolong the quantity of that life, and then withhold it, we feel is unethical.

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Mr. Chairman, I will submit for the RECORD a letter that I received on September 9 of this year. I would like to read that and then submit it. This is from the Department of Health and Human Services, from Richard Tarplin, the Assistant Secretary for Legislation.

DEAR CONGRESSMAN COBURN: Knowing of your continued concern regarding unlinked HIV testing of newborn blood specimens, I

would like to inform you that the Centers for Disease Control and Prevention will pursue surveillance methodologies that do not include HIV serosurveys using any type of blood specimens of newborns without identification.

CDC will continue discussion with HIV prevention partners to identify alternative approaches to monitor HIV trends in women of childbearing age.

Dr. Satcher has recommended this approach, and the Department has concurred.

The text of the letter is as follows:

DEPARTMENT OF HEALTH &
HUMAN SERVICES,

Washington, DC, September 9, 1997.

Hon. TOM COBURN,
U.S. House of Representatives, Cannon House
Office Building, Washington, DC.

DEAR CONGRESSMAN COBURN: Knowing of your continued concern regarding unlinked HIV testing of newborn blood specimens, I would like to inform you that the Centers for Disease Control and Prevention (CDC) will pursue surveillance methodologies that do not include HIV serosurveys using any type of blood specimens of newborns without identification.

CDC will continue discussion with HIV prevention partners to identify alternative approaches to monitor HIV trends in women of childbearing age.

Dr. Satcher has recommended this approach and the Department has concurred.

Sincerely,

RICHARD J. TARPLIN,
Assistant Secretary for Legislation.

This is a great letter when it comes to babies knowing that, in fact, if they are tested, they are going to be notified by the CDC. But what is very, very worrisome about this letter is they did not mention anything about testing adults blindly and not agreeing to withhold treatment from them.

Mr. Chairman, I am very sorry that the gentleman from New York [Mr. ACKERMAN] is not here at this time. It is our intention to put into the record that we expect the CDC and have their concurrence that they will test no one blindly for a disease that will, in fact, take their life when we do have medicines that could prevent or at least prolong that life. It is our intention to withdraw this amendment pending that approval, knowing that we are now on record, that the CDC has committed that they are not going to do blind, unethical testing for any reason on anybody with HIV.

Mr. Chairman, I ask unanimous consent to withdraw this amendment.

The CHAIRMAN pro tempore (Mr. BARRETT of Nebraska). Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

AMENDMENT NO. 14 OFFERED BY MR. RIGGS

Mr. RIGGS. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 14 offered by Mr. RIGGS:

At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. . (a) LIMITATION ON PENALTIES UNDER IDEA.—None of the funds made available in this Act may be used by the Department of

Education to investigate, or to impose, administer, or enforce any penalty, sanction, or remedy for, a State's election not to provide special education and related services under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) to individuals who are 18 years of age or older and are incarcerated in adult State prisons.

(b) EXCEPTION.—Subsection (a) shall not apply to any withholding of financial assistance to a State by the Department of Education pursuant to the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

Mr. RIGGS. Mr. Chairman, earlier this year when the Congress passed amendments to the landmark Federal special education and civil rights statute called IDEA, Individuals with Disabilities Education Act, we included in that package of amendments a number of incentives intended to make it easier for States such as my own, California, to serve adult prison inmates who happened to fall within the age group covered under the Federal special education law. These are adult prison inmates, incarcerated individuals between the ages of 18 and 21, so I want to say at the outset and make very clear to my colleagues that we are not talking about children or juveniles. We are talking about convicted adult felons.

Under that package of amendments, we intended to make it easier and less costly for States to serve this particular category, this particular segment of the total IDEA-eligible population in America. However, we did add an additional provision that made it explicitly clear, in my view, that the States still, despite these inducements, had the sole discretion, the sole option, the sole right to decide whether to serve these adult prison inmates, and if the States elected not to serve this segment of the IDEA-eligible population, they would only face the forfeiture of that small pro rata share of the total State allocation of Federal special education dollars.

I was one of the principal negotiators, one of the principal sponsors, one of the principal drafters of these amendments, and I can attest to the fact that it was our intent throughout these negotiations to limit the Federal Government and the Department of Education's remedy against a State, to limit their sanctions against a State to only the forfeiture of that small percentage of their total State allocation of Federal special education dollars.

Since that legislation has become law on obviously a bipartisan, bicameral basis, signed into law by the President with some fanfare down at the White House, the Department of Education has taken a different position. They now say that they may pursue other legal remedies against a State such as California in addition to the loss of that small percentage of funds represented by the adult prison inmate population as a percentage of the total IDEA-eligible population in the State. The Department of Education has corresponded with the State