SENATE RECORD VOTE ANALYSIS

105th Congress | June 17, 1998, 5:55 p.m.
2nd Session | **Vote No. 162** | Page S-6481 Temp. Record

TOBACCO BILL/Excessive Spending Point of Order

SUBJECT: **National Tobacco Policy and Youth Smoking Reduction Act . . . S. 1415. Daschle motion to waive the Budget Act for the consideration of the bill.**

ACTION: MOTION REJECTED, 53-46

SYNOPSIS: The "Commerce-2" committee substitute amendment (see NOTE in vote No. 142) to S. 1415, the National Tobacco Policy and Youth Smoking Reduction Act, will raise up to $265.0 billion over 10 years and up to $885.6 billion over 25 years from tobacco company "payments" (assessments) and from "look-back" penalties that will be imposed on tobacco companies if they fail to reduce underage use of tobacco products. Most of the money will come from the required payments ($755.67 billion over 25 years). Additional sums will be raised from other fines and penalties on tobacco companies, and the required payments will be higher if volume reduction targets on tobacco use are not met. The tobacco companies will be required to pass on the entire cost of the payments to their consumers, who are primarily low-income Americans. By Joint Tax Committee (JTC) estimates, the price of a pack of cigarettes that costs $1.98 now will rise to $4.84 by 2007. The amendment will require the "net" amount raised, as estimated by the Treasury Department, to be placed in a new tobacco trust fund. (The net amount will be equal to the total amount collected minus any reductions in other Federal revenue collections that will occur as a result of increasing tobacco prices. For instance, income tax collections will decline because there will be less taxable income in the economy). The JTC estimates that the amendment will raise up to $232.4 billion over 9 years, but only $131.8 billion net. Extending the JTC's assumptions through 25 years, a total of $514.2 billion net will be collected. The amendment will require all of that money to be spent; 56 percent of it will be direct (mandatory) spending. The Federal Government will give States 40 percent of the funds and will spend 60 percent. Medicare will not get any of the funding in the first 10 years unless actual revenues are higher than estimated in this amendment (in contrast, the Senate-passed budget resolution required any Federal share of funds from tobacco legislation to be used to strengthen Medicare; see vote No. 84).

Senator Stevens raised a point of order that the bill violated section 302 of the Budget Act in numerous sections because it

(See other side)

YEAS (53)			NAYS (46)			NOT VOTING (1)	
Republicans (11 or 20%)	**Democrats (42 or 93%)**		**Republicans (43 or 80%)**		**Democrats (3 or 7%)**	**Republicans (1)**	**Democrats (0)**
Bennett	Akaka	Johnson	Abraham	Hutchinson	Ford	Specter-[3]	
Chafee	Baucus	Kennedy	Allard	Hutchison	Hollings		
Collins	Biden	Kerrey	Ashcroft	Inhofe	Robb		
D'Amato	Bingaman	Kerry	Bond	Kempthorne			
DeWine	Boxer	Kohl	Brownback	Kyl			
Grassley	Breaux	Landrieu	Burns	Lott			
Jeffords	Bryan	Lautenberg	Campbell	Lugar			
McCain	Bumpers	Leahy	Coats	Mack			
Roth	Byrd	Levin	Cochran	McConnell			
Smith, Gordon	Cleland	Lieberman	Coverdell	Murkowski			
Snowe	Conrad	Mikulski	Craig	Nickles			
	Daschle	Moynihan	Domenici	Roberts			
	Dodd	Moseley-Braun	Enzi	Santorum			
	Dorgan	Murray	Faircloth	Sessions			
	Durbin	Reed	Frist	Shelby			
	Feingold	Reid	Gorton	Smith, Bob			
	Feinstein	Rockefeller	Gramm	Stevens			
	Glenn	Sarbanes	Grams	Thomas			
	Graham	Torricelli	Gregg	Thompson			
	Harkin	Wellstone	Hagel	Thurmond			
	Inouye	Wyden	Hatch	Warner			
			Helms				

EXPLANATION OF ABSENCE:
1—Official Business
2—Necessarily Absent
3—Illness
4—Other

SYMBOLS:
AY—Announced Yea
AN—Announced Nay
PY—Paired Yea
PN—Paired Nay

increased spending beyond the Commerce Committee's budget allocation. Senator Daschle then moved to waive the Budget Act for the consideration of the bill. Generally, those favoring the motion to waive favored the amendment; those opposing the motion to waive opposed the amendment.

NOTE: A three-fifths majority (60) vote is required to waive the Budget Act. After the failure of the motion to waive, the point of order was upheld and the bill was returned to the Commerce Committee.

Those favoring the motion to waive contended:

Our colleagues have chosen to use a parliamentary maneuver to kill this bill. First, they have loaded it up with new amendments to spend money, and then they have raised a point of order that it spends too much money. As the bill was reported with a substitute amendment, all of the costs were fully offset. Now they are not, and the bill will be killed as a result. We think that our colleagues are using a cynical dodge to avoid voting directly on the merits of this bill. They will win this round, but we will be back. Eventually we will win, because the American people are on our side.

Those opposing the motion to waive contended:

Argument 1:

This bill before us contains hundreds of billions of dollars in off-budget spending. None of that extra spending has been approved in the budget. Whether that spending is "offset" or not by new taxes on low-income Americans is utterly irrelevant to the question before us. The question before us is whether or not this bill will increase the size of Government--whether or not it will increase spending--more than is allowed by the budget. The answer, irrefutably, is yes, and the violation will be extreme. The Commerce-2 amendment (as reported, as modified, and as amended) will exceed spending limits not by a few dollars, not by a few thousand dollars, not by a few million dollars, not by a few hundreds of millions of dollars, not by a few billions of dollars, and not be a few tens of billions of dollars--it will exceed spending limits by hundreds of billions of dollars. This bill is the second-largest attempted Government takeover of the economy in recent times, exceeded only by the Clinton Administration's attempt to nationalize health care in the 103rd Congress. Some Democrats have made the politically charged but patently false charge that Republican amendments that have been adopted have made this bill subject to the point of order that has been raised. The truth, as they know, is that this bill has been outrageously expensive from day one. In fact, because of the marriage tax penalty relief (which was voted against by all but one Democrat) the total spending in this bill will now actually be less than reported or as required by the Commerce-2 amendment, which was drafted by the Clinton Administration. We did not attempt to kill this bill on day one with a Budget Act point of order, though, because we thought it was important to debate the bill on its merits. Now that it is obvious that we have reached an impasse, with the number of Senators opposing cloture increasing each day, with numerous polls showing that a vast majority of Americans understand that this bill is being used as an excuse to tax and spend, and with no chance of ever reaching resolution on this proposal, it is now time to raise a point of order. We know, our colleagues know, and most importantly the American people now know, this is a tax-and-spend bill that has almost nothing to do with underage smoking. It is time to go back to the drawing board. We urge our colleagues not to waive the point of order.

Argument 2:

We do not accept tobacco company contributions, and we want to pass a bill on youth smoking. However, this bill has no chance of passing. If we continue debating and amending it, we could easily be on it for the rest of the year without ever getting to any other legislative items. Our colleagues may wish to continue beating a dead horse for political purposes, but we are more interested in taking care of pressing business, especially by passing the annual appropriations bills to keep the Federal Government running. We will work with our colleagues on either side of the aisle to come up with an alternative to this bill, but we cannot support wasting any more time on this dead proposal. We thus oppose the motion to waive.