which is a joint State operation—generally with a funding formula of about 55 percent Federal, 45 percent State. A lot of the States hadn’t been putting their share in, or they had been constraining the eligibility for the poor and the disabled. And the 2-year period of the stimulus, to a funding formula of 67 percent Federal, 33 percent State. That has allowed him to stop the major abrupt halt of that hospital in Jacksonville, FL.

Let me give another example. The big county hospital in Miami—Jackson Memorial Hospital—is a similar case of about a $45 million whack that was going to occur because of the State of Florida constricting its Medicaid funding. The bill for Florida allowed that additional money to flow and, therefore, that hospital will not have its services terminated for a good part of the medically needy as well as the disabled.

Another example: In my State, the U.S. Army Corps of Engineers has awarded over $100 million in stimulus funds to jump-start crucial Everglades restoration projects, such as the Picayune Strand and the Site 1 Reservoir construction. When you combine that with an additional $140 million in stimulus money for other projects such as water quality improvements down in the Florida Keys, then the spending in Florida is going to create about 2,000 direct jobs and 5,000 indirect jobs. Overall, the stimulus bill is going to create over 200,000 jobs in the State of Florida.

Another example: Seminole County School District. Seminole County is to the north of Orlando. It is a major bedroom community for the metro Orlando area. Well, they had a plan to eliminate 139 teachers. Because of the stimulus bill, they reversed that plan.

Clay County, to the south of Jacksonville, in northeast Florida—another bedroom community for the metro Jacksonville area. It will bring back 26 elementary school teachers who had been laid off.

Another example: I am just taking a few examples. Miami, Dade County. It has one of the largest highway improvement projects in our State—the Palmetto Expressway. It has been under construction continuously since 1994 because of the mass of people who utilize that arterial roadway. Now they are going to be able to complete that and put hundreds of people to work.

Another example: Northeast Florida. The military complex in Jacksonville—the Jacksonville Naval Hospital and Kings Bay and Mayport Naval Station. The stimulus funding is going to be spent over the next several years for improvements for those hospitals and at the air station and at the Kings Bay submarine base, which means architecture, construction, and engineering jobs on top of expanded hospital facilities and energy efficient upgrades.

Another example: St. Johns County, St. Augustine, FL—the oldest continuous settlement in the United States—1565. We are going to celebrate the 450 year anniversary. We have 42 years on the English settlement in Jamestown, VA. Not 1607, Jamestown; but 1565, St. Augustine. Well, their school system was going to cut teacher and staff salaries and force them to take unpaid days. Now they are going to get an infusion of an additional $9 million this year and another $9 million next year so these cuts won’t occur.

Going over to the West Coast of Florida—Tampa. The Tampa International Airport. It is going to create 250 new jobs using $8 million from the stimulus bill to go out there and improve a taxiway on one of the major runways. This has given them a job that would have been done had it not been for this bill.

I will give one final example. Go back to north Florida. We have a huge forestry industry in Florida. But as we have seen, Mother Nature has not been kind in bringing us droughts. When a drought occurs, the forest becomes a tinderbox. When a match is struck or a lightning bolt strikes, the forest erupts into an enormous fire that becomes a contagion that can rage out of control and impinge on urbanized areas. Well, the Florida Division of Forestry is putting contractors to work on fire mitigation projects in high-risk communities using a $900 stimulus grant. It is helping in my State, and I suspect it is helping in all the other 49 States that are represented on the floor of the Senate.

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. 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.

EXTENSION OF MORNING BUSINESS

Mr. BURR. Mr. President, I ask unanimous consent that the Senate be in a period of morning business with Senators permitted to speak for 10 minutes.

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

Mr. BURR. I ask unanimous consent to be recognized for 30 minutes.

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

FAMILY SMOKING PREVENTION AND TOBACCO CONTROL ACT

Mr. BURR. Mr. President, we are desperately working to try to make sure we can move to amendments on H.R. 1256, a bill that attempts to consolidate the regulatory responsibility for tobacco products under the FDA.

This is being sold as a public health bill. I have been now to the floor for over 4½ hours in the absence of this week suggesting it does not meet that threshold and that, at some point today, I would have the opportunity, along with Senator HAGAN, my colleague, to give, in some detail, what is in this substitute and the substitute and the reason I make the claim that this is not a public health bill is from this chart that shows the continuum of risk of tobacco products.

It starts on my right, your left, with nicotine. We have seen the baseline we use is that is 100 percent risky. The industry, at some point, probably before I was born, all of a sudden created a filter that went on the end of an unfiltered cigarette. Because of that filter, it eliminated, it removed some of the constituencies of the combustion of tobacco. That made it 10 percent less risky. The risk went from 100 to 90 percent. Then in the 1980s we had a new product that was never marketed except in test markets. It was a tobacco-heating cigarette, where it did not actually burn the tobacco, it heated the tobacco. It extracted the nicotine, delivered the nicotine in the system but never produced smoke.

That product was considered to be about 45 percent risky but, clearly, a reduction at the time of 45 percent. All of a sudden, in the past 12 months, 18 months, we have seen a new product called an electronic cigarette. Again, no tobacco is burned. It is a fairly expensive product, it is popular outside the United States, not as popular or readily available in the United States. Before that electronic, a product that has a cartridge you replace actually brought the risk level down to about 18 percent. Some might be catching on. As we have introduced new products, we have brought the risk down, the health risk, the risk of disease, of death.

Now we are over here to U.S. smokeless tobacco, a product that most Americans understand. It is not the old snuff our parents and grandparents grew up with, it is Swedes. All of a sudden, we realize we reduced even further the health risk. It is now down at the 10 percent risk level, 90 percent below where we started decades ago with an unfiltered cigarette.

Newly introduced in the marketplace in the past year is something I referred to as Swedish smokeless snus, it is now on the market. It is sold, it is pasteurized, it is spitless. It was not something the United States or U.S. tobacco companies created, it is something the Swedes created.

Part of what I will get into is how the Swedes have used this product and
other innovative products, other new products, in the marketplace to move smokers from very risky products to less risky products. In the case of Swedish snus, you see a risk level of about 2, maybe 3 percent.

The substitute to a product that has yet to hit the market except for test markets, the one I covered by CNN as a candy, one that still meets the age requirements and a proof of ID for somebody to purchase.

But to magnify CNN’s report, they actually took that product from behind the counter and put it in the candy section next to Reese’s cups and gum and had an underage person come up and take one as CNN filmed to make it even more appealing from a standpoint of a story.

But this is the product. This is the product some have come to the floor of the House that looks like a cell phone. I am not sure. It does not look like my cell phone. Maybe it looks like someone’s cell phone but not mine. It is not a product that is accessible for anybody who does not produce an ID and meet the minimum age requirements of that State.

Risk? About 1 or 2 percent. We are actually getting better with every product that is innovative: therapeutics, gums, patches, lozenges, pharmacuticals, negligible, if any, risk.

Let me explain why I started with this because the base bill that is being considered, 1256, takes these categories right here, nonfiltered cigarettes and filtered cigarettes, it locks them in forever. The legislation says to the FDA: You cannot change these categories unless you find some specific thing that would cause you to alter it. It forbids the FDA. Even though H.R. 1256 creates a pathway for less harmful products, it is a pathway that cannot be met because one of the conditions of new products entering the market is, you have to prove that people who don’t use tobacco products will not be enticed to use these products. It also says you can’t communicate with anybody in the public unless you have a product that is approved.

I ask: How do you meet the threshold of proving that somebody who doesn’t use tobacco products is not going to use this product, if you can’t communicate with them until you get the product approved by the FDA? I have come to the conclusion, since nobody who is a co-sponsor or author of the bill has come up with an answer, it can’t be done.

To claim that this is a public health bill, one would have to make a reasonable claim that these products are going to be available and maybe potentially more products in the future. But what H.R. 1256 does is, it cuts off availability of product right here. It says, on this side of the line, we have constructed a pathway that nothing will pass. I don’t believe you can make a genuine claim that this is a public health bill when you have locked every user into the 90- or 100-percent category of risk.

Senator HAGAN and I have offered a substitute amendment. That amendment will be voted on about 4:30 today, if things go according to schedule. It is absolutely essential that Senators listen to their staffs who have read the bill, read the substitute amendment, heard the testimony and there are a lot of things that go on during the day. It doesn’t allow Members to sit down and listen to what RICHARD BURR is going to say. Hopefully, staff has looked at the statistics I have presented, the facts I have brought to the table, the claims I have made, and understands I am right. H.R. 1256 is not a public health bill.

The substitute does allow this to happen. We allow it to happen because the substitute amends regulation in the Food and Drug Administration, an agency that, by their mission statement, is required to prove safety and efficacy of all products they regulate. Pharmaceuticals, biologics, medical devices, food safety, cosmetics, products that is anything that is in the world of the FDA. They regulate 25 cents of every dollar of the U.S. economy. They are the gold standard for every American. When they get a prescription and go home to take, they know that it is safe or not. They know whether it will work because the gold standard in the world is the Food and Drug Administration. When they go to a doctor’s office and they get ready to use a device, they don’t question whether it was something the doctor made in the back room. They know that device was approved by the FDA.

Up until recently, they had every assurance when they bought food that that food was not contaminated, that it was food safe. But as we know over the past several years, we have had things that have slipped through, and Americans have died. The FDA is struggling today to make sure that, in fact, they meet the demands of the regulation they have in place.

What I am saying is, don’t concentrate this regulation at the FDA. Don’t jeopardize the gold standard. Employees work there with a complete understanding that if it doesn’t pass the safety and efficacy, it does not receive approval of the FDA.

Let me say it as I said it a couple hours ago. Tobacco products are not safe. Tobacco products cause disease and death. There is no way the Food and Drug Administration, on their current mission statement, can regulate a product they can’t prove safe and effective. If you try to put a square peg in a round hole, you will have reviewers at the FDA who say: The gold standard is no longer important because the Condemned is not important. It is important. If I turn my head on tobacco products, I can turn my head on this medical device because it doesn’t look like it is going to be dangerous. All of a sudden, something is going to slip through, a pharmaceutical product that kills somebody, a device that does somebody damage, because we lowered our guard. We lowered the threshold that every product must meet to get FDA approval.

I am not advocating for the Federal Government to sit back and do nothing with respect to tobacco. I am advocating that we craft a bill that will achieve the real goal that federal regulation should accomplish: To reduce death and disease associated with tobacco and to reduce youth usage of tobacco products. That is exactly what our substitute amendment does. It is designed to keep kids from smoking. But you can’t keep kids from smoking if you are not willing to limit advertising.

In the base bill, H.R. 1256, they limit print advertising to black and white. In the substitute amendment, we eliminate that again. In the current base bill, they restrict print advertising to black and white only. In the substitute amendment, we eliminate the ability for print advertising. The substitute amendment is actually tougher on advertising than the base bill.

Specifically, the Burr-Hagan amendment bans outdoor advertising, youth-organized sponsorships, usage of cartoon characters, sponsorship of events that youth attend, and many other provisions, all designed to limit children’s exposure to tobacco advertising.

Our amendment does not stop at print advertising. The amendment codifies the other youth marketing restrictions contained in the Master Settlement Agreement of 1998 and makes it a crime for underage youth to possess tobacco products. Let me say that again. In 1998, all the tobacco companies got together, responding to State legislation that had been out of control and that tobacco contributed to it. They provided $280 billion to all 50 States for two things: Cost share of their health care and so they could create cessation programs to get people to quit.

I covered in great detail over the last few days that even with this money available, one State only spent 3.7 percent, not of their total money, of the amount of money CDC said was an adequate amount to actually get people to quit.

I pointed out one yesterday. I will point it out again. The State of Ohio is a large State. Of the amount CDC recommended Ohio should take of the tobacco money and devote to cessation programs, Ohio spent 4.9 percent. When you hear these numbers, no wonder we are not doing better at moving people away from smoking.

Specifically, our substitute amendment would pay them to get the youth from that program. I believe we can get the youth from that program.
of fact, 21.6 percent of the youth in Ohio have a prevalence to smoke; 45 percent have a prevalence to alcohol; 17.7 percent have a prevalence to smoke marijuana. Yet some come to the floor and claim that if we give this to the FDA, youth smoking, youth usage would decrease. If that were even partially correct, the marijuana usage would be zero because it is illegal. There is no age limit.

Some will claim we don’t address labeling and graphic labeling on packages of cigarettes to discourage children from even looking at them. We require warning labels on the front and the back. We require graphic warning labels that show gruesome and tragic cases of mouth cancer, lung cancer, and other pictures designed to deter children from smoking. As my colleagues can see, keeping kids from tobacco advertising is a key component to the Burr-Hagan substitute amendment. Compare that with the underlying bill, which will not have the same commitment to limit advertising that children see. The underlying bill contains graphic warning labels but doesn’t limit print advertising. Tobacco companies would still be able to advertise in venues such as U.S. Weekly, and Glamour—clearly, purchased by their parents but accessed by their kids, and they can then see the black-and-white ads.

Maybe in some weird way the authors of the money bill will not see the same thing that children see. The underlying bill contains graphic warning labels but doesn’t limit print advertising. Tobacco companies would still be able to advertise in venues such as U.S. Weekly, and Glamour—clearly, purchased by their parents but accessed by their kids, and they can then see the black-and-white ads.

The only stipulation is, the ads would be in black and white. We can do better. We can absolutely do better than this. Keeping children from using tobacco products must be the first accomplishment of Federal regulation. The Burr-Hagan amendment accomplishes that with a two-fold attack. First, our amendment encourages States to use more of their MSA payments on cessation, putting billions of dollars into the effort. In the last 10 years, States have used just 3.2 percent of their total tobacco-generated money for tobacco prevention and cessation. In 2009, no State is funding tobacco prevention programs at CDC-recommended levels. Our amendment would change this by requiring States to comply with the CDC-recommended spending levels on cessation programs. It would no longer be voluntary.

In the case of Ohio, instead of spending 4.9 percent, Ohio would be obligated by law, if we pass the substitute amendment, to spend 100 percent of what the money bill needed to be spent to allow us to successfully make sure our Nation’s children were given the message that the use of tobacco products is not an advantageous thing.

Studies show that when States commit to cessation, youth smoking and smoking in general declines. Unfortunately, the underlying bill, H.R. 1256, contains no cessation program. Even though the bill requires the manufacturers to pay up to $700 million a year, it contains no cessation program. How can you call this a public health bill? How can we suggest this is going to reduce the risk of death or disease? How can we make the claim we are actually going to reduce youth usage, when there is no commitment, no requirement to cessation?

Secondly, our amendment assists current smokers who are unable and unwilling to quit by acknowledging a continuum of risk of tobacco products, what I showed here. More specifically, our amendment does not preclude reduced exposure products from entering the marketplace. The piece over here, they lock this in. We try to pull all the 100 percent, 90 percent over here to less harmful products because the objective in this bill should be to reduce death and disease.

There is a great debate underway in the academic world on tobacco control. How do we regulate the use of tobacco. Straight abolishment is hard to achieve and can bring many unintended consequences such as elicit trade, and we all know that. Since abolishment is not an effective solution at this point, the question remains: How do we lower death and disease rates associated with smoking?

Nicotine therapy has proven to be a failure. NIH states that patches and lozenges and other things have a 95- percent failure rate. They fail because smokers do not use these products as they do cigarettes. They are marketed poorly and are not designed to be a long-term solution. Under H.R. 1256, the base bill, that trend continues.

Also, H.R. 1256 does not give manufacturers of nicotine products the regulatory framework needed to market and enhance smoking replacement products appropriately. Since we have scratched current nicotine therapy products because they are not effective means to stop smoking, that leaves us with very few options. The most promising option the Federal Government can help perpetuate to reduce death and disease associated with smoking is low-nitrosamine smokeless tobacco products.

Until recently, the academic community resisted the fact that smokeless products could aid in tobacco harm reduction. Skeptics, many of whom helped write the underlying bill, stated that smokeless tobacco products are gateway products that will lead to more children smoking.

Experience and data show differently. Over the last 20 years, Sweden has allowed tobacco manufacturers to promote low-nitrosamine snus, smokeless tobacco products, as an alternative to smoking.

This quote is from the Royal College of Physicians dated 2007:

In Sweden, the available low-harm smokeless tobacco products are acceptable substitute for cigarettes to many smokers, while “gateway” progression from smokeless to smoking is relatively uncommon.

You get where I am going. The data is out there. I never dreamed we would use Sweden as an example of where the United States would go. But when the data shows how you might get the risk of disease and death, they never lost focus of what that was. They were not clouded as to the introduction of new tobacco products in a blinded effort to lock in what existed. They experimented and found products that would actually entice smokers to switch.

The claim that in some way, shape, or form these products are gateway products, that they will get the non-smokers and turn them into smokers—for the Royal College of Physicians, in 2007: “relatively uncommon.”

No statistic is perfect, and I am sure there are some who might have made a going-to-do-on-the-legislation, is: Do we want them to be quitters. Do we want them to be switchers. Because this clearly shows that if we don’t have a reduction—quite dramatic—in the relative risk for quitters and switchers in relation to smokers. What every Member will have to ask themselves, as they get ready to decide what they are going to do on this legislation, is: Do we want the American people to be smokers? Do we want them to be quitters? Or do we want them to be switchers? Because this clearly shows that if we don’t have a reduction—quite dramatic—in the relative risk for quitters and switchers in relation to smokers. What every Member will have to ask themselves, as they get ready to decide what they are going to do on this legislation, is: Do we want the American people to be smokers? Do we want them to be quitters? Or do we want them to be switchers?

The PRESIDING OFFICER. The Senator has 4 minutes remaining of the 30 minutes granted.

Mr. BURR. I thank the Presiding Officer.

Mr. President, you see the chart behind me. The Lancet supports the goal of harm reduction. I will be honest with you, I do not know what the Lancet is. But I have been told it is a very reputable health publication. But let me quote it:

We believe the absence of effective harm reduction strategies for smokers is perverse,
unjust, and acts against the rights and best interests of smokers and the public health.

A reputable health publication that basically says: The absence of effective harm reduction strategies acts against the rights of smokers and public health. But the base bill, H.R. 1256, has no effective harm reduction strategy, no pathway to harm reduction products. But they claim it is a public health bill. A health care publication says that cannot happen. It is “perverse.” It is “unjust.” Well, they said it. I did not. But I think what they mean is, that to consider passing H.R. 1256, with the knowledge that has been given, would be perverse, unjust.

I am not going to have an opportunity to talk fully at this time because I have a colleague who will take the floor. But let me say, I talked earlier about Camel Orbs and the way CNN portrayed this product as candy and staged a news event—well, “news” would be—let’s say “entertainment event”—by taking this from behind the counter in a convenience store and putting it in the candy section and having a kid go up and pick the Orbs up out of the rack to say that it was candy.

Orbs represents a 99-percent reduction in death and disease associated with tobacco use compared to cigarettes.

I ask my colleagues, if the objective of Federal legislation is to reduce the risk of death and disease—with unfiltered cigarettes, it is 100 percent; with filtered cigarettes, it is 90 percent; and with Orbs, it is 1 percent—isn’t it perverse and unjust not to allow the American consumer to have this product to switch from cigarettes? I think the answer to the question has already been answered.

I yield the floor.

The PRESIDING OFFICER (Mr. Udall of Colorado). The Senator from Ohio.

Mr. BROWN. Thank you, Mr. President.

I ask unanimous consent to address the Senate for up to 10 minutes.

The PRESIDING OFFICER. Is this objection?

Without objection, it is so ordered.

Mr. BROWN. Thank you, Mr. President.

20TH ANNIVERSARY OF THE TIANANMEN CRACKDOWN

Mr. BROWN. Mr. President, 1989 was a seminal year in world history. Late in the year, on November 9, the Berlin Wall fell. And like dominoes, Poland, Hungary, Czechoslovakia, and Bulgaria went from being Soviet satellites to nascent democracies.

The revolutions of 1989 would set the tone for the quick and peaceful break-up of the Soviet Union. The winds of change were bringing democracy and freedom to the oppressed. I look forward to discussing the peaceful revolutions of 1989 later this year.

But I want to speak today about the revolution that never was, an event that took place 20 years ago this week, in a country where people remain subject to totalitarianism and tyranny—a peaceful pro-democracy rally that was snuffed out with a brutality the world had not seen since the invasion of Czechoslovakia by the USSR in 1968.

It started much like the revolutions of 1989. Hu Yaobang, the Sixth General Secretary of the Communist Party of China, was famous for supporting ideas like political reform and capitalism—not much different from Lech Walesa of Poland or Vaclav Havel of Czechoslovakia.

When he died on April 15, 1989, thousands of Chinese students began a peaceful protest in Tiananmen Square in his honor and to call for support of his views. Protestors continued to assemble for weeks, calling for nothing more than a dialog with their government and party leaders on how to combat corruption and how to accelerate economic and political reforms such as freedom in election and democracy.

More than a million people would eventually gather in Tiananmen Square in the shadow of the Forbidden City and the monument in front of Chairman Mao’s mausoleum. That 1 million people segregated were just in Beijing. Protests had spread across the vast expanse of China, in city after city and community after community.

On the night of June 3, 1989, 15,000 soldiers armed tanks stormed Tiananmen Square to put down the protests.

On June 4, the Chinese Red Army fired upon the protestors and those in the surrounding areas.

On June 5, as the crackdown continued, more than 300,000—300,000—Chinese troops amassed in and around Tiananmen Square.

There, the world witnessed one of the pivotal moments of the 20th century—20 years ago. An unknown protester stood in front of a column of Chinese Army tanks. He stood alone. Surely he wanted the tanks to stop. Just as surely, he wanted to stop the violent crackdown. He has become an enduring symbol of freedom and democracy in this country and around the world—but not in China, where the image and accounts of the heroic act are banned, attempts to erase it from history.

The identity and fate of this young man are not known. However, it is generally agreed that he died in a Chinese prison for his brave act of nonviolence.

The Chinese Government continues to deny Western estimates of 300 dead and 20,000 arrests and detentions during the Tiananmen crackdown.

The United States responded to the crackdown by suspending all government and commercial military sales and all high-level government-to-government exchanges. We cancelled, got back and change the past. But we can begin to hold China accountable for its actions. Not only does China continue to hold people in jail based on their actions at the Tiananmen protest, but the fear from the crackdown continues to remind Chinese citizens of what they may face should they try again to bring freedom and political reform to their nation.

Today, in Beijing, police are on the streets in and around Tiananmen Square to preempt—not to control but to preempt—any observance of the anniversary.

In Hong Kong, 150,000 people showed up for a candlelight vigil in remembrance of those who died 20 years ago this week.

The government has shut down much of the Internet, including Western news sources, for fear that its citizens may learn what really happened. The police are using umbrellas to block cameras. It is a spectacle and it is a travesty.

For too long, the West has looked the other way as China declares a war on human rights.

For too long, the West has rewarded China with lopsided trade policies while China continues to carry out a war on minority cultures.

The United States should not endorse any way the brutal and horrific policies of the Chinese Government. Instead, we reward them. Our trade deficit with China in the first 3 months of this year was more than $50 billion. Last year, it was a quarter trillion dollars.

China manipulates its currency. Most economists agree that the Chinese yuan is 30 to 40 percent undervalued. The government wages a subsistence war and simple subsidy—a coerced and false price reduction—on everything it produces. It puts our manufacturers at a disadvantage, but there is so much money to be made by U.S. investors that investors and large corporate interests and our government simply look the other way.

China profits from its abysmal human rights record. It profits from its nearly nonexistent environmental standards. But American investors, the American Government, and American business, look the other way.

China refuses to enforce its labor laws. But there is money to be made. So American investors, American corporations, and the American government look the other way. China benefits from its human rights abuses, but again, American investors, American corporations, and the American Government look the other way.

A 2008 study by the Economic Policy Institute found the United States has lost more than 2.3 million jobs since 2001 as a direct result of the U.S. trade deficit. The United States shouldn’t let China profit from suppression.

It is not just the Chinese who are pushing for the status quo. Investors