

family farms going out of business this year. There is something wrong when we say as a country, "Gee, our economic policy is working quite well," and then we see all these family farmers going out of business.

One part of this is trade, and I might just finish today by mentioning trade. In almost every circumstance, this country has refused to stand with its producers on trade, and that is especially true with farm producers. It has refused to do what it should have done on United States-Canada grain trade in which this country is flooded with subsidized Canadian grain. It refuses to do what it should do with respect to China, Japan, and Europe.

Just last week, we finally began confronting unfair trade, when the Secretary of Agriculture took action against the European Union for sending a ship that docked in California loaded with barley. That barley was deeply subsidized, to the tune of over \$1 a bushel. Secretary Glickman, to his credit, took the first action. It was a step, it was a baby step, but, nevertheless, a step in the right direction. In taking it Secretary Glickman is saying to the European Union: "You can't do that to this country. You can't do that to our farmers. You can't take money directly out of our farmers' pockets. In this case of unfair trade, you can't do that with impunity. This country will not allow you to do that."

Mr. President, I am going to speak later this week about farm policy and some of the related issues that we have to deal with—crop insurance, trade, price supports, investment in research for crop disease, and a whole range of other things.

I say to my colleagues, this is critically important. There is, indeed, a farm crisis and we have a responsibility to respond to it in a thoughtful and important way.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 1415, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1415) to reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Gregg/Leahy amendment No. 2433 (to amendment No. 2420), to modify the provisions relating to civil liability for tobacco manufacturers.

Gregg/Leahy amendment No. 2434 (to amendment No. 2420), in the nature of a substitute.

Gramm motion to recommit the bill to the Committee on Finance with instructions to report back forthwith, with amendment No. 2436, to modify the provisions relating to civil liability for tobacco manufacturers, and to eliminate the marriage penalty reflected in the standard deduction and to ensure the earned income credit takes into account the elimination of such penalty.

Daschle (for Durbin) amendment No. 2437 (to amendment No. 2436), relating to reductions in underaged tobacco usage.

Daschle (for Durbin) amendment No. 2438 (to amendment No. 2437), of a perfecting nature.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER (Mr. HAGEL). The Senator from Minnesota.

Mr. GRAMS. Mr. President, I rise this afternoon to express some of my concerns dealing with the tobacco tax increase legislation that we are close to considering, including how we deal with this country's tobacco farmers.

I believe we should do what we can to assist tobacco farmers and their communities' transition for a supposed decrease in demand for tobacco products that will result from this bill's passage.

However, I would like to share this cartoon by Mr. Ed Fischer which illustrates a very important point: Do we value tobacco farming and tobacco-dependent communities more than other producers and their communities? "Guess which farmers in trouble will get a huge government bailout?" I have serious doubts this legislation will actually reduce tobacco growth and consumption in this country as much as proponents claim. As such, I question whether the type of support we are willing to rush in and throw at tobacco producers and tobacco-dependent communities is warranted.

My understanding is, under both proposals, there is no requirement that tobacco farmers actually stop producing tobacco; they will just have to assume all the risk, like other farmers under the freedom to farm bill which was signed into law in April of 1996. The freedom to farm bill contained transition payments, but those payments pale in comparison to what we are talking about here. All crops combined under the transition to Freedom to Farm—corn, wheat, soybeans, et cetera—amounted to less than \$1,500 per acre over 7 years. This bill would amount to about \$18,000 per acre over 3 years. Yes, it is a phase-out of the tobacco program, but let us be fair to the farmers, but also let us be fair to the taxpayers.

Mr. President, I am very sympathetic to the plight of tobacco farmers, their families and their communities, who suffer as a direct result of Federal policy. The tobacco farmers are certainly not alone in facing unfavorable—even crushing—circumstances at the hands of the Congress.

The point I now propose is that we cannot hope to maintain any semblance of consistency if we favor one agriculture product over all others. Let

us not get caught up in the hype of this tobacco legislation today to forge a plan that will cost taxpayers more than necessary. Let us be fair, but let us be reasonable. How can we explain why we favor one product over another?

My colleagues and I from the Upper Midwest have been fighting a constant battle against Federal dairy policy for years.

And again just look at this cartoon: "Guess which farmers in trouble will get a huge government bailout * * *"

The dairy producers of the Upper Midwest have long been disadvantaged by having to bear the burden of unjustifiable dairy policy which does not reflect the realities of modern dairy economics. This current Federal policy—specifically, Class I milk price differentials—is widely recognized as antiquated, unjustifiable, and patently unfair.

In fact, USDA's current Federal marketing order system was deemed "arbitrary and capricious" by a Federal district court judge late last year. The case brought against USDA has been in the courts for 7 years, and the judge's ruling was no less than the fourth such proceeding in the history of the case.

The courts have ruled four separate times the Federal dairy program is arbitrary and capricious. Bottom line, it is unfair. And what has been the response of the USDA? Not to accept the decision but to appeal. The Government should not be in the business of picking winners and losers in agriculture, but it is doing so in this case.

I hate to be arguing the dairy issue during the debate on a tobacco bill today, but I believe it supports my argument that: if we are to go about bailouts in a reasonable manner, we should address the Upper Midwest dairy farmers as well. Would anyone in this Senate vote to pay our dairy farmers \$18,000 an acre? I doubt it.

Dairy farmers have endured inequities for decades. We in Minnesota in fact are losing an average of three dairy farms every single day. The irony is that milk is a health product. It is a product we encourage our children to consume. How can we possibly suggest that Minnesota's dairy industry does not deserve equal protection from this Congress?

Mr. President, I would also like to express my opposition to S. 1415 in its entirety.

I have listened to a number of my colleagues come to the floor and claim many things and cite many statistics. One of those statistics was that 75 percent of regular smokers could not quit if they wanted to. While I will not take issue with this figure, I do have a problem with the fact that proponents of this bill are so willing to take advantage of these smokers' inability to quit.

Let us forget about the figures and rhetoric for a moment and ask the more important question: Why are we persecuting these people because of their addiction?

If someone is addicted to alcohol, are we going to increase taxes on them? If someone is addicted to drugs, are we going to increase taxes on them? Of course not, because we give them all sorts of Government benefits amounting to thousands of dollars a year.

So if you are addicted to one type of drug, the Government is going to give you thousands of dollars a year in assistance, but if you are addicted to another type of drug—in this case nicotine—we are going to tax you more money every year.

Congress wants to tax you, in fact, at a rate of about \$1,400 a year. And it simply does not make sense. It does not make sense for us to be discussing this legislation as if it were a tobacco settlement.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, what is the parliamentary status at this point with respect to the bill?

The PRESIDING OFFICER. Currently, we are on the consideration of S. 1415, and there is a motion to recommit pending with amendments pending thereto.

Mr. KERRY. That is the pending business?

The PRESIDING OFFICER. As well as amendments pending to the underlying measure.

Mr. KERRY. Mr. President, at this point in time I believe I have the floor; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. KERRY. Mr. President, I ask my colleague from Minnesota how long it would be his intention to speak, if he did wish to continue to speak?

Mr. GRAMS. It would be for only about another 5 to 7 minutes—less than 10 minutes.

Mr. KERRY. Mr. President, I ask unanimous consent that the Senator from Minnesota be recognized to complete his comments without my losing the right to the floor at that point.

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

Mr. KERRY. I thank the Chair.

Mr. GRAMS. I thank the Senator for allowing me to finish this statement.

Just to finish, Mr. President, we are talking about the tobacco bill and addiction. And I just say, let us forget about the figures and rhetoric for a moment that is surrounding this bill and ask the more important question: Why are we persecuting these people because of an addiction?

Now again, if someone is addicted to alcohol, are we going to increase taxes on them? If someone is addicted to drugs, are we going to go out and increase taxes on them? Of course not, because we give them all sorts of Government benefits amounting to thou-

sands of dollars a year if they are addicted to alcohol or other illegal drugs. But if you are addicted to nicotine, Congress wants to tax you as much as \$1,400 a year. And I believe it simply does not make sense.

It also does not make sense for us to be discussing this legislation as if it were a tobacco settlement. This is not a tobacco settlement. It is a tax increase to pay for increased Government spending programs. Supporters of this tax increase assert that if you vote against this bill, you are for big tobacco—if you vote against this bill, you are for big tobacco—if you vote for it, you are compassionate and you are taking a stand for the health of our children. But this isn't really about our children, is it? It is about lining Washington's coffers with more taxpayer dollars.

Let us talk about the statistic that 3,000 kids start smoking every day. That statistic has been thrown around the floor of the Senate and the White House with complete disregard for the facts. In his editorial, entitled "Child's Ploy," Jacob Sullum points out—and I quote—

This estimate comes from an article published in the *Journal of the American Medical Association* in January of 1989. Based on data from a National Health Interview Survey, the authors estimated that one million "young persons" became regular smokers each year during the 1980s [again, that one million "young persons" became regular smokers each year during the 1980s], which amounts to about three thousand a day.

That figure refers to 20-year-olds. And since the study did not include data for anyone younger than that, somehow these now "young persons" have metamorphosed into kids. At least one commentator on CNBC referred to them as "babies."

It started out as people 20 years old, "young persons," and somehow it got transformed into "kids." And even one commentator referred to them as "babies." I think this demonstrates how far the crusaders are willing to go to punish and tax adult smokers in order to fund Washington's wish list for more Government spending.

There was another point Mr. Sullum made which I think deserves to be voiced on the floor. He wrote:

While it may be true that the young are especially attracted to smoking, it is probably also true that people who are especially attracted to smoking tend to start young.

Mr. President, I agree, we should be doing more to reduce and discourage our children from smoking. I do not believe the legislation before us is truly about reducing teen smoking or recovering the Government's cost of providing health care to smokers. It is about money.

When I ran for the Senate 4 years ago, I made a very simple promise during my campaign. I said I would never vote to increase taxes. The bill before us does just that—increases taxes on those who use tobacco products, who largely are the ones who can least afford a \$1,400-a-year tax increase. The

lion's share of the hundreds of billions of dollars collected under this bill will come from families and individuals who earn \$30,000 a year or less. That is simply wrong.

During debate on this bill, there have been some who have questioned the sincerity of our concern for the well-being of America's working people. They go on and on to say, if we are so concerned about their well-being, we should vote for an increase in the minimum wage later this year. I guess that will be great for the teenagers who, by the way, hold most of the minimum wage jobs in America, because they then will be able to afford the cigarettes on which we are just about to hike the taxes.

It has been said by proponents that everyone and anyone who votes against this legislation has been bought off by big tobacco and we don't care about our children. Of course, nothing could be further from the truth. Frankly, I resent that type of accusation.

During the Budget Committee's consideration of the budget resolution, I voted for what I thought was the most appropriate use of any tobacco settlement funds—dedicate them to Medicare. After all, isn't that where most of the smoking-related illness costs are?

There was another important provision from the budget resolution as well. We increased funding for youth smoking cessation programs. The budget assumed \$825 million would be spent on trying to prevent teens from smoking and helping those who are trying to quit. The States are increasing their efforts in this regard as well. This is a positive approach and addresses the underlying problems that we face.

It should be noted that our budget this year more than doubled the amount of money spent on preventing teen smoking than President Clinton had even requested in his budget, and he assumed at that time that there would be a tobacco tax. So we included twice as much in our budget, not assuming that.

This legislation before the Senate today is not about protecting kids from tobacco. It is not about punishing big tobacco. It is not about health care either. This is just one more way for Washington to take and spend more of the taxpayers' money.

Mr. President, if and when this legislation is fully phased in, Federal and State Governments will be profiting more by the sale of tobacco products than the manufacturer. Again, Mr. President, if this bill is phased in, State and Federal Governments will be profiting more by the sale of tobacco products than the manufacturer. Something is horribly wrong when tax rates reach that proportion.

Mr. President, in 1997, a man in Kentucky pleaded guilty to one of the largest cigarette smuggling cases in our Nation's history. Over the period of just 1 year, this individual made nearly \$30 million—\$30 million transporting contraband cigarettes.

I learned of this story from the National Association of Police Organizations, which sent me a letter also opposing S. 1415, again, because of the threat of increased black market activity, which is clearly already occurring. Those of us with border States know how prevalent and easy smuggling already is. Will we just shut down our borders, or will we search every person crossing them?

Other law enforcement organizations have weighed in, sharing basically the same concerns about a potential black market: The Fraternal Order of Police, the Federal Law Enforcement Officers Association, the International Union of the Police Associations, and the International Association of Chiefs of Police. All of these organizations, whose primary duty is to enforce the law of our Nation, recognize this legislation will be the catalyst for a huge black market in cigarettes. As a result, teen smoking will probably increase, not decrease.

Supporters of this legislation claim we need to increase taxes to get a shock value from it. I want to remind my colleagues of what four very bright teenagers had to say at a House Commerce Committee hearing on youth smoking when asked if price were really a factor in whether teens buy cigarettes. One of the teens said if money were a huge issue, then kids wouldn't be buying marijuana as much.

I believe this teen has it right and also brings up another important issue. When asked what they believed to be the most pressing problem for our Nation's high schools, all agreed that alcohol and marijuana were much more serious. If the same commitment this administration and this Congress have shown to fighting tobacco had been applied to the drug problem, I think we would be hearing a very different answer. Under this legislation, we will fund massive new Government programs for tobacco but we will remain silent about the drug problem in our Nation. I question whether this is the wisest course for us to take.

In closing, I cannot in good conscience support the Washington money grab, masquerading here as the National Tobacco Policy and Youth Smoking Act. If we were being honest with the American people, the bill would be entitled "the National Tobacco Tax and Spend Act." It is not about public health or protecting our kids or cutting big tobacco down to size; it is all about taxes, taxes, taxes. This Senator is not going to be bullied into raising taxes on America's hard-working men and women.

I yield the floor.

Mr. KERRY. Mr. President, I ask unanimous consent, for the duration of the afternoon until the Senate either goes out of legislative session or adjourns, that we would be confined to debate only and to no parliamentary procedures with respect to the tobacco bill.

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

Mr. KERRY. Mr. President, I do want to make a few comments. I know my colleague from Texas wants to speak, and in keeping with the unanimous consent agreement that we have, I will not talk as long as I had intended to. I do want to try to make a few comments, if I may.

First of all, I will make a couple of comments about where we find ourselves now as we return to the tobacco legislation. Just prior to the Memorial Day recess, the Senate had dealt with two of the most difficult issues with respect to tobacco of perhaps the four or five issues that people assume are the difficult hurdles we need to get over. Those two, obviously, were: The question of price—whether it would be a price of \$1.10 or \$1.50; and the second issue of the liability, as it was called, the question of the cap or amount of payments that would be made in any 1 year.

The third of those difficult issues is now pending, the so-called look-back provisions, in the amendment by Senator DURBIN and Senator DEWINE, which seek to strengthen the ability to get individual companies to be able to take part in, to have an incentive to be part of, the process of trying to reduce teenage smoking.

Obviously, the LEAF program hangs out there as a very critical issue. There are a couple of others, depending on what shape the debate takes over the course of the next days. Then there will be, no doubt, a few individual amendments here and there, but I don't think they present the Senate with the kind of larger issues that we need to face, that have been presented in the context of those amendments I have just talked about. It is possible, with a considerable amount of effort over the course of the week, to dispose of the most difficult issues regarding this legislation, if there is a good-faith effort to try to move forward.

I will make a couple of comments about a few of the points that have been made both as we closed debate a week ago and also in the early hours of the debate, the comments that have been made today.

First of all, with respect to smuggling, the smuggling that has taken place so far with respect to American cigarettes has been a one-way smuggling out of the United States. Our brands, which are popular internationally and known to be among the best cigarettes, are those that have been smuggled into Europe, where the prices are higher than those that were smuggled temporarily, for a brief period of time, across the border into Canada. We currently don't foresee that kind of problem, according to most people within the law enforcement community who have been asked about it in a series of hearings where the Treasury Department, Customs, and others were also inquired of with respect to the difficulties regarding smuggling.

I underscore the testimony of Deputy Treasury Secretary Larry Summers,

before the Senate Judiciary Committee on April 30, where he said: "The Treasury Department believes that the creation of a sound regulatory system, one that will close the distribution chain for tobacco products, will ensure that the diversion and smuggling of tobacco can be effectively controlled and will not defeat the purposes of comprehensive tobacco legislation." And most people would agree with that because most people who smoke want to smoke the brands they are accustomed to and that they like and are known to be the best. So depending on whether you are smoking Newport, or Marlboro, or whatever among the most popular brands, those brands are going to be manufactured here, not elsewhere. They are going to be marked in a way and designated in such a way as to be exceedingly difficult to replicate or bring in. The bulk makes them difficult to replicate and bring in. It is far more profitable to continue to smoke even, as people do, heroin, cocaine and other illegal substances.

Most people in the law enforcement community who are tracking these kinds of things do not believe that raising our cost of a pack of cigarettes to the level of almost an equivalency to Europe will, in fact, increase smuggling. It will reduce smuggling because there will be less incentive for our cigarettes to be smuggled to these other countries since our prices will be commensurate with theirs.

There is another reason why that smuggling would be difficult. This is not a fee which is paid, or an assessment which is paid exclusively at the retail establishment so that you have a huge differential between the price of a carton of cigarettes at the manufacturing location, and then it rises very significantly at the retailer so that there is a huge grab in between. The assessment is a manufacturing assessment; it is a fee that is placed by the manufacturer. It is not unlike a value-added concept so that it is passed on, and as a consequence of that, there is no differential that creates an incentive between manufacturer and retailer. The result of that is you have a tracking system in place where the incentive is obviously for the manufacturer to recoup what the manufacturer already has paid out-of-pocket, and that recoupment comes by having a very strict system in place for the tracking.

So as the Treasury Department said, you need to have all entities in the distribution chain for tobacco products—the manufacturers, the wholesalers, the exporters, the importers, the distributors and the retailers, holding a license or permit. That is precisely what will be existing. The licensing will be done at the State level. Licensing can be revoked or suspended for any kind of specific violations, and those conducting business without it obviously would be subject to the same kind of penalties.

Secondly, there would be a marking, branding and identification of these

packages for domestic distribution and for export so that it is very difficult to divert. And the sales structure from the manufacturer to a specifically identifiable person for whom they are accountable also makes it exceedingly difficult for this kind of diversion to take place.

But I think the more important thing is to focus on the most critical issue here. We have heard a lot of talk about the cost of this bill. A number of opponents of the bill—people who seem to be out here prepared to allow the tobacco companies to continue to do what they are doing because they offer no alternative for what they are doing—are arguing that there is a regressive cost here to Americans, that this is somehow too costly. And suddenly, the same people who have proposed tax cut after tax cut after tax cut for the wealthiest Americans, at the expense, most often, of those who pay the most regressive taxes, are becoming the champions of the poor. I wonder if these crocodile tears that we are hearing for those people who smoke in the country—which I remind everybody is a voluntary act; no one is taxed who doesn't decide to go smoke. Nobody has to pay something who isn't actually smoking. Given the number of addicts that we have in the country and the amount that those addictions cost every American, the real regression here is the regression that falls onto the average American who is paying the health care costs of people who are addicted, the health care costs of people who get diseases for which they are either not covered or can't pay.

There are countless, countless costs associated with smoking. None of my colleagues on the other side want to come and talk about that. They don't want to talk about the billions of dollars that Americans are assessed because of the cost of a substance being sold that is addictive and is a killer substance. That is the bottom line here. Everybody says, oh, yes, we have to stop our teenagers from smoking. Yes, we have to have preventive programs. But then there is no talk about how you put them in place; there is no talk about what preventive programs are going to be put in place, or how are you going to fund them. No discussion whatsoever. It is just a generic, flat opposition to this particular piece of legislation which seeks to do something real about the problems of smoking.

The fact is that 98.5 million American households, families of smokers, and most importantly, nonsmokers, pay about \$1,320 a year to cover the damage that smoking does to our society. Every single working family in America, including those who live on the minimum wage, and those struggling to send their kids to college, or to pay for parochial school, or just to make ends meet, are paying for America's deadly smoking habit today.

The reality is that the overall smoking cost to our society is about \$130 billion a year, and that cost measures the

medical costs of smoking—the cost of smoking during pregnancy, the cost of lost output from early death, and even the lost work days, lost productivity that we get as a consequence of this. This taxes every single American, and the question is whether we are going to reduce taxes on Americans by finally stepping up to tackle the problem of smoking.

A lot of people argue this is about family economics. They come to the floor and suggest that family economics dictate that in fairness we not somehow tax a person at the minimum wage who is going out and smoking. Well, they are right; it is about family economics. The problem is they are not on the side of families, because those of us who are fighting to pass this legislation are looking for a way to provide some kind of relief to working families by passing this legislation.

The fact is that if you are not willing to put in place a tough regimen for reducing teenage smoking, you are in fact augmenting the burden that American families are already paying. The fact is there is a \$60 billion-a-year cost in medical costs alone related to smoking. Over 40 percent of those costs—fully \$25 billion—are covered by Medicare and Medicaid. Medicare and Medicaid are paying for \$25 billion a year of the cost. That is a tax. That is a tax on Americans of \$25 billion a year that is paid by all Americans, even those who don't choose to smoke, even those who hate smoking, even those who make every effort possible to avoid secondary smoke in public places. They wind up paying the tax on the medical costs for those who choose to smoke, or those who are addicted and have little choice as a consequence of a habit they picked up as teenagers.

The important thing to remember here is this: For all those adults who are smoking today, 86 percent of them got hooked on smoking when they were teenagers. All of the analyses show if you can make it through your teenage years without getting hooked on the habit, without smoking, the likelihood of your having the development of character and a sort of health consciousness that would then keep you from smoking is significant. Most of these people who start smoking in their teenage years start at the ages of 13 and 14 years old. In fact, a very significant proportion are hooked by the time they are 14.

Now, we know to a certainty that price affects the availability of any commodity to anyone. Clearly, for young kids the amount of cash which they have in their pockets is going to be spent according to the cost and what particular benefit they deem they are getting for that cost. If you raise the price, it is clear there will be less availability.

But that is not all we are doing, Mr. President. This legislation doesn't just raise the price and say, OK, we have done the job, let's go home. This legislation sets up a whole set of efforts to

reach out to young people, to increase the awareness regarding addiction, to increase prevention programs, to increase our research efforts within the NIH and the medical community in order to understand addiction better. It increases our capacity to learn whether we can reduce addiction among adults in significant ways.

There are a host of other benefits that come with this legislation that are critical. But equally as critical is what the Senator from Illinois is trying to do, Senator DURBIN, in the so-called look-back amendment. It doesn't do you a lot of good to simply pass a piece of legislation that somehow leaves the tobacco companies out there in a way that they are not going to be part of the solution of trying to reduce the access of kids to smoking. If the tobacco companies have a strong incentive to be part of that process, then we have a much better chance of reducing smoking and meeting our goals.

So the look-back provisions are a way of giving the tobacco companies a grace period in order to be able to make the adjustments in their advertising and their distribution process in order to help in the education of young people and, through that process, significantly reduce the desire of young people to smoke, because it somehow makes them look older and makes them look cool as a response to peer pressure and a whole lot of other reasons that young people do choose to smoke.

I might add that we have come to understand very well what those reasons are. Over the course of the last years, while the struggle has been going on between the tobacco industry and people who want kids to be able to lead healthier lives, during the course of that time there have been many, many, many analyses, many surveys, many focus groups, many discussions, many polls, all of which have indicated the degree to which young people smoke as a consequence of either peer pressure or a desire to kind of fit the role model that they may have seen in a movie, or somehow to be older, to look older, at a time in life when some of those choices are important.

We were at a tobacco forum in Boston, MA, about a month or two ago with Vice President GORE. We had testimony there from an adult who today has great difficulty breathing, who today is confined to a wheelchair, who testified personally to how the lung problems she has today and the diseases that she is now suffering from came directly from smoking, which came directly from her desire to look older. As she said to those kids who were assembled at this forum, "Boy, I sure succeeded in my goal. I look a lot older now."

Those kinds of testimonials are the most important kinds of ways in which we can, hopefully, reach our young before they fall prey to this addiction.

What we need to remember as we think about the "cost" of this bill is

that the cost of this bill is minimal compared to the cost to society of people whose lives are literally ruined as a consequence of the cancers, or liver disease, or heart disease, emphysema, that some members of their family suffer. There are kids in this country whose parents are unable to send them to college, or to buy them books, because of their \$13,700-a-year habit to buy cigarettes. That is what you are talking about.

So if you want to talk about the real costs to America, the real costs to America are not contained in the first ever comprehensive effort to try to do something about our narcotic killer substance that is being sold across the counter to anyone who wants to buy it. The real costs to our society are costs as a consequence of that happening without the Senate of the United States or the Congress being willing to take action to respond to it. Again and again this week, Mr. President, I hope we are going to be reminded about those costs to the United States.

We have people who have been addicted to cigarettes in this country since they were kids. And, literally, there are cases where I have heard people say that they had to tell their kids that they couldn't do X, Y, or Z for their children because of their addiction. The cost of smoking in that regard is enormous.

Consider the cost of smoking while pregnant. The truth is that a pregnant woman who smokes daily and suffers complications will spend \$8,000 more than a nonsmoker in trying to deliver a healthy baby. That is a cost you do not hear our colleagues on the other side of the aisle talking about. That is a cost that the tobacco companies don't offer up as one they ought to be responsible for. That is a cost to society and a long-term cost to the future of that child. Smoking while pregnant doubles the risk of having a low-birth-weight baby. And that, as we all know, significantly complicates the postnatal period, raising the costs by thousands upon thousands of dollars in hospitals.

If that doesn't communicate how serious the problem is, look at the impact. Forty-eight thousand low-birth-rate births are caused by smoking each year—48,000 children who may suffer medical problems their whole lives because of smoking that took place during pregnancy. These are 48,000 kids whose lives will be affected for the rest of their lives. I am not sure how you measure that financially.

So as our colleagues come to the floor lamenting the fact that we are asking that people who buy these as a matter of course, on their own decision, on a voluntary basis, would have to pay a little more for their substance that costs all of us a lot more, that is not too much to ask. It is certainly, when you balance it more appropriately, not to protect the tobacco companies; it is to protect the rest of America against those costs. That is the choice that I think most Americans see exist in this legislation.

The reality that has been lost in some of the debate about the costs of this legislation is the reason that the Senate is now presented with this vital legislation. It is my hope that over the course of the next days we will be able to move forward on it.

A quick word about the look-back provision, and then I will yield to my colleague.

The look-back provision is a provision that seeks to try to create a sensible balance in how you invite the cigarette companies to really act more responsibly. Unfortunately, there is a long, long track record of the cigarette companies acting irresponsibly. That is a smoking record in the final analysis. Everybody remembers the times that cigarette executives came up here and raised their hands and swore to tell the truth and nothing but the truth. The truth is, they did not tell the truth, and now all of America knows that.

Now, as a result of some courageous attorneys general around the United States taking suit against the cigarette companies, we have received documents that show the degree of the deception, the degree to which there was literally a predatory attack on the young people of our country. That is the choice the U.S. Senate faces here—whether we are going to just talk about protecting our kids from that kind of predatory attack, or whether we are going to actually do something about it. It is a choice that will be very clear to the American people who are going to watch what the Senate of the United States does here.

But the question is, How do we get the cigarette companies to take actions that do not try to subvert what we do here? How do we guarantee or at least provide the best structure that we can to invite them to become part of a solution? The way to do that, Mr. President, in my judgment, is to strengthen the look-back provision so that there will be a stronger incentive on the individual companies to participate. Currently, there is a \$4 billion cap industry-wide that suggests that a company that decided, "Well, we are going to just ride the wave of the industry, we will not take part that much, and if we don't happen to meet the goal, then this is not going to cost us as much because the rest of the industry is going to pick up the cost," there is a sense, even though there is a penalty of \$1,000 per child per percentage point, that they don't meet the goal, which we feel may not be a sufficient goal.

So the Durbin-DeWine amendment seeks to shift the remainder of that so that there is less of a cap, less of a requirement on the industry-wide payment and more of an individualized, company-specific payment in order to provide a stronger incentive for that company to become part of the solution here.

I think above all the American people have reached a point where they understand that they want these ciga-

rette companies to act responsibly. They want them to be part of the process of helping to protect their kids from exposure to this narcotic substance.

On that basis, Mr. President, that is where we find ourselves today. We will debate through the afternoon. And at some point tomorrow there will be some resolution—I guess late tomorrow—with respect to the parliamentary status that we are in.

The PRESIDING OFFICER (Ms. COLLINS). The Senator from Texas.

Mr. GRAMM. Madam President, I wish we could pass a resolution or a bill that would stop every child from starting to smoke and that would stop every adult from smoking.

I begin with a little personal experience. I have been alive for 55 years. I have spent much of that time trying to get my mother, who is now 85, to quit smoking, and I have had no success, nor do I believe that by raising the price of cigarettes we will achieve that result, either.

But the point I want to make, to begin with, is that if we could have a resolution that would, in fact, keep people from starting to smoke and stopping people from smoking, I can't imagine that anybody would vote against that resolution. Also, contrary to the rhetoric of much of this debate, I don't find any love anywhere for tobacco companies. I think if there is a problem in the debate, it is that we create the impression we are punishing tobacco companies with this bill, when this bill has, in fact, extraordinary provisions to guarantee that tobacco companies will not be punished. We talk about tax increases as if the tobacco companies were paying those tax increases, but in reality not only do they not pay them, but we have written into the bill provisions that make it illegal for them to not pass the tax through to the consumer and therefore the tobacco company is held harmless for the general increase in taxes on cigarettes.

The cold reality is that we have before us a bill that raises taxes by \$700 billion—one of the largest tax increases in history. This tax is not randomly distributed among the population. Those who make less than \$15,000 a year will pay 34 percent of these taxes, those who make less than \$22,000 a year will pay 47 percent of these taxes, and those who make less than \$30,000 a year will pay 59.1 percent of these taxes. The cigarette companies will pay none of these taxes.

Over the recess, I examined carefully data about cigarette smoking in my State. What I would like to do is talk a little bit about this data and the tax and describe what I am trying to do with an amendment that is now pending but that has other amendments piled on top of it in such a way as to prevent me from getting a vote on it. I want to talk about why that amendment is important. I want to say a little bit about the substitute that Senator DOMENICI and I will offer with Senator COVERDELL and others, and then I

want to talk about how we have lost control of this legislation.

I have spent the last 8 days back in Texas and I have listened to people all over my State and have thought about what we could do to fix this bill so that we could actually move ahead. I want to share those thoughts with my colleagues, not so much thinking that anybody might be swayed by those thoughts but at least to perhaps encourage others to think that, well, maybe other people are thinking about this problem the way I am and maybe we ought to try to get together and work out some of these things.

In my State, 23.7 percent of the adults smoke. That is 3,130,723 Texans. If I could snap my fingers or do anything other than using police powers, I would like to induce these people to stop smoking. But the first thing I have to be aware of is the fact that these are the victims. The whole logic of this tobacco bill is that the tobacco companies have conspired to get young people to smoke. To use the language of our colleague, the chief proponent of the bill, they have gotten people addicted to smoking, and so that is what I mean when I say that there are 3,130,723 Texans who smoke, who are the victims. These are the people who the tobacco companies, through advertising and through encouraging some of them when they were young to smoke, have gotten addicted or at least attached to the product to the extent that they continue to buy the product.

Now, here is one of the things that concerns me greatly about this bill. We all agree that the smokers are the victims. We all agree that the tobacco companies are the villains. And yet we have a bill that holds tobacco companies harmless, that requires by law that they pass the tax through, doesn't allow them to pay a penny of it in terms of the initial tax that is imposed. And yet if, in fact, as most people who are knowledgeable about the marketing of this product say, this bill will have the effect of raising the price of a pack of cigarettes by \$2.78 a pack, it will mean that the annual cost of buying one pack of cigarettes a day for the people in my State who smoke will rise by \$3,176,744,628 which means nothing, but let me give you a number that does mean something.

For every person in my State who is addicted to cigarettes, who has been victimized by a process that we are trying to fix in this bill, the people who are the sole purpose of this bill, we are imposing a tax on them of \$1,015 a year in the process of helping them. As my 85-year-old mother said the other day, "Why aren't you taxing the tobacco companies instead of taxing me? If I am the victim, why am I paying?"

Well, the point I want to make sure my colleagues understand is that while we may love pounding our chest and vilifying the tobacco companies, with good reason, we have before us a bill that is punitive not to the tobacco companies but to the people who are

their victims. And the level of punishment is a level that is virtually without precedent as far as I am aware. In fact—

Mr. KERRY. Madam President, will the Senator yield so I can answer the question?

Mr. GRAMM. No. I let the Senator go on for some time. I would like to do the same. When we get through, I have to go back to the Medicare Commission meeting, but I will yield for a moment at that point.

So one of the concerns I have had in trying to see what we might do to fix this problem is that we are looking at the potential of 3,130,000 people in my State, if they smoke one pack of cigarettes a day, having a tax increase of \$1,015 each year.

Now, I thought, looking at the figures that were put out by the Joint Committee on Taxation, that there must be something wrong with these figures, but when you look at that \$1,015 Federal tax for a Texan or an American who smokes one pack of cigarettes a day, it makes the number believable that the Joint Tax Committee put out, and that number was, for Americans who make less than \$10,000 a year—some smoke, some don't smoke—but for all Americans who make less than \$10,000 a year, this bill will drive up their Federal taxes by 41.2 percent.

So one thing that has worried me from the very beginning, and one thing that I do not find to be trivial, is that we are talking about a massive, \$700 billion tax increase that is being imposed not on the companies that have inspired teens and others to smoke but it is being imposed on the very people who are the victims, and in my State it has the potential of imposing a \$1,015 new Federal tax on a blue-collar worker making less than \$30,000 a year who is addicted to smoking. And if you have a blue-collar couple who may have two jobs, a lady who works in a restaurant, and a man who drives a semi, and they both smoke a pack of cigarettes a day, you are talking about imposing a \$2,030 increase in Federal taxes on them.

It may be that this increase in taxes would induce some of them not to smoke. Over and over our colleagues who support this massive tax increase have said this is not about money, that they don't want the money, they want to get people not to smoke. So before we left on the recess—having listened to this debate and having heard over and over and over again that this was not about money, that they just wanted to drive up the price of cigarettes, that they weren't trying to decimate blue-collar workers financially, that they just wanted to get them not to smoke—I sent an amendment to the desk. My amendment said: If the purpose of this is to get people not to smoke by driving up the price of cigarettes, let's raise the price of cigarettes, but let's take that money and instead of giving it to the Government to spend, let's give at least some of it

back to blue-collar workers by changing the Tax Code. And the proposal that I made was let's eliminate the so-called marriage penalty where two workers, both of whom work outside the home, fall in love, get married, and end up paying \$1,400 more in taxes being married than if they stayed single.

I focused it on moderate-income Americans. The idea being, raise the price of cigarettes to discourage smoking, but because we are not raising the price of cigarettes to impoverish blue-collar workers, why not raise the price of cigarettes to discourage smoking, but return the money through new tax cuts to the same people? So you raise the price of smoking but so that people who are really addicted and who either can't or don't quit smoking—that we simply don't pound them into the ground economically.

I was somewhat taken aback that when I offered this amendment, it shut down the Senate, and that we clearly have Members of the Senate who do not want to vote on giving some of this money back to blue-collar workers. I am somewhat at a loss to explain that. If the tax is not about money, why wouldn't we want to give some of it back in tax cuts to the very blue-collar workers who have been victimized by the tobacco companies?

Also, I would have to say for those who want to talk about the health care cost of smoking, when Senator DOMENICI and I, in the budget, dedicated the money to Medicare, many of the same people who were for this bill opposed that amendment.

The point I am making is, first of all, I am going to get a vote on my amendment. I had to write my amendment as a motion to recommit with instructions. Some people have gotten confused in the media and believe that somehow my amendment delays the bill or kills the bill. It does not. My amendment simply directs that the bill notionally be taken back to committee and be brought back immediately with this tax cut attached to it. If it were adopted, it wouldn't delay the Senate for a second, nor would it pull the bill down.

I believe if this issue is about smoking instead of about money that the Senate will adopt my amendment, and hopefully another amendment which would give blue-collar workers the same tax treatment General Motors has in buying health insurance. But we will get an opportunity to vote on those issues.

Let me also say that in traveling around my State for 8 days and meeting with editorial boards, holding public meetings, and on several occasions raising the tobacco issue, I received not a question about the tobacco bill. We are debating this issue as if this is the all-consuming issue on the planet, and yet all over the State, in meeting after meeting, in editorial boards where I raised the issue, I don't recall a single question anyone asked me

about it. In fact, we have had two polls come out since we have been considering this bill. One, published in USA Today asked people, "Do you believe higher cigarette taxes will reduce teen smoking?" Seventy percent say "no;" 29.9 percent say "yes." When you ask parents what they are most concerned about with their teenagers, 39 percent say using illegal drugs—something that has doubled since 1992, something that this bill doesn't deal with, something the substitute that Senators DOMENICI and COVERDELL and I will offer does deal with, with the toughest antismoking, antidrug program that will be considered in the Senate during this debate—16 percent say joining a gang, 9 percent say drinking alcohol, 7 percent say having sex, 7 percent say driving recklessly, and 3 percent say smoking or chewing tobacco.

I would like to explain what I believe has gone wrong on this bill and why it is going to be so hard for us to fix it. I have given this a lot of prayerful thought. Let me just share with you the results of this thought.

First of all, why are we dealing with this issue to begin with? Why is this issue on the floor of the Senate? We had settlements between tobacco companies and States. Why are we considering it? I will tell you why we are considering it. It is completely lost in this debate, but we are considering it because the attorneys general came to us and said, in essence, this whole thing has gotten out of control and the only way we can enforce these settlements is for the Federal Government to step in and impose some reason and responsibility on the process. In fact, presumably, the attorneys general recognized something—some people may be offended by the analogy but it is a good analogy—that a parasite can live only if the host animal does not die. What the attorneys general recognized was that the way this whole thing was going, the tobacco companies were all going broke and they weren't going to collect this money. They weren't going to be able to pay for Medicaid with it. As a result, they would have won a big victory in court, but it would not mean anything to their States, to their constituencies.

So they came to Congress and said look, this thing has gotten completely out of control. It is unlikely that the kind of money, in essence, that we are talking about can never be paid. What we want Congress to do is step in and set levels that will make it possible for us to actually collect these settlements.

What has happened in the process? Sadly, the settlements started out at roughly half the cost of the bill that is before us. Quite far from the objective of the attorneys general in asking us to get involved in this issue to begin with, we have roughly doubled the cost of the bill and every concern that drove this issue to the Congress has now been multiplied by a factor of two. How did it happen? How did the cost of this bill

get so high? This is what I think is the most revealing part of this whole process. I could go through 100 examples, but I am only going to go through a couple.

One of the things that happened when the bill got to Congress was that, as normally happens in these situations, everybody wanted some of the money. So we start dozens of new agencies. We have programs for community action. Nobody knows what they are. We set up international programs. We have programs to buy out vending machine owners. We have programs to subsidize tobacco farmers.

But we don't just have programs, we have spending programs that are completely out of any realm of reason and responsibility. A perfect example of it is the tobacco program. It was perfectly reasonable that those who represent tobacco States, when we were getting ready to collect a lot of money from the tobacco companies, would want some of it. You would think in going about trying to get some of it that we would have ended up with a figure that would be somewhat similar to the transition payments we paid in the legislation we call freedom to farm.

Under the Freedom to Farm bill we, in essence, provide transition payments to wheat producers, corn producers, grain sorghum producers, barley producers, oat producers, upland cotton producers and rice producers within a 7-year period. You might have thought that what we would have done was set up a program for tobacco similar to those other programs. Such a proposal might not have been an unreasonable addition to this bill. But reason has nothing to do with this bill, because since we could, in essence, act as if the tobacco companies were paying these costs when, in fact, the consumer was paying the cost, the sky was the limit in terms of the amount of money spent.

Let me tell you what we have done in tobacco. We have two proposals now before us. We are going to be asked to choose between one of the two on the floor of the Senate. The Ford proposal costs \$28.5 billion. The Lugar proposal costs \$18 billion. The Ford proposal will pay tobacco producers \$21,351.35 per acre. It will also continue the tobacco program. Nobody will have to stop growing tobacco. No one will have to give up their land, but we will give them a payment of \$21,351.35 an acre.

The Lugar bill will make a similar payment while ending the tobacco program at \$22,297 an acre.

Who knows what a billion dollars is, but let me put it in English. That is almost 20 times the amount we pay every other commodity combined to end their program. We have before us a bill that will pay tobacco brokers 20 times more than we paid, on a per-acre basis, wheat growers, corn growers, grain sorghum growers, barley growers, oat growers, upland cotton growers and rice growers combined—nearly 20 times as much per acre as we paid all those programs combined.

Let me explain a little bit about the program. In 1938, we set up this program. It was aimed to do one thing and that was to raise the income level of tobacco farmers. We set out a quota system where you can't grow tobacco unless you have a quota. What happened almost immediately is people with quotas in many cases quit growing tobacco and they rented their quota to other people so that now 63 percent of the people who own the quotas don't even grow tobacco. What we are going to do under these two proposals is pay them roughly \$20,000 an acre, and allow them to continue to grow tobacco and keep the acreage.

Madam President, 1997 is the last figure I have, but in 1997, you could have bought the quota to grow an acre of tobacco for \$3,564. I ask the following question, and it can't be answered: If I could go out today and buy a quota to produce an acre of tobacco for \$3,564, why in the world would the Government want to pay me six times that amount in this tobacco bill, six times the amount that I just paid yesterday for the quota? They are going to pay me six times that amount of money, and I can go right on producing tobacco. How could such a provision possibly get into a bill about which Members of the Senate would not blush? How can we let a person go out today and buy a quota to produce an acre of tobacco and sell it to the Government next month for six times what they paid for it and still grow tobacco and not give up the land? Whoever heard of paying people \$20,000 an acre because we are going to pass a tobacco bill, but they can go right on growing tobacco, or six times what you can buy the right to grow it for? How did it happen?

It happened because of the feeding frenzy of spending money that was coming from tobacco consumers, basically blue-collar workers—59.1 percent of them earning below \$30,000 a year. By making it look like the tobacco companies were paying the bill, we could, in essence, pay people \$20,000 an acre who are growing tobacco and let them keep on growing. There is no logic to that happening, except that this has become a giant piggy bank, or as a candidate for comptroller in my State has said about the tobacco settlement in Texas, "We won the lottery." This is the kind of consumption people do when they win the lottery.

We have had an extensive debate on this subject, but those who have studied the settlement in Texas have concluded that lawyers in Texas will make about \$100,000 an hour under that bill—\$100,000 an hour. Why would we have a bill that allows that to happen? Can you imagine if we were appropriating the money to hire lawyers to do work for the Government, allowing a situation where attorneys' fees could range between \$88,000 and \$100,000 an hour? Can anybody imagine that happening? How did it happen in this bill? How could it have happened?

What happened is the attorneys general came to us and said, "Look, we

have these settlements that have gotten out of control, and people aren't going to be able to collect money because the judgments cumulatively are going to be so big that they are going to drive the tobacco companies out of business, and we're not going to be able to collect our money. Congress needs to do something about it."

So what did Congress do about it? Congress doubled the amount of money that we are taking and, in the process, set off a spending spree the likes of which we have not seen since Lyndon Johnson became President. There has been no period of time in American history since the first year of Lyndon Johnson's Presidency where we will have an explosion of new programs and new discretionary spending.

Many of these programs have absolutely nothing to do with smoking, and the list goes on and on from child care to international programs to you name it.

How did asbestos settlement get into this bill? How did we end up with billions of dollars going to asbestos settlements in this bill? Where did that come from? How did that happen?

My guess is that there was this lottery that we won, and so somebody said, "Well, look, you have all this money, why don't we give some of it to people who have asbestos-induced health problems." And they then said, "Well, many people were around asbestos in World War II. Since most people in World War II smoked, they were around asbestos, why don't we take money out of this and give it to them?"

Here is my point. How do we get back to something that would be reasonable and, quite frankly, try to figure out how we might put together something that would actually achieve what we want?

I wanted to share with my colleagues why I despair, why it is going to be very difficult to fix this bill. Let us say we decided we were going to go back to the tobacco farmers issue, and we said, "OK, now look, we want to be generous. We'll pay tobacco farmers the cumulative amount that we paid every other farmer per acre combined." And that would be \$1,496 per acre. We will give them that amount of money because they might be affected by this tobacco bill. We do not know they will be because we do not know for certain what else will happen, whether demand will go down or not. Other things being the same, it should.

So you might say, "Well, look, why don't we offer them the amount we pay every other crop combined?" Well, how can our colleagues from tobacco States—when they have been debating giving people \$20,000 an acre or \$21,000 an acre—how can they go back and say, "We're actually only going to get one-twentieth of that amount"?

They can't go back, because once you let the feeding frenzy start, and once you get expectations built up—anyone who went to tobacco farmers a year

ago and said, "I, as your Senator, have arranged for you to get the amount of money equal to the per-acre payment of all the other seven major crops combined," you would have gotten a standing ovation. But today, when we are talking about paying 20 times that amount, you would get stoned. So we are not going to be able to break that impasse as long as people believe this bloated bill is at all possible.

How are you going to go back to people who have suffered from asbestos poisoning and say, "We're not going to give you anything"? The bill never had anything to do with them, but nevertheless, now there is a big constituency there.

We contemplated in the bill that we would set some limits on attorneys' fees. We are going to have a vote on \$1,000 an hour. That is not a minuscule amount. But even if we could be successful on that—and I am not sure we could—you have expectations so high that I do not know how you ultimately put this together.

Let me tell you what I think the final solution would look like if you could get there. You have to throw all of these add-on spending programs overboard. They never should have been here to begin with. This is an obscene feeding frenzy. All of these X, Y, Z bureaucracies, all of these community action programs, all of these international smoking alliances, all of these payments for other purposes—all that has to go.

Secondly, if we are going to raise prices, and we are not going to beat blue-collar workers into pulp economically, some of the money that comes in has to be given back to them in other taxes where we discourage them from smoking but we do not impoverish the people who are addicted to cigarettes and either will not be able to quit or at least will take an extended time to quit.

Senator DOMENICI and I fund in our bill, through Medicaid, Medicare, and through tax deductibility, smoking cessation programs. Those are the kinds of things it seems to me that we ought to be focusing on here. But a bill is going to have to be back within the range that we could ever hope to collect.

Secondly, we are going to have to be aware of the fact—and I heard my colleague talking about black markets, but, you know, the Canadians raised the price of cigarettes by about the price increase we are talking about. They have highly educated people. They have law enforcement. But what happened is, after their experiment had failed, the Health Minister, Diane Marleau, said the following: "The government decision to cut taxes would actually reduce consumption among youngsters because it will end the smuggling trade and force children to rely on regular stores for cigarettes where they are forbidden to buy them until they are 19."

Maybe we are so much smarter than the Canadians that we will be able to

prevent black market activity. Smuggling among the Canadian provinces is still a problem. The British have 50 percent of their market for cigarettes now in the black market.

We have been independent of Britain for over 200 years and maybe we now are so smart that we can solve the problem. But I would just like to point out to my colleagues that maybe we are that smart but that our friends and our kin folks—if you go back a few generations in places like Britain and Spain and Italy, Eastern Europe—they are all plagued with the massive black marketing of cigarettes.

So if there is a solution to this problem, it seems to me that the solution lies in the following: That, No. 1, we have to throw all this feeding frenzy overboard. We have to cut back the reimbursement for tobacco farmers and to lawyers to reasonable levels; we have to throw out all of this extraneous material where we are spending hundreds of billions of dollars on programs that have nothing to do with smoking; we have to raise the price of tobacco and give the money basically to two things—smokers' cessation programs and attendant health-related matters, such as the health provisions that Senator DOMENICI and I have proposed where Medicaid and Medicare will be able to fund smokers' cessation programs and where taxpayers can get a tax credit if they participate in the programs designed to try to help people break their addiction.

Mr. KERRY. Will my colleague yield?

Mr. GRAMM. But beyond those modest programs, we have to give the money back if our purpose is not to impoverish people but in turn to get them to quit smoking.

It is not clear to me how we are going to get everybody—from lawyers to tobacco farmers to asbestos beneficiaries to whoever these thousands, hundreds of thousands of people who hope to man these agencies for massive community action, for these world organizations, and all the people who hope that this could be the winning of the lottery for everything from child care to you name it—how do we get everybody to back off those things so that we might really have a bill here to do something about reducing teen smoking?

We often, it seems to me, overstate our ability to really make people do things or get them to do things. But I simply despair at figuring out how we are going to get a bill that is focused on smoking, that discourages smoking but at the same time does not impoverish blue-collar workers, and that does not set off a massive wave of hundreds of billions of dollars of new spending. If we could do that, and combine it with an effort to do something about illegal drug use, along with illegal cigarette use by children, then I think we would have served the public well. But I am not sure how we do it.

There is a lot of dead weight in this bill that has to be gotten out. I hope

that as we go through the debate that reason and responsibility will prevail on everything from the tobacco farmers to the lawyers' fees to asbestos, to all of these X, Y, Z bureaucracies.

But today, in my State, the people that have any awareness of this issue basically have concluded two things: that, No. 1, we are probably not going to get children not to smoke by raising this tax and that, No. 2, the tax is about revenue to fund a whole bunch of new Government programs, that the tax is not about getting people not to smoke.

If we are going to convince people—I have always found that telling the truth does not always convince people, but it is easier when you tell them the truth. And if this is really not about money, then let us not create all these spending programs that are not directly related to smokers' cessation, let us take the money, the tax, and give it back to the workers by cutting their taxes, let us throw all this subsidiary stuff overboard and write a real bill. If we don't do that, I don't see how in the end we will convince people that raising taxes by \$700 billion and creating literally dozens and dozens of new programs that have virtually nothing to do with smoking—I don't see how we convince people that we are doing anything other than the old-fashioned tax and spend.

But we have found a new wrinkle, and the new wrinkle is to find an industry that deserves vilification, vilify them, then tax their victims, and then tax and spend. If that is not our objective, then we are going to have to change this bill dramatically to actually achieve the goals we sought.

I have covered a lot of things here. I thought about this a lot over the recess, trying to figure out how we could get from where we are to having a real bill. I have concluded that it is going to be hard, very difficult, because when you have convinced all these special interest groups that we are going to give them \$700 billion, and you start taking the money back—because, in reality, we can't impose a tax that big—people are going to be disappointed and you are going to have problems.

Now, the Senator from Massachusetts wanted me to yield. I know it has been a long time; that is part of the problem with our procedure. I am happy to yield for a minute. Then I have to go back over to the Medicare Commission.

Mr. KERRY. I thank the Senator from Texas. I just had a couple of questions, one that came up momentarily, that I wanted to understand.

The Senator suggested three ways we could solve the whole problem, and they were: "Throwing the feeding frenzy overboard;" throwing out the "extraneous programs;" and, third, to raise the price of tobacco.

I just wanted to ask the Senator, first of all, how he intends to raise the price of tobacco.

Mr. GRAMM. What I was saying was, if we believe that by raising the price

of tobacco we can discourage consumption—and, being a person who used to be an economist, I believe that demand curves are downward sloping—and other things being the same, that we could produce some results there.

What I am saying is that I think we might put together a bill that raises the price of tobacco products either with a hidden excise tax or one out front. But where I disagree is, since almost 60 percent of the people paying the tax make less than \$30,000 a year, rather than using this as a piggy bank to fund massive new programs, I think we need to raise the price of tobacco as part of a coordinated effort, and I would like to include an antidrug effort with it, but I would like to give most of the money we raise back to low-income people so that we don't end up punishing the victims, which is what I see happening.

Mr. KERRY. Let me come back to the Senator again. I understand where he wants to put the money, but he didn't answer my question. I ask him again to answer the question, How does he propose to raise the price of tobacco?

Mr. GRAMM. I just said it may well be that in some compromise I can support the method in your bill. It is not so much the tax that I object to; it is what we are doing with the money and what the tax is doing to moderate-income people.

If we take your revenue figure and we throw out all these spending programs and we give the bulk of the money back to moderate-income people, for example, by repealing the marriage penalty for moderate-income Americans, make health insurance tax deductible for moderate-income Americans and make that subject to the earned-income tax credit, so that we are raising the price of tobacco but we are not brutalizing moderate-income people, blue-collar people, economically, it may be that you can get more people to support that.

Mr. KERRY. Madam President, I ask the Senator further, having acknowledged, then, that to raise the price of tobacco you basically wind up essentially where we are in this legislation, or somewhere near it, because any time you raise the price of tobacco—and, being an economist, the Senator from Texas, I know, will agree—there is no way a tobacco company is simply going to absorb that price, they are going to pass it on. Ultimately, whatever raising of the price of tobacco takes place will be passed on to the tobacco consumer in one form or another. I know the Senator would agree with that.

Mr. GRAMM. If I could reclaim my time, I don't necessarily agree with that.

First of all, we could impose a windfall profits tax on tobacco companies. We could make tobacco companies pay part of the tax. But the important thing is that—I would like to just try speaking like an economist for just a minute—I am perfectly willing to raise

the relative price of cigarettes; that is not what I object to. What I object to is that 3½ million people in my State, 60 percent of them making less than \$30,000 a year, those who are really addicted, who are really the victims, are going to pay \$1,015 a year in new Federal taxes. So if they are making \$30,000 a year, you are taking a 30th of their income in this new tax.

All I am saying is, raise the tax to get them not to smoke, but take the money and cut other taxes they pay so you don't impoverish them. That is what I am saying.

Mr. KERRY. I hear the Senator from Texas, but if that were true, then he would come to the floor with an amendment that would somehow give the rebate to the actual smoker. By coming to the floor with a marriage penalty tax that costs some \$52 billion, he is actually going to take all these people out there, whatever income level they may be at, who happen to pay this, into the upper-income levels. They will wind up getting the benefit for the marriage penalty, and you aren't solving the problem that he is here on the floor complaining about.

Mr. GRAMM. Reclaiming my time—and then I will yield the floor—my amendment is targeted to moderate-income families. No family making more than \$50,000 would get a penny of benefits out of it. My amendment would eliminate the marriage penalty where moderate-income Americans who fall in love and get married wouldn't pay the Government \$1,400 a year for the privilege. My wife is worth \$1,400 a year, but I think she ought to get the money, and not the Government.

I am not apologizing for that proposal. I want to get a vote on it at some point. I would like to follow it with another one that would say moderate-income people get the same tax treatment when buying health insurance as General Motors does by being able to deduct the cost of their health insurance premiums from their taxable income.

What I am saying is, I could support a bill that gave the money back through these kinds of tax cuts and kept just enough money to fund our smoking cessation and whatever we did on drug prevention for teenagers. I could support a bill like that. But what I can't support is a \$700 billion tax increase that pays tobacco farmers \$21,000 an acre and allows them to go on growing tobacco; that gives money to people for problems that have nothing to do with smoking and that creates all kinds of new agencies.

I hear my colleague say over and over again, "This is not about taxes. This is not about money. We don't want the money." But all I know is, I have an amendment that is pending that gives some of the money back to working families, the very people who smoke in the highest proportions, and yet I can't get a vote on it because my colleagues have covered it up with other amendments.

Now we will get a vote at some point, so I think really what I was trying to do today, for those who are for this bill and want to see something passed—and I will conclude on this—I was simply trying to point out how we might find a middle ground here. I don't object to making tobacco products more expensive. But I do object to impoverishing 3.5 million Texans. I do object to taking money we are taking from people, 60 percent of whom make less than \$30,000 a year. I do object to taking that money and spending it on programs that make people millionaires many times over, that pay people \$88,000 to \$100,000 an hour for legal services, that pay tobacco farmers \$21,000 an acre and they can keep right on growing tobacco and that create all of these Government programs and nobody knows what they do. Nobody knows what this big community action program does, other than put a lot of political activists on the payroll.

So if the goal is to stop people from smoking, and we can do it by raising tobacco prices, I would like us to be sure we don't start a big black market and have it so that some hood is running around saying to our children, "Do you want to buy a cigarette, or some dope?" or whatever. I don't want that to happen. Within those constraints, I could support higher prices for tobacco if you gave the money back to blue-collar workers in tax cuts and if you didn't spend it on all these other programs.

But in the end, I am fearful that we will not reach a general consensus, because I am afraid that along the way, with the best intentions, this bill has become a tax and spend bill. I don't know how we get away from it. I don't know how we now go to all of these groups that hope to get tens of billions of dollars from this bill and say, well, you know, it was in that original bill, but we could not get that bill passed, and we have had to throw it in the trash can where it belongs, and we have to start over, and now we are not going to have a big community action program, we are not going to have a big international program, we are not going to pay money to people who have asbestos poisoning, we are not going to pay for child care; we are going to focus on smoking, raising the relative price of tobacco, and then we are going to give the money back to the blue-collar workers who are going to bear the burden, because we are not taxing tobacco companies, we are taxing blue-collar workers who smoke.

That is what I hope we can do, but I am not optimistic that we are going to, because this thing has taken on a life of its own as the largest taxing and spending bill of my political career.

I am afraid that the only alternative we are going to have is to defeat this bill. Hopefully, if it is defeated, we can come back and try to do it right, and maybe at some point we can do that in the first place. But having spent the recess thinking about it, I wanted to sim-

ply come over and outline what I, as one Member, saw as a potential compromise—raise the price, keep a little of the money for smoking cessation, and spend some of the money on drug enforcement. As long as we are trying to keep the children from smoking, we should try to get them away from drugs. We can give the rest back in tax cuts, so nobody can say you are taxing and spending, you are just raising the price of tobacco. Maybe we can make that happen, but I don't see any motion in that direction.

I yield the floor.

Mr. KERRY. Madam President, I know the Senator from Texas needs to leave the floor. Not all my comments will be directed to him, but I ask him this. He asked a question at the outset of his comments. The question he asked was, sort of: I don't know why we are raising all this money; why is there a raising of the tax? Now he has come to a point where he has agreed he is willing to raise the tax. But there is one very simple, straightforward reason. It is not in order to raise the money. The money is raised because it is a consequence of taking an action that is deemed imperative by most people who have been involved in trying to get kids to reduce smoking. I simply say this to my friend from Texas. Let me read him a quote:

It is clear that price has a pronounced effect on the smoking prevalence of teenagers and that the goals of reducing youth smoking and balancing the budget would both be served by increasing the Federal excise tax on cigarettes.

That is a Philip Morris document from 1981.

Mr. GRAMM. Will the Senator yield for one question, since I yielded to him four times?

Mr. KERRY. I will in a minute. A key finding is that:

Younger adult males are highly sensitive to price. This suggests that the steep rise in prices expected in the coming months could threaten the long-term vitality of the industry by drying up the supply of new, younger adult smokers entering the market.

That is from an R.J. Reynolds document. The smoking industry—the tobacco sellers—are saying don't raise the price because it will reduce the young kids that we can get addicted to cigarettes. That is the reason we are here raising the price. The Senator can say he doesn't want to vote to stop young kids from smoking.

Mr. GRAMM. Now wait a minute. Will the Senator yield?

Mr. KERRY. I will yield for a question in a moment. I want to point out something else to the Senator. He spent a lot of time out here saying, "I am willing to support a drug program and to support an opportunity for kids to be able to be part of smoker cessation programs." Well, that is precisely what this money goes to do, Madam President; that is precisely what it does. It goes to public health, it goes to research into addiction, it goes to State money, and the Senator

ought to love this. We are giving the money back to the States and saying, "You can do what you want with this amount of money in the following areas." And every single one of those areas is to prevent kids from smoking. There are safe and drug-free schools. There is a drug plan. There is a safe school plan. There is child care, child welfare, and children's health maternal block grants. There is the professional training of teachers to be able to help kids to understand why they should not smoke. Every single one of those is a cessation program; it is a drug program. It is precisely what the Senator from Texas is saying.

So the Senator from Texas can come here filled with all of the traditions of rhetoric and say this is "tax and spend," et cetera, but the fundamental purpose is to raise the price, just as the tobacco companies feared and said, "We know it will cut down on teenage smoking," and to take the money that comes from raising the price and put it into cessation programs, put it into programs for safe and drug-free schools.

That is the program. That is what is on the floor of the Senate. It is done in a responsible way that does not tie up the States in a host of Washington bureaucracy and Washington mandates. It allows the States to choose to do what they think works best.

Let me just share with my colleague a final thing, and then I will yield for a question. Here is a report that says that the California and Massachusetts programs, both large-scale community-based components, have been effective in reducing tobacco use. For example, 3 years after Massachusetts began its public education and tobacco control campaign, an independent evaluation found that tobacco consumption in Massachusetts declined at a rate three times that of the rate for the rest of the Nation. So we are talking about programs that work, that are demonstrable.

Experts—far more expert than the Senator from Texas or I—have all suggested that you have to raise the price of a pack of cigarettes and you have to put these programs in place. In fact, Dr. Koop and Dr. Kessler suggested that we raise the price \$2. The Senate voted that it was unwilling to even raise the price \$1.50. So we are stuck at \$1.10. It seems to me what we are offering is precisely the kind of reasonableness the Senator articulated.

I will agree with the Senator that there is a fight here over the issue of the farmers and how that ought to be approached. The Senate, I am confident, in the next week has a chance to work its will intelligently and try to find a common ground there. But I think our colleagues on the other side of the aisle should stop coming here and condemning the bill as a whole. I suggest that we are really talking the same language fundamentally. Unless we are out here trying to find some way to stop it—I am against the marriage penalty. I would like to vote to

eliminate the marriage penalty. Most of my colleagues on this side want to eliminate the marriage penalty. Nobody feels, at this point in time, that the marriage penalty is sensible public policy. It is bad tax policy, bad social policy, bad moral policy. But the question is, Is this the place to do it? Is the formulation of the Senator from Texas the formulation that is going to fairly distribute the income that you take from raising money on cigarettes, which you ought to be putting into the cessation and drug programs the Senator has talked about?

So the fight here ought to be understood for what it is. If we are really going to try to get rid of the marriage penalty, there are a host of opportunities in the budgeting process to do that fairly. This is not the place to do it. I will vote to get rid of the marriage penalty in the right manner and in the right place. But I think the Senator may indeed have some other motive here than passing the tobacco bill, because this is not the place to take \$52 billion of \$60 billion and say we are still going to have meaningful cessation programs and meaningful research and meaningful efforts to reduce teenage smoking.

I yield for the question without yielding my right to the floor.

Mr. GRAMM. A point of information. My amendment, as it is now drafted and pending before the Senate, would take about half the money and give it back. So in terms of the numbers, those are the circumstances.

Here is where we differ. I would agree that we can have an impact on smoking by raising prices. But what I don't agree on is that we ought to take \$700 billion, basically from Americans who make \$30,000 or less, and set out on a massive spending spree. So I am saying if you want to raise the price of cigarettes, why don't you support an effort to give at least half of the money back to the people from the same income group, rather than setting out programs to pay tobacco farmers \$21,000 an acre or plaintiff attorneys \$100,000 an hour, or starting massive new programs that have virtually nothing to do with smoking. I think that is where we differ. I think until we come to an agreement there that we are not going to have a resolution.

Mr. KERRY. Madam President, again I will reclaim my right, and I will answer the Senator. He keeps coming back with this notion that what we are spending the money on again has nothing to do with the purpose of stopping kids from smoking, even after I have just particularly cited two States that are engaged in those very efforts. When you look at the legislation and read it, here is what they go to. They go to State and community-based prevention efforts. They go to counteradvertising, which is specifically targeted to stop kids from smoking. They go to cessation programs, specifically targeted to stop kids from smoking, and they go to research on youth smoking.

That is it. That is all. The Senator from Texas comes and says—

Mr. GRAMM. What about the tobacco farmers?

Mr. KERRY. The tobacco farmers are a component of the Federal expenditure.

But, Madam President, let me answer the Senator. The fact is that because a lot of tobacco farmers are going to be injured here, just as we have helped fishermen in New England, just as we have helped people in the Midwest in the wheat or other crops such as soybeans, just as we have helped people who have been impacted negatively by a decision beyond their control, the Government is coming in and saying what you have been doing for your livelihood for years we have discovered merits our taking action that is going to impact your livelihood. Maybe the Senator from Texas thinks it is OK to abandon a lot of farmers and let them go down the drain. I don't think that is the American way. I think most of us in the U.S. Senate believe if the Government is going to make some kind of decision that actively impacts people's lives as significantly as this could conceivably, then we have an obligation to try to help those people transition into a new livelihood, or into a place of safety and economic security. To do less than that would, indeed, be irresponsible.

If the Senator thinks that is a big spending program or some kind of bad giveaway, then let him vote that way. I think the majority of people in the U.S. Senate are going to vote for some kind of a responsible measure to assist the farmers. I think that is an appropriate thing to do for an appropriate period of time. The question is how much, and what is the appropriate period of time?

So there is a difference of opinion here. But let us not forget that for years the tobacco industry has been fighting this legislation. For years the tobacco industry fought anything anywhere. It took the attorneys general of this country from 44 States to be willing to go to court to put us in the position to be able to even contemplate some kind of comprehensive settlement. That is where we are, finally—contemplating it—because we have learned that even the tobacco companies 20 years ago or 18 years ago understood that raising the price of cigarettes would impact their sales. They were unwilling to do that. So they would fight it. They have fought every step of the way.

It is time for the U.S. Senate to come together to have the votes, cast the votes that are important, come to closure on this, and decide we are going to pass a bill. Let the majority will of the Senate work its way and move forward.

I will just add not just the tobacco companies are those who believe we should be raising this price. We ought to stop debating this issue of price. We really ought to stop debating it. The issue here is not whether or not we

ought to be doing that, because there is no evidence to the contrary. The economist Senator from Texas has accepted the notion. "I am willing to accept the price," he says. So the fight is over what we are going to do with it. That is a fight worth having.

I believe when we have that fight the Senate will resolve that it is important to keep our focus on what this bill is doing. If we are raising the price, we are doing it for one principal reason, because that will reduce kids from smoking. That is the purpose of this bill. We shouldn't be diverting that purpose to relieve the marriage penalty, worthy as that is, at least to the tune of almost half of the revenue that comes in. We ought to be guaranteeing that that revenue is adequately spent on the cessation programs, the counseling programs, the teaching development programs necessary to help teachers be able to teach the peer group and other kinds of things necessary to lead kids to make wise decisions.

We need to be able to guarantee that there is counteradvertising. We need to be able to guarantee that there is research into addiction in order to help us understand better how we are going to end this terrible scourge for a whole bunch of adults who are stuck smoking—40 to 50 million Americans who are addicted and who are going to go out and buy no matter what. We ought to be trying to help them, too.

The choice for the Senate is whether we are going to take this revenue that reduces smoking and help these folks to be able to make the choices that are a matter of good health and good public policy. That is what this debate is about.

I know there are other colleagues here who wish to speak. I yield the floor at this time.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Madam President, I thank my friend and colleague from Massachusetts for initiating these responses to our colleague and friend from Texas giving the strong emphasis in terms of the real make-up of this legislation, because he, like I, believes the single purpose of this legislation should be to halt the young people in this country from starting smoking, and then also to do it by the best means that are available to us from a public health point of view; that as a result of a good deal of practical study, we know there are some measures that are effective and will work. We have seen the inclusion of those measures in the legislation. Some, I believe, should be strengthened. But the Senate has made a judgment on this. That was in the earlier debate about the increase in price to bring it up to the recommendations which have been made by our friends and colleagues in the public health community that universally, based upon their experience, believe that we should raise the price to \$1.50 a

pack and to do that in a more dramatic way than was included in the legislation that is before us; then also to have the effective programs in counter-advertising and the cessation programs; and strengthen the Food and Drug Administration with the help and assistance to programming in schools and local communities and many programs which have been touched on this afternoon included in the legislation.

One of the ways that we have is a very important opportunity to also strengthen the general thrust of this legislation and make it more relevant to the reduction of teenage smoking is to provide the disincentives to the major tobacco companies for advertising and targeting the children in this country.

I am always interested in listening to my friend and colleague from Texas crying crocodile tears for working families. We will have an opportunity to address those needs of working families as we have in the past in terms of their income, in terms of their health care, in terms of their safety on the job, and in a variety of terms for families with numbers of children, which he has always unfortunately voted in opposition to.

But nonetheless part of the whole tragedy that we as a nation have experienced has been the viciousness of the tobacco industry in targeting the children of working families and of the neediest families in this country and those have been primarily the children of the minorities and working families in this country.

All we have to do is look again at what has happened in the past years and see what the results of that targeting of more than \$5 billion a year have been on the teenagers in this country. We find out the actual explosion in the use of tobacco by those who are black and non-Hispanic was some 80 percent over the period of the last 6 years, 34 percent by Hispanic, 28 percent by white and non-Hispanic, a general rise of some 32 percent. And that has been primarily the children of working families.

To suggest out on the floor of the Senate that somehow the primary concern of these workers is going to be the cost of the pack of cigarettes over the interest of having their children stop smoking I think is a real failure to understand what is happening out among working families in this country. To think that they are more concerned about the increase in the cost than they are about making sure that their children are not going to get cancer in the community or that they are going to be free from these absolutely devastating health impacts which, by starting smoking at an early age or any age, are going to occur I think really fails to consider what is happening out among working families in this country and also what this legislation is attempting to do.

I want to speak just briefly this afternoon on the Durbin-DeWine provi-

sion because I do think it has a very important impact in terms of discouraging the major tobacco companies from the targeting of children. Once again, we are primarily concerned with the targeting of children—the significant and dramatic increase in costs which discourage children, the preventive programs that are included in this legislation devised to discourage children, and to help and assist those children who develop the addiction to free themselves from that addiction, resources available to help communities to free themselves from this targeting of children. And now this very important and significant amendment that is before the Senate, which it will hopefully adopt, that reflects a bipartisan approach, I think is one of the major kinds of improvements and strengthening amendments that can be achieved.

Now, Madam President, the amendment which is before the Senate will assess increased sums for noncompliance with the youth reduction smoking targets. In addition, the emphasis will be shifted from the industry-wide assessments to the company-by-company assessments in order to more effectively deter the individual tobacco companies from marketing their products to children.

For years, big tobacco has appealed to children through its advertising and promotional campaigns. Before tobacco advertising was banned from television in 1970, cigarette advertising included cartoon characters Fred Flintstone and Barney Rubble promoting Winston cigarettes from their Bedrock neighborhood.

So the tobacco companies have been targeting kids as young as 12, because they know once the children are hooked on cigarettes, they become customers for life. Prior to the introduction of the Joe Camel advertising campaign, fewer than one-half of 1 percent of youth smokers chose Camel. After a few years of intensive Joe Camel advertising, the Camel share of the youth market rose to 33 percent.

The tobacco company pricing decisions also have a dramatic impact on the level of youth smoking. When Philip Morris made a decision to dramatically cut the prices of Marlboro Friday and other companies followed its lead, the industry precipitated a substantial increase in youth smoking. The historical record is irrefutable. The tobacco industry, through its marketing and pricing decisions, has an enormous impact on the level of youth smoking.

Madam President, we see in this chart exactly what happened with Marlboro Friday. This chart, as we have seen in the course of the debate, is so compelling, so convincing, so overwhelming in its conclusion that as the price of cigarettes goes up, teenage smoking has gone down. The dramatic increase in the price in the 1980s we demonstrated last week to show the sharp decline in youth smoking. And then we presented what we call Marlboro Friday, where we showed the sig-

nificant reduction in the real price and then the dramatic spike up in the consumption of youth smoking that we have seen over the period of time.

The fact is that as they have maintained their price, this number of young people going up to 32, 33 percent a year is reflected with the dramatic increase in advertising. Take price and advertising, and you can tell the story in terms of teenage smoking. And so we know advertising is a key element in this whole debate as well. Price is a key element in this debate.

The Senate has gone on record now that it is holding at the \$1.10 price. I still believe that a significant increase in price would have a much more dramatic effect. The public health community believes that as well. The Senate has made that decision on price. But we have now the opportunity to make a decision on another feature of youth smoking, and that is on the degree of advertising that the tobacco industry is going to involve itself in in order to continue to hook children in this country. And that is what this amendment is really all about. It is going to say to the tobacco industry: All right, we are passing this legislation. If you are going to continue to rifle-shot children, if you are going to continue to rifle-shot the children of working families, of minorities, and they are going to exceed a certain standard, you are going to end up paying an additional penalty for that. If you are going to make the effort, that you have stated that you will make, to try not to target children in this country, then you will not have the additional penalty.

That is really what this amendment is all about. What the amendment from Senator DURBIN and Senator DEWINE does is to make sure there is going to be compliance. I think all of us understand that a right around here is not very effective unless you are going to have an enforcement mechanism for that right.

What we are basically saying is, if the tobacco industry is going to live up to its commitment and not target children, all fine and well; but if they are not, they are going to find a penalty. It is as simple as that. If they are going to stand by their word, they have nothing to fear from this amendment.

Given what we have heard from our good friend from Texas, it is going to be interesting to see how he will vote on this amendment. I wish he had had an opportunity to address it a bit this afternoon and indicated support, because I think it would help to establish a good deal of credibility to the other aspects of his argument.

So, Madam President, as we have seen, in fact, 90 percent of current adult smokers began to smoke before they reached the age of 18. If young men and women reach that age without beginning to smoke, it is very unlikely they will ever take up the habit in later years. And so the industry has conducted its advertising accordingly. For at least a generation, big tobacco

has targeted children with billions of dollars in advertising and promotional giveaways that promise popularity, maturity, and success for those who begin this deadly habit.

In fact, the Centers for Disease Control and Prevention have found that the average 14-year-old is exposed to \$20 billion in tobacco advertising—\$20 billion—at the age of 6—beginning at the age of 6. We wonder why children as young as 12 years old, 14 years old, 16 years old—62 percent of those who have started by the time they are 16 years old have been subject to these billions of dollars of advertising, starting at the age of 6.

We are saying now, OK, if you are not going to target the children, you have nothing to worry about. But if you are and your brands are going to be accepted and taken and paid for, even with this increase, you are going to pay a price at the back end. That sounds pretty fair to me. It is just holding them at their word.

It is no coincidence that the three most heavily advertised brands are preferred by 80 percent of children: Marlboro, Camel and Newport—the three most heavily advertised, the three most heavily used. So, once again, we know what is going to happen, I believe, unless we have the Durbin-DeWine amendment.

A study published in the February 8, 1998, *Journal of the American Medical Association* also reported a correlation between the cigarette advertising and youth smoking. It analyzed tobacco advertising in 34 popular U.S. magazines and found that as youth readership increased, the likelihood of youth-targeted advertising increased as well. So these weekly—daily surveys that are taking place by the tobacco industry to find out what children are reading in magazines are then sent on back to the advertisers of the major tobacco industry. And, sure enough, up they come with that appealing kind of advertising to hook those children into addiction. That is happening.

That is the issue we are attempting to address in this legislation. We deal with it on some of the restrictions, in terms of advertising, that have been constitutionally upheld in the Baltimore decision, some of the protections that are there, provided under the FDA, but there is an opportunity for us to go far beyond that with this legislation, and that is what we are doing.

Two recently disclosed industry documents reveal that big tobacco has a deliberate strategy to market its products to youth. In a 1981 Philip Morris memo entitled "Young Smokers—Prevalence, Implications, and Related Demographic Trends," the author wrote that:

It is important to know as much as possible about teenage smoking patterns and attitudes. Today's teenager is tomorrow's regular customer, and the overwhelming majority of smokers first begin to smoke while still in their teens. . . .

Because of our high share of the market among the youngest smokers, Philip Morris

will suffer more than other companies from the decline in the number of teenage smokers.

There is the cigarette company looking at the teenager, not as a teenager but as part of the profit in the years ahead, over a lifetime—a shorter life, albeit—but over a lifetime of smoking.

A 1976 R.J. Reynolds Tobacco Company memorandum stated that:

Young people will continue to become smokers at or above the present rates during the projection period. The brands which these beginning smokers accept and use will become the dominant brands in future years. Evidence is now available to indicate that the 14 to 18 year old group is an increasing segment of the smoking population. [RJR-T] must soon establish a successful new brand in this market if our position in the industry is to be maintained over the long-term.

We cannot have it any clearer—that this is the group that is being targeted. We know they have done so. We know that is how they have increased their market. They have indicated they will not do so in the future. We are saying: If you are not going to do so in the future, you have nothing to fear from this amendment. But we are going to recognize what your track record has been over the historic past, and how you have targeted youth, and we are going to say the least you are going to do is to pay an important penalty if you are going to violate your commitment. That is what this Durbin-DeWine amendment will accomplish. It will accomplish that goal much more effectively than the current look-back provisions in the managers' amendment. It will substantially increase the total amount of the surcharges which companies must pay if smoking levels do not decline in accordance with the reduction targets. It also shifts the payment obligations from a predominantly industry-wide system to a predominantly company-specific system. This will dramatically increase the deterrent influence of the look-back on company policy.

In this chart, you see what the relative effect would be with regard to the "real incentives" surcharge in the millions under the current McCain legislation and what would happen with regard to the Durbin-DeWine program. Here we find, with regard to the industry-specific, how much more effective this amendment would be in targeting those who really have abused the system most in the past, and to make sure that is not going to happen, to protect our children in the future.

The current McCain provisions provide for a maximum industry-wide penalty of \$4 billion, or about 20 cents a pack. The company-specific portion is extremely small, amounting to only a few pennies per pack. The Durbin-DeWine amendment provides for substantial company-specific penalties which, in the aggregate, could reach \$5 billion per year if the companies continue to flout the law and blatantly target children. The amendment also provides for an industry-wide surcharge of up to \$2 billion a year.

Through this important amendment we are speaking to the tobacco companies in the only language they understand—money. If they are going to continue to target children, these companies will pay a financial price far in excess of the profits raised from addicting children.

But, if they are willing to cooperate in efforts to prevent teenage smoking, the companies may never have to pay a dollar in look-back surcharges. A strong company-specific look-back, such as the one we are proposing, will give the tobacco companies a powerful financial incentive to use their skill in market manipulation to further rather than undermine the public interest in reducing youth smoking. Each tobacco company must be held accountable for its actions on teenage smoking. The stakes involved are nothing less than the health of the Nation's children. For each percentage point that the tobacco industry misses the target, 55,000 children will begin to smoke. One-third of these children will die prematurely from smoking-induced diseases. We are talking about the difference of hundreds of thousands of children between the two approaches that are before the Senate now—one under the proposed legislation and one under the Durbin-DeWine proposal. This, I believe, is just absolutely an essential amendment that will really strengthen the legislation to carry forward its very sound and important public health provisions to protect America's children.

Finally, I did want to also mention briefly the very substantial provisions, as my friend and colleague, Senator Kerry, pointed out before, with regard to the preventive aspects of this legislation, the very important smoking cessation programs, the prevention programs in school and the prevention programs in communities. We have a number of teenage volunteers in our State, down in New Bedford, MA, and in classrooms around our Commonwealth now, who are going out to various shopping malls to get the owners of the various shopping malls and the various shops to make these shopping malls smoke free. These are young people. These are teenagers who we are asking to participate, to make a difference in their communities, and they are prepared to do so.

Counteradvertising—we have seen, even in a State like our own State of Massachusetts, where the tobacco industry was spending 10 times as much as counteradvertising, still, the counteradvertising, talking about the importance of the health implications and the dangers of smoking, had a very important and significant impact in reducing the incidence of addiction—very, very important.

The medical research into addiction prevention and cure—as someone who sits on the Health Committee, I know the work that is being done, in terms of addiction and substance abuse and also in nicotine. We know—we have been listening—about how we ought to

be concerned about the problems of substance abuse as well. We are concerned about the problems of substance abuse.

There are two gateway drugs and smoking is No. 1. The second one is drinking beer. This is a gateway drug. When I listen to our friends who have indicated opposition to this legislation say this isn't the problem that we ought to be dealing with, substance abuse, if you talk to anyone who has seriously worked on the problems of addiction and substance abuse, they will tell you that nicotine is right out there with any of the other kind of addictions that are afflicting the young children in this country, and we can do something about it.

The various medical research into the tobacco-related diseases, and there are many—emphysema and the whole complexities in terms of the lungs—there are many, we have resources to try and deal with those issues as well.

Madam President, I see my friend and colleague from Ohio on the floor. I pay tribute to him for his leadership on this amendment. I commend him for his work in this area. He has been an important leader in protecting the interests of children in our country and society on many different matters. It is just a pleasure to join with him, and I urge the Senate to accept his wisdom and judgment about public policy on this issue.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. DEWINE. I thank the Chair.

Madam President, first, I thank my colleague from Massachusetts for his very kind comments. I think the charts of the Senator from Massachusetts tell a great story, actually a sad story, but it is a very effective story and really illustrates the need for this bill.

I also thank my other colleague from Massachusetts for his kind words about this amendment a few moments ago.

The amendment that Senator DURBIN and I have offered really will make a few, but very necessary, improvements to the so-called look-back provision of the underlying McCain bill. Let me start my remarks this afternoon by talking a little bit about the look-back concept, and then the specific look-back provisions in the McCain bill, because I think an understanding of the broad concept of look-back is essential to understanding what the McCain bill tries to do in this area, and is also essential to understanding what Senator DURBIN and I are trying to do with our amendment.

Conceptually, the purpose of look-back—whether in the original tobacco settlement, the McCain bill, or in the Durbin-DeWine amendment—is to change the incentives for tobacco companies. Until now, tobacco companies have always had an incentive—potential profits—to convince children to use their products. The look-back approach simply flips this incentive—it turns it around by giving tobacco com-

panies incentives to help reduce the number of minors using their products. This incentive structure, through which tobacco companies will work with us rather than against us in our goal to reduce youth tobacco use, is created by imposing assessments on tobacco companies if they do not meet targets reducing youth tobacco use.

It is simple: If the targets are not met, the companies will have to pay. If the targets are not met to reduce teenage smoking—and these are targets that the tobacco companies all said they could do, all made a commitment to do in the settlement they reached with the attorneys general—if those targets are not made and are not met, then the tobacco companies will have to pay.

Before I get into the specifics of the McCain look-back provision and our amendment, I would like to reiterate what I have said several times on the floor of the Senate before, and that is that the Chairman of the Commerce Committee, Senator MCCAIN, has done a great job in bringing this tobacco bill to the Senate floor against some very, very difficult odds. This is a comprehensive bill. Something like this, frankly, has never been tried before, so I commend my colleague from Arizona for his great work.

This bill includes many different parts, each of which is important if we are really going to reduce youth use of tobacco. The look-back provision that our amendment deals with is an important and integral part of this campaign to reduce youth use, but is only one of several things the bill does, all of which are important, to have a real impact on youth smoking. Again, I congratulate Senator MCCAIN, as well as his colleagues on the Commerce Committee, for facing this difficult issue and meeting it head on with a very sound piece of legislation.

I will now turn to a quick overview of the Durbin-DeWine amendment. Madam President, the Durbin-DeWine amendment will make two changes to the look-back provision in the underlying McCain bill.

First, our amendment will shift the emphasis from an industry-wide look-back to a company-specific look-back. Let me make it very clear, both the McCain bill and the Durbin-DeWine amendment blend the company look-back with the industry-wide look-back. Both are blends. The difference is the Durbin-DeWine amendment puts more emphasis on the responsibility of the individual tobacco company. We follow what I consider to be, frankly, a more conservative point of view, and that is accountability, that the tobacco companies should have to live with the consequences of their actions or even their inactions. That is the conservative way to look at it, but more important than that, it is the right way to look at it.

The second provision of the Durbin-DeWine amendment provides for increasing the McCain bill's targets for

the reduction of youth tobacco use. Yes, by setting a higher target of reduction, the goal is to have fewer kids smoking. But having said that, let me emphasize that our provision effectively takes us back to what the cigarette companies agreed to over a year ago when the cigarette companies and the attorneys general reached this agreement. Our provision takes us back to what the tobacco companies said they could do in June of last year.

I'll repeat that: We are simply increasing these reduction targets to levels the tobacco industry and companies agreed was achievable just last year in the attorneys general agreement.

Let me discuss in more detail these two specific changes in the look-back provision that we are providing in the Durbin-DeWine amendment. I will first start with the company-specific emphasis and how we would require more accountability from the individual tobacco companies.

The first important change that I mentioned our amendment makes is that it shifts the emphasis from an industry-wide look-back to a company-specific look-back. What does this really mean? Let me explain by using an example and by talking about my early concern of last year's settlement which only contained an industry-wide look-back and had no company-specific piece in it.

Under a pure industry-wide look-back, the industry is measured and judged as a whole on how well it does in reducing youth tobacco use. What this does, in effect, is dilute the incentive for each company to do everything it can to make sure children are not using its products.

Why do I say that? Simply because the effects of whatever that company does—positive or negative—is spread across the entire industry. In a sense, this is a form of socialism. Whatever they do, however well they do it, they only get a portion of the credit, and they only get a portion of the blame. The intent is to share—everybody is in this together. You can have one company that does everything it can to reduce teenage smoking, and you can have another company that completely ignores everything and goes about its business to continue to try to hook kids. It doesn't matter; each one is treated equally under a pure industry system. I think that is wrong.

Let me raise a specific case that I brought up a few weeks ago when I talked about this issue on the floor—a case that involves the Philip Morris company, the maker of Marlboro. This company, Philip Morris, through the use of the Marlboro Man and other marketing campaigns, has been extremely successful in selling cigarettes to our young people.

They know what they are doing. They are very, very good at marketing their product. They did such a good job that by 1993—if you can believe this—60 percent of all teen smokers in this country used Marlboro—60 percent. But

in the overall market of all cigarettes sold, the legal market, Marlboro only had 23.5 percent of the market. So 60 percent in illegal sales—60 percent to kids—and only 23.5 percent to legal, adult market. The Marlboro Man and other advertising did a fantastic job, tragically, in hooking young kids.

How would an industry-wide look-back approach affect Philip Morris, the maker of Marlboro? After all, Philip Morris is responsible for a majority of youth smoking, meaning this is the main company the look-back incentives should be aimed at.

Madam President, the industry-wide look-backs in the original settlement and in the McCain bill would allocate the industry-wide assessments to each company based on its adult market share—not its share of the youth market. So if the cigarette industry as a whole misses its reduction targets, under the original settlement reached last year, Philip Morris would only be responsible for 23 percent of the total industry-wide look-back assessment, even though Philip Morris is responsible for 60 percent of all the youth smoking in the country.

So once again, let me ask the question that I have asked previously: What do we think Philip Morris will do under this industry-wide look-back if we had a pure industry-wide look-back provision? Will the look-back succeed in getting Philip Morris to try to reduce the number of children who use its products? I do not think so. For the industry-wide look-back, it is pretty clear to me that the answer is no. Philip Morris will probably not try to reduce youth use of its products at all. Why? Well, it's simple: the incentive is not there. The industry-wide look-back forces other companies to pay for the sins of Philip Morris. Philip Morris is simply smarter to simply ignore the look-back.

So an industry-wide look-back in this case would fail to do what it is supposed to do. In the case of Philip Morris, it would fail to give the proper incentive to the very company with the most responsibility for stopping kids from using its products.

So, Madam President, what can we do to make sure the look-back provision is effective and really gives tobacco companies the right incentives? The answer is simple. We need to hold each company responsible individually for meeting the youth reduction targets, and allow each company to reap the rewards or face the consequences of its own behavior.

Madam President, it is the American way. It is the right way. Let us hold them responsible. Let us hold them accountable. Let us measure their success or their failure.

Right now about 3 million children, it is estimated, smoke Marlboro cigarettes which are made, as I mentioned, by Philip Morris. Instead of focusing a look-back provision on what the industry as a whole does, it is so much more powerful to simply say to Philip Mor-

ris—this is what we ought to say to them—“You have 3 million children who use Marlboro cigarettes—3 million in this country. You need to do everything you can to help us reduce that number. That's your responsibility.”

That is what the look-back provision should hold them to. That is what the Durbin-DeWine amendment says. By focusing on a company-specific rather than industry-wide look-back, we are simply telling each tobacco company that it is responsible for its own behavior. In this way we create a more powerful incentive for each company to help us achieve the ultimate goal of this legislation. Let us never forget that ultimate goal; that is, to reduce youth smoking in this country.

Let me talk, if I could, Madam President, about the second part of our look-back change that we make in the Durbin-DeWine amendment. Part of our amendment, as I mentioned, was to set higher reduction targets for youth smoking than those set in the McCain bill. What this means is that tobacco companies are given an incentive to try to get even more children to stop smoking.

Using the current level of youth smoking as the baseline, the Durbin-DeWine amendment would aim for a 67-percent reduction in youth smoking in ten years. This compares to the 60-percent goal contained in the McCain bill. But this, I think, is the important thing: in real terms what this means is that 450,000 fewer children will smoke if the companies meet the reduction targets in our amendment. Since we know that one-third of smokers die young as a result of their habit, this means that 150,000 fewer children will die early as a result of smoking.

These are real kids. These are real children that we are talking about, and they are quite possibly real deaths. So let me say it again. If tobacco companies meet their reduction targets in our amendment, it will mean 450,000 fewer youth smokers and 150,000 fewer early deaths due to smoking.

What we need to remember is that the reduction targets in our amendment in real terms are actually equal to the targets from last year's settlement. Our amendment has the same targets to which the industry agreed to last year.

To me, Madam President, this is an easy issue and it is an easy decision. In effect, the industry has already agreed that it is possible to prevent almost half a million more kids from smoking than the underlying bill calls for. Let us pass this amendment which stops these kids from ever becoming smokers at all.

Again, I emphasize our amendment merely takes us back in real terms to what the industry, the tobacco companies and the attorneys general, agreed to last June. The 67 percent in our amendment is really equal to the 60 percent they agreed to last June because of the change in the baseline. The raw numbers are the same.

Madam President, I would like to respond for a moment to some of the criticism that we have heard about this amendment. And let me just comment about a few things.

Some Members have come to the floor and have argued that this might be too punitive. Some have said that the potential assessments under this amendment are just too high.

First, I would like to say that my sincere hope is that we never see any assessments under a look-back, because this would mean we will have met our reduction goals for youth smoking. Once again, since the industry, the tobacco industry, has agreed that these reduction goals are achievable, I think it is likely we will never see any assessment under the look-back, at least that is what our goal is.

But this will only be true if we create a strong incentive for each company to meet the reduction targets. This is what our amendment, the Durbin-DeWine amendment does. The company-specific payments in the Durbin-DeWine amendment are higher than the McCain bill. However, the industry-wide payments are lower. When you add the two types of look-backs, company-wide and industry-wide together, you really will not find a huge difference between our amendment and the McCain bill. We have a different blend. We change the emphasis, but overall there isn't a great deal of difference.

Let us take an example. Let us suppose that each and every company misses the reduction target in a given year by 10 percent. If this happens, the combination of industry-wide and company-specific payments in the McCain bill would add up to a total of \$1.8 billion. In the Durbin-DeWine amendment, under those same set of facts, it would add up to \$2.4 billion. There is a difference, but the difference is really not huge.

Madam President, the real difference between our amendment and the McCain bill is not the size of payments, but rather the emphasis. The company-specific focus of the Durbin-DeWine amendment places more incentive on each tobacco company individually to change its behavior and to stop children from using its products.

Madam President, others have argued to address another issue that has been raised, that company-specific look-backs are unfair because the company cannot really control whether kids use its products. Well, we know from experience and seeing what these tobacco companies have done in the past that that simply is not true. There are many things that tobacco companies can do to prevent kids from using their cigarettes. There have been many things that the tobacco companies have done to get kids to use their cigarettes. We know there are many things they can do to stop them as well or reduce it. Those who make that argument aren't giving the tobacco companies enough credit. The most basic

thing tobacco companies can do is make sure its advertising is not appealing to kids.

Now, some of this is already taken care of and addressed in the McCain bill. We do this by placing marketing restrictions on tobacco companies, such as prohibiting the use of cartoon characters or human images. That is in the bill. But advertising is a subtle thing. The tobacco industry has proven a real expert at dealing with this. There is simply no way Congress can specifically prohibit every type of advertising that might appeal to children. We are not that good. We can't write legislation that specific.

The advantage of a company-specific look-back provision is that each company is given the incentive to think about other ways its advertising may be attracting children and then to stop it. But even beyond the issue of advertising, companies can still have an impact on how many kids use their products. For example, they can initiate their own antismoking advertising campaigns or their own education programs that would build on efforts called for elsewhere in this bill. They could do it if they wanted to do it. Again, the buck stops with them under our provision.

A company could also work with retailers to find ways to be absolutely sure that none of its products were being sold to minors. The relationship between retailers and tobacco companies is a very close one. They have used it over the years to build sales. They can certainly use it in the next few years to reduce illegal sales to minors.

So I think those who say that, gee, the tobacco companies can't be held for liability on this, this is all beyond their control, I think that argument is absolutely absurd.

As we can see, companies have any number of ways or tools to make it harder or less likely for children to use their products. We need to make sure they have a strong incentive to put that great genius to work. The only way to place a strong incentive on each company separately is with a strong company-specific look-back penalty like that contained in the Durbin-DeWine amendment.

The choice before the Senate is simple. We have the opportunity when this amendment comes for a vote, the Durbin-DeWine amendment, to vote on an amendment that will prove the basic purpose of this legislation, and that is to reduce youth smoking by holding individual tobacco companies more accountable for failing to reduce youth smoking, and by restoring the original target set by the tobacco companies themselves and agreed to themselves. The Durbin-DeWine amendment will make a real difference in young lives. I, once again, urge my colleagues to join us on behalf of our young people and support the Durbin-DeWine look-back amendment.

Some of my colleagues and friends have come to the floor, and I have

heard legitimate talk about the problem of the illegal use of drugs. That is a major problem. It is a major problem in our country today. It is a major problem with our young people. If we had to tick off two of the major problems we have with our general population, but particularly with our young people, we certainly would include cigarettes and we certainly would include the illegal use of drugs.

As I have listened to some of those debates, and I agree with what they have said and I do not disagree in any way—in fact, I am struck by the similarity between the two issues—cigarettes and drugs. I think as we approach, really for the first time in this Congress, the issue of trying to comprehensively deal with tobacco use, and as we for the first time try to structure a comprehensive program to reduce the number of young people who start smoking cigarettes, who start to use tobacco, that the lessons we have learned as a society over the last few decades in regard to the illegal use of drugs and how we deal with that and how we try to reduce that, I think are very apt. I think we ought to look at that effort in that war.

What have we learned? We have had some success in the war against drugs and we have had an awful lot of failures, as well. We have seen the use go up and we have seen the use go down. There are times in our history where we have driven the use down and at times we have driven the use back up, particularly among our young people. I think we have learned a great deal.

What have we learned that might be applicable to what we are trying to do in regard to cigarettes? A couple of things. One, price. Why do we spend so much time, effort, and money to try to keep drugs from coming into this country? Why do we go to the source countries? Why do we try to help Colombia? Why do we have Coast Guard cutters today off the coast of Haiti to try to interdict drugs? Why are we working in the Bahamas? Why are we working in Mexico? Why are we doing everything we can to try to stop drugs from coming into this country?

The answer is not only do we want to keep drugs out of the hands of anybody who might buy them in this country, but at the same time we are trying to drive up the price of drugs. We know there is a direct relationship between the cost of drugs on the streets of Cleveland, OH, Los Angeles, Cincinnati and the cost on the drug traffickers to get them there; and we know there is an inverse relationship between the price of those drugs and the use of those drugs. So if it is true with illicit drugs, and I think it is true for just about any product, it certainly is true and the statistics have shown us that it can in many cases be true in regard to tobacco, as well.

Now, I happen to think, and I have argued on this floor, that price alone is not enough, driving up the price of tobacco is in and of itself not enough. We

have seen that the studies have been conflicting in regard to the price issue. But I am convinced that price is an important factor.

What else have we learned about a war on drugs in general? We have learned that when we have come forward with very effective antidrug advertising campaigns that are focused in the media, that are focused on radio and television—we know when the genius of Madison Avenue is utilized, we know they can be effective, and they are effective. We know when we focus public attention on the issue that we can make a difference. Advertising does work. Counteradvertising works, as well. Again, another lesson from our war on drugs. We know what works and we know what doesn't.

The same is true with education. We know that when you combine the increase in cost, the price on the street of a drug, you combine that with counteradvertising, you combine that with education sustained year after year after year in school, that it will make a difference. Part of the problem with our anti-education programs that are anti-illicit drugs, we only do them for 1 or 2 years. We might have a 5th or 6th grade DARE program, and then a young person might not get another dose of that until 11th or 12th grade in health class. We know that is a problem. Every study has shown the only way education is effective is starting in kindergarten, preferably before that, and start K through 12, every single year.

This is not rocket science. This is not difficult. It is the same way with tobacco. The lessons we have learned, sometimes the hard way, in regard to how you deal with illicit drugs in this country—sometimes we act like we haven't learned those lessons, but those lessons can be applied in regard to stopping young people from smoking cigarettes.

What we are trying to do in this bill is to take the knowledge that we have and come up with a comprehensive package that will in the long run save tens of thousands of our young children's lives. That is what we are about. So as we debate this bill and we talk about different provisions, whether it is the look-back provision or other provisions, let us keep our eye on the ball. Let us keep our eye on what are the bare facts and what the goal is. The goal is to reduce teenage smoking.

The only way that we can do that is to come up with a comprehensive approach that combines education, antismoking advertising, reduction in advertising aimed at children, good law enforcement, and an increase in price. When you put all of those things together you have a good, good, fighting chance to dramatically reduce teenage smoking in this country, which is what our goal is. That is why I continue to support this legislation and continue to urge my colleagues, no matter what their position is on individual amendments as they come up, to keep our eye

on the ball and keep pushing this bill forward. It is essential that we get it passed. We have a great responsibility to get that job done. I hope we will continue to do it.

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. CHAFEE. 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. CHAFEE. Madam President, I would like to address the question of the National Tobacco Policy and Youth Smoking Reduction Act, S. 1415, this afternoon, which the Senate is resuming consideration of today. This is a very important bill, and I know the occupant of the Chair shares my concerns with this legislation and a concern that it be passed. This seeks to address a serious problem—tobacco use among our young people.

Both conservatives and liberals fault this legislation. Some say it is not strong enough; some say it goes too far. I think it strikes an appropriate balance and merits our support. It is not a perfect bill, but I don't think we should let perfection be the enemy of the good. By striving constantly for what each of us wants in the perfect bill, we won't end up with anything. I am concerned about that.

Madam President, if one counts the Mondays and Fridays as part of each working week, there are only 68 legislative days remaining in this congressional session before we adjourn for the midterm elections in the fall. Sixty-eight days is not very long. Time is of the essence if we are going to enact a comprehensive tobacco bill this year. I certainly believe Congress should enact such legislation. Thus, I am hopeful that, following a vigorous and healthy debate, the Senate will pass the McCain bill and send it along to the House.

Given all the disinformation circulating about this legislation—most of it, I might say, initiated by the tobacco industry—I would like to take a few moments of the Senate's time to review the bidding as to why we are considering national tobacco legislation at this time.

The opponents of S. 1415, the so-called McCain bill, would have us believe that this legislation is a case of tax and spend liberalism gone wild, that this bill is an excessive response to a relatively minor social problem—that of tobacco use among the young people—and that an antitobacco media campaign is all we need, that is an adequate response. Well, for years the tobacco industry sought to discredit studies which linked smoking to cancer and other diseases. Then the industry told us that nicotine was not addictive. Now the industry says it doesn't target kids with any advertising or marketing programs and that this legislation is

just another opportunity—the McCain legislation—for Washington to increase taxes on the U.S. public.

Let's look at the facts. There is indisputable consensus within the public health community that tobacco use constitutes the single most preventable cause of death in this country. In other words, of all the possibilities of reducing deaths in our country, including better exercise, reduction in fat consumption, conducting what we might call a healthful life, all of those things put together aren't as effective in improving the health of the United States of America as giving up smoking would be. In other words, it is the single most preventable cause of death. Who says that? Is it I, Senator CHAFEE from Rhode Island? Not at all. It is the Centers for Disease Control.

Here is a chart. This chart says tobacco kills more Americans than alcohol, car accidents, suicides, AIDS, homicides, illegal drugs, and fires combined. In other words, all the effort we go to in this country to lecture people to use seat belts in order to reduce automobile accidents or fatalities and injuries from automobile accidents, and all we do about counseling in connection with suicides, and the money we pour into AIDS prevention and attempted cures, and homicides, and the battle against illegal drugs and fires, and all we do to prevent fires from occurring in households, and the lectures on alcohol—if you put all of those together, tobacco kills more Americans than alcohol, car accidents, suicides, AIDS, homicides, illegal drugs, and fires combined.

So if we are serious about doing something about improving the health of Americans, we should try to make every effort to entice Americans not to take up smoking and, if they are smokers, to cease smoking.

Here are the figures: Tobacco kills 418,000 Americans every year by tobacco-related diseases; alcohol is 105,000; about one-fourth of the deaths result from tobacco and fires, 4,300; illegal drugs, 9,000; and so forth. So you add them all together, and they don't amount to the figures that are causing the deaths resulting from tobacco-related diseases.

Where is the problem? The problem lies in that every day it is estimated in the United States of America 3,000 children and young people start smoking in schoolyards, or wherever it might be, in our country. Every day, 3,000 youngsters take up smoking, and one-third of these will die prematurely as a result of that habit. In other words, if they smoke, the chances are that about 33 percent will die prematurely because of the habit of smoking. Each year, 1 million additional children—3,000 a day times 365 gets you very close to 1 million—1 million additional children become smokers. What we are aiming for in this legislation is to prevent that and reduce the number of children who take up smoking.

There are those who say, "Oh, well, tobacco use is a matter of personal

choice." But is this true when you are talking about young people, impressionable children, 14, 15, 16, 17, in their teens? Ninety percent of those who take up smoking do so before the age of 18. In other words, if you can get someone by the age of 18 without having taken up smoking, the chances are excellent that individual will not become a smoker. Ninety percent of smokers have taken it up before the age of 18.

Children obviously don't possess the same level of maturity as adults. They can't be expected to make the most thoughtful decisions on this life-and-death matter of smoking. Sometimes it is the "cool" thing to do, apparently.

But the tobacco industry itself, in its own words—here is the internal document from R.J. Reynolds. "If a man"—or woman—"has never smoked by the age of 18, the odds are three-to-one he never will." If you haven't smoked by 18, the chances are pretty good that you won't smoke ever—"three-to-one." By the age of 24, if you can hold off and not smoke at the age of 24, the odds "are 20-to-one" that that individual you will not take up smoking.

That is where we want to concentrate our efforts—on these young people in their early teens—and carry it up through the age of 24 when the chances are very, very good that an individual will not take up smoking. But the key group is 18 or younger.

Is there an epidemic of smoking amongst young people? You bet your life there is. In my home State, where I never thought there was a particular abundance of smoking—it is not going like going to China, where everybody seems to be smoking. That doesn't seem to be true in my State. Yet the Centers for Disease Control say that 37 percent of high school children—I am not talking about high school seniors; I am talking about high school children; that would be the 12th, 11th, and 10th, and in some instances the 9th grade—smoke. That is more than 70,000 teen smokers in our State. We have 1 million people in our State, and 70,000 teen smokers, one-third of these high school students, will lose their lives prematurely because of this unhealthy habit.

Here is a graph that shows the increase in the rates of smoking among high school seniors. Now we are talking seniors. It is remarkable. It went along pretty steadily at about 30 percent. Then in 1982 it even dipped down to about 27 percent.] Then it shot up starting at about 1991, up until the middle 30s nationally.

What has caused all of this? One of the things, obviously, that has caused it is the action of advertising to these young people, whether it is the Marlboro man, or Joe Camel, or whatever it is. All the advertising from the tobacco companies has been oriented toward inducing the young people to take up smoking. It is the "in thing." They want to make it the "in thing." The tobacco companies clearly do.

One of the ironies of the opposition of the tobacco companies to the McCain

bill is the suggestion that this bill was somehow dreamed up by a bunch of Washington bureaucrats. The fact of the matter is that most of the provisions in this bill have their origins in the global settlement the industry entered into with the 40 States' attorneys general last June. In other words, about a year ago the tobacco industry entered into a deal with 40 of the attorneys general from our 50 States. In that, they made a whole series of concessions. It had nothing to do with Washington, DC, or Washington bureaucrats, or tax-and-spend liberals in the U.S. Congress. It was all initiated and agreed to by the tobacco companies and the attorneys general.

Let's tackle some of the things that came up in that agreement.

What about the idea of a per-pack tax on cigarettes to discourage teenagers from smoking? In other words, what is the idea of increasing the tax, or fee, if you will, on each package of cigarettes that is sold in order to discourage teenagers from taking up smoking? Tobacco companies signed on to a 65-cents-per-pack increase during the settlement negotiations. Sixty-five cents they agreed to. That had nothing to do with Washington, DC. That was out in the hinterlands, out in the States, working with the tobacco companies and the attorneys general.

What about financial penalties on the tobacco companies for failure to meet the annual youth smoking reduction target? This is the so-called look-back provision. If there isn't a reduction of x percent—this is written out in the contract, in the deal—if those reductions aren't achieved by 40 percent or 50 percent, whatever it might be, by such and such number of years, then the tobacco companies will have to pay an additional penalty. That is the so-called look-back provision at the end. At the end of 5 years of this deal, you look back and see if there has been this percentage reduction in teenage smoking.

Where did that come from? Out of the bureaucrats in Washington? Not at all. The tobacco companies agreed to this during the settlement with the attorneys general.

What about advertising and marketing restrictions? The industry signed off on that.

What about receipts from those new taxes to fund public health programs such as counteradvertising, cessation of smoking efforts, community-based antismoking programs, and all of these things that we are now thinking are wise to reduce smoking in the United States—not just to get people to not take it up in the beginning, to help those who are smoking cease that very dangerous habit? Where did that come from? Did that come from Washington bureaucrats? Not at all. The industry agreed to it in their dealings with the attorneys general.

The fact is, the McCain legislation is based largely on the negotiations which produced the so-called global settlement, comprehensive settlement, last June.

Given the American public's distaste for new taxes, it is not surprising that the tobacco industry has seized upon the \$1.10 increase in the price for a pack of cigarettes and has used this as a rallying cry of opposition.

Let's understand this. Who is going to pay this tax? Only people who smoke. If they give up smoking, they won't pay the tax. Anybody who says they don't like the tax, quit smoking and they won't have to pay a nickel of it.

Obviously, smokers are free to go on smoking. But I think we all ought to understand that all of us are paying when there are smokers in our society. Why are they paying? Because one-third of those smokers are going to suffer very severe sickness and illness as a result of their smoking. And the direct health care costs—in other words, whether Medicaid, Medicare, or other forms of assistance to those who smoke, or are suffering from smoking-related illnesses—are paid for by all of us in society. It costs \$60 billion a year to care for those individuals. And when you take the lost productivity and the disability payments, it is estimated that smoking-related illnesses are causing American taxpayers over \$100 billion a year. Now, even for somebody from Washington, \$100 billion is a lot of money. That is what these tobacco-caused illnesses are costing the taxpayers in the United States.

Madam President, I urge Members of this body and the public also to look closely at the facts I have enunciated here and not to be dissuaded from doing the right thing, not to be dissuaded by this blitz from the tobacco industry and the lobbying that is taking place. S. 1415, the McCain bill, is a comprehensive bill, it is a good bill and addresses a very serious problem in our country. The time for action on it is now, and I hope my colleagues will support efforts to pass the legislation.

Madam President, seeing no one else wishing to speak, I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

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

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business Friday, May 29, 1998, the federal debt stood at \$5,506,355,797,435.19 (Five trillion, five hundred six billion, three hundred fifty-five million, seven hundred ninety-seven thousand, four hundred thirty-five dollars and nineteen cents).

One year ago, May 29, 1997, the federal debt stood at \$5,346,270,000,000 (Five trillion, three hundred forty-six billion, two hundred seventy million).

Twenty-five years ago, May 29, 1973, the federal debt stood at \$455,297,000,000 (Four hundred fifty-five billion, two hundred ninety-seven million) which reflects a debt increase of more than \$5 trillion—\$5,051,058,797,435.19 (Five trillion, fifty-one billion, fifty-eight million, seven hundred ninety-seven thousand, four hundred thirty-five dollars and nineteen cents) during the past 25 years.

ELIZABETH GIANETTI—PRESIDENT OF MASSACHUSETTS FRATERNAL ORDER OF POLICE

Mr. KENNEDY. Mr. President, it is a privilege to take this opportunity to recognize the extraordinary leadership of the President of the Fraternal Order of Police in Massachusetts, Officer Elizabeth Gianetti.

Officer Gianetti has achieved many "firsts" in her outstanding career. She is the first person to hold this position. She was instrumental in its creation in 1993, when the 4,000 law enforcement officers of Massachusetts decided that they needed a statewide organization to represent their concerns. And once the Massachusetts State F.O.P. was established, Officer Gianetti was overwhelmingly elected its first president by the local F.O.P. lodges across the state.

She is also the first woman in the 83-year history of the national Fraternal Order of Police to head a state F.O.P. chapter.

Officer Gianetti comes to this position with an impressive record of achievements in law enforcement and service to the community.

She has been a Boston School Police Officer for more than 10 years. In that capacity she has been actively involved in the community, and especially active in working with children through such programs as Boston Medical Center's Children With AIDS Foundation. She has brought her enthusiasm for working with children to her position as state F.O.P. president. This summer, for example, she will coordinate a safety day with the goal of educating children and parents about keeping children safe, including the distribution of bicycle helmets to help prevent accidents and injuries.

Elizabeth Gianetti's initiatives with the state Fraternal Order of Police and her work for the people of Massachusetts are truly remarkable. We are proud of her accomplishments, and I know that all Senators join me in commending her fine record of public service.

MESSAGES FROM THE HOUSE RECEIVED DURING ADJOURNMENT ENROLLED BILL SIGNED

Under the authority of the order of the Senate of January 7, 1997, the Secretary of the Senate, on May 26, 1998, during the adjournment of the Senate, received a message from the House of Representatives announcing that the