

business. In the gospel world, she is the bridge between pioneers like Mahalia Jackson and Clara Ward; she rode the tidal wave of Edwin Hawkins and James Cleveland and now shares a national spotlight with the Young Turks of gospel, Vickie Winans and Kirk Franklin.

Like Ella Fitzgerald, she puts her stamp on songs, and they never sound the same again—from works by such gospel masters as Thomas A. Dorsey to religious verses by Bob Dylan. She performs songs, many of which she writes, that are highly personal—they reveal complicated lives lived by people who may not have money, love or opportunity but who do have faith.

In many of her songs, Caesar starts with a vignette of crisis, sometimes with just the piano or organ in back of her.

"Have you ever walked the floor/all night long/wondering how you were going to pay your bills?" she sings at the beginning of the wonderful "You're Next in Line for a Miracle."

She repeats the lyrics, her raw voice demanding emotional response.

"Get ready for your miracle/Move to the front of the line/Today is your day . . . get ready, get ready, you are next in line for a miracle—a miracle!"

The orchestration expands and the choir sings the refrain above Caesar's "Hallelujahs." On Wednesday, "A Miracle in Harlem," nominated for best traditional soul gospel album, might win her a 10th Grammy. (She has also been nominated more times than any other gospel artist.) From the religious music community, she has won 15 Dove Awards and 10 Stellar Awards.

Not confined to music arenas and churches, Caesar has done four Broadway shows and contributed to the movie soundtracks of "The Preacher's Wife" and "Rosewood." In the spring, she's scheduled to make a guest appearance on UPN's "Good News," and her autobiography is scheduled for publication in May. When Dylan was chosen as a Kennedy Center honoree last year, he asked that Caesar sing his "Gotta Serve Somebody." Caesar likes the fact that the salute portion of the night ended as she shouted "Jesus!"

#### SCHEDULE

Mr. HELMS. Mr. President, today the Senate will resume consideration of S. 1415, the tobacco legislation. There are several amendments still pending to the bill, and it is hoped those issues can be disposed of at an early hour so that the Senate can consider additional amendments to the tobacco bill.

Rollcall votes, therefore, are expected throughout today's session of the Senate. As a reminder to all Members, there are a number of items that the Senate may also resume, or begin, or both, including the Department of Defense authorization bill, the conference reports as they may become available, and any appropriations bills that are ready for action. As always, other executive or legislative matters may be considered as they are cleared.

On behalf of the majority leader, I thank my colleagues for their attention.

Mr. President, I ask unanimous consent that with respect to the tobacco legislation the debate be in order only until 10:30 this morning.

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

#### RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

Ms. COLLINS. Mr. President, I ask unanimous consent that I be permitted to proceed as if in morning business for approximately 5 minutes.

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

The Senator from Maine is recognized.

Ms. COLLINS. I thank the Chair.

#### RACE FOR THE CURE

Ms. COLLINS. Mr. President, in the short time that I will take to deliver these remarks, a woman will be diagnosed with breast cancer. And every 12 minutes, a woman will die from it.

Just this past year, breast cancer has touched my life twice: one member of staff, aged 37, and the spouse of another member of my staff both developed breast cancer. Watching these women in their daily struggles has been a heart-wrenching experience as well as a call to action.

I know that several of my colleagues' lives have also been personally touched by breast cancer. The senior Senator from Maine, OLYMPIA SNOWE, lost her mother to breast cancer at a tragically young age. Throughout her career in Congress, Senator SNOWE has been a tireless advocate for breast cancer awareness and increased funding for research. Her leadership on this issue has been invaluable—even lifesaving—for countless women across the country.

Breast cancer is the most frequently diagnosed cancer in women in the United States. However, when breast cancer is detected early and treated promptly, suffering and the loss of life can be significantly reduced.

Approximately one out of every eight women will develop breast cancer during her lifetime. In 1998 alone, an estimated 180,200 women will be diagnosed with breast cancer. Even more disturbing, breast cancer is the leading cause of death among women aged 35 to 54.

Washingtonians will have the opportunity to call attention to breast cancer and raise much-needed research dollars when the Susan G. Komen Breast Cancer Foundation hosts its 9th annual National Race for the Cure on Saturday, June 6.

Those of us who work on Capitol Hill have an added opportunity to contribute to the cure for breast cancer thanks to a challenge grant from Eli Lilly and Company. The third annual Lilly Capitol Hill Challenge will match the registration fees for all members of Congress, their spouses, and staff who participate in the National Race for

the Cure. Since 1996, Lilly and Capitol Hill have raised \$200,000 for breast cancer prevention, research, and treatment—75% of which stays in the DC metropolitan area.

Two weeks ago, all the women in the Senate joined me in circulating a "Dear Colleague" letter encouraging Members of Congress and staff to take advantage of Lilly's generous offer and register for this year's race. And I would like to let my colleagues know that it is not too late to participate. Late registrations are being accepted up until Friday evening at 6:30 in the lobby of the Department of Commerce.

Today, I rise to the floor to once again encourage my colleagues to alert members of their staff, their families and friends to this valuable opportunity to support the Komen Foundation and Race for the Cure on June 6th.

Thank you, Mr. President. I yield the floor.

#### NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

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

The assistant 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. 2433), in the nature of a substitute.

Gramm motion to recommit the bill to the Committee on Finance and 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. FRIST. Mr. President, over the course of today we will continue our discussions and debate on the pending tobacco legislation, a topic that has been the focus of much of our activity over the past several weeks, a focus which I hope will become increasingly addressed over this week. I ask that amendments that are talked about being introduced are actually brought

to the floor so that they can be debated. We have legislation in the Chamber that has a fascinating history, legislation that continues to evolve, legislation that I believe is very important as we stay focused on that goal of decreasing, and maybe even someday eliminating, youth smoking.

I am concerned that we have gotten off track in our consideration of what I believe has to be comprehensive tobacco legislation. There are some people who would just like to establish a tax and have funds to go possibly to public health, but also to many other issues totally unrelated to what our focus should be, and that is youth smoking. There are others who say we need to address just the advertising aspects of this particular bill. There are others who say that we look at just vending machines; and there are others who say we can solve this whole problem by looking at just the public health initiatives of behavioral change, of figuring out what causes addiction.

I for one believe we need to address all of these issues, and we run the danger, maybe for political reasons, maybe for selfish reasons, of taking a bill that did start as a comprehensive bill and stripping away certain things so that we will end up with just a tax or just a public health initiative or just an issue of access itself, and I think we need to do all of that.

As to youth smoking, we have talked again and again over the last 2 weeks about the alarming statistics of youth smoking. The one statistic that seems to stick with people is one that is real, and that is that over the course of today, between now and tomorrow morning, 3,000 kids, underaged children, will start smoking for all sorts of reasons.

We know it is peer pressure, we know it is advertising, we know it is access, we know that it is looking cool; but regardless, the bottom line is that 3,000 kids who were not smoking yesterday by the end of today will be smoking.

What has become increasingly clear and possibly covered up by the industry, in part—confused by politics—is that 1,000 of those 3,000 will become addicted to smoking, and by being addicted, it means your body becomes dependent on that, it is out of your control, to a large extent because of physiological responses. But, regardless, the bottom line is that one out of every three of those children, the age of my children, 15, 12, 11, 10 years of age, who start smoking today, one out of three will die prematurely; that is, die earlier than they would—of lung disease, of cancer, of emphysema—earlier than they would have if they hadn't started smoking.

So, the problem is very, very clear today, much clearer than it was even 5 years ago or 10 years ago. Therefore, I think it is useful to stick with that statistic. You can argue the statistic, but the bottom line is that 1,000 children who start smoking today will die prematurely.

The other two out of three children may or may not continue smoking. They may not be affected, because it is not crystal clear that smoking 100 percent of the time causes cancer. But we know that it has a very, very strong influence on whatever our genetic predisposition is to cancer, all sorts of cancer, and to heart disease which—as a heart surgeon and heart specialist, I have operated on thousands and thousands and thousands of people whose heart disease I would attribute—to genetics? yes, but also in large part to smoking.

Focus on the health of our children and their children. Many of us in this Chamber do have children who are in those teenage years. A fascinating statistic is that about half of the people who start smoking, half of all people who start smoking today, are 8 years old, 9, 10, 11, 12, 13, and 14 years of age. Half of all people who start smoking today in this country are 14 years of age and younger. That is very different from in the past. I think in large part that does come from the fact that that group of people have been targeted in recent years, over the last 5 or 10 years—unlike 20 years ago—because if you can addict people at that age, they will not only purchase more cigarettes as youths but, because of their addiction, over their entire lifetimes.

This whole passage through adolescence is something which really confuses the issue. It would be much easier if we said let's stop everybody from smoking, because then you could really engage in huge, huge policy. But if you really stay focused on the youth, it introduces all sorts of factors that may not apply later: Advertising, how we advertise to youth—is it just Joe Camel, or is it other seductive types of advertising? And then, how you separate that advertising from broader-scale advertising, something that we cannot do in the U.S. Senate or the U.S. Congress. I believe it does almost demand participation by the industry, to agree that somebody 8 years of age or 10 years of age or 12 years of age should not be targeted by such advertising, which clearly results in a crippling addiction which will ultimately kill that child later in life.

For many years, individuals, if we look at the history, have not been successful in suing the tobacco industry because of a doctrine called assumption of risk doctrine. No jury would side with a plaintiff, because the smoker had assumed the risk associated with smoking.

However, if we review very briefly this recent history, over the last several months a group of State attorneys general got together and starting suing the industry to recover Medicaid costs, Medicaid costs being principally incurred by a State, because two-thirds of Medicaid funds are paid for by the State and about a third from the Federal Government. And therefore it was the State attorneys general. The Medicaid Program is our joint State-Fed-

eral partnership program that is directed at health care for our indigent population, a population that falls below the poverty level. That is why this grassroots effort, now elevated to this body, started at the State level. The State attorneys general got together to recover the Medicaid—predominantly State—costs for smoking-related illnesses, thus avoiding this whole doctrine called the assumption of risk doctrine.

It has been fascinating, because in the course of these lawsuits, and in large part because of the lawsuits—and we have seen it unfold before committees here in the U.S. Congress as well—internal industry documents have been made public. They have been made public for the first time and are now on the Internet, accessible to the media, to committees here in the U.S. Senate, as well as to people who are, on their own, on the Internet; they have access to these documents today.

It is very clear the industry knew a lot more about the science—that is, the addictive nature of nicotine—than they had let on, that they knew a lot more about the destructive effects of smoking tobacco than was ever previously thought.

The focus of the discussion today, which really demands that we address the issue, is that the debate no longer is that smoking may be harmful to your health, as it was 20 years ago—we know that it is harmful to your health—the debate that we need to address in the U.S. Senate, however, is the youth smoking, where one really doesn't engage in free choice to start smoking at 10 or 11 or 12 years of age. That free choice can be targeted, can be shifted by very aggressive marketing. And that is what has been done today.

If we look back again a few months, some of these States began to settle for huge sums from the tobacco industry. Mississippi, as we know, just 2 years ago settled for \$3 billion; Florida and Texas were the next to settle, for \$11.5 billion and \$15.3 billion, respectively. And then just last month, Minnesota, the most recent to settle, settled for about \$6.6 billion. Look a few months later and how all of this evolved. In the Spring of 1997, interested parties came to the bargaining table. I say "interested parties," because you really did have the public health advocates at the table: You had the State attorneys general representing the Medicaid population, representing the expense of the States at the table; you had the industry—something which we don't have today in the U.S. Congress and the U.S. Senate—we had the industry actually at the table, coming to certain agreements.

Let me add very quickly, it was fascinating, because I am from a tobacco State; we have 23,000 hard-working women and men and farming families who work very hard, get up every morning to produce a legal product in this country. It is interesting, in this

great agreement—I guess I should qualify “great”—in this historic agreement, the tobacco farmers and the agricultural community were not represented at that table.

Regardless, the other three groups—the public health group, the industry itself, the attorneys general—sat down, and the basic elements of that, and I would say historic, June 20 settlement included a number of things: No. 1, industry payments of \$368.5 billion, agreed to by industry, members of the plaintiffs’ bar, the attorneys general, and the public health groups. That \$368.5 billion was to be paid over about 25 years. It would be funded by what calculated out to be raising the price of cigarettes by 70 cents per pack over a 10-year period.

Second, an important component, I believe, is the advertising restrictions. The industry came forward and said that, we will voluntarily limit our first amendment rights by refocusing advertising, if the remaining aspects of that agreement would go into effect.

Third, there were youth access provisions and really some pretty tough licensing requirements for retailers who sell tobacco. All of us know the problem we have with access today. If you go into any community and ask a young 16-year-old or 15-year-old, “Could you get a pack of cigarettes?” they would say, “Yes, without a problem.”

Fourth, that June 20, 1997, settlement had \$2.5 billion per year for smoking cessation programs, public education campaigns, and State enforcement. It gave FDA authority to regulate tobacco and smoking. It had no class action suits or suits by any government entity. It had immunity for the industry from all punitive damages for past actions. Individuals were allowed to bring suits to cover compensatory damages for past conduct and compensatory and punitive damages for future conduct.

Because that settlement required the enactment of Federal law, it came before the U.S. Congress. We are here today in large part because that June 20 settlement requires us to be here or it just doesn’t occur. Implementing the provisions of that settlement or implementing provisions similar to it does require Federal legislation.

We had committees that had jurisdiction over several provisions in this June 20 agreement. Judiciary had a role, the Labor Committee had its expertise in the FDA, the Finance Committee had jurisdiction over international trade aspects, the Commerce Committee had jurisdiction over the liability and interstate commerce expertise, the Agriculture Committee had a keen interest in the effect of this type of really unprecedented legislation on farmers, all of which ultimately were pulled together—at least that expertise was pulled together—through the Commerce Committee and bringing it to the floor to be amended accordingly.

We are right now in the middle of that amendment process. A number of

people are talking about amendments to make the bill better, and the bill was brought to the floor recognizing it was not a perfect bill, that it was important for that amendment process to take place to modify it, to improve it, to make sure that it does achieve the objectives of decreasing youth smoking over time. I encourage my colleagues to come forward to participate with their amendments so we can achieve that objective and, sometime within the next several days or next several weeks, bring this to some resolution.

I do believe, as I said, it takes a comprehensive approach. I think we do have to address, first, the advertising targeted at children. An article in the *Journal of the American Medical Association* of February 17 stated very clearly that advertising is more influential than peer pressure in enticing our children to try smoking, and it estimated—and I recognize these estimates are really all over the board—but it estimated that about 700,000 kids a year are affected by advertising. Big debate. We have talked about it a lot over the last several weeks. Is it advertising? Is it peer pressure? How do you control peer pressure at that very tricky age of walking through adolescence? They are inextricably tied together. If you have very effective advertising that makes smoking look cool and makes you part of a group and makes you feel good at 12 years of age, then peer pressure builds. If somebody asks is it peer pressure or advertising, it is very confusing.

In our business, in the political business, in public service, we know the effects of marketing. We know that kids are targeted, and we know that builds and establishes peer pressure which does affect somebody at that age, in adolescence, when they are reaching out for identity and for security and for acceptance. Therefore, either dealing directly with the industry or indirectly, we have to have the industry agree not to target kids. Our society simply must stop glamorizing smoking in the way that it does today, which increases the peer pressure. This applies to television; it applies to movies; it applies to 30-second spots; it applies to billboards. We have to stop that marketing directly to children, and I believe the industry has to take the lead in that regard.

Secondly, to have a truly comprehensive program, we do have to have a strong public health initiative, including tobacco-related research, including tobacco-related treatment, and including tobacco-related surveillance. It is fascinating in terms of how we would use certain moneys, because a number of people want to use certain moneys for programs totally unrelated to public health initiatives, totally unrelated to research.

If we just step back and imagine what could be done if moneys were spent effectively and if there were appropriate moneys available for research, we might—we just might—in 5

years, in 10 years, maybe 3 years, eliminate the problem. For example, if we knew where in the brain addiction to nicotine actually occurs—and let me say that there are ways to detect that through PET scanning, positron-emission tomography, today—we know roughly in the brain where the addictive center to nicotine actually occurs.

With the rapid advances made in science, with the appropriate focus and the appropriate resources, it is not far-fetched that we will identify not only the location, where we have taken the first steps, but the actual receptors, and design a drug, a chemical, a hormone to go to that particular site and turn off the addictive potential, the addictive connections that cause that 8-year-old or that 10-year-old who starts to smoke to smoke forever out of their control.

That one little bit of research could solve this whole problem. We can’t give any statistic probability that that research will result in that sort of effect, but the potential is there. It takes that emphasis on that particular dimension, moving there and saying we do need to put the appropriate funds there, that some effort in this comprehensive approach must be directed to research. A strong commitment to basic science and behavioral research is critical.

Such focused research made possible by this bill might even uncover a pill. I can almost see a day where people will smoke for 6 months or smoke for a year. If we can kill that addictive potential, that 6 months to a year might not have the same impact on one’s coronary arteries in the development of atherosclerotic plaques—hardening of the arteries—which cause heart attacks and ultimately death.

Will we get there? We don’t know unless we focus research in that area, and right now we do not have sufficient research there. We do need to look at certain behavioral research: How can we stop people from smoking who are addicted to smoking? We just don’t know very much about that.

Later today, I think we will be talking a lot about drugs, other drugs—not just nicotine, not just cigarettes—and the importance of developing a more comprehensive policy. I welcome that opportunity, again, because I have youngsters. I have three boys, who are going through this period of adolescence, who are going to be tempted and exposed to all of the seductive advertising, peer pressure, wanting to be accepted, that we have all gone through and most of our children go through.

A comprehensive approach: The research, the scientific research, smoking cessation programs, behavioral research, the addictive potential, the advertising that I spoke to.

The third component is that of access. It is too easy today. We held hearings in our Subcommittee on Public Health and Safety, which I chair, in the Labor Committee and had some really powerful, powerful testimony come forward by the users, by those

young adolescents who have started to smoke. We heard chilling testimony about how easy it was to purchase tobacco products.

We can do a great job in a small community. If there are 12 places where one can buy tobacco, we can have 5 of those really enforce the access laws. Just imagine 12 convenient stores in a community. You can have five that really stick to the law. You can have another five that do pretty well. But if there is just one in that community that continues to sell cigarettes, for whatever reason, the access programs don't work at all. We need to have more effective access.

Nickita from Baltimore, who is now 18 years old, started smoking when she was 14 years of age. She testified that she would normally get her cigarettes from the store. She testified that she never had a problem buying cigarettes in the store. In fact, "People in my community, as young as 9 years old, go to the store and get cigarettes. They simply do not ask for IDs," she said.

The lesson I learned from this testimony is that we must enforce youth access laws. We must make it impossible for children to buy cigarettes in any neighborhood in this country. It is really shameful that in America in 1998 a teenager can purchase tobacco in any neighborhood in the United States of America.

There are three elements—access, advertising, public health and basic science initiatives. In this whole arena of access, price is an issue. I voted against the tax of \$1.50 that was proposed on this floor 2 weeks ago very simply because price addresses one aspect of the three aspects that I think are important to decrease youth smoking. Price does affect purchasing. While it is one of the levels, one of the factors, it is not the only factor.

Consumption, though, had been decreasing in the 1970s. However, between 1980 and 1993, the downward trend really accelerated, with consumption falling by 3 percent a year at the same time that the inflation-adjusted price of cigarettes increased by 80 percent.

In addition, in the early 1990s, we saw price cuts, and consumption leveled off with only modest decreases in the price until 1996. Then in 1997, prices rose by 2.3 percent, and consumption fell again by 3 percent.

Expert testimony provided in hearings before us, based on data from both this country and others, clearly demonstrates that the price of cigarettes does affect consumption. But price alone simply will not solve the problem; that a comprehensive approach is necessary.

Mr. President, I think the bill on the floor is a good start in addressing, in a comprehensive way, this issue of decreasing youth smoking. It also addresses an issue that was ignored by the June 20 settlement, an issue that I mentioned—that of the agricultural community and that of tobacco farmers.

We have two competing amendments or proposals right now that are being considered. I am very hopeful that an agreement can be reached between those two. They have very different concepts. On the other hand, both have as their goal to do what is in the best interest of those hard-working men and women who are in the farming community, who, through no fault of their own, we have this targeting of the youth by the industry, who, through no fault of their own, affect this idea of easy access. They are literally getting up every morning, going out, working hard in the fields to produce a legal product. I am very pleased that this group is being addressed. I look forward to having some resolution of the two competing groups.

Mr. President, I will wrap up my comments shortly because other people are on the floor. I think this bill is not perfect yet. I think we need to look very closely at how we have designated whatever funds are generated by this particular bill and to look at what programs they create.

The version of the bill on the floor now, unlike the original Commerce version of the bill, is much, much better in that most of the huge bureaucracies that came out of the Commerce Committee bill have been eliminated, have been reduced. I think there are still a number of those programs that we need to go back and address.

Some people have come to the floor and have basically said that the bill on the floor is merely an attempt to destroy an industry that is producing a legal product by raising the price too much. I think this is a legitimate concern. We have had a countless number of financial experts present data; some have had a vested interest, some have not. A number of them have come before the several committees who have held hearings on this jurisdiction, and it really seems nobody can answer the question of the appropriate price and what a price increase of 50 cents or 70 cents or \$1 or \$1.50 will do on the industry itself.

We do know one thing; and that is that the industry at one time agreed, back in June, to a \$368.5 billion exchange for some assurances that they would have some predictability in future lawsuits. Now that has been radically changed at the end of 2 weeks ago. We need to all get together to see what that next step should be, what further amendments need to be applied. Again, personally, I believe that the industry has to be at the table, has to agree not to target the youth today.

Black market—something that is very, very real. If the price is raised too high, at least based on the testimony that has come before our committees, a black market would most certainly occur, and then we would ultimately end up destroying exactly what we are trying to achieve—that is a reduction in youth smoking.

Mr. President, I guess in closing my remarks I just want to emphasize how

effective and responsible we can be if we have a comprehensive settlement. And that is what it is going to take—public health initiatives, appropriate research, addressing the issue of access, and addressing the issue of advertising. We must have an industry that does not market to kids. We have to have the cooperation of the industry.

Mr. President, let me just make one final comment that is on the Food and Drug Administration. I have been very active in working to see that the Food and Drug Administration is the agency that would oversee whatever regulation we pass on the floor of the U.S. Senate and through the U.S. Congress. The approach was to set up a separate chapter within the Food and Drug Administration rather than try to regulate tobacco or cigarettes through a three or four sentence clause that is existing in the device aspects of the Food and Drug Administration legislation today.

We did this for a number of reasons. I have outlined those reasons on the floor today. I am very pleased where we stand with that today, in terms of setting up a new chapter that recognizes that tobacco really is a unique product. It is not a device to be regulated like a pacemaker or like an artificial heart device or like a laser. And that is where an attempt was made by the administration to regulate tobacco.

Are there parts of that that might be improved? I think we can consider that as we go through the amendment process. I still have some concerns with some parts of the Commerce bill. I look forward to seeing them modified.

I think as a heart surgeon, as a lung surgeon, I have a real obligation to point out that smoking does kill people—there is no question—No. 2, that tobacco is a legal product in this country—and I think it should stay a legal product in this country where adults who have the maturity, have the education to make choices for themselves should have that opportunity—but, thirdly, I feel very strongly that we need to address youth smoking and do our very best as a nation for our children and for that next generation through a comprehensive strategy to work to reduce youth smoking.

Mr. President, we have two colleagues on the floor, and I would simply ask unanimous consent if they could limit their comments or let me inquire in terms of, from each of them, how long they would require? I would like to have some limitation because we want to get to other amendments early this morning.

Mr. DURBIN. I thank the Senator. I would be happy to limit my remarks to no more than 30 minutes.

Mr. ASHCROFT. The same.

Mr. FRIST. I will yield 30 minutes to both of my colleagues on the floor. At that time, I reserve coming back and regaining the floor at that time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. Mr. President, I rise today to discuss the tobacco bill. And I wish to address the massive tax increase that is in this bill—tax increases that are targeted against the lowest income individuals in America: hard-working citizens who earn primarily less than \$30,000 a year. It is a massive tax increase that is going to be used to expand the Federal Government, just when the American people continue to make it clear that they are tired of Government imposing its decisions on our daily lives.

Just last week there was an announcement of a \$39 billion surplus in 1998 and a \$54 billion surplus in 1999. Congress should be debating how to return this money to the taxpayers. We should not be debating how to siphon more out of the pockets of working Americans.

It is also possible to discuss the inevitable black market that would result from the policies in this bill, even though my colleagues and the administration continue to ignore this threat to American neighborhoods of creating a black market with the high taxes in this bill. I will also discuss the effect of a price increase on teenage smoking rates.

Mr. President, along with my colleagues, I am truly concerned about teen smoking. However, I do not believe that teen smoking is the focus of this legislation. Under the guise of reducing teen smoking, proponents of this bill are willing to increase taxes on hard-working Americans by well over \$800 billion. That is well over three-quarters of a trillion dollars.

Under the guise of reducing teen smoking, proponents of this bill support a massive increase in the size of the Federal Government—17 new boards and commissions, which is a modest estimate. And then in response to the identification of those boards and commissions, some in support of this bill have decided to say they would take out those boards and commissions and just leave authority for agencies to create within themselves the capacity to do what the boards and commissions were designed to do. Instead of having boards and commissions that are accountable and identifiable, you have stealth boards and commissions that are hidden in the agencies. I don't think making them indistinguishable is a way to say that government isn't growing.

Proponents of this bill claim it is necessary to curb teen smoking. What this bill is necessary for is to feed the tax-and-spend habit of individuals in Washington.

Although Congress has the authority, we do not even make it illegal for minors to possess or use tobacco in the District of Columbia in this bill. We only have rules regarding the point of sale. Even then, we only make retailers

responsible for the transaction. There is no disincentive for teenagers to try and purchase cigarettes in this bill. Two percent of retail cigarette sales are made to minors. Adults purchase 98 percent of all cigarettes sold in retail stores. Under this bill, we are creating a massive tax increase on 98 percent of smokers in order to try and discourage 2 percent of all the retail sales. There is sound evidence that the 2 percent will not be discouraged. In Washington, taxes and spending are the only things more addictive than nicotine.

Preliminary reports estimated this legislation would increase taxes \$868 billion. We now know that this legislation would raise taxes \$885 billion and create new government programs with funding locked in for 25 years. It creates a huge government regulatory scheme the likes of which we have not seen since the Clinton proposal to perpetrate a national health care system from the Federal Government.

This bill is a tax bill, pure and simple. It is a tax bill on Americans who are already overburdened with taxes. Americans today are working longer and harder than ever before to pay their taxes. Tax Freedom Day this year was less than a month ago, on May the 10th. It was a record year. Americans worked longer into the year this year to pay their taxes than ever before. The hard work of the American people, let me say again, the hard work of the American people allowed the President just last week to announce a \$39 billion projected surplus in 1998 and a \$54 billion surplus projected for 1999. Yet here we are a week later continuing to talk not about how to return the surplus to the people, but how to siphon more out of their pockets. As currently drafted, the proposed tobacco bill is nothing more than an excuse for Washington to raise taxes and spend more money.

In the 15 years prior to 1995, Congress passed 13 major tax increases. In fact, last year's Taxpayer Relief Act was the first meaningful tax cut since 1981. As currently drafted, the tobacco bill erases that relief. We must stop that from happening. We must not undo the modest gains we gave to the American people just last year. We certainly cannot relieve them by imposing another \$885 billion in taxes on them. To paraphrase President Reagan, the whole controversy comes down to this: Are you entitled to the fruits of your own labor or does government have some presumptive right to tax and tax and tax? Who will pay the \$800-plus billion in taxes contained in this proposed legislation?

The tobacco legislation is a massive tax increase that would be levied against those least capable of paying. About 60 percent of the tax increase would fall on families earning \$30,000 a year or less. That is a shocking figure. What it basically says is these families with less than \$30,000, struggling to put clothing on the backs of their children, food on the table, to pay the rent, to have the money for transportation, to

keep the car repaired, occasionally scraping together enough for a modest day off or a vacation, would suddenly be subject to a massive new tax, 60 percent of which would fall on them. Some households would see their taxes increase by more than \$1,000. Moreover, this new tax would be levied on money that has already been subject to the income tax. If you are buying cigarettes and you have an additional \$1.10 to pay, it is a tax on money you have already paid tax on. Households earning less than \$50,000 would pay seven times as much in new tobacco taxes than households earning \$75,000 or more.

According to the Congressional Research Service, tobacco taxes are perhaps the most regressive taxes currently levied. In the United States of America where, we already have the highest taxes in history, we are now projecting a massive tax increase on individuals least capable of paying. While those earning less than \$10,000 make up only 10 percent of the population, 32 percent of those people smoke. The current tobacco tax represents 5 percent of the smokers' income in this category. Those making between \$10,000 and \$20,000 a year make up 18 percent of the population. However, 30 percent smoke. The current tobacco tax makes up 2 percent of a smokers income in this category. Therefore, this bill amounts to a tax increase on 31 percent of Americans who earn under \$20,000 a year. Households earning less than \$10,000 a year would feel the bite of this tax increase most of all. These households, it is estimated, would see their Federal taxes rise 35.1 percent.

In most areas of the country, someone earning \$10,000 a year is well below the poverty line. We spend much of our time in this body trying to find solutions for those in this income bracket—we have tax credits, welfare programs, educational grants, job-training programs. They cost billions of dollars a year. We try to lift people out of their poverty, out of that income bracket. However, today, Members of this body are enthusiastically saddling them with a huge tax burden of over \$800 billion focused on those least capable of paying. Washington politicians and bureaucrats are saying they know better how to spend the resources of the American people.

Let me share the impact this tax increase will have on the constituents of the people in Missouri. Using data provided by the Centers for Disease Control, it is clear the tobacco legislation would be an annual \$382 million tax on people in Missouri. Of that amount, \$227 million would be paid by households earning \$30,000 or less. This is a conservative estimate. This assumes that each smoker in Missouri smokes only one pack a day. For someone who smokes two packs daily, the \$1.10 per pack tax increase contained in the tobacco legislation would amount to a tax increase of \$803 annually.

Let's look at how this will impact other States. Arizona, 22.9 percent of

the adults smoke; \$227.3 million tax increase on Arizona, \$164.7 million on those with incomes of \$30,000 or less. In Texas, 23.7 percent of adults smoke; \$1.2 billion tax increase on Texas, \$1.2 billion tax increase on the people of Texas, with three quarters of a billion being levied against those who earn \$30,000 or less.

This bill contains massive tax increases that are going to be used to expand the Federal Government just when the American people continue to make it clear that they need relief. Some people ask, where is all this money coming from when we talk about our surpluses? I can tell you where the money comes from—it comes from the hard work, the sacrifice, the ingenuity, the efforts of Americans. It is not our money. It is their money. It is not Washington's. We should be discussing how to leave the money where it belongs. Instead, we are discussing how to take more money.

I have an amendment that I plan on introducing later in this debate that will accomplish the goal of leaving money in the pockets of the taxpayers. It will give much-needed tax relief to Americans in a way which will provide the greatest relief to those who will be hardest hit under the bill. I believe, as many do in this body, that if this bill is allowed to increase taxes, that revenue should be used to relieve married couples of what might possibly be the most indefensible and immoral tax of our Tax Code. This is a perfect example of Washington's values being imposed on America instead of America's values being imposed on Washington. Americans value marriage; Washington taxes marriage.

The marriage penalty tax creates a situation in which 21 million couples pay \$29 billion more than they would have paid had they been single. The marriage penalty, on the average, is about \$1,400 per family. This is grossly unfair and is an assault on the values of the American people. Consider a typical couple in which each person earns an annual income of \$35,000. Under current law, if the couple were to wed in 1998, they would pay \$10,595 in Federal income taxes, assuming they were childless and they take the standard deduction. If, instead, they chose to remain single, their combined tax bill would amount to \$9,117. In other words, they would pay \$1,478, a 16-percent penalty for being married.

As you might expect, people often modify their behavior to avoid paying taxes. In fact, it is one of the assumptions of the tobacco legislation that people would modify their behavior—quit smoking—if we raise taxes on cigarettes. Does the Tax Code really influence moral decisions and prevent couples from getting married? Tragically, yes. Some couples simply cannot afford to bear the extra burden of the marriage penalty. Just ask Sharon Mallory and Darryl Pierce of Connerville, IN. They were planning to get married when they learned that their

annual tax liability would balloon \$3,700 as a result. The marriage penalty led them to rethink their decision to get married.

A marriage penalty exists today because Congress legislated ill-advised changes to the Tax Code in the 1960s. This is an example of Washington's values being imposed on America instead of America's values being imposed on Washington.

Over the next 5 years, the Federal Government is expected to collect \$9.3 trillion in taxes from hard-working Americans. Completely eliminating the marriage penalty would reduce that total by only \$150 billion, or only 1.6 percent.

Now that taxpayers have provided the Federal Government with a surplus that may be as much as \$60 billion this year alone, Congress has no excuse for withholding tax relief from American families.

The power to tax is the power to destroy. The average dual-income household spends a far larger share of its income on taxes than it does on food, shelter, clothing, and transportation combined.

With taxes at these levels, no wonder families are finding it necessary to send both spouses into the workplace. One of the ways in which the marriage penalty manifests itself is that the standard deduction for a married couple is less than that for two singles. That means if you are married and you file a joint return, the standard deduction is not double what it was when you were single. Again, let me repeat this staggering fact. Last year, 21 million married couples collectively paid a \$29 billion tax. They paid \$29 billion more than they would have paid had they been single.

I will offer an amendment that will substantially reduce the marriage penalty. It will do so by making the standard deduction for married couples twice what the standard deduction is for single people.

Members of this body have been arguing that there is no tax in this bill, only an increase in tobacco prices to deter smoking. In fact, the Finance Committee, in its mark, at least tried to level with the American people by reporting out a bill that called it a tax. Webster's Dictionary defines a tax as a "compulsory payment, usually a percentage, levied on income, property values, sales prices, etc., for the support of government."

In this bill we have a compulsory payment. The bill then requires that the cost of these payments be passed on in the form of price increases to consumers. It even penalizes companies if they fail to do so. These payments are then used to fund massive programs for Federal and State governments.

Well, if it walks like a duck, talks like a duck, and sounds like a duck, it is a duck. So if it "walks" like a tax and acts like a tax, it is probably a tax. This is a tax and in law provides that

those payments—taxes—are to be passed through to consumers—under a penalty if it is not done.

It has been said that industry is the group that is convincing people that this is a tax bill. But we all know that industry can't make it a tax bill, and Senators can't say it is not a tax bill if it is a tax bill. It is a tax bill. It requires consumers to spend additional sums of money and to send them to Washington so that government programs can be extended.

Those who support this bill would like for the American people to believe that this is tough on tobacco. The American people are beginning to find out that tobacco companies won't bear the costs of these payments. Consumers will. This bill requires that consumers will be those who are required to put up the money—the \$800 billion-plus that comes in the mandatory payments, the taxes that are occasioned by this bill.

What will be the impact on tobacco companies? In September of 1997, the Federal Trade Commission issued a report entitled "Competition and the Financial Impact of the Proposed Tobacco Industry Settlement." The report was done at the request of the Congressional Task Force on Tobacco and Health. This report analyzed the economic impact of the proposed settlement on cigarette prices, industry profits, and Government revenues.

This tobacco legislation was built upon the proposed settlement, but it is not exactly the same. But this report was based upon the annual payment, look-back provisions, and tax deductibility of the payments made by the tobacco companies.

There are several important conclusions in this report:

First: "The major cigarette manufacturers may profit from the proposed settlement by increasing the price of cigarettes substantially above the amount of the . . . payments that are to be paid to the public sector."

It could be profitable for the tobacco companies. This bill that is so hard on the tobacco companies may result in increased profits for the very tobacco companies we are supposed to be hurting.

Second, the report concludes: "Even assuming that prices increase by no more than the annual payments, the major cigarette firms may profit substantially . . . through limitations on liability and reductions in advertising and litigation costs."

Well, that is a very serious suggestion. And that comes from the Federal Trade Commission of the United States.

Again, the actual elements of this bill that are supposed to show that Congress is "tough on tobacco" may, according to the Federal Trade Commission, actually enable tobacco companies to profit substantially by reducing litigation costs and by reducing the costs of advertising.

The report then mentions the affect of price increases on smokers. It says:

The overall demand by adults for cigarettes is inelastic, or relatively insensitive to changes in price. Most adult consumers will continue to smoke notwithstanding a significant increase in price.

As a result, an industry-wide price increase would be profitable for the companies, even though some smokers would react to the higher prices by smoking less or quitting altogether.

Now, the evidence is not clear that raising prices reduces teen smoking rates. Mr. President, this bill is being considered on the Senate floor. It is being considered and being sold to the American people as the only way to reduce youth smoking. They are being told that we can justify an \$800 billion tax increase that is necessary to get rid of the disease of addiction. However, after looking at the evidence, there is no reason to believe that such a tax increase is the answer to eliminating teen smoking.

Mr. President, I inquire as to the time remaining in my opportunity to speak?

The PRESIDING OFFICER. Nine minutes.

Mr. ASHCROFT. I thank the Chair.

Food and Drug Administration regulations, which were designed to curtail teen smoking and which were suggested by a Cabinet Secretary who helped promote these regulations, did not contain price increases. The most striking evidence that significant price increases are not necessary to reduce smoking is a very recent attempt by this administration to address the youth smoking issue. In 1996, regulations promulgated by the FDA were touted as being historic. It was estimated to reduce youth smoking by 50 percent over 7 years, and they didn't include price increases.

The important aspect of these regulations is that they contain no price increase on smokers in the general population. As you know, this legislation is raising the prices on 100 percent of the smokers to try to discourage the utilization of cigarettes by 2 percent of those who purchase. There was no discussion in the regulations of a huge price increase—a massive tax increase. And about this regulation, the Secretary of Health and Human Services, Donna Shalala, stated:

This is the most important public health initiative in a generation. It ranks with everything from polio to penicillin. I mean, this is huge in terms of its impact. Our goal is very straightforward: to reduce the amount of teenage smoking in the United States by half over the next 7 years.

It is a laudable objective, and apparently it is believed to be attainable by the Secretary of Health and Human Services without a massive tax increase or price increase.

David Kessler, one of the strongest proponents of this bill, was the Director of the Food and Drug Administration when these regulations were promulgated. He stated:

Don't let the simplicity of these proposals fool you. If all elements of the anti-smoking package come into play together, change

could be felt within a single generation, and we could see nicotine addiction go the way of smallpox and polio, without a price increase.

These statements were made about regulations that contained absolutely no price increase—no massive tax on the working people of America; no massive taking by the government of over three-quarters of a trillion dollars; no extension of 17 new boards, commissions, and agencies for the government.

Also, remember that these regulations were supposed to reduce youth smoking by 50 percent over 7 years, while it has been claimed, that this bill—containing massive tax increases—will reduce teen smoking by 60 percent over 10 years.

Dr. Kessler was widely cited as a supporter of the amendment offered on this floor last week that would have increased the tax on cigarettes by \$1.50 rather than the \$1.10 already contained in the bill as necessary to reduce teen smoking, which is substantial.

Yet, when those regulations were enacted he never complained that this regulation would not have been effective in reducing teen smoking because it did not contain such a massive tax increase.

About these regulations, President Clinton stated:

That's why a year ago I worked with the FDA, and . . . a nationwide effort to protect our children from the dangers of tobacco by reducing access to tobacco products, by preventing companies from advertising to our children. The purpose of the FDA rule was to reduce youth smoking by 50 percent within 7 years.

There was no complaint by the President that these regulations were insufficient because they did not contain a price increase.

What has changed in just 2 short years?

Policymakers in Washington have found a cash cow to pay for their pet programs that the President said he wanted, but which he would find incapable of moving through the ordinary budget process.

The evidence as to whether price increases reduce youth smoking is tentative—at best.

The second issue I want to address concerning the need to increase taxes on the American people by \$868 billion is whether price increases actually reduce teen smoking.

My colleagues have been arguing that the studies show conclusively that price increases reduce youth smoking.

However, that simply is not the case.

At best, the studies are inconclusive. At worst, they show little correlation between price increase and a reduction in youth smoking.

The debate on this floor has assumed that for every 10 percent increase in price reduces youth smoking by 7 percent.

Frankly, I think the average citizen knows that young people who are willing to pay \$150 a pair for sneakers are probably not very price sensitive when it comes to other factors that relate to

status and the like and making a statement, which smoking frequently is for young people.

The debate on this floor has assumed—a dangerous assumption, reckless, and irresponsible intellectually—that for every 10-percent increase in price you get a 7-percent reduction in youth smoking.

Studies conducted by economists at Cornell University and the University of Maryland, and funded by the National Cancer Institute, question the connection between youth smoking, prices, and tax rates.

#### THE CORNELL STUDY

After following 13,000 kids for 4 years, Dr. Philip DeCicca of Cornell University, in a National Cancer Institute funded study—a public health study—found “Little evidence that taxes reduce smoking onset between 8th and 12th grade.”

The economists that conducted this study presented their results between the relationship between higher tobacco taxes and youth smoking to the American Economics Association annual meeting in January 1998. This is not a dated study.

The study concluded that higher taxes have little effect on whether young people start to smoke.

They concluded that “[T]axes are not as salient to youth smoking decisions as are individual characteristics and family background.”

“[W]e find little evidence that taxes reduce smoking onset between 8th and 12th grades,” and estimated that a \$1.50 tax increase would decrease the rate of smoking onset by only about 2 percentage points—from 21.6% of 12th graders who start smoking currently to 19.6% of 12th graders.

“Our data allow us to directly examine the impact of changes in tax rates on youth smoking behavior, and our preliminary results indicate this impact is small or nonexistent.”

Here is the best data we have. The most recent studies indicate that a massive increase of three-quarters of a trillion dollars plus on the taxes of the American people will have little impact or a nonexistent impact in reducing youth smoking.

In conclusion, the economists stated that the study “raises doubt about the claim that tax or price increases can substantially reduce youth smoking.”

#### MARYLAND STUDY

Economists at the University of Maryland and the University of Chicago conducted a similar study that analyzed data concerning more than 250,000 high school seniors for the period 1977–1992—the largest such sample ever used for a study on this subject.

They found that the relationship between price and youth consumption is “substantially smaller” than suggested by previous studies.

In addition, real world experience confirms the uncertain relationship between higher tobacco taxes, prices and youth smoking.



## CALIFORNIA

In 1989, California increased its cigarette excise tax by 25 cents per pack, but there is no evidence that youth smoking declined. This was an 11 percent increase. Therefore, under the analysis that elasticity of teenage smokers is .07, there should have been a decrease of at least 7 percent.

We are operating under the assumption that 25 cents a pack would have resulted in a 16-percent or more decrease in the number of youth smokers.

The truth of the matter is there was an 11-percent increase. Therefore, under the analysis that the elasticity of smokers is .07, there should have been a decrease of substantial proportions.

However, as of 1994, researchers were "unable to identify a decline in prevalence [among 16 to 18 year olds] associated with the imposition of the excise tax."

## CANADA

The most commonly cited real world situation is our neighbor to the North—Canada.

In Canada, the federal government increased cigarette taxes in several stages in the late 1980s and early 1990s—from \$10.75 per 1,000 cigarettes to \$24.34 in 1986, then to \$38.77 in 1989, and to \$62.90 in 1991.

Although it has been stated on this floor, by proponents of this legislation, that smoking decreased during that period, they fail to talk about the years 1991 to 1994 when the tax rates were the highest in that nation's history.

During that period, smoking rates among 15-19-year-olds rose from 21 to 27 percent. That is a 25-percent increase.

If the argument that rising prices will reduce teen smoking, it stands to reason that youth smoking should increase as prices fall. However, a year and a half after reducing—significantly—tobacco taxes in Canada, according to the "Survey on Smoking in Canada," teen smoking "remained stable."

The fact that is ignored by those who argue teen smoking declined in Canada due to the significant tax increases is that youth smoking declined in the United States by 30 percent during the same period—1977 to 1990—without a price increase.

## U.K.

Between 1988 and 1996 the per pack price of cigarettes increased by 26 percent. Although cigarette volumes fell by 17 percent, the percentage of weekly smokers aged 11-16 went from 8 percent in 1988 to 13 percent in 1996.

## COMMON SENSE

Common sense also suggests that youth are less responsive to tax and price increases. In an era of \$15 compact discs, \$100 video games, and \$150 sneakers, is it realistic to believe that a few extra dollars on cigarettes a month will cause youth to stop experimenting with smoking or not to start in the first place? Young people may

have less "disposable income" than adults, but their spending is almost entirely discretionary.

The CDC has compiled data on brand-preference that supports the conclusion that young people are not particularly price sensitive.

The "price value" or discount, segment of the cigarette market comprised 39 percent of the overall cigarette market in 1993. Yet, according to the CDC, less than 14 percent of adolescent smokers purchased generic or other "value-priced" brands—just one-third the percentage.

The point was echoed by the government's lawyer defending the FDA tobacco rule, who told the U.S. District Court, "[P]rice, apparently has very little meaning to children and smoking, and therefore, they don't smoke generic cigarettes, they go for those three big advertised brands."

In Canada, in Great Britain, the Cornell study, Maryland University, the Chicago study, the situation in California, we don't have a clear understanding that a rise or an increase in taxes would in fact result in a decrease in youth smoking.

It is with that in mind that I feel we should reject this bill as a massive tax increase, and if there is a massive tax increase in this bill, that tax increase should be sent back to those who are most hurt by it—low-income individuals—by eliminating a marriage penalty by raising the standard deduction for married couples to exactly double that enjoyed by single taxpayers.

I thank the Chair for the time. I yield the floor.

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 30 minutes.

## AMENDMENT NO. 2438

Mr. DURBIN. I thank the President. I am happy to stand this morning in support of the pending amendment before the U.S. Senate to this tobacco legislation. It is an amendment offered by Senator DEWINE, Republican of Ohio, and myself, a bipartisan effort to make this important bill more effective.

I would like to pause for a moment before addressing the amendment and speak to the historical significance of this debate.

About 11 years ago I was involved in a struggle as a Member of the House of Representatives to pass one of the first tobacco-controlled bills ever considered by the House of Representatives. In comparison to this bill, ours was a very modest measure. We were setting out to achieve something which on its face appeared very simple, but turned out to be politically very difficult. What we wanted to achieve 11 years ago was to ban smoking on airplanes. You would have thought that we were proposing a second American revolution. The tobacco lobby organized its efforts, found all of its friends, both Democrat and Republican, and marshaled forces to beat our effort.

They predicted that what we were setting out to do would create chaos in

public transportation; it was totally unnecessary; it discriminated against the rights of smokers, and on and on and on.

Well, Mr. President, it was our good fortune in the House of Representatives to have a number of Members of Congress, both Democrats and Republicans, who, for the first time in modern memory, rejected these pleas from the tobacco lobby and enacted legislation a little over 10 years ago that banned smoking on airplane flights of 2 hours or less. It was a breakthrough. It was the first time the tobacco lobby lost. Those who joined me in that effort stuck their necks out politically. It wasn't considered to be very smart politics to oppose tobacco. This, in fact, was the largest, most powerful, most well funded lobby in Washington. Fortunately for us, Senator FRANK LAUTENBERG of New Jersey and his friends in the Senate joined us in the battle and together we successfully achieved our goal. Today, virtually all domestic airline flights—in fact, I think all of them—are smoke free. It is now becoming a trend worldwide.

That battle and that victory, I think, set the stage for where we are today, albeit a small victory in comparison to our goal in this debate. But it would have been unimaginable 10 or 11 years ago to think that today in the Senate we are debating a bill involving tobacco and health of the magnitude of the McCain bill which comes before us. JOHN MCCAIN is our Republican colleague from the State of Arizona. I admire his grit and determination in bringing this bill to the floor despite a lot of opposition, primarily but not exclusively, from his own side of the aisle.

When you think in terms of what we are setting out to achieve, it is substantial. It is revolutionary. It is long overdue. Our goals are simple: reduce teen smoking, invest in public health research and programs to help smokers quit, and protect tobacco farmers and their communities.

The focus on children is a good one and an important one because tobacco companies have needed these children desperately. Each year, they have to recruit millions of children to replace those who are breaking the habit and those who have passed away. They set out their net and stretch it out for millions and bring in thousands, but they keep replenishing the ranks; 89 percent of all people who ever tried a cigarette tried by the age of 18. Of people who have ever smoked daily, 71 percent were smoking daily by age 18. Virtually no one starts smoking during adulthood. It is a childish decision. It becomes a childish habit, and it condemns those who fall into the lure of this nicotine addiction to the likelihood of a shortened life and more exposure to disease.

This McCain bill not only sets out to reduce the number of teen smokers, but it also sets out to invest more in medical research. When I heard my colleague from Missouri decrying this bill



and talking about this waste of tax dollars being brought into our Treasury, I paused and thought that we could argue—and I will during the course of my remarks—that raising the price of the product is going to discourage children from using it as well as others, but also the money that is coming in as a part of this bill is going to be invested back in America.

I would stand by the results of a national referendum on the following question: Should we increase the Federal tax on a package of cigarettes, and then take a substantial portion of the money raised and put it in medical research—send it to the National Institutes of Health for research to find cures for cancer, heart disease, AIDS, juvenile diabetes, Alzheimer's, and the myriad of medical problems that we face in this country? I will bet the results would be overwhelmingly positive because Americans believe in this investment. Americans believe that this bill, in providing money for medical research investment, is money well spent.

Smoking cessation programs are part of it, too. I think that is sensible. My father, who was a lifelong smoker, was a victim of lung cancer and died in his early 50s. I saw, even after his diagnosis, the situation that he faced, the craving that he had for this deadly cigarette that had caused him so many health problems. I have always had a sensitivity and a sympathy for smokers who are trying to quit. For some, they can just literally walk away from it, decide in a minute that tomorrow they will never smoke another cigarette. But for others it is virtually a lifelong struggle.

The McCain bill puts money into smoking cessation programs so that smokers nationwide will have the means to turn to, to reduce their addiction to nicotine. My colleague from Tennessee, Senator FRIST, spoke earlier about the need for medical research in this area, for breakthroughs to stop this addiction. I fully support him, and I think it should be part of this effort. We are hopeful these breakthroughs will make it easier for people to stop this addiction to nicotine. That is part of this bill.

Another provision of the bill protects tobacco farmers and their families. I have never had any crusade against the tobacco farmers. I understand the devastation in health that their crop can cause, but I have always felt they deserve a chance to find another livelihood. This bill gives them that chance. That is why I support it.

Let me speak to the amendment before us, the Durbin and DeWine amendment. It is a look-back provision.

Now, we could give all the speeches we want to give on the floor of the Senate and in the Chamber of the House decrying teen addiction to tobacco products, addiction to nicotine. We can pass all the bills we want saying that as a Nation we are going to come to grips with this, and I am afraid we will

not achieve our goal unless we are very serious and very specific. In fact, in every State in the Nation it is against the law for minors under the age of 18 to purchase tobacco products, and yet clearly they do on a daily and overwhelming basis. So the mere enactment of a law has not achieved our goal.

Why is the McCain bill any different? It is different because one important facet of this bill is included. It is the so-called look-back provision. The look-back provision is accountability; it is honesty. It says that as the years go by we will measure the number of teen smokers in America, and if that percentage does not come down, the tobacco companies and tobacco industry will be held accountable in terms of fees that need to be paid as they miss these targets.

That accountability brings reality to this debate. We can have the highest flying speeches, the most voluminous rhetoric, and yet we will not achieve our goal unless we are specific. Is this a matter that should concern us? Consider this chart for a minute. It is a troubling commentary on what is happening in America.

This chart shows the percentage of high school students who currently smoke cigarettes. Look at from 1991 to 1997. In every grade, 9th, 10th, 11th and 12th, across America, there has been an increase in the percentage of students who are smoking. In fact, the increase over the six years has been 30 percent. While we have given all these speeches, while we have talked about this problem, while the President, the Vice President, the Secretary of Health and Human Services, and so many others have addressed it, we have, in fact, seen the children of America ignoring it. They have taken up this habit, and as they take it up more and more kids are vulnerable.

For those who do not think this is a real American family issue, I pose one question which I always pose in this debate: Have you ever met a mother or father who came to you at work one morning and with great pride and a smile on their face said, "We have great news at home. Our daughter came home last night and she started smoking." I have never heard that. In fact, just the opposite is true. Parents who suspect their kids have started smoking are worried. They understand the danger. They understand the addiction. And they understand better than most why this debate is so critically important.

Some argument is made as to whether or not the increase in the price of tobacco products will reduce usage by children. The Senator from Missouri, who spoke before me, talked about all sorts of surveys that came to an opposite conclusion. I would point to two that confirm the belief in this bill that if you raise the price of the product, children are less likely to use it.

In Canada, just to the north, when they imposed a substantial increase in

the Federal tax on tobacco products, they had a 60-percent reduction in children who were smoking. Kids are price sensitive; they don't have all the money in the world, and when the price of the product goes up too high, they stop using it or reduce their usage. Canada is a perfect example.

On the academic front, at the University of Illinois, Dr. Frank Chaloupka has performed a study in which he has surveyed cigarette prices and whether or not they have any impact on the percentage of youth smoking. He says:

Based on this research, I estimate that a \$1.50 increase in the federal cigarette tax, implemented over three years and maintained in real, inflation adjusted terms, will cut the prevalence of youth smoking in half.

The bill sticks to \$1.10, and the percentage decrease may not be as high or as dramatic, but clearly it will be a decrease. Increasing the cost of the product reduces its usage.

I find it interesting that my colleague from Missouri talked about the so-called cash cow that this \$1.10 creates, the billions of dollars brought into the Federal Treasury because of this increase in the Federal tobacco tax. I think this is money that is going to be raised for good purposes, to reduce teen smoking, to invest in medical research, to invest in smoking cessation, and to help tobacco farmers in transition.

It is interesting that so many of the critics of this bill, who argue we need no tax whatsoever, are anxious to spend the proceeds from that tax. Reference is made to the marriage penalty, an interesting tax challenge which we should take up at some point. But the people who are opposed to this bill want to take the proceeds from the bill and spend them on correcting this tax anomaly, the so-called marriage tax penalty. They cannot have it both ways. You cannot decry this bill as a so-called cash cow, raising taxes that are unnecessary, and then make all sorts of proposals on how to spend it, and certainly proposals which have little or no relevance to the question of whether or not we are addressing the scourge of smoking addiction in this country.

Let me also speak for a moment to the Food and Drug Administration. It is true that Dr. David Kessler, who is a friend and someone I worked with for many years, showed extraordinary courage, with President Clinton and Vice President GORE, in an initiative to reduce smoking in America. They took a lot of heat for it, because they took on the tobacco industry and they suggested they were going to get serious about it. They were going to try to view nicotine as the drug that it is. They were going to try to hold accountable retailers who were selling to children. And they were going to establish standards across America—for example, asking for identification for the purchase of tobacco products. When they proposed this, their critics went wild: "Oh, it is overreaching by the

Federal Government. It is just entirely too much." Yet they were on the right track, a track which we follow today.

Let me try to zero in specifically on the Durbin-DeWine amendment. The fact that this amendment is being debated today has a lot to do with 40 State attorneys general who filed lawsuits against the tobacco companies, seeking to recover, for their States and taxpayers, money that was spent because of tobacco products. Last year, as a result of the aggregate effort of these attorneys general, a general agreement, or settlement, was reached. Part of that agreement included these so-called look-back provisions. The agreement said that the tobacco industry was willing to be held accountable to reduce the percentage of young people smoking. If they did not reach the goals, they would be penalized. So the idea of a look-back provision is not something being foisted on the industry or something brand new on Capitol Hill; this is an idea that was endorsed by the tobacco companies as part of their agreement with the State attorneys general.

The difference, of course, in the DeWine-Durbin approach, is that we take this from an industry assessment, from an industry fee, and say let's look, instead, to the specific tobacco companies. Senator MCCAIN of Arizona, in his bill, says we should do that for roughly a third of the penalties involved. Senator DEWINE and I think it should be a larger percentage. Let me explain to you why we think it should be larger.

Consider this for a moment. Some of my critics come to the floor and say it is impossible for us to measure how many children smoke how many brands of cigarettes. In fact, my friend, the Senator from Texas, says it doesn't pass the laugh test, to think that we would be able to measure how many underage kids are smoking Camels or Marlboros or Kools or Virginia Slims.

Let me suggest to him and others who criticize this amendment, the tobacco companies have extraordinary resources and ability to measure the use of their product. If you challenged Philip Morris to tell you how many left-handed Latvians smoke Marlboros, I bet they could come up with the number. If you challenged R.J. Reynolds to come up with how many tongue-tied Texans use Camels, I'll bet they could come up with the number. Because they market these products and these brands on a very specific basis. They want to know not only how many they are selling, but to whom they are selling them because they have billions of dollars of advertising that they are going to focus in, to try to win over new groups.

So the suggestion that we cannot measure the number of young people using certain brands of cigarettes just defies common sense. The industry has this ability. It has this knowledge. It is a sampling technique that is used by businesses across America, and it can

be applied here. Senator DEWINE and I seek to apply this standard in this situation. We believe—and I hope my colleagues will join us in the belief—that it is eminently fair for us to hold each tobacco company accountable.

Let us assume, for example, that R.J. Reynolds takes this bill very seriously and says they are going to stop marketing their product to children, that they are no longer going to be selling Camel cigarettes to kids. They tell their retailers: "Don't let that pack go over the counter. Don't sell it to a child. We are very serious about it. Or we may cut off your access to our product." They say to the people who are doing the advertising and marketing: "Get honest about this. Make sure that we don't advertise around schools. Make sure that we don't have all these promotions with Camel hats and shirts and all the rest of it."

And let's say they are successful. Should that conduct on their part, that positive conduct, be rewarded? Of course it should. In contrast, if Marlboro and Philip Morris, for example, decide they don't care, they just go on selling as usual, and in fact you see kids, more and more kids, turning to their brand, should they be held accountable for that decision? Why, of course they should. Company-by-company accountability makes sense. It says to the tobacco industry: This is not just an industry problem, this is a company challenge. Get serious about it.

I was somewhat amused that the Richmond, VA, Times-Dispatch yesterday came out with a story from the Philip Morris company. For someone who has been battling this issue for a long time, it is hard to imagine, but Geoffrey Bible, chairman of the Nation's largest tobacco company, told employees in New York that he has recently appointed a senior executive to "design more actions" to back up the company's long-held claim that it does not try to appeal to youngsters.

What a great epiphany it must have been in Richmond, VA, for Philip Morris to finally realize we are talking about them, we are talking about their marketing and advertising techniques, and we are talking about the possibility, if they do not get serious and start reducing sales to youth, that in fact they are going to have to pay for it.

The Durbin-DeWine amendment says that payment should be directed at the companies based on their conduct. If they are positive and reduce sales to children, they will be rewarded. If they ignore this bill and they ignore these goals and end up selling more to children, they should pay a price for it. I don't think that is unreasonable.

I want to salute, incidentally, the State attorneys general who started this ball rolling. Some have been critical of them. I have not. We would not be here today without their initiative and without the progress that they made. Particularly, I would like to salute Attorney General Skip Humphrey

of Minnesota. He hung in there for a long time, and, literally before the jury retired to consider a verdict, he settled the case for over \$6 billion for the taxpayers of Minnesota. That is great news for those taxpayers and Attorney General Humphrey. But equally important, during the course of his lawsuit he managed to draw out even more documents from the tobacco industry. It seems that the more and more documentation we bring out, the more obvious it is that these tobacco executives have been lying to us for decades. They have, in fact, been targeting kids.

We have so many examples. I can't read them all to you here, but from a 1981 memo, a Philip Morris researcher said:

Today's teenager is tomorrow's potential regular customer.

A 1973 Brown & Williamson memo said:

Kool has shown little or no growth in share of users in the 26-plus age group. Growth is from 16 to 25 year olds. . . .

Remember, at the time, it was illegal to sell their product to 16-year-olds in some States, and, yet, they were making it very clear it was part of their marketing strategy. The list just goes on and on of these companies that made conscious marketing decisions to sell to children. They knew they had to recruit these kids. If the kids turned 18, it was unlikely they would become smokers. All of these documents and evidence have really made the case.

Our look-back amendment says we are going to take this very seriously on a company-by-company basis. Let me address for a moment some of the criticisms that have been leveled against this amendment.

First, if you support the McCain bill, which has a company-specific payment in it, then you must necessarily reject the argument that you cannot assess on a company-specific basis. McCain assumes that, I assume it, common sense dictates that, in fact, the companies market their brands to specific groups and can measure the success of their marketing and sales. The Durbin-DeWine amendment takes the McCain premise of the fee assessed on a company-wide basis and expands it. So for supporters of the McCain bill, the Durbin-DeWine amendment is consistent with the methodology that is used.

Second, this will not lead to price increases. The Durbin-DeWine amendment is just the opposite. Some are arguing the look-back provision means the cost of the tobacco product is going to go up. Well, not necessarily. If, for example, in the case that I used, R.J. Reynolds is doing a good job and they are not assessed a surcharge, but Philip Morris is doing a bad job and they are assessed, then Philip Morris is going to have to find a way to absorb that payment in their cost on the bottom line, because to raise the price of their products puts them at a competitive disadvantage with the people at R.J. Reynolds.

The Durbin-DeWine amendment is specific in saying any payment that is

assessed is going to be absorbed by the company in their bottom line. Let me give you an example of the breadth of this payment.

If a company misses the target by 20 percent—in other words, we are saying we are going to reduce teen smoking by so much percent—15 percent, 20 percent, 30 percent—and it turns out they miss it by 20 percent, by a large margin, under our amendment their payment would add up to about 29 cents a pack. It sounds like a lot of money. It is, but don't forget for a moment that the tobacco companies' profit on each package of cigarettes is 40 cents. So our amendment is not going to drive them out of business. It simply is going to tell them their profits are on the line unless they stop selling to children.

Some have argued that our surcharge is too high and will increase costs to \$7 billion instead of the underlying bill's \$4 billion. That is not accurate, either. The underlying bill is kept at \$4 billion in industry-wide payments, but it also has company-specific payments as well. The Durbin-DeWine amendment draws a line and puts an absolute cap at \$7 billion in total.

The two approaches—the bill and our amendment—have similar aggregates if the companies miss by large amounts.

Third, it has been said that this amendment is punitive—punitive. Our approach is not punitive. It reduces the industry-wide payment that applies to companies that, in fact, reduce their youth smoking while other companies fail to do so. It increases the surcharges on companies that continue to market or sell to kids. That is not punishment, that is accountability.

And fourth, as a sign we are not punitive, we have capped the amount that can be charged. It has been pointed out that we require payments of as much as \$240 million per percentage point, but keep in mind, too, that the underlying bill also has provisions in there for payments by percentage point. The lifetime social cost of hooking each youth smoker is \$400 million. We are still charging companies less than the social cost of their continued sales to youth.

I will conclude my time that has been allotted under the unanimous consent agreement by showing on this chart what happens under the Durbin-DeWine amendment as opposed to the McCain bill.

If companies miss by 5 percent, the amount they are charged is \$240 million under our amendment, and it is \$190 million in the underlying bill. At 10 percent, you can see the numbers, and 20 percent as well.

The Durbin-DeWine amendment sets out to achieve several goals on which I hope all Senators, regardless of party, will agree. We reduce the number of youth smokers by 450,000 over the McCain bill. We reduce the number of premature deaths by 150,000 with this amendment. We reduce by \$2.8 billion the lifetime social costs that are at-

tached to smoking addiction, diseases, and death. And we have the same target in reduction as the original proposed settlement with the States attorneys general.

I hope those who have listened to this debate will understand what we are about here. This look-back amendment is more than just a technical approach. It is, in fact, an approach which requires honesty and accountability. The tobacco companies hate this amendment like the devil hates holy water, because this amendment holds them accountable and says, "We don't want to hear anymore verbiage from you about reducing teen smoking. We want to put it in writing. We want to put it on the line. We want you to be held accountable, and you will be held accountable. And if the Durbin-DeWine amendment is adopted and you continue to push your product on children and this addiction rate among our kids continues to grow, you will pay through the nose."

That is hard talk, I know. This is a hard subject. We are talking about the No. 1 preventable cause of death in America today. That is why this historic debate is so important, and that is why no other political diversion that has been raised on the floor should be taken seriously. Let us get about the people's business. Let us do something to give our kids a chance to be spared the scourge of addiction to nicotine and tobacco products.

Mr. President, I yield back the remainder of my time, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. WYDEN. Thank you, Mr. President.

Mr. President, and colleagues, the single most important step this Congress can take to protect our youngsters from the tobacco companies that prey on them is to hold each of those companies individually accountable. And that is what the look-back legislation does that is now before the Senate.

I would like to spend just a few minutes talking about why this is such a critically important amendment in terms of protecting our children.

History shows, and shows very clearly, that each time the Congress tried to rein in the tobacco companies in the past, the tobacco companies would use their enormous marketing, entrepreneurial and public relations skills to get around those efforts. So this amendment offered by our colleagues, Senators DURBIN, DEWINE, myself, and others, provides an opportunity to literally reverse the course of history.

Previous efforts were always evaded by the tobacco companies. They were

able to get around efforts to restrict electronic advertising; they were able to get around the early warning labels that were passed by the Congress. When our colleague on the other side of the Congress, the late Mike Synar, passed legislation to ensure that the States would take strong action to enforce the antisales laws to minors, the tobacco companies got around that. And the reason is that past policies never provided a way to hold each individual company accountable.

So that is why this legislation is so very important. I would submit to my colleagues—I argued this in the Senate Commerce Committee when, as the Presiding Officer knows because I offered a similar proposal there as well—that this is really the key, if you want to see tobacco companies clean up their act and do what they have long said they would do, and that is, stop targeting the youngsters of our country.

If you really do not want to change business as usual, vote against this amendment. If you think that tobacco companies will do it on their own, then you ought to oppose this amendment. But if you want to change the course of history and make sure that we have the tools to hold the companies accountable when they again, as they have done throughout history, look for ways to get around this legislation, if you really want to get the job done right, then vote for this amendment offered by our colleague from Illinois.

The tobacco companies have spent vast sums in recent months arguing that this sort of legislation really isn't needed, that they would take strong action on their own and that they have cleaned up their act from years past. In the Senate Commerce Committee, we heard that argument. As the Presiding Officer knows, we heard from all the CEOs at that time. Given the fact that many of the documents and the accounts of past industry misdeeds were pretty old, a number of us were inclined to say it is a new day. Let us see if the tobacco companies are going to be better corporate citizens. Let's see if they have cleaned up their act.

As we prepared for those Commerce Committee hearings, Mr. President, I learned that the Brown & Williamson Company was again engaging in conduct that did not really reflect what they and other companies were saying in the ads that they were running at that time about how it is a new day and they have cleaned up their act.

A brief bit of history for the Senate I think would be revealing.

I participated, as a Member of the other body, in the hearings in 1994 where the tobacco executives then under oath, told me that nicotine isn't addictive. Of course, they contradicted every Surgeon General for decades. But there was actually a revelation at that hearing that perhaps was equally remarkable. At that hearing, it was brought to light that the Brown & Williamson Company was genetically

altering tobacco plants to give it an added punch as a way to attract smokers—shocking evidence. And when brought to light, the Brown & Williamson Company pledged to the committee, to the country, that they wouldn't engage in that kind of conduct again.

As we prepared for our hearings in the Senate Commerce Committee, we began to hear about news reports that the Brown & Williamson Company was using genetically altered tobacco, known as Y-1, in cigarettes and selling them both here and abroad. So when the executives came before the Senate Commerce Committee I asked them about this. In their words, the CEO of the Brown & Williamson Company said, "We are working off a small stockpile of genetically-altered tobacco, and in fact that is being included in cigarettes in our country and around the world."

As many in the Senate know, there is now a criminal inquiry underway. There have already been those who have pleaded guilty in connection with this matter. The Justice Department continues its investigation.

The reason I bring this up is this is a concrete, tangible reason why we need the amendment offered by the Senator from Illinois. The Senator from Illinois, our colleague, Senator DURBIN, gives us a chance to reign in a company that engages in that kind of rogue action, action that is detrimental to the health of the American people, and action that, in fact, as recently as 4 years ago said they would never engage in again.

It is one thing to talk about conduct that is 20 or 30 years old; it is another thing to talk about conduct that stems from the 1950s. But it is quite another to see a company that makes a pledge to the American people that they will stop engaging in a health practice which is obviously detrimental to children and to our citizens, and then start it again, even while the hot light of the Congress is examining their conduct in considering legislation.

These companies are not going to change on their own, Mr. President. We are going to have to hold them accountable through legislation. That is why this amendment is so very important. I will tell my colleagues that I believe this amendment, in connection with the accountability requirements that the President knows we set up in the course of our Commerce Committee deliberations, is the single most important tool for reversing history and making sure that after this bill is passed and the tobacco companies try to get around it, that we will have some strong tools to rein them in.

I know we want to move to a vote on this, but I simply wanted to take a few minutes of the Senate's time to say that I think this is a critically important amendment. It is critically important for each Senator who really is serious about changing business as usual with respect to tobacco policy. The single most important concept the to-

bacco companies fear is accountability. They have not been faced with company specific accountability when we have passed previous legislation—warning labels, advertising restrictions, or the Synar amendment. They never had to face an amendment like this that would say, look, we are actually going to require you to produce results.

I hope our colleagues will, as reflected by the bipartisan authorship of this amendment—our colleagues, Senator DURBIN and Senator DEWINE—will pass this legislation. It is critically important for the youngsters of this country. It is the one part of this bill that will make sure that the job actually gets done in protecting youngsters, and not allow another piece of legislation, once again, to be evaded by the tobacco companies' genius, their marketing skills, and the vast sums that they will continue to spend with respect to marketing their products.

I yield the floor.

Mr. KERRY. Mr. President, I thank my colleague from Oregon for his continued, persistent, passionate commitment to trying to pass this legislation.

The Senator was referring to the extraordinary sums of money that the tobacco industry spends. Let me remind our fellow Americans that amount of money is \$6.5 billion per year, \$16.5 million per day, \$700,000 every hour to get people to smoke. What is most astonishing about this effort to get people to smoke is the degree to which it has been targeted at young people, targeted at children.

It is an extraordinary story. Nine out of 10 kids who smoke use one of the three most advertised brands, and yet less than 30 percent of adults use those most advertised brands. A study of 6-year-olds showed that just as many 6-year-olds—91 percent of all the 6-year-olds in this country—could identify Joe Camel just as they could identify Mickey Mouse. That is an absolutely extraordinary statement.

Now, there is a reverse side of how extraordinary these statistics really are, because for every American who smokes there is an American or two who are trying not to smoke. All of them will tell you—or almost all, 86 percent to 90 percent of them—they started smoking when they were teenagers. Most of them—again, many, many, analyses and polls have been done of this—most of those people who started smoking as teenagers will tell us if they could quit today, they would quit today and never start again. If they had the choice to make again, they wouldn't choose to smoke. But they smoke because they are addicted. They are hooked.

The truth is, in the United States of America we have more people spending more money to try to get unhooked on an annual basis than we spend on day care. That is most extraordinary. I found it hard to believe when I heard that. In Massachusetts alone, our citizens are spending \$1.3 billion a year on nicotine patches, on different kinds of

gums, on therapy, on hypnosis, on all of the things that people go through to try to stop. We are spending \$1.3 billion a year in Massachusetts alone. Extrapolate that out across the country—it is millions of dollars more than the Federal Government commits to day care for our children. The reason this happens is because people get hooked at the early stages.

Now, I want to share with my colleagues something about getting hooked in the early stages. We continue to hear colleagues come to the floor and say, gosh, this is going to raise money in the expense of cigarettes, and that is not a good thing. But they never address the amount of money that Americans are spending because of people who smoke. They never address the tax that cigarettes "whack" every American, even those who don't smoke. Every single household in America is spending an unwanted, unrequested, undesired 1,300 plus dollars—1,370 or so dollars. Every household in America spends that, whether they want to or not, on the cost of the other Americans who smoke and then get sick.

Let me share a story about some Americans who smoke and get sick, a commentary in USA Today by Victor Crawford. The title is "Tobacco was Dad's Life; It Also Took his Life." I read from the article:

My father never had a chance. When he was growing up in the 1940s, almost everyone smoked cigarettes. He said it was the thing to do. It was not until 1964 that the U.S. Surgeon General declared smoking was harmful. But by then, my father had been addicted for almost 20 years. His addiction finally killed him last March, one month before his 64th birthday.

When my father was diagnosed with throat cancer in 1991, some thought he had it coming to him. You see, my father was a Maryland State senator turned tobacco lobbyist. He was the first to dismiss the antismoking people as "health Nazis" but spent the last years of his life trying to undo the damage he had done. He admitted he had lied, and he apologized for claiming, "There is no evidence that smoking causes cancer." Unfortunately, tobacco lobbyists understand this simple logic all too well. Like my father, most smokers today start when they are about 13 years old. And since about 90 percent of all new smokers are 18 and under, the industry needs to keep hooking kids to stay in business.

I will skip through a little bit, turning to the end:

My father said, "Some of the smartest people in America work at just one thing: trying to figure out how to get young people to smoke. As tobacco kills off people like me, they need replacements." My father didn't live to see his daughter graduate from college; he won't meet my future wife, nor will he walk my sister down the aisle at her upcoming wedding; he will never know his grandchildren, and they will never meet their grandfather—all because when he was 13, smoking was the thing to do. Let's give today's kids a fighting chance.

Mr. President, that is why we are here in the U.S. Senate. We have been tied up for more than a week now trying to give kids a fighting chance.

There is only one reason this bill is on the floor of the Senate: because every expert in America, including the tobacco companies, tells us that if you raise the price of cigarettes, you will reduce the number of young people who smoke. And if we reduce the number of young people who smoke now, we will reduce the 420,000 Americans who die every year as a result of a smoking-related disease, such as cancer of the pancreas, cancer of the larynx, cancer of the throat—one cancer or another—and heart disease and liver disease.

The Presiding Officer understands better than anybody, as a practicing physician and one who has been a key architect in helping to get this bill in a position to pass it, that this bill is about stopping kids from smoking and reducing the costs to America, the costs to families, the unwanted, unrequested costs of smoking. Families who result with a disease that comes from smoking wind up paying tens of thousands of dollars more in health insurance. But the impact for those people who don't have insurance, or adequate insurance, is to raise the insurance costs for everybody in America, raise the costs of all of our hospitals, raise the costs for families who can ill afford it.

Mr. President, this is the first opportunity the U.S. Senate has had to address an extraordinary history. I want to share that history with my colleagues. It is now known that the tobacco industry helped to create this mess by targeting young people, by creating replacement smokers. Many of my colleagues may not have had an opportunity to focus precisely on the degree to which that has been true and the degree to which, therefore, this effort to try to raise the price of cigarettes and create a series of efforts to prevent young people from smoking through cessation programs, counteradvertising, and other efforts, is so important.

In 1975, the R.J. Reynolds company, in a memorandum, wrote the following:

To ensure increased and longer-term growth for Camel filter, the brand must increase its share penetration among the 14-24 age group, which have a new set of more liberal values and which represent tomorrow's cigarette business.

That is the R.J. Reynolds company talking about targeting the 14- to 24-year-old age group because they are "tomorrow's cigarette business."

They represent tomorrow's cigarette business. As this 14-24 age group matures, they will account for a key share of the total cigarette volume for at least the next 25 years.

That is an R.J. Reynolds tobacco company executive, a vice president for marketing, C.A. Tucker, on September 30, 1974.

Let me read what Mr. C.A. Tucker also said:

This suggests slow market share erosion for us in the years to come unless the situation is corrected . . . Our strategy becomes clear for our established brands: 1. Direct advertising appeal to the younger smokers.

Let me read what Dianne Burrows, a researcher, wrote in a memo for R.J. Reynolds in 1984:

If younger adults turn away from smoking, the industry must decline, just as the population which does not give birth will eventually dwindle.

In the same memo, it says:

Younger adult smokers have been the critical factor in the growth and decline of every major brand and company over the last 50 years. They will continue to be just as important to brands/companies in the future for two simple reasons: the renewal of the market stems almost entirely from 18-year-old smokers. No more than 5 percent of smokers start after the age of 24.

That is an R.J. Reynolds research memorandum, telling us that people don't start smoking after age 24. They targeted young people and got them hooked with a narcotic killer substance.

Brands/companies which fail to attract their fair share of younger adult smokers face an uphill battle.

Younger adult smokers are the only source of replacement smokers.

So kill them off and replace them. Kill them off and replace them. That is the way it has been.

This is a Brown & Williamson memo from consultants recommending that the company consider Coca-Cola or other sweet-flavored cigarettes. The 1972 memo says:

It's a well-known fact that teenagers like sweet products. Honey might be considered.

They were talking about a way to try to sweeten cigarettes and get more young people hooked.

Another Brown & Williamson memo said:

Kool has shown little or no growth in share of users in the 26 [plus] age group . . . Growth is from 16-25 year olds. At the present rate, a smoker in the 16-24 year age group will soon be three times as important to Kool as a prospect in any other broad age category.

Let me share a Philip Morris document with you. We are going to spread this around. We have had some from R.J. Reynolds and Brown & Williamson. This is from a report sent from researcher Myron E. Johnson to Robert B. Seligman, then vice president of research and development, in 1981:

We will no longer be able to rely on a rapidly increasing pool of teenagers from which to replace smokers through lost normal attrition . . . Because of our high share of the market among the youngest smokers, Philip Morris will suffer more than the other companies from the decline in the number of teenage smokers.

So here you have Philip Morris, particularly, concerned about the loss between different companies, targeting teenagers.

This from the same report of Philip Morris:

Today's teenager is tomorrow's potential regular customer . . . The smoking patterns of teenagers are particularly important to Philip Morris . . . the share index is highest in the youngest group for all Marlboro and Virginia Slims packings.

Marlboro's phenomenal growth rate in the past has been attributable in large part to

our high market penetration among young smokers . . . 15 to 19 years old . . . my own data, which includes younger teenagers, shows even higher Marlboro market penetration among 15-17 year olds.

This is from a different document, Mr. President. This is a Philip Morris internal document in 1987. This came from the Minnesota case. This was an exhibit in the Minnesota trial. This may explain one of the reasons that Minnesota finally reached a settlement.

You may recall from the article I sent you that Jeffrey Harris of MIT calculated . . . the 1982-1983 round of price increases caused two million adults to quit smoking and prevented 600,000 teenagers from starting to smoke. Those teenagers are now 18-21 years old, and since about 70 percent of 18-20 year-olds and 35 percent of older smokers smoke a PM brand, this means that 700,000 of those adult quitters had been PM smokers and 420,000 of the non-starters would have been PM smokers. Thus, if Harris is right, we were hit disproportionately hard.

Here is the kicker: "We don't need this to happen again."

In other words, we don't need to lose these smokers again. We have to find a way to penetrate—that, and the young people. But the most important thing is they found that their price increase caused 2 million adults to quit, and it prevented 600,000 teenagers from starting to smoke.

That is a cigarette industry document. For those Senators who keep coming to the floor saying, "Why are we raising this price?" all they have to do is read the cigarette companies that they are inadvertently, or otherwise, protecting on the floor by not voting for this legislation, because the cigarette companies themselves will tell you, raise the price and they lose business. That is precisely why people agreed on a volume adjustment in the process of arriving at how much money is going to be gained over the course of the life of this legislation.

Let me read from a different Philip Morris memo.

The teenage years are also important because those are the years during which most smokers begin to smoke, the years in which initial brand selections are made, and the period in the life cycle in which conformity to peer group norms is greatest.

Mr. President, here we have an admission by Philip Morris of what everybody has known—that they are actually targeting the peer group which they know to be the most susceptible to exactly the kind of advertising that they geared up.

The teenage years are also important because those are the years during which most smokers begin to smoke . . . the period in the life cycle in which conformity to peer group norms is the greatest.

That is extraordinary.

So the cigarette companies willfully played on the time period of greatest peer group pressure and played to the peer group pressure. So it is today that we can hear from people who are in wheelchairs who have lung transplants like Pam Lafland, who I quoted a few days ago, who tells a story today of her

starting, as just that kind of peer group pressure person who responded to the notion, "Oh, boy. If I smoke a cigarette, I am going to look older." Today she looks a lot older. Today she is trying to take care of her kids out of a wheelchair.

Mr. President, that is what this is all about. Let me read from a different R.J. Reynolds Tobacco Co. marketing report on the future of Winston. This is 1990—15 years ago already of reports that we are looking at.

Winston, of course, faces one unique challenge . . . . It's what we have been calling the 'doomsday scenario'.

Get this, the "doomsday scenario."

. . . an acute deficiency of young adult smokers, apparently implying Marlboro's final domination and our utter demise within a generation."

The "doomsday scenario"—that they are not going to get enough young people hooked on Marlboros, and down they go.

Here is a 1969 draft report from the Philip Morris board of directors:

Smoking a cigarette for the beginner is a symbolic act . . . . 'I am no longer my mother's child, I am tough, I am an adventurer, I'm not square' . . . . As the force . . .

This is really.

\* \* \* As the force from the psychological symbolism subsides, the pharmacological effect takes over to sustain the habit \* \* \*

Mr. President, that is one of the most remarkable admissions from a company that we have had in this entire debate. I want to rephrase it.

What they are saying is that after they have abused a young person's susceptibility to peer pressure, after they have exploited this young person's availability to get them into smoking, they acknowledged in 1969 that once the psychological symbolism is gone, it is the pharmacological effect that sustains the habit. In other words, they are hooked. They are addicted. They got to have it.

Here is a Lorillard executive in 1978: "The base of our business is the high-school student."

Mr. President, there are pages and pages of the thoughts of the cigarette companies regarding their availability to cigarettes, all of which are the most profound fundamental documentation and for which the U.S. Senate must pass this legislation in the next days. There is no room for excuses in the face of the cigarette companies' own acknowledgments of what they have done to target generation after generation of Americans in order to get them hooked on a substance that is a drug, that is addictive and a killer substance which winds up costing Americans increasing amounts of money, costing Americans increasing amounts of money.

Mr. President, we have that opportunity here. We have the opportunity to do precisely what the cigarette companies themselves have now agreed to do. They settled of their own accord with a number of different States. And in their settlements with those States,

they agreed to pay amounts of money, they agreed to curb advertising, they agreed to engage in cessation programs, and they agreed to raise the price of cigarettes—all of the things that we are seeking to do here in this legislation. There is no excuse for a U.S. Senator coming to the floor and suggesting that we shouldn't do at a national level in the U.S. Senate what the cigarette companies themselves have agreed to do in settlements with the States—no excuse. The States themselves have arrived at settlements. If you extrapolate the amount of money that they are paying in those settlements, it is more than the U.S. Senate has agreed in its denial of a \$1.50 increase and more than it has agreed to raise in total in this legislation.

So this is not a matter of economic survival for those companies. This is a question of whether or not we are going to engage in an effort to reduce the access of our young people to cigarettes. That is what this is about.

I have heard some people complain, "Well, you know, it is one thing to raise the money but we ought to do the right thing with the money." Then they start coming and diverting the money to a whole lot of things that have nothing to do with stopping kids from smoking.

It is going to take more than just a price increase to be successful in our goals. We need to guarantee that kids who are particularly vulnerable—kids who have difficult situations at home or kids who may leave school at 2 o'clock in the afternoon for whom there is no adult supervision between the hours of 2 o'clock and 6 or 7 in the evening—are not going to be left to their own devices in order to go out in the streets and meet a drug dealer, or subject themselves to the various peer pressures and wind up with smoking as a new habit.

Mr. President, we have the opportunity here to be able to make a difference in the availability of kids to that kind of free time. We have the opportunity to be able to provide cessation programs, which have been proven to work. California, Arizona, my own State of Massachusetts, have exemplary programs which are reducing the level of teenagers who are smoking, and they do it through various kinds of education—outreach, peer groups—different kinds of educational efforts within the classrooms and within the schools. But we need to train people in that. We need to train teenagers. You need the adequate development of teachers to be able to conduct that kind of pedagogy with which they may not be familiar. And you need to have an adequate supply of materials. You need to be able to help organize it administratively.

I think this bill is structured in a way that tries to afford the maximum opportunity to States and local communities to be able to decide how to do that. This is not some big Federal man-

date. This is left largely for the States to be able to decide what works for them best and how they will organize their efforts. We have simply tried to outline those areas that by most expert judgments there is the greatest chance of really having an impact on children and making a difference in their lives.

So those outlines have been laid out as a menu, if you will, from which one could choose at the State level. It is not insignificant that the Governors, both Republican and Democrat alike, have signed off on that concept. If they are content that they can exercise their judgment adequately and that this gives them an opportunity to be able to continue the things that they have started, I think that ought to satisfy the judgment of those who often make a career out of fending for the right of States to make those decisions and a career out of opposing the Federal Government's heavy hand into something. This bill specifically, I think, appeals to both of those best options. I hope my colleagues will recognize that upon close analysis.

Mr. President, I simply wanted to refocus the Senate on the critical component of what brings us here. I think we have, hopefully, finally arrived at an assessment that there is only one reason for raising the price of cigarettes. That reason did not initiate itself in the Senate. It came from the tobacco companies themselves, from economists, from experts. It came from health experts, and it came from many focus groups and analyses, all of which have arrived at the conclusion that price is important.

Now, I thought, frankly, that Adam Smith and others had arrived at that conclusion a long, long time ago. I think most people in the marketplace have always known that most commodities are price sensitive, and the marketplace is price sensitive. Indeed, the tobacco companies have underscored that in their own memoranda which say they lost smokers as a result of their earlier price increases. What happened before will happen again. The question is whether we are going to maximize our effort in order to guarantee that kids get a lot more than just the price increase, that they get the kinds of guidance and the kinds of personal counseling and the kinds of personal education that will make a difference in the peer pressure, symbolic side of the choice that so many have made. And this ultimately will benefit every single American. If we are going to talk about the cost, let us talk about the cost to all of America of smoking—the cost through all of our hospitals, our pulmonary wards, through emphysema, the length of extraordinary care and its cost for those who have terminal illnesses as a consequence of smoking and the consequences to all other Americans who choose not to smoke but because of secondary smoke.

Mr. President, I suggest the absence of a quorum.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. Will the Senator withhold?

Mr. KERRY. No.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. GRAMM. Mr. President, I ask unanimous consent that we proceed under the current status quo, that Members be recognized for the purpose of debate only, until 2:15.

The PRESIDING OFFICER (Mr. SMITH of Oregon). Is there objection? Without objection, it is so ordered.

Mr. GRAMM. Mr. President, I am not going to give a long speech this afternoon. We are working to develop a compromise to provide some cushion to basically blue-collar Americans who are going to bear the brunt of this massive tax increase that is before the Senate. I am hoping that we can reach an agreement, and that we will move forward in an orderly way. Let me say to my colleagues that I am determined to see that we do not allow the Senate to engage in one of the greatest bait-and-switch legislative activities in history.

Our dear colleague from Massachusetts has in passionate terms indicted the tobacco industry. If this is a trial of the tobacco industry, I vote guilty. If this is a lynching, I say hang them. But I want to remind my colleagues of one unhappy fact. And facts are stubborn things. The cold reality of the bill we have before us, all 753 pages of it, is that we can damn the tobacco companies all we want, and I join in that chorus. As to where conspiracies have been committed, we have a Justice Department which is largely unemployed in any other activity, let them investigate and prosecute. But I want to be sure everybody understands that nobody is talking about penalizing the tobacco companies.

What we hear day after day after day is a steady drumbeat of denouncing the tobacco companies while we have 753 pages in this bill that raise taxes on blue-collar America. In fact, we have a bill before us that not only does not tax tobacco companies but has the extraordinary provision that makes it illegal for them not to pass the tax through to the consumer. So tobacco companies are held harmless.

What we have here is a giant bait and switch. The bait is tobacco companies. Try them. Convict them. Hang them. But the switch is to impose \$700 billion of taxes primarily on blue-collar Americans; 59.1 percent of this tax will be paid for by Americans who make less than \$30,000 a year. In my State, 3.1 million people smoke. As you listen to all of this ringing debate, we are talking about these victims. The 3.1 million

Texans that the tobacco companies have conspired to addict to nicotine are going to have taxes imposed on them under this bill. A blue-collar family, a husband who is a truck driver and a wife who is a waitress, will end up paying \$2,030 of new Federal taxes if they smoke one pack of cigarettes each a day. So we are damning the tobacco companies but we are impoverishing the victims of the tobacco companies.

As my 85-year-old mother, who speaks with the wisdom that comes from being 85 years old, has said to me, "I'm a little bit confused; you tell me that this guy Joe Camel makes me smoke and that I am a victim, but you turn around and tax me."

Mr. KERRY. Will the Senator yield for a question?

Mr. GRAMM. I listened to the Senator speak for over an hour. All I want to do is make my point, and when I get to the end of it, I will yield.

So with the wisdom that comes from being 85 years of age, my mother, who has no formal education, has listened to this debate. She has listened to this vilification of the tobacco industry—and justifiable vilification I might add. Yet she has figured out that nobody is taxing tobacco companies, they are taxing her. She is the victim. The Government is here to help my mother. And how are we going to help her? Having been addicted to smoking for 65 years, and despite her baby son's efforts for 55 of those 65 to get her to stop smoking she is addicted, and she is not going to quit smoking. She has concluded that we are talking about how bad tobacco companies are for having gotten her addicted to smoking, but we are taxing her. The cold, persistent, unhappy fact is that 59.1 percent of these taxes will be paid by working blue-collar Americans who make less than \$30,000 a year; 75 percent of the taxes will be paid by people and families that make less than \$50,000 a year.

If this is not a classic case of bait and switch, I never heard one. All of the rhetoric is about keeping teenagers from smoking. I would love to do that. I would like to get people who are not teenagers to also stop smoking. I would love to do that. But why we have to give \$700 billion to the Government to do that, I don't understand. I am struggling, opposing this organized effort and all of these people who are outside with their buttons on saying "Give me your money."

Secretary Shalala has said that the price increases will reduce smoking by 50 percent among teenagers. This bill sets a target of reducing smoking by 60 percent, so they are going to take \$700 billion and all they claim they are going to be able to do with it is reduce smoking another 10 percent. Though it is interesting, when USA Today asked the American people in a poll if they believed this bill would stop people from smoking, 70 percent said no.

Here is my point: If we want to raise taxes to discourage smoking, that is

one thing. But why do we have to keep the \$700 billion? Why do we have to raise the level of Federal taxes on Americans making less than \$10,000 a year by 41.2 percent? If the objective is to make cigarettes more expensive and discourage smoking, why do we have to impoverish blue-collar America in the process?

What I am saying is, if we believe that raising prices will discourage smoking, let's raise prices. But let's take at least part of the money that comes to the Government, and instead of paying tobacco farmers \$21,000 an acre and letting them go on growing tobacco; instead of paying plaintiffs' attorneys \$100,000 an hour for filing these suits; instead of setting up programs where every major Democratic contributor will have his charity or his interest funded by this program, why don't we raise the price of cigarettes, discourage smoking, and take the money and give tax cuts to blue-collar America so we are discouraging them from smoking, but we are not pounding them into poverty?

Maybe you can be self-righteous enough that you are not worried about a blue-collar couple in Texas paying \$2,030 of additional Federal taxes if they smoke one pack of cigarettes a day. Maybe you are not worried about what that is going to do to their ability to pay their rent, to pay their groceries, to have any chance of saving money to send their child to college. But I am worried about it. I am not in any way made to feel better by damning the tobacco companies while writing a bill that protects them from paying this tax; a bill that mandates they pass the tax through to the consumer, which basically is blue-collar America.

I have an amendment that is very simple. It says: Raise the price of cigarettes, discourage smoking, but instead of letting the Government have this money, what one office seeker in my State has called "winning the lottery", instead of setting up a program that gives not thousands, not millions, but untold billions to everything from community action to international smoking cessation—it is obvious that people long since ran out of ideas as to how to spend the money—instead of engaging in this feeding frenzy, which will bloat Government forever, why don't we take some of the money and give it back to moderate-income people. So we raise the price of cigarettes, we discourage them from smoking, but we don't impoverish them?

I have picked probably the worst feature of the current Tax Code to try to fix as a part of this process. What I have done is targeted a part of the Tax Code where it is the policy of the Federal Government to discourage people who fall in love from getting married. I happen to believe the family is the strongest institution for human happiness and progress that has ever been developed. I don't understand a tax policy that says if you have a waitress and a truck driver who meet and fall in



love and get married, we are going to make them pay more taxes for being married than if they were single or lived in sin. Or if a CPA and a lawyer, working all the way up and down the income structure, fall in love, get married and have a whole bunch of children who can pay Social Security taxes in the future and solve America's problems in the future, we tax them an average of \$1,400 a couple because they got married. As my colleagues have heard me say on many occasions, my wife is worth \$1,400, and I would be willing to pay it, but I think she ought to get the money and not the Government.

So what my amendment does is take roughly a third of this money in the first 5 years, and then half of it in the second 5 years, letting them spend two-thirds of this money, more money than you would possibly spend efficiently if your life depended on it. People who would have been happy with thousands now will be given billions. Tobacco farmers will, in 6 months, take a quota for growing tobacco they could buy today for \$3,500, and we are going to pay them over \$21,000 for it in this bill. I personally don't know why these quota prices have not exploded, given this bill is out there. Maybe they figured out this bill is not necessarily going to become law. Rather than do all of those things, I am saying, let's raise the price of cigarettes so we try to discourage people from smoking—which is God's work; I am for that—but take a third of the money and instead of letting Government spend it, let's eliminate this marriage penalty for couples who make less than \$50,000 a year so that while the price of cigarettes goes up, we don't impoverish people.

That is basically what my amendment does. I hope my colleagues are going to support it. Our Democrat colleagues do not really want to give this money back. They don't like giving money back. They like spending it. And they think anybody who works is rich and they ought to be giving more than they are giving.

But their idea is: Take my amendment and water it down to almost nothing, and then get all their people to vote against my amendment. Then get them to come back and vote for their figleaf, amendment. Then they can all go home and say, "Repeal the marriage penalty? I was for repealing the marriage penalty; it is just I didn't want to do it the way that Republicans wanted to do it. But I am with the family. I'm with the blue-collar worker. I represent the blue-collar worker."

I am hopeful we can reach an agreement that will guarantee that I will get 51 votes for my amendment. If anybody wants to watch the debate, once it goes over 51 votes, I predict that at least 20 or 25 percent of our colleagues who have not voted for it will immediately rush and vote for it once it is adopted. We might watch that at the conclusion of this vote.

In any case, the point that I want to reiterate, because it gets lost in this whole process, is a simple point: Everything that is being said about the tobacco companies I agree with. If we are here to indict them, they are indicted. If we are here to convict them, they are convicted. If we are here to hang them, let the hanging begin. But despite all that rhetoric, which is interesting and appealing and it makes us feel good, in the end, 59.1 percent of this tax is being paid by American blue-collar workers who make less than \$30,000 a year.

The tobacco companies, on the other hand, have a provision that even if one tobacco company should say, "Well, I could get a market advantage by not passing this through," they have legal protection that makes them pass it through to be sure the blue-collar worker gets all of the tax burden and that none of it is absorbed by the tobacco companies.

All I am trying to do is say this: Don't get blue-collar Americans, who are the victims of the effort by tobacco companies to get people to start smoking, confused with tobacco companies. If you want to impose taxes on tobacco companies, have at it. If you want to drive them out of business, have at it. But you are not going to do that, because basically there is a rule that every parasite learns. If the organism is to survive, you don't kill the creature on which you engage in the parasite activity. You bleed the host creature, but not to the last drop of blood.

My view is, I care nothing about the tobacco companies and, if you want to destroy them, have at it. But I do care about 3.1 million Texans who smoke. Many of them would like to stop. My mother would like to quit smoking, but she is not going to quit smoking.

All I am saying is, don't get tobacco companies and workers confused. And I am talking about taxpayers. If the price increase, according to Secretary Shalala, is going to cut consumption by 50 percent and the target of this bill is to cut consumption by 60 percent, then this \$700 billion is getting you 10 percent more, supposedly. I just don't see how you can spend that much money.

If you look at what is being done, it is clear that much of what is being funded in this bill has nothing to do with smoking. For example, we mandate that the States spend the money we give back to them on maternal and child care block grants, on funding child care, on federally-funded child welfare, on the Department of Education Dwight D. Eisenhower Professional Development Program under title II of the Elementary and Secondary Act, and it goes on and on and on and on, because nobody has ever had this much money before to spend.

Actually, this is a modest proposal. What I am saying is, give a third of what we take in cigarette taxes back to blue-collar workers so we get the benefits of the higher price of ciga-

rettes but we don't impoverish blue-collar America by making it fund the largest growth in Government that we have seen since the mid-1960s.

I hope my colleagues will support this amendment. One way or the other, I hope to see it adopted. I want to get a vote on it. I want America to know who is for it and who is against it. That is the essence of democracy—accountability. I think this is an issue on which we need some accountability.

Quite frankly, I think my amendment improves this bill. We ought to be giving about 75 or 80 percent of the money back in tax cuts. We need to have an effective but reasonable program for antismoking, and we need to throw out about 745 pages of this 753-page bill so that it is really about smoking and not about the largest money grab that has occurred in Congress in my period of service.

This amendment is a first step in the right direction. I hope it is not the last step. I understand there are others who are going to be offering provisions related to tax breaks for health care and other items, but this is a logical place to start, and it is where I want to start.

Mr. President, I yield the floor.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I was entertained listening to my friend from Texas, who makes some pretty broad statements about who is for what and who supports what. I think I heard him just say Democrats don't really want to give the money back but the Republicans do. Maybe he wishes that were the fact, and sometimes the wish is the father to the fact, but not in this case.

As far as I know, Democrats are wholeheartedly in favor of a fairness that has escaped every single proposal that the Senator from Texas has ever brought to the floor with respect to taxes. There isn't one tax proposal that has passed the U.S. Senate in the 14 years I have been here that wasn't proposed on the Republican side of the aisle that wasn't made fairer by the efforts of Democrats on this side of the aisle. There isn't one tax proposal that the Senator from Texas and others have brought to the floor—not one—that wasn't geared to the upper-income level of people in this country, and usually at the expense of the low-income level of people.

My friend from Texas may wish it were otherwise, but the fact is that the distinction is not whether or not we want to give money back, the distinction is whom we want to give it back to and whom they want to give it to in the first place.

Every single tax bill I have ever seen worked on here, whether it was the capital gains distribution, or how it came in, or the depreciation allowances, or just on the income tax, or on efforts to roll back some of the impact of the payroll tax—in every single instance, we, I think, have been able to improve the distribution. Let me give a classic example.

In the agreement we reached last year, with much ballyhoo, on the budget, which brought us to the point of a balanced budget and on the available money for individuals earning \$40,000 or less, under the proposal that the Senator from Texas supported and our friends on the other side of the aisle supported, a single-parent mother would have gotten zero income back, zero tax rebate, at \$40,000 or less of income. And it was only when we refused to pass that legislation without changing it that she got something. In the end, we passed legislation which provided that single parent with an income of \$40,000 with \$1,000 of tax benefit rebate.

The distinction here is who gets what, and that will be the distinction in an alternative we will offer, if we have to, with respect to the marriage penalty, because we understand, just as well as the Senator from Texas, that the marriage penalty is unfair, the marriage penalty is an aberration in the context of the Tax Code, and has a negative impact on an institution that we respect equally with the Republican Party.

So we will offer, I think, in fact a fairer and better structuring of an elimination of the marriage penalty, and we will give the Senate another opportunity to vote on fairness. You can vote for Senator GRAMM's proposal, which will benefit not as many people at a lower income level as ours; and we will let others be the judge as to whether ours is, in fact, a fig leaf or yet another Democrat effort to make the Tax Code fairer and to protect people in the institution of marriage. I know where my vote will go. I know what I will be comfortable with based on that judgment.

So, Mr. President, the real issue here is, What is the distribution? The Senator from Texas stood there and said, "All I want is one-third, just one-third. And then they'll have plenty of money to spend on all the other programs that they want." Well, analyze that and you find that is not true either. Because the Senator from Texas cannot control what other amendment may come that may try to grab additional revenue.

So the first grab may be the marriage penalty, but then you may have—you will have an additional amount of money for drugs; you will have an additional amount of money here or there; and unless the Senator from Texas is prepared to say he and his colleagues will stop trying to raid the effort to stop children from smoking, we would be hard pressed to say that it is only one-third of the money.

But there is another reason that one is hard pressed to say that it is only one-third of the money. Because, once again, the Senator from Texas has only told you part of the story. Here is the part of the story the Senator from Texas did not want to tell you. It is right here. The one-third of the distribution of the Senator's money on his approach to dealing with the marriage

penalty, yes, it is about one-third in the first year—in the first 5 years. But in the second 5 years, it jumps up to \$82 billion, which is 53 percent; in the next 5 years, because we are talking about a bill that works over 25 years—they are always coming to the floor and telling you it is a \$700 billion bill or a \$600 billion bill or a \$500 billion bill, so when it is convenient for them, they talk about the numbers in the context of 25 years; but when it is inconvenient for them and it tells another side of the story, they try to limit it to just 5 years. Let us put it in the same context as the 25 years they are talking about.

In that 25-year context, Mr. President, here is the effect: The first 5 years, it is the one-third the Senator talked about. In the next 5 years, it is 53 percent. Wow. In the third 5 years, it is 80 percent of the amount of money available under this legislation. And in the last two sets of 5 years, it is 77 percent and 73 percent.

So the Senator is really talking about gutting—gutting—the effort to stop kids from smoking. And every time he comes to the floor he talks about all the things this bill does that is Government. Well, by gosh, a cessation program involves somebody organizing people to help people not to smoke. And since schools are where most of our children reside for the better part of a day or a good part of a day, and the better part of a year, it makes sense to involve our schools in cessation programs. To do that, you have to spend a little money and organize it.

State block grants—that has been something that I always thought the Republicans were for; they want block grants. They want to give the money to the Governors. "Let the States have a decision as to what they want to do." As to education and prevention, smoking prevention, counteradvertising, those are important aspects. Enforcement, there is \$500 to \$600 million a year for enforcement.

We hear people coming to the floor and saying in one breath, they do not want to have this bill passed because it will increase smuggling; in the next breath they do not want to acknowledge the very Government they are criticizing that is spending money for antismuggling enforcement efforts.

So, Mr. President, it seems to me that on close analysis we will be able to make a strong judgment as to whether or not there is a fairness in the marriage penalty approach of the Senator from Texas, or whether it is just an effort to try to kill this bill.

I am for getting rid of the marriage penalty, and I will vote to find a way to do that. But it makes sense, it seems to me, to recognize that even if we pass getting rid of the marriage penalty on this bill, that is not going to stop one kid from smoking; that is not going to do one thing for additional research into why people get addicted; it is not going to do one thing for

counteradvertising to stop kids from smoking.

So we can go home and feel good because we took the tobacco bill, which is geared to try to stop kids from smoking, for which the Senator has agreed the price increase is targeted, and you turn out passing the marriage penalty. If you take too much of it, you begin to strip away at the ability to accomplish the purpose of the bill.

I am prepared, as I know other Democrats are, to vote for a legitimate amount of money so that we can parcel the appropriate proportion of these revenues to the job of reducing the number of kids who smoke. But I think there is a place where common sense says you have to stop if it goes too far in stripping us from the fundamental purpose of this bill itself.

I also point out that there are other areas that will want to compete for some of this funding. I think it is important for Senators to think about the overall amount of money that would be available for those purposes.

The final comment I make is the Senator from Texas spent a lot of time saying how this bill is misdirected. He is crying for the poor people who are going to pay for an additional cost of a pack of cigarettes. He says how misdirected this bill is because it comes down on the victims, and not on the tobacco companies. But then he says he is willing to raise the price.

You cannot have it both ways, Mr. President. You just cannot have it both ways. There is no way to focus a tax on the tobacco companies, whatever you call it. I heard him the other day call it a "windfall profits tax." No matter what you call it, if you tax them, you tell me a company in the United States of America which winds up with additional costs of manufacturing a product that does not, unless they just eat them—and nobody expects the tobacco companies to do that—that does not pass it off in the cost of doing business. The cost of the product will rise.

But by doing this in the way that this bill seeks to do it, by setting a fee that is levied at the level of manufacturing, you actually have a far more effective way of constraining the smuggling of, of creating accountability in the system; and ultimately you wind up doing the very same thing that would happen under any other circumstances, which is the tobacco companies are going to pass it on to the consumer.

In the end, there is a benefit from raising the price. The benefit outweighs whatever crocodile tears we are hearing shed for those who are going to pay the additional cost of the cigarette. First of all, it is voluntary. Nobody forces them. They buy it. Secondly, it is a smaller amount in total than the amount that people are paying anyway. Then the costs to our society as a whole, which will be reduced by accomplishing what the cigarette companies themselves have said will occur, which is if you raise the price,

you will reduce the number of kids who are smoking, you will ultimately reduce the numbers of people who are addicted and you will significantly reduce the costs overall.

So America has a choice. You can reduce the costs, reduce the number of kids who are addicted, reduce the number of our fellow Americans who die, reduce the overall costs to our hospitals and ultimately wind up with a better and healthier society as a consequence of that, or you can take the alternative route, which is the only alternative to what the Senator is saying, and vote to leave it the way it is and let the tobacco companies continue to addict the next generation without making a legitimate effort. I think the case ought to be very, very clear.

COSPONSORSHIP OF AMENDMENT NO. 2446

Mr. CONRAD. Mr. President, on Tuesday, June 2, during Senate consideration of the McCain-Kerry and others amendment No. 2446, I was added as a cosponsor of that amendment, however, the RECORD of June 2 does not reflect my cosponsorship.

I, therefore, ask unanimous consent that the permanent RECORD be corrected to reflect my cosponsorship of Senate amendment No. 2446.

In addition, I now ask unanimous consent my cosponsorship of Senate amendment No. 2446 appear in the RECORD at the appropriate place.

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

Mr. CONRAD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. HUTCHINSON. Mr. President, I ask unanimous consent to speak as in morning business.

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

#### NINTH ANNIVERSARY OF THE TIANANMEN SQUARE MASSACRE

Mr. HUTCHINSON. Mr. President, today represents the ninth anniversary of the Tiananmen Square massacre. This is the day that commemorates the culmination of the crackdown—very bloody crackdown—that occurred 9 years ago in Beijing, China.

I think it would be wrong for us not to take note of that on the floor of the U.S. Senate. I think it is incumbent upon all of us, as freedom-loving Americans, to not forget the lessons that we continue to learn from China.

I would like to, in the next few minutes, read an excerpt from a book entitled "Mandate of Heaven: The Legacy of Tiananmen Square," by Orville Schell. This book recounts, among other things, what occurred during the

2 months leading up to the Tiananmen Square massacre and the events that night. I have taken only a few excerpts from that, but I think it will help us to put into perspective the sacrifices that were made, the tragedy that occurred, and I think the tragedy of American foreign policy which today ignores that it was, in fact, Jiang Zemin, mayor of Shanghai at the time, who said that there should not be one ounce of forgiveness shown to those student protesters who dared raise the voice of dissent, who dared to speak for freedom and democracy in China. So I will read from "Mandate of Heaven: The Legacy of Tiananmen Square":

Although a palpable sense of foreboding hung over the Square, few could bring themselves to believe that the People's Liberation Army might actually harm "the people." Not even under the vindictive Gang of Four had troops opened fire with tens of thousands of demonstrators had spontaneously occupied the Square to mourn the death of Zhou Enlai in 1976. So many ominous-sounding government threats had come to naught since April 15 that most ordinary Chinese were now inclined to view this latest salvo of warnings as more overinflated rhetoric. The triumphs, symbolic and otherwise, of the preceding weeks had given many, especially protesters, an exaggerated sense of their own invincibility.

But there were some Chinese who understood that when threatened, the Party would ultimately stop at nothing to preserve its grip on power. They understood the old adage "When scholars confront soldiers, it is impossible to speak with reason." Most of these pessimists were from the older generation of educated Chinese who had learned through bitter experience that the Party rarely allowed such challenges to go unchallenged. "The Day the Soldiers Enter the City, Then the Blood of the People will Flow," declared one banner . . .

Around dusk the Flying Tigers began bringing back reports that soldiers equipped with automatic weapons and backed up by armored vehicles were moving toward the city center from several directions at once. In response, the strengthening of barricades reached fever pitch. By the time the first troops neared key intersections on the city's outskirts, an estimated 2 million people were again in the streets. At first, these citizens' brigades continued to rely on the same defensive techniques that they had used two weeks earlier, and by dark, many unarmed units were again bottled up around the city . . .

By 10 p.m. the assault from the west was in full swing. As several infantry and armored divisions pushed toward the Military Museum, they soon found their way blocked by a wall of angry citizens and Dare-to-Die squads of workers pledged to defend the students and the Square until death. The juggernaut of military vehicles ground to a halt, allowing government propaganda to cite these instances of hesitation as evidence that the army had exercised a "high degree of restraint" while entering the city. Such "restraint" did not last long.

The next volley of gunfire was aimed over the heads of the resisters. The crowd refused to disperse. Finally, an officer in a jeep was reported to have yelled out through a megaphone, "Charge, you bunch of cowards! Sweep away this trash!" A volley of concussion grenades was lobbed into the crowd. Only when steel-helmeted soldiers carrying truncheons and riot shields were ordered to charge did those resisting give way.

It was around 11 p.m. before advancing troops approached Muxidi Bridge near the

state guesthouse. By then the order to "go ahead at any cost" and to shoot at anyone obstructing the soldiers' path had been given. Before soldiers had even arrived at the giant barricade constructed out of articulated city buses, large earthmoving trucks, commandeered minivans, and tons of urban detritus, the first wounded were being rushed on bicycle carts to hospitals. As troops approached the bridge, someone torched the fuel tank of a bus, turning the barricade into a raging wall of fire. The column had no choice but to halt. With Gallic flair, Pierre Hurel, a French journalist writing for Paris Match, described the scene:

"In front of the flaming barricade, facing the soldiers alone, four students with their feet planted wide apart make the heavy air snap with the sound of the waving scarlet banners. In an unbelievable gesture of defiance, they are naked martyrs before a sea of soldiers in brown combat helmets and tense with anger. The silk of their university banners gleams in the fire's light, and behind them a crowd, waiting for the worst, applauds. It is 11:30 p.m. and for the first time tonight, the soldiers have had to pull back."

As the convey began pushing forward again a short while later, a noise resembling the sound of popcorn popping was suddenly heard over the dim of the crowd. Out of the smoky darkness, troops armed with AK-47s charged the barricades, shooting as they advanced.

"Soldiers were shooting indiscriminately; there were bullets flying everywhere; dead bodies and injured people were lying in the streets," reported one anonymous foreign journalist cited in a subsequent Amnesty International report. "Crowds of residents from the neighboring lanes had left their houses and stood unprotected in the streets. They did not try to hide because they did not seem to realize what was going on. They were in a state of shock and disbelief."

All along the Avenue of Eternal Peace, equally ferocious battles broke out as citizens stood their ground with an almost religious fanaticism before advancing troops. Bystanders who ran into surrounding alleyways for safety were chased down and sprayed with automatic-weapons fire. Those who tried to rescue the wounded were shot in cold blood. The slaughter was so merciless that rumors began circulating that the soldiers had been administered some kind of drug as a stimulant.

By 1 a.m. soldiers had neared the intersection where Xidan crosses the Avenue of Eternal Peace and began lobbying tear-gas canisters into the crowds. Moments later several buses serving as barricades burst into flames. Then another order to fire was given. "Several lines of students and residents instantly fell," claimed one BASF eyewitness. "Dozens were killed, and several hundred were wounded."

Yang Jianli, a Ph.D. candidate in mathematics from the University of California at Berkeley who was back in China on a visit, watched in horror as these shock troops advanced, firing their automatic weapons as if they were assaulting a heavily armed enemy position. "Tanks and truckloads of soldiers armed with machine guns were rolling in, one after another, toward the Square," he remembered. "At the intersection we heard perhaps a thousand people shouting, 'Down with Fascism!' . . . [Then] flashes spouted from the muzzles of soldiers' rifles. We ran back a bit and threw ourselves on the pavement. 'Did they really fire?' I asked H. 'I still can't believe it!' Some people continued to stand up, saying nonchalantly, 'Don't be frightened, they're only using rubber bullets.' But before they had finished speaking I heard someone scream, 'Look out! There's a cart coming through!' Two men with gunshot wounds were being carried away. . . . Suddenly, there was more gunfire, and we