No wonder out in the waiting room, in the reception room, I can't get in there because of the tobacco lobbyists—high-priced tobacco lobbyists. They don't want this to happen again. And it can happen. It can happen. It can happen in an hour and a half from now if the Members of this body are going to put the public health first in this debate on the issue that we have at hand.

Here the chart shows the increase in the price and the reaction as a result of the statistic—the reduction in teenage smoking—and the tobacco industry acknowledging the relationship. So we have, as we went through the period of the 1980s, the increase in the real price, and we saw a rather significant increase in the real price going up during this period of time, and we see the corresponding reduction in terms of the teenage smoking. Until when? Until when? Until 1991. Then what happened to the real price? The real price went down and the real price went down on what they call Marlboro Friday, when the Nation's largest tobacco company, Philip Morris, fired the newest salvo which reversed the decade-long use in smoking. They slashed 40 cents off the brand of Marlboros, the most popular brand among children. The strategy was designed to protect prices. If Philip Morris reduced prices by 50 percent in Massachusetts, and a month later, R.J. Reynolds—the second largest tobacco company, which manufactures Camels—had a corresponding reduction.

So we have the major tobacco companies going down, the major price going down. Look on this chart what has happened in terms of youth smoking, escalating, going up dramatically. Price decline, youth smoking increases; price increase, youth smoking goes down. We have seen that continue over a long period of time.

We could say what happened in here over the period for the last year or two, we have seen little blips going up, 10 cents, to cover the costs of various settlements they have had, an increase of 35 percent. It would not really reflect on this chart.

Now what we have seen in here is $5 billion in tobacco industry advertising, an explosion in advertising. It makes our case, Mr. President.

It makes our case for the proposal that we have at hand. Increase the cost and the price of cigarettes, do it in a significant time with a shock treatment of 3 years. The way that we saw it this time, it is going to have a dramatic impact on young people. Increase the antitobacco advertising, which is in this bill; develop the cessation programs, which are in this bill; strengthen the look-back provisions, which are in this bill; do the kind of prohibition on advertising that is in this bill, and you have the combination of elements that will work to bring a significant reduction in teenage smoking—a significant reduction in teenage smoking.

Mr. President, we must have learned from the past. We have a pathway here that is outlined by the history of this industry, and the things that have been effective—not just studies, not just testimony, not just surmise, but real facts, Mr. President. Over that long period of time, we have the incontrovertible case that has been made here yesterday, last night, and this morning, again, that cannot be answered. We will hear answers like, oh, well, we will develop a smuggling industry; we can't do this because we don't know where the money is going to be expended; we can't do this because we will have this or that kind of a problem.

There is an issue before the Senate: Can we do something with regard to seeing a significant, dramatic reduction in terms of teenage smoking? The answer to that is, yes, by supporting our amendment that virtually every public health official in this country supports—not only Dr. Koop, not only Dr. Kessler, but the Cancer Society, the Lung Society, and every public health group across the Nation, Republican and Democrat alike. That is the issue that we have. Now is the time to make that judgment. We will have the opportunity to do that in a short period of time.

Mr. President, I see others who want to address the Senate. I yield at this time.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, although we haven't established an exact time for the tabling motion, as I mentioned last night, we will try to do them sometime around 11 o'clock. But I do want the proponents and opponents of these amendments to have ample time to discuss and debate. I think we are working on an informal agreement that we will go from side to side. I see the Senator from Missouri here. If it is agreeable, I would like for him to have recognition next. I will just comment briefly, if I could.

If the Ashcroft amendment is agreed to, smokers won't be relieved of any price increase in this bill. Quite the contrary. If the amendment prevails, the States, at an enormous time and expense, will resume their suits, as we all know. There have been four settlements already, and 36 other States are in line. As we know from the other four States, they will prevail. There were four suits, four settlements. Minnesota is receiving twice—double—what they would have received as a result of the June 20 agreement between the attorneys general in the industry.

So let's not have any mistake. This amendment won't eliminate an increase in cigarette prices, because when the tobacco companies agree to pay the State of Minnesota a certain amount of money, they increase the price for a pack of cigarettes in order to be able to make a settlement. That is how it computes. Make no mistake, its passage will delay getting about the business at hand, and 3,000 kids a day will begin to smoke and a thousand will die substantially earlier as a result.

Mr. President, I will make more comments later. Have no doubt about the effect of the Ashcroft amendment, which would be simply to delay price increases and delay our ability to attack the issue of kids smoking, because there will be added expenses passed on to the consumer as a result of these settlements. In case the Senator from Missouri missed it, Minnesota and the tobacco companies just settled for double what had been in the original settlement. Those costs will be passed on to the person who purchases a pack of cigarettes. Economics work that way.

Mr. President, I yield the floor.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I wanted to indicate to my friend from Arizona that the Senator from Missouri indicates to me that he intends to speak for a relative period of time. It was agreeable to him as a result of that to try to accommodate a couple of Members over here, unless they want to wait until afterwards. I am just trying to balance it. Could the Senator perhaps give us some indication of the length of time, so we can try to pin this down?

Mr. ASHCROFT. Mr. President, I can't give a specific time. I would be pleased to let a couple of your folks go ahead, and I will follow them if that would be the understanding.

Mr. MCCAIN. We have to go back and forth.

Mr. KERRY. Mr. President, that is fine.

Mr. MCCAIN. He is going to talk sooner or later. I am sorry he can't determine how much time he is going to talk.

Mr. KERRY. Fine, Mr. President. We will try to stick with that.

A NEW GRANDCHILD FOR SENATOR LAUTENBERG

Mr. KENNEDY. Mr. President, a new grandchild for our good friend and colleague from New Jersey was born early this morning. That is joyous and good news. In the midst of this tumultuous debate, we can all join in wishing him congratulations.

Mr. LAUTENBERG. My daughter called at 8:30 saying that she had the baby at home at 5:30.

Thank you very much for the kind words.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The Senate continued with the consideration of the bill.

Mr. KERRY. With that appropriate announcement, and the joy that it brings, we will yield to the Senator from Missouri and take our licks.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

AMENDMENT NO. 2427

Mr. ASHCROFT. Mr. President, I rise today to discuss the tobacco bill. While

I will begin my remarks discussing my pending amendment to strike all of the consumer taxes out of the bill, I also wish to address the large expansion of Government in the pending legislation. I will discuss the inevitable black market that will result from the policies in this bill. I will also address the failure of this administration to focus its priorities and resources on teen drug use.

Mr. President, along with my colleagues, I am truly concerned about teen smoking. However, I do not believe that is the focus of this legislation. Teen smoking is not the central thrust of what is happening here.

This is a massive, massive tax increase on low-income Americans. Instead of helping children, it is very likely to end up hurting children and hurting families. I think it is important that we carefully review the content of this legislation with that in mind. Thirty-nine percent of high school students in Missouri reported smoking during the past 30 days. This is a terrible statistic to have to cite. However, communities in the State are looking for ways to reduce smoking in my State and it is working. It is working without destroying the capacity of low-income families to provide for their children. It is working without destroying the capacity of low-income families to be independent. It is working without an $800, or $900, or $1,000, or $1,600 tax increase on those low-income families. Three packs a day for a family at $1.50 a pack takes you to about $1,600 a year.

If we can find a way to reduce the impact of teen smoking without taking $1,600 a year out of the budgets of these poor families, that will be $1,600 a year that could be spent for education, $1,600 a year these families will be able to retain and spend for better health care, or it will be $1,600 a year these families can spend for food and clothing.

For example, I come from a town called Springfield, MO. It is my hometown. My family moved there when I was a very young lad. In stepping up its enforcement of local ordinances prohibiting the sale of tobacco products to teens, they are enacting constitutional limitations on advertising. Parents, teachers, and community leaders are working together to fight the problem. They think they can do it, if they work together. I believe they can do it. They can do it without ruining finances and the opportunity that low-income families ought to have to provide for themselves. The tobacco industry knows they can do it. As one tobacco executive stated, they can't win fighting teen smoking rules on the State and local level. The tobacco industry knows there are going to be rules there, and they can be there, and there can be effective rules.

If this tobacco bill contained the solutions to the problems that are being enacted in communities today, I don't think I could be here to argue nearly as effectively that this bill is not focused on teen smoking.

A lot of communities are making possession of tobacco products illegal for teens. This bill doesn't do that. This bill says it is all right for teens to have tobacco. This bill basically says it is all right for teens to smoke. This bill just says it is wrong to sell it to them and it is wrong to advertise it. But it doesn't really do anything about the possession of tobacco.

Although Congress has the authority, we do not make it illegal for minors to possess or use tobacco even where we control the local situation. We make the laws. We are the city government in some respects for the District of Columbia. It would be possible for us to say, at least where we have authority on military bases, or the District of Columbia, that we could have laws against teen smoking and against the possession of tobacco. But we don't have that in this bill. We only have rules regarding the point of sale. Whether one store or another can sell it, and whether or not they can be on top of the counter or under the counter, or whether or not the brand name can be visible, or things like that, even then we only make the retailers responsible for the transaction. There is no disincentive for teenagers to try to possess and acquire and smoke cigarettes. There is not any in this bill. This is designed as if teenagers are totally expected to be irresponsible. First of all, the decision is, they can't make good decisions; and, second, we don't ask them to make any good decisions. We don't even ask them to refrain from smoking in this bill.

We create a massive tax increase on 98 percent of smokers to try to discourage 2 percent of all retail sales. What do I mean by that? Two percent of all retail sales in smoking go to teenagers; 98 percent go to adults. So we are raising the taxes on 98 percent in order to try to create a disincentive for the 2 percent.

Unfortunately, I don't think we have done a very good job, because we don't even seek to make illegal the possession on the part of the 2 percent. If, in fact, we don't want teenagers smoking, why do we fail to say something about their possession of tobacco? Why do we fail to say anything about their smoking? It seems to me that we are missing the boat in a significant way if we don't say something about the smoking.

For a long time now, we have had a responsibility imposed on the tobacco companies, and appropriately so, to label cigarettes and to tell people the truth about cigarettes on the package. As a matter of fact, you can't even have a billboard about cigarettes without saying on the billboard something that is true about cigarettes. There ought to be said something through this legislation. We need truth in labeling on this legislation. There is a big truth-in-labeling problem here.

This is an $868 billion—that is not million, that is billion—tax increase. It creates Government programs; after-government programs funding, sort of, directed for the next 25 years to take decisionmaking away from future Congresses of the United States, designed to lock things in; creates a huge Government regulatory scheme the likes of which we have not seen since the Clinton proposal to nationalize the health care system.

Here you have a situation. You say you are against teen smoking. You don't even bother to outlaw possession of teen tobacco for teens even in places like the District of Columbia where you have the authority to do so. You do not do what lots of towns are doing around the United States of America in an effective program. You raise $868 billion worth of taxes, mostly on poor people, on people who can ill afford to pay it. You raise taxes on 98 percent of the smokers, who are the adults, in an effort to try to curtail smoking on 2 percent of the smokers, the young people.

We create this huge Government regulatory scheme which will have the Federal Government virtually in every store, supermarket, or convenience store telling them how to run their business. This designs a system that will undoubtedly create a black market in tobacco sales, a black market that will make Prohibition look like a very peaceful time in our country's history. Cigarette smuggling will become very, very lucrative. Some people think that smuggling doesn't exist in the United States now. There is a big problem in cigarette smuggling currently, but it is just the tip of the iceberg, which will become apparent if we continue on this plan to impose $1.50 a pack in terms of the cigarette tax on the working poor of America.

I happen to be a father of three children. I was delighted to hear the good news of the Senator from New Jersey. I happen to have some good news in my own family. These are the pictures of my grandson who was born just 8 weeks ago. I didn't really plan this to be a part of any presentation. But the Senator from New Jersey should have pictures shortly.

Mr. LAUTENBERG. Would the Senator like to give me a chance to show mine?

Mr. ASHCROFT. Yes. I yield, with the opportunity to regain the floor at the end of his display.

Mr. LAUTENBERG. I wish the Senator the same good fortune, I say to my colleague. I thank him.

Mr. ASHCROFT. I thank the Senator.

But I don't want my children to smoke. I hope that they have never smoked. I don't know that they have ever smoked. I hope my grandson never smokes. However, what I want more for them is that we have a Government that serves the needs of the American people rather than a Government that serves its own needs. I suspect that this bill, unfortunately, is a bill which tends to address the needs of Government, the perceived needs of the bureaucracy, as much as it tends to do

anything that is beneficial, and certainly the kinds of impacts on American families in terms of increased taxes on these hard-working individuals of low income would more than outweigh the benefit.

I have sought to amend this with a simple amendment. My amendment would strip this legislation of the provisions which impose $755 billion in new taxes on the American people. More precisely, my amendment strikes the upfront payment in the bill and the consequential outcome of that which would result in that kind of commitment by the American people of $755 billion.

Those who support this bill would like for the American people to believe that it is a tough tobacco bill. But what the American people are beginning to find out is that this bill, while it is tough, is going to be tough on the American people.

Mr. President, it is my understanding that there are Members who need an opportunity to speak. I would be happy to yield the floor on the condition that I would be given the floor at the conclusion of this time to speak.

Mr. MCCAIN. I object.

The PRESIDING OFFICER. The Senator from Missouri has the floor.

Mr. ASHCROFT. Mr. President, what the American people are beginning to find out is that tobacco companies won't bear the cost of this payment.

I regret my inability to cooperate with other Members of the Senate, but an objection has been heard. I will continue with my remarks, but I hope to be able to accommodate my colleagues.

Mr. President, what the American people are beginning to find out is that tobacco companies won't bear the cost of the payments, that consumers will. This bill requires that the consumers pay the price. A lot of people are distressed. A lot of people have come to the conclusion that big tobacco is not worthy of being favored. Frankly, there are a lot of things in this bill that big tobacco favors.

As a matter of fact, they helped write this bill. It has gotten a little bit beyond their desire in terms of a number of the requirements, but many of the components of this bill are there because big tobacco put them there, things that would limit the liability of tobacco companies and the like. But this bill, in terms of its taxes, is big money. This bill requires that the taxes be passed on to consumers in the form of higher prices.

There has been some discussion about whether these are really taxes or not, because they are not called taxes in the bill. That is another aspect about the truth in labeling that ought to exist here. We have required it of tobacco companies. We ought to require it of the Congress. These are charges which are authorized. They are authorized in the bill. They are basically required in the bill. But they are required to be collected as part of the price of cigarettes, and then the money is to be given to the Government. And the Government is to spend the money. But we refuse to call them taxes.

Now, whenever the price of something is increased with the requirement that the money be given to the Government and that the Congress then decide how the money is spent, that looks an awful lot like a tax. That is the definition of a tax. Our failure to call it a tax in the bill doesn't mean that it is not a tax. It just means that it is a tax that we will not admit is a tax.

They say if it walks like a duck and squawks like a duck, if it quacks like a duck and acts like a duck, it is probably a duck. Well, this is a higher price that is charged for these cigarettes. It is collected from the people. It gets transmitted to the Government and the Government spends it on Government programs. Now, I think that walks like a duck and squawks like a duck. I think it acts like a duck and quacks like a duck. I think it is a duck or it is a tax, if you want to use that word.

And here is the provision from the bill itself. I guess it is section 404—I need to be corrected on that—instead of section 405. Frankly, we haven't had this bill in its final form long enough to examine it. This is another one of these bills that comes to the floor of the Senate before the Congressional Budget Office has had a chance to score it, before anybody has a chance to read it. We throw it on the desk and we say we are starting to debate it. Little wonder we have some of these numbers wrong.

Section 404 says, ''Payments to be passed through to consumers.'' So all the big, heavy penalties in this bill, they are not to be borne by the tobacco companies. These are to be borne by consumers. Consumers are going to pay for this. And, obviously, that is something. So that the bill doesn't just allow tobacco companies to recoup their costs, it requires that they not impair their profits, that they not otherwise find ways to keep the consumers from paying this very massive tax, a regressive tax that hits the poor people of America the most. It requires that these taxes be paid by consumers. The only way this bill is going to have a major dent in the way tobacco is consumed is that the Federal Government gets paid big, big bucks.

As I indicated earlier, many local communities—State, city and county governments—are providing ways to reduce teen smoking. They want to do it by outlawing the possession of tobacco by young people so that smoking by young people would be considered illegal. This bill doesn't do that. This bill taxes the 98 percent of the adult smokers at an incredibly high rate, along with the 2 percent of teen smokers, and really impairs the ability of families to make ends meet. It actually penalizes the companies if they do not pass these costs on. So no company, no tobacco company is to pay any of this $755 billion that I am seeking to delete in this amendment. It is illegal, according to the bill, to have the tobacco companies pay any of this money. This money is to be paid by consumers.

Also, my amendment strikes the annual payments required by this legislation. Again, this bill actually requires the tobacco industry to pass along this cost to consumers. Remember, these are not the real penalties on tobacco companies. These are taxes levied on the users of tobacco products. Under this amendment, tobacco companies would still pay hefty penalties if teenage smoking targets are not met.

So my amendment does not save the tobacco companies from paying penalties if the teenage smoking targets are not met. The incentives for the tobacco companies to avoid teenage smoking are left in this bill, and there is a serious penalty in the bill that would require that the payments be made by tobacco companies if we do not reduce teen smoking. That is left alone. What I take out of the bill is the $755 billion in taxes on consumers.

A lot of people wonder why, if the tobacco companies are the bad folks, as the subject of this bill, that instead of taxing the tobacco companies, we are taxing consumers. Well, they ought to wonder about that. Basically, what we do is we leave the requirement that teen smoking be reduced, we leave the penalties if you do not reduce teen smoking on the tobacco companies. But we stop the tax that will take $800, $1,000, $1,600 from three-pack-a-day families, $1,600 a year out of their budgets, out of their take-home budgets.

So our approach is not to say that the tobacco companies should not be responsible for reducing teen smoking. Tobacco companies were responsible for promoting it. This amendment does not say they are not responsible for reducing it. This amendment says the tobacco companies will be responsible for reducing it, and if these tobacco companies do not get it reduced, they, as a matter of fact, are going to be in serious trouble. They are going to have to pay very significant penalties. But I do not believe we should say that the American people are the ones who should be penalized for the conduct of the tobacco companies.

Frankly, that is what this bill does. There is a lot of evidence in this case, in this situation about tobacco companies and about their conscious desire to focus their advertising on teen smokers and potential teen smokers, and there is a big presumption that if people didn't start when they were teens, they wouldn't start later. It might be that those people would start later on. You know, you can't automatically assume that if someone starts when he is 14, if you don't let him start when he is 14, that he would not start later when he was 18, 19 or 20. Everybody starts driving a car at the age of 16. That doesn't mean, if you move the age up to 20, that nobody would start driving a car later on.

There is a presumption in all this data that somehow if they didn't start when they were younger, they wouldn't start later. These same people who start young while it is legal now may start older when it is legal later if we were to do something like this. I don't think that presumption follows.

But Americans already are burdened with taxes that are inordinately high. Americans today are working longer and harder than ever before to pay their taxes. How many families are there with both parents in the workplace, working day, working night, trying to make ends meet, trying to have food and clothing for their children? And they are already paying incredibly high taxes. We are now paying the highest taxes overall in the history of this country. And surprisingly enough—I suppose that it is not all that great a surprise—we have got taxes to the point where the Federal budget is in surplus. The Congressional Budget Office indicates that the surplus will be between $43 billion and $63 billion. I think that when we have a surplus, we ought to be debating how we reduce taxes on people, how we make it easier for them and their families, how we somehow make it possible for them to meet the needs of their families instead—not how to siphon more money out of the pockets of working Americans.

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

Mr. ASHCROFT. I will yield for a question with the understanding that I do not lose my right to the floor.

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator has a right to yield for a question without losing the floor.

Mr. LAUTENBERG. The Senator makes a statement that if this fee was not paid, it would enable the family to spend—I think the figure used was $1,600 on food and clothing. The Senator said that earlier. And if the addict is using the money to buy cigarettes, that certainly doesn't free up any additional spending power unless the Senator sees another way to do it. I am not quite sure I understand where the Senator goes with that.

Mr. ASHCROFT. I am not quite sure I understand the question. Are you saying that they will use the money to buy additional cigarettes? If you want to restate the question, I will be happy to have you do so. I do not want to lose the floor by having a restatement of the question.

The PRESIDING OFFICER. The Senator does not lose the floor by yielding for a question.

Mr. LAUTENBERG. The Senator before said that $1,600 a year that the person would pay in additional taxes would prevent them from having the ability to spend it on food and clothing, et cetera.

But, eventually, over a period of time that would be a cost which does not exist altogether for a million teenagers, and they would, therefore, be able to exchange the money not used to buy cigarettes, if they were able to close out on the smoking addiction, to be used for other things; is that not true?

Mr. ASHCROFT. If the Senator is making the point that these people will not be buying cigarettes and therefore would not be paying this tax, that is contrary to what this bill assumes. This bill assumes this income. And in order to assume this income, you have to presuppose that people will not stop buying cigarettes.

You cannot get $868 billion over the next 25 years if people stop buying cigarettes. The first presumption of this bill—there are several presumptions—is that people are addicted. That is one of the evils we are supposed to be addressing. But after we presume they are addicted, we take advantage of the addiction by imposing a tax on the addicted. And then we spend the money we receive from the tax. If they are going to quit smoking because the price goes up, then we are not going to get the money. You can't have both the ''quit'' and the ''money.'' If people quit smoking, they won't pay the tax, and we have $868 billion in this bill that we are presuming people are going to go ahead and pay. That is the money I am talking about, the $868 billion that is coming out of the budgets of families.

What is stunning to me is that 59.4 percent of this tax increase, 59.4 percent of it comes from people who make less than $30,000 a year. 60 percent of the $800 billion—about $500 billion—is coming out of the pockets of people who make less than $30,000 a year. We take that out of their pockets. We can't spend it here if they don't send it here. So this whole bill is predicated on them sending it here. And when they send it here and we spend it, that means they can't spend it.

What do we spend it on? We spend it on 17 new boards and commissions, or—I guess there is an amendment now which says these are no longer to be identified as boards and commissions. So we have gone from the lack of accountability of boards and commissions, to the anonymity of stealth commissions and boards that will be tucked away in agencies. All the spending will still take place, but it will be done without as many labels.

We are talking about a massive tax increase of $868 billion. That is what is going to happen. That is what is projected. You don't get the money from the people at the same time they keep the money. This money can only be in one place.

Mr. HATCH. Will the Senator yield for a question without losing his right to the floor?

Mr. ASHCROFT. I would.

Mr. HATCH. The $868 billion is one of the estimates, is it not——

Mr. ASHCROFT. Yes, it is.

Mr. HATCH. Of Wall Street analysts who have thoroughly developed tobacco models, economic models, and have spent literally years developing these models?

Mr. ASHCROFT. Yes.

Mr. HATCH. They say that when you extrapolate out the $1.10 price of the Commerce Committee bill—or the managers' amendment as I think we should call it—the actual price tag could range as high as $868 billion, because the $1.10 number is based solely on the manufacturers' level and does not count the wholesale or retail markups or any other factors which could lead to price increases, such as state excise taxes?

Mr. ASHCROFT. I think this is more conservative. If you were to go beyond the $1.50——

Mr. HATCH. I am saying the $1.50 would be even higher, wouldn't it? That is what I am asking.

Mr. ASHCROFT. Yes. That's exactly right.

Mr. HATCH. The $1.50 number is certain to be even higher?

Mr. ASHCROFT. We have understated the burden here.

Mr. HATCH. Could I also ask my friend another question? Those who are arguing for a $1.50 price increase are saying there will be no black market, that there will be no smuggling any consequence. Is it not true that after California raised its excise tax in 1988, today they are finding that one out of five packs of cigarettes are contraband today. Is that not true?

Mr. ASHCROFT. I have to look at my own experience as Governor. We even had problems with smuggling from neighboring States that had low tobacco taxes. Contraband is already a big problem in tobacco.

Mr. HATCH. Let me just show you this chart in connection with my next question. It is one thing to talk about Norway, Denmark and the United Kingdom as some have in this body. It is entirely another thing to talk about the United States of America where most of the big tobacco companies actually reside and exist.

This chart shows U.S. cigarette imports from Canada, 1984 through 1996. You notice it was relatively level here up until 1990, when Canada suddenly increased their excise taxes dramatically. Then, all of a sudden we have imports from Canada going up dramatically. There were U.S. cigarette imports from Canada in 1984, imports which then went back into Canada and sold as contraband at a lower price. Is the Senator aware of that?

Mr. ASHCROFT. I am aware of that. I think we invite a disaster in terms of black marketing and in all kinds of legal violations. We are going to be introducing young people to illegal ways of transacting business on the black market. We are going to be introducing young people to segments of society they should not be associating with.

Mr. HATCH. The Senator serves on the Senate Judiciary Committee with me, and I believe is fully aware of the hearings, where we discussed the fact that four major law enforcement organizations representing hundreds of thousands of policemen in this country

said that if we go to $1.10, which we believe could extrapolate as high as $800 billion, that we would have a dramatic increase in contraband which would spawn all sorts of violence?

Mr. ASHCROFT. I am.

Mr. HATCH. The Senator is aware of these compelling arguments from law enforcement?

Mr. ASHCROFT. I am aware of that.

Mr. GRAMM. Will the Senator yield on this point?

Mr. ASHCROFT. I would be happy to yield for a question.

Mr. GRAMM. I want to pose a question related to what the Senator from Utah has said. The Canadian experience, as the Senator is probably aware, is critically important because many economists and others who study this data claim that the numbers asserting a 10-percent increase in prices results in a 6-percent decrease in consumption are false. In fact, if these numbers really held true, we could increase prices by 200 percent and eliminate all smoking in the country. Everyone knows that is a nonsensical result.

Is the Senator aware that, when challenged on this point, the administration has used the Canadian experience as proof of the success of raising taxes? When challenged on the assertion that there is clear and convincing evidence of a dramatic decline in smoking and teenage smoking as a result of tax increases, administration spokesman and Treasury Department official, Jonathan Gruber pointed to the Canadian experience. I would like to read from an editorial by Nick Brookes printed in today's Washington Post. Mr. Brookes is talking about the Canadian experience and quotes the health minister of Canada. Basically, as the Senator from Utah pointed out, the Canadians had such a disastrous experience with black markets and smuggling that it actually drove the effective cost to teenagers of cigarettes down, not up.

Mr. HATCH. If the Senator will yield——

Mr. ASHCROFT. I reclaim the floor.

Mr. GRAMM. Let me finish my question.

The PRESIDING OFFICER. The Senator from Missouri has the floor.

Mr. GRAMM. Let me finish my question and then the Senator from Utah will have the opportunity to ask one.

Mr. HATCH. I will be happy to do that.

Mr. MCCAIN. We need to have the regular order here in the Senate. Everybody has a right to speak, but we ought to have a regular order, parliamentary routine here.

The PRESIDING OFFICER. The Senator from Missouri has the floor and he has the right to yield for a question.

Mr. GRAMM. Will the Senator yield?

Mr. ASHCROFT. I will be happy to yield to the Senator from Texas for a question.

Mr. GRAMM. Returning to the point on which I would like to base the question. The administration assets that there will be a dramatic impact on teenage smoking by raising tobacco taxes. The question about the impact of higher taxes on teenage smoking was posed today in USA Today. When Americans were asked, ''Do you believe higher cigarette taxes will reduce teen smoking?'' 70 percent said no and 29.9 percent said yes? Is the Senator aware of that?

Mr. ASHCROFT. I was not aware of that, but I am happy to have the Senator point it out.

Mr. GRAMM. The point I want to make is this: The administration has used the Canadian experience as proof of the effectiveness of raising taxes on teen smoking. Canada raised taxes dramatically on cigarettes and then later decided to cut taxes. Is the Senator aware that the Health Minister in Canada, Diane Marleau, has said that the Government's decision to cut taxes in Canada would actually reduce consumption among teenagers because it would ''end the smuggling trade and force children to rely on regular stores for cigarettes where they are forbidden to buy them until they turn 19?''

Mr. ASHCROFT. I am aware of that, and I think it is a very important point.

Mr. GRAMM. Is the Senator aware that in Illinois, Massachusetts, Hawaii, and Nebraska teenage smoking has increased as cigarette taxes have risen?

Mr. ASHCROFT. I am aware of that, and I think it reinforces the point that the Canadian Health Minister was making, that there are times when an increase in the price increases the interest of youngsters in smoking.

Mr. GRAMM. Is the Senator concerned that that we could get into a position of having an active black market, as is true now in many countries in northern Europe, in Canada, and in many of our own States with high tobacco taxes? If we end up spawning a black market so that cigarettes are purchased by teenagers and by adults illegally, does the Senator share my concern that we could get into a situation where the black marketing of cigarettes could become an entre to inducing people to take a step beyond cigarettes to drugs?

Mr. ASHCROFT. If cigarettes sold illegally become commonplace, it might well be that people will have greater access to an array of contraband items—''Here, you can either buy cigarettes from me, or you can buy marijuana from me, or you can buy drugs from me.'' I am aware of that potential. I answer the question of the Senator from Texas by saying I am not only aware of it, but I am deeply concerned about it because drugs are a serious threat. They, in many respects, are far more serious than the threat of cigarettes.

Mr. GRAMM. Is the Senator aware that in a poll taken last week, American families were asked what concerns they have about what their teenager is doing? Thirty-nine percent were concerned about illegal drugs, 16 percent were concerned about joining a gang, 9 percent were concerned about their teenager drinking alcohol, 7 percent were concerned about their teenager having sex, 7 percent were concerned about their teenager driving recklessly, and 3 percent were concerned about smoking. So if we create a black market by increasing tobacco taxes, we could easily be taking a step that converts an issue that concerns 3 percent of American families into an issue that concerns 39 percent of American families, that is their teenager using illegal drugs.

Mr. ASHCROFT. I am aware of that. I think the American people have a pretty clear understanding of what the most serious long-term threats are, and they rank those appropriately. I think it would be a tragedy if we were to, out of good intentions, do something which resulted in a black market and promoted drug use and smoking on the part of teenagers rather than curtailing both of those.

Mr. GRAMM. I will ask one final set of questions, and then I will yield the floor.

As the Senator said, 34 percent of the cost of this tax will be paid by families earning less than $15,000 a year, 13.1 percent will be paid by families earning between $15,000 and $22,000 a year, and 12 percent will be paid by families earning between $22,000 and $30,000 a year.

The Joint Tax Committee estimates that an individual making less than $10,000 a year would see a 41.2 percent increase in their Federal tax burden as a result of this tax increase. The newest numbers I have seen indicate that an individual who smokes could see their Federal tax burden rise by $356 as a result of this tax. A couple where both husband and wife smoke would see their tax burden rise $712 a year as a result of this tax.

Here is my question: Considering the concern the Senator from Utah has about black markets, what will the price of a pack of cigarettes be under this bill?

It is my understanding that today, depending on which State you live in, the price is roughly $2 a pack. The underlying bill has a $1.10 tax per pack increase, and a series of other provisions that will drive up the cost, including, the look-back penalty, some estimate it could be as high as 44 cents per pack; the liability cost, 50 cents per pack; the licensing fee, 14 cents per pack; and the decline in volume could be as much as 48 cents per pack.

I do not know how to assess these numbers. I certainly do not claim to be an expert on them. Does the Senator have any idea, what the price of a pack of cigarettes will be under the McCain bill and how much a pack of cigarettes will be if this new amendment, raising the cost $1.50 per pack, is adopted?

It is a critical question. If we know the cost will be $5 a pack, for example, we can look at the experience of Europe where they have similar taxes. We could look at their black market structure, look at the amount of illegal

transactions occurring, and begin to see what the impact of this will be. But nowhere have I seen any bottom-line figure on what the price of a pack of cigarettes will be as a result of the underlying bill and the amendment that the Senator is trying to kill through his amendment.

Does the Senator have any data on that?

Mr. ASHCROFT. There is some data on that. Some analysts have predicted that the price per pack would be much more than the $1.10 increase by the time you work it through the system. They have estimated that the increase will be $2.78 a pack.

Mr. GRAMM. So that would mean roughly $4 a pack, depending on what State you are in?

Mr. ASHCROFT. I think the price these analysts have indicated is $4.68. You first tack on the $1.10 tax. Then you add all the other costs in this bill that will most likely be passed on to consumers. Then the look-back penalties capped at $3 billion a year have to be added. The liability of $8 billion a year capped has to be added. In the analysis, it was assumed only 20 percent of this will have to be paid out every year. However, due to changes in the bill, and no doubt on behalf of the trial lawyers, I think 100 percent of the $8 billion will be paid out every year.

It is clear to me that you have a very serious price increase. And the suggestion that it is $1.10 or $1.50 is very, very conservative. The truth of the matter is it is likely to be 2 to 3 times that much.

Mr. CONRAD. Will the Senator yield on that point?

Mr. GRAMM. Will the Senator continue to yield?

Mr. ASHCROFT. I continue to yield for a question.

Mr. GRAMM. No one knows exactly the impact of this tax increase. One of the things we need to know, in order to estimate the impact of the bill on things like a black market, is what would be the price of a pack of cigarettes. I assume the Senator is aware that one-half of all cigarettes consumed in Great Britain are purchased on the black market. When you reach the threshold of promoting illegal activity, you end up not getting the revenues and dramatically lowering the price of the product. By adopting this amendment we could actually lower the effective price to teenagers of tobacco products by creating a black market that would come from the increase in price.

Is the Senator concerned about that?

Mr. ASHCROFT. I am concerned about that.

Mr. HATCH. Would the Senator continue to yield to me?

Mr. ASHCROFT. I yield to the Senator from Utah for a question.

Mr. HATCH. I have a series of questions I want to ask. I did enjoy and appreciate the questions asked by the distinguished Senator from Texas, because he raised a lot of very important points that were brought out in the Judiciary Committee's hearings.

Keep in mind, when the Treasury Department testified before the Judiciary Committee, I sent a letter to Secretary Rubin beforehand asking for the economic model they had used to justify their forecast. All they brought was a five-line chart—no model, no backup justification, no real economic analysis.

We had three of the top Wall Street analysts come in and provide us with very highly thought-through analysis showing that the price of cigarettes per pack could go up somewhere between $4.68, $4.78 and $5.00 or thereabouts. And that is on the basis of the Treasury's projected $1.10 increase, not the $1.50 figure we are debating today.

Now, my friend and colleague, Senator KENNEDY, has made a passionate plea here for $1.50. That would mean at a minimum an additional 40 cents more on each pack of cigarettes, although it will probably be higher. That is at the manufacturer's level. That does not count all the extrapolated things the distinguished Senator from Missouri has talked about.

Is that right?

Mr. ASHCROFT. That is correct.

Mr. HATCH. The Senator from Massachusetts has suggested that the bill increase each pack of cigarettes by $1.50 instead of $1.10.

Of course, everybody knows that the distinguished Senator from Massachusetts and I share a common goal of reducing youth smoking, as evidenced by the Hatch-Kennedy bill which was enacted last year. That bill added an excise tax to reduce youth smoking and to help with child health insurance.

But is the Senator aware that there is no proof that raising the price by $1.50 per pack would reduce youth smoking by 60 percent as has been alleged? Are you aware of that?

Mr. ASHCROFT. There isn't any proof.

Mr. HATCH. Not any?

Mr. ASHCROFT. It is a vast presumption, and it is a dangerous presumption.

Mr. HATCH. Is the Senator aware there is domestic and international evidence that such a price increase will worsen problems for law enforcement officers and lower-income taxpayers?

Now our colleague from Massachusetts showed a chart of Canadian cigarette prices and youth smoking over time. Let me point out that chart also demonstrates how youth smoking is not predicted by price.

Between 1979 and 1981, Canadian prices were static, but youth smoking decreased by 10 percent. Is the Senator aware of that?

Mr. ASHCROFT. I am pleased to be aware of it.

Mr. HATCH. All right. Our colleague from Massachusetts also suggested we can use the Canadian experience to predict American youth behavior. If true, then American and Canadian youths smoke for the same reasons—peer pressure and status. Many experts agree that status smoking, like $150 tennis shoes, is far less price sensitive. Even a $1.50 price increase will fail in head-to-head competition with ads like this in Sports Illustrated for Camel. Here is an attractive model smoking a cigarette—''What you're looking for'' the advertisement says.

The fact of the matter is that many members of the scientific and medical communities do not see as essential a price increase of up $1.50.

Is the Senator aware that after following 13,000 kids for 4 years, Dr. Philip DeCicca of Cornell University, in a National Cancer Institute funded study—a National Cancer Institute funded study, a public health study, if you will—found ''Little evidence that taxes reduce smoking onset between 8th and 12th grade''? Are you aware of that?

Mr. ASHCROFT. I am.

Mr. HATCH. Dr. DeCicca's analysis is even more compelling when you look at our principal target, those kids who never smoked. He found that the effect of price on the probability of starting to smoke by grade 12 was essentially zero, zip, zero; that price did not influence them. Children were going to use tobacco products anyway because of peer pressure and status. It had no effect.

Is the Senator aware of that?

Mr. ASHCROFT. I am aware.

Mr. HATCH. This study is crucial because it is perhaps the only scientific study tracking the smoking behaviors of the same kids over a period of time. All other studies have relied on a cross-sectional analysis of unlike communities.

Now, is the Senator aware that just a few days ago the Congressional Research Service released its updated report, ''The Proposed Tobacco Settlement Effects on Prices, Smoking Behavior and Income Distribution,'' where they carefully reviewed the scientific literature on the effects of price on youth usage?

Now, let me just quote from that report. And I want to ask the Senator if he is aware of this?

The findings in these studies cast doubt on the large participation elasticities that were initially assumed in formulating policies to reduce teen smoking.

Perhaps this is true because while 36.5 percent of youth have smoked in the past month, only 14.3 percent of youth smoked more than 10 cigarettes each day. Experts believe addicted persons are less responsive to price.

Now, let us not fool ourselves. Kids are different from adults and often unpredictable.

Is the Senator aware of those facts?

Mr. ASHCROFT. I certainly am. And I think the nature of the questioning of the Senator is very helpful in developing for us all an understanding of the real impact of price in terms of teen smoking. I welcome his questions.

Mr. HATCH. I believe the Senator will remember, if he will, that Dr.

Frank Chaloupka, who testified before the Judiciary Committee, has written: ''Youth and young adults have been found to be less responsive to price than older groups.''

Is the Senator aware of that?

Mr. ASHCROFT. I am aware of that. I was grateful for his important contribution.

Mr. HATCH. Our colleague from Massachusetts showed a chart entitled, ''Cigarette Prices and Daily Cigarette Smoking Among Canadians Age 15 through 19'' which he suggested concludes the price increase caused all of the reduced youth smoking.

Is the Senator aware of that?

Mr. ASHCROFT. Yes, I am.

Mr. HATCH. Let me bring to the Senator's attention, during that same period, U.S. youth smoking decreased by 40 percent. So much for that argument of the Senator from Massachusetts. Were you aware of that?

Mr. ASHCROFT. I am aware of that.

Mr. HATCH. I have one final concern about the chart displayed by our colleague from Massachusetts on tobacco use and price. That chart ended in 1991. It did not include any data since then. I want to show you this chart again.

This chart shows the growth of Canadian exports to the United States. You will notice up until 1991 the growth was minimal, hardly at all. And then it moved suddenly up. The Judiciary Committee heard testimony that most of these cigarettes were smuggled back into Canada. Now, since smugglers do not seek IDs, I suspect youth were able to easily obtain bootleg cigarettes at an affordable price. Maybe this is why we have not seen the smoking prevalence rates and prices beyond 1991; perhaps that is why the chart of the Senator from Massachusetts ended there. But this is when they hiked up the excise tax in Canada. Look how the imports from Canada to the United States went up. Of course, they continued to just skyrocket because they were sending their exports to the United States and then the contraband was coming back.

Only when they had to voluntarily reduce their prices did their exports to the United States go down.

Mr. ASHCROFT. If the Senator is asking if that represents a black market for cigarettes in Canada, I think he is right. These were imported to the United States for smuggling back into Canada, and it represents that while the prices were high in Canada, there was a real aggravated problem with a black market in Canada. As long as you sell cigarettes illegally, I think selling them to underage individuals is an easy next step.

Mr. HATCH. If you listen closely to the debate, you will hear some assert with mathematical certainty that we need to increase the tax on cigarettes by $1.10 a pack, or $1.50 a pack, or by $2 per pack to get the maximum health impact in terms of youth participation rates.

We saw that yesterday in the arguments from the Senator from Massachusetts and the Senator from North Dakota, respectively.

Mr. CONRAD. Will the Senator yield?

Mr. HATCH. If I could finish my questions to the person who has access to the floor.

And we have heard more today along those lines.

Now, we will hear about the Surgeon Generals' reports, about the Institute Of Medicine report, about the Chaloupka study. Is the Senator aware of the widely-cited findings that for every 10 cents that the price of tobacco goes up we can expect to see a 7-percent decrease in youth smoking? Is the Senator aware of that?

Mr. ASHCROFT. I am aware of that citation and study. I don't believe it.

Mr. HATCH. Let me go further. I am sorry to take so much of the Senator's time, but I think it is important.

Mr. ASHCROFT. I think this is important.

Mr. HATCH. Those figures sound impressive at first, but we need to stop and question how applicable such a study is for a complex adolescent social behavior and for the price increases we are debating today. Are there not limits to extrapolating this estimate into the price range that we are talking about today?

Mr. KERRY. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his inquiry.

Mr. KERRY. Does the Senator not have to ask a legitimate question?

Mr. HATCH. I have been asking questions one right after the other.

The PRESIDING OFFICER. The Senator from Missouri has the floor, and he does have the right to yield for a question.

Mr. KERRY. Would the Senator permit a parliamentary question? Would the Senator from Missouri yield for a question?

Mr. ASHCROFT. The Senator from Missouri has yielded for a question, which is underway. As soon as the Senator from Utah is finished with his question, I will be happy to yield for another question.

Mr. HATCH. Is the Senator aware—and I apologize to my colleagues. I do want to get through this, because this is important. The distinguished Senator has raised these issues. He deserves a lot of credit.

And, secondly, I point out that the other side had a lot of time last night and this morning to talk about their positions on this. The record should be made clear that many of their allegations are incorrect. I believe the evidence shows that they are incorrect. I think the Senator's answers to my questions will help to show that there is a dramatically different explanation for many of the charts which have been displayed here last night and this morning.

Let me ask some more questions. Is the Senator aware there must be some limits to extrapolating this estimate into the price range we are talking about, because if we just straight-lined this projection to a $1.50 increase, we would have to expect that literally all youth smoking would cease? That would be news to those many countries with cigarette prices which are more than $1.50 higher than in the United States.

Mr. ASHCROFT. I am aware of that. I think it is a point well made.

Mr. HATCH. I ask the Senator if he is aware of this? First, I believe both intuitively as a parent and grandparent many times over, and from examining the data, that if we raise the price of a product like cigarettes, as a general matter, we can expect children to purchase less of it—at least that is the common economic thought. But having said that, and, after all, it is a simple matter of economics that other factors are held constant. As price goes up, we can expect quantity and demand to go down.

I want to take just a few minutes to look behind the actual data of some of the frequently cited studies. Is the Senator aware that a fair reading of the literature suggests we are not dealing with some sort of simple, timeless, immutable algorithm when we are dealing with the price/elasticity issue?

Is the Senator aware of that? He has been making that case here this morning.

Mr. ASHCROFT. I am.

Mr. HATCH. I ask the Senator, isn't it reasonable to question that a difference between the $1.10 tax and the $1.50 will not necessarily mean 800,000 premature deaths?

Mr. ASHCROFT. I think the Senator is entirely correct; to assume that you can just automatically make that kind of change really is poor economics. It starts in the primer and stays there rather than finding out the way in which the real world would react.

Mr. HATCH. Is the Senator aware it is unclear if such an analysis is focusing on tax receipts made to the Treasury or the actual at-the-cash-register price?

Mr. ASHCROFT. Yes, I am.

Mr. HATCH. Price is undoubtedly a key factor. I hope I have reviewed some of the key data, and I ask if the Senator does agree with me that we should not overemphasize price alone and, so to speak, put all of our eggs into that one price basket?

Mr. ASHCROFT. It is very wise to point that out. I have to say that the studies which the Senator has cited I think make that a compelling conclusion. You have to ignore an overwhelming weight of scientific evidence to persist in the naive notion that there is a straight line in extrapolation of price increase and demand reduction among teenagers.

Mr. HATCH. Would the Senator agree, in my view we can be most successful in meeting our public health goals by coming up with a ''basket'' of antitobacco policies that would include price increases, counteradvertising, public education, enhanced enforcement measures, cessation programs,

and marketing and advertising restrictions that go way beyond what the Constitution would allow us to legislate?

Mr. ASHCROFT. I am aware of the Senator's position in that respect.

I believe if this were truly an antismoking measure for teenagers and that were its real intent, we would have things like making illegal the possession of tobacco in areas where the Federal Government has jurisdiction.

Mr. HATCH. Does the Senator agree we should come up with a comprehensive package of mutually reinforcing policies, that if we come up with a package at all, overreliance on price strategy could be misplaced?

Mr. ASHCROFT. I agree our pricing strategy is potentially very seriously misplaced in this measure.

Mr. HATCH. Is the Senator aware that the Institute of Medicine of the National Academy of Sciences issued a report calling on the nation to take action to reduce tobacco use? Is the Senator aware of that?

Mr. ASHCROFT. I am.

Mr. HATCH. Let me ask the Senator if he is aware of just a few short excerpts from one paragraph of the 36-page report. The focus is on the need for the level of required price increases. ''Raising the prices of tobacco products is a proven way of reducing tobacco use in the short and medium terms. Price hikes encourage the cessation and thwart initiation. Higher prices have the added benefit of reducing use among people not yet addicted to nicotine, including young people whose level of tobacco consumption may be even more sensitive to price. The impact and simplicity of price hikes were the main reason for the 1994 IOM report's first recommendation of a $2 per pack cigarette tax increase.''

Now the paragraph notes that this recommendation is consistent with the Koop-Kessler report and the National Cancer Policy Board, which it notes calls for a $2 price increase before concluding with this following sentence: ''Such a price increase should also have the desired disproportionately greater impact on preventing the initiation of tobacco use among young people.''

Is the Senator aware of that?

Mr. ASHCROFT. I am aware of that particular statement.

Mr. HATCH. Let me ask if the Senator agrees. In fairly categorical language, a price hike in the $2 range is characterized as a ''proven way to cut youth smoking.'' In fact, it almost sounds like the $2 per pack comes right out of a mathematical formula.

The more something costs, the less of it a kid can probably afford. In an era of $150-a-pair Air Jordans, we must allow for the possibility that what kids will do, particularly when social status is involved, can be a tricky, sometimes counterintuitive behavior that can involve a lot more than just sheer price.

Does the Senator agree with me on that?

Mr. ASHCROFT. I definitely agree with the Senator. I think that habits by young people in the marketplace frequently do not reflect traditional economic analysis.

Mr. HATCH. Having set out the 1998 IOM study, I compare its tone and ask the Senator if he agrees with the April 1998 CBO report called ''The Proposed Tobacco Settlement: Issue From a Federal Perspective?''

Now, this CBO paper examines the literature and paints a far murkier picture of the state of evidence than did the IOM study. For example, the first sentence of this section, entitled ''Response of Youth'' states—and I ask the Senator if he is aware of this quote—''In contrast with the consistent responsiveness of adults to changes in price, the evidence on how young people respond is highly variable?''

Mr. ASHCROFT. I am aware of that. It seems to me that it actually confronts, in a very direct way, those other studies that make serious presumptions that are unwarranted.

Mr. HATCH. The Congressional Budget Office report: Is the Senator aware of the Congressional Budget Office report reviewing many of the same studies relied upon in the earlier 1994 Institute of Medicine study, and in the 1994 Surgeon General's report entitled ''Preventing Tobacco Use Among Young People''?

Mr. ASHCROFT. I am aware of it. I think it is very valuable that they have done so.

Mr. HATCH. It is very important to this debate, it seems to me.

Does the Senator agree with me?

Mr. ASHCROFT. It is very important.

Mr. HATCH. It would seem to me that anybody who is intelligently watching this debate would want to consider this. Is that right?

Mr. ASHCROFT. I think the information provided in the CBO is critical to an intelligent decision in this matter.

Mr. HATCH. The CBO catalogued a wide range of elasticity and reports, ''Most findings are on the high side of the range.'' However, the Congressional Budget Office next cites two studies based on the National Health and Nutrition Examination Survey that found elasticities near zero. After summarizing the data for a series of studies, the Congressional Budget Office discussed a Cornell study that employed a longitudinal methodology as opposed to a cross-sectional analysis undertaken by most studies.

It said in the Congressional Budget Office report, ''The participation elasticities that DeCicca and colleagues estimated for each followup were similar to those found in the cross sectional studies. The Congressional Budget Office considered roughly 0.5 to 0.70. However, they found that when children who were already smoking at the time of the first survey in the eighth grade were excluded from the analysis, the effect of price on the probability of starting to smoke by the 12th grade was essentially zero.

Is the Senator aware of that?

Mr. ASHCROFT. I am aware of it.

Mr. HATCH. This study found, after excluding those already smoking in eighth grade, that the effect of price on the probability of starting to smoke by the 12th grade was essentially zero.

The Congressional Budget Office made the following comment with respect to this study: ''Findings should be troubling to those who look forward to a large increase in tobacco prices as a foolproof means of reducing rates of youth smoking. It is possible that existing studies showing high price elasticity among teens and young adults which use similar State level adjusters may have inadequately controlled the effect of the community environment.''

Is the Senator aware of that quote?

Mr. ASHCROFT. I am aware of it.

Mr. HATCH. It is a very important quote. That certainly does not seem to echo the almost unequivocal of some other studies.

To be fair, the Congressional Budget Office concludes that most of the evidence does, in fact, point to a relatively high price elasticity for young adults but concludes this discussion with the cautionary note that all the would-be social engineers, it seems to me, should take to heart. We have plenty of them around here. ''Most of the evidence points to a relatively high total price elasticity of tobacco consumption among teenagers. But those estimates could be exceedingly optimistic. How young people would respond to large changes in the price of cigarettes remains, like many of their behaviors, uncertain.''

Is the Senator aware of that?

Mr. ASHCROFT. I am aware of that CBO conclusion. I think it provides us with a sound basis for questioning what others are assuming, and they are assuming that, I think, at serious peril.

Mr. HATCH. Is the Senator also aware that, unlike the Institute of Medicine, the Congressional Budget Office reads the studies and concludes that the data suggests a level of uncertainty on the price issue?

Mr. ASHCROFT. Yes.

Mr. HATCH. Let's be honest here. There are many uncertainties here. We are talking about tobacco price increases never before contemplated or experienced in our country. But as we listen to this debate, I think it would be wise for all of us to heed the words of caution by the Congressional Budget Office when we hear someone say that all the public health experts agree that price is the single most effective way to cut youth consumption.

Does the Senator agree with me on that statement?

Mr. ASHCROFT. I think is dangerous to say that all the health experts agree, or all statistics agree. I think the Congressional Budget Office study clearly indicates that there are other factors that are very serious that interrupt what would otherwise be economic assumptions and the assumption of addiction itself is a way of saying that ordinary economics don't apply.

Mr. HATCH. If data were unequivocal on the price issue, as some have already argued, or will argue, in this debate, how is it that the Congressional Budget Office—I ask the Senator this—felt compelled to so carefully qualify what some characterize as a near scientific certitude?

Mr. ASHCROFT. My view is that they are self-compelled because they were interested in writing a record which was seriously flawed. The Congressional Budget Office's responsibility is to provide us with the information on the basis of which we can make good decisions, and not seriously flawed information. I think that there is responsibility and an opportunity to improve our potential for good decisionmaking. That is why they would have to challenge those studies which, obviously, would be misleading if not understood in the light of the Congressional Budget Office qualification.

Mr. HATCH. Now, of course, if you were tied down to particular numbers in a budget table or in a bill financing table and neither could justify these numbers so that precisely the preordained amount of revenue comes into the U.S. Treasury, you might be inclined to overplay the public health rationale beyond what is warranted from the actual data. Does the Senator agree with me on that?

Mr. ASHCROFT. Yes, I would. If the President of the United States, for instance, needed a certain amount of money, you might be inclined to find statistics which would provide a basis for generating that amount of money.

Mr. HATCH. I ask the distinguished Senator if he agrees with me that the American people, see if he agrees with me that the American people are not exactly unfamiliar with the sometimes backwards, the end-justifies-the-means, cook-the-books nature of policymaking in Washington.

Mr. ASHCROFT. They are not.

Mr. HATCH. All right. Why do you think the polls are showing that by a decisive 70 percent to 20 percent margin the public thinks the Congress is more interested in the revenue and spending side of this tobacco legislation than we are in the public health component?

Mr. ASHCROFT. Well, for a variety of reasons. I am sure our history is part of that, but part of the reason is that in this bill we are not doing some of the things which could be done to curtail teenage smoking. So it becomes apparent that we are doing things that are not necessary and not doing things that are necessary.

Mr. HATCH. Does the Senator remember back in the late 1980s when the American people made us repeal the catastrophic health insurance legislation, the same public considered and soundly rejected the Rube Goldberg-inspired, Ira Magaziner-designed Clinton health care reform proposal?

Mr. ASHCROFT. We are all well aware of that.

Mr. HATCH. I would submit to you that this is the same public that we can expect to watch us closely as we perform our magic on this particular bill. Does the Senator agree with me with regard to youth smoking?

Mr. ASHCROFT. I think the public is already watching. It is reflected in measurements of the public sentiment when they indicate they believe on about a 70 percent to 30 percent basis that this is a tax and spend, big Government measure rather than a real smoking cessation measure.

Mr. HATCH. Let me just bring to the distinguished Senator's attention that during that same period of smoking decline in Canada, U.S. youth smoking decreased by 40 percent without a price increase. So much for the reasons that price is the only reason for youth smoking decrease. Is the Senator aware of that?

Mr. ASHCROFT. I am aware of that.

Mr. HATCH. I have one final concern with the chart that was used by our distinguished friend from Massachusetts on Canadian tobacco use and price. As I said, that chart ended in 1991. When you look from 1991 on, Canadian imports to our country went up dramatically. Most were smuggled back into Canada and created a huge black market. Does the Senator remember, before the Judiciary Committee, we had the former mayor of Cornwall testify before our committee?

Mr. ASHCROFT. I am aware of that testimony.

Mr. HATCH. And he talked about how the black market came in with all of the accompanying organized crime and criminal activity to the point where his life was threatened, his family's life was threatened, people were shot at, and all kinds of other unsavory criminal practices began. Does the Senator remember that testimony?

Mr. ASHCROFT. I am aware of that testimony, and I thank the Senator for bringing it again to our attention.

Mr. HATCH. Now, the Judiciary Committee—I am sure the Senator is aware of this, too—heard testimony that most of these cigarettes, on that peak, that were imported into the United States were smuggled back into Canada.

Mr. ASHCROFT. They send them out the front door and bring them in the back door.

Mr. HATCH. Sure. They sent them out and brought them back. People are saying there is not going to be any smuggling here, not going to be any black market. They are ignoring hundreds of thousands of police people. They are ignoring the facts that occurred in Canada, England, and almost everywhere else.

Mr. ASHCROFT. They are ignoring the fact that there is a lot of cigarette smuggling in the United States today at current taxation levels. To aggravate that with an additional $1.50 a pack would be to skyrocket the smuggling problem.

Mr. HATCH. Since smugglers do not seek identification or IDs, I suspect youth were able to easily obtain bootleg cigarettes. Keep in mind Mexico's per pack price is 94 cents. Right?

Mr. ASHCROFT. I am aware of that.

Mr. HATCH. Maybe we have never seen the smoking prevalence rates and prices beyond 1991 in the distinguished Senator's chart because smoking rates did not increase when the tax was decreased by the Canadian government.

Now, despite emphatic and passionate pleas, the scientific evidence on the effect of price is equivocal. Does the Senator agree with me on that?

Mr. ASHCROFT. There is ambiguity as to whether or not price is a conclusive determinant for teenagers in their decision to begin to smoke.

Mr. HATCH. Is the Senator aware that today Barry Meier writes a very compelling article in the New York Times. He says:

> But with the Senate having begun debate on Monday on tobacco legislation, many experts warn that such predictions are little more than wild estimates that are raising what may be unreasonable expectations for change in rates of youth smoking.

Is the Senator aware of that comment?

Mr. ASHCROFT. I am aware of that.

Mr. HATCH. Mr. Meier also quotes Mr. Richard Kluger, author of a book on smoking and health, who has said this. I ask the Senator if he is aware of it?

> I think this whole business of trying to prevent kids from smoking being the impetus behind legislation is great politics, but it is nonsense in terms of anything you can put number next to.

Is the Senator aware of that?

Mr. ASHCROFT. I am, I am in possession of the article, and I am grateful for the work of Mr. Meier.

Mr. HATCH. I ask unanimous consent that the entire article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, May 20, 1998]

POLITICS OF YOUTH SMOKING FUELED BY UNPROVEN DATA

LEGISLATION'S DESIRED EFFECTS DRESS UP AS FACTS

(By Barry Meier)

It is the mantra of the nation's opponents of smoking: sweeping changes in the way cigarettes are marketed and sold over the next decade would stop thousands of teenagers each day from starting the habit and spare a million youngsters from untimely deaths.

President Clinton recently warned, for example, that one million people would die prematurely if Congress did not pass tobacco legislation this year. And Senator John McCain, Republican of Arizona and the author of a $516 billion tobacco bill, has urged lawmakers to stop ''3,000 kids a day from starting this life-threatening addiction.''

But with the Senate having begun debate on Monday on tobacco legislation, many experts warn that such predictions are little more than wild estimates that are raising what may be unreasonable expectations for change in rates of youth smoking.

After the $368.5 billion settlement proposal between tobacco producers and state officials was reached last year, for example, the American Cancer Society said a 60 percent

decrease in youth smoking in coming years could reduce early deaths from diseases like lung cancer by a million. But while many politicians say the legislation would most likely produce a 60 percent drop in youth smoking, that figure appears to have come from projections and targets.

Social issues often spark unfounded claims cloaked in the reason of science. But the debate over smoking, politically packaged around the emotional subject of the health of children, is charged with hyperbole, some experts say. Politicians and policy makers have tossed out dozens of estimates about the impact of various strategies on youth smoking, figures that turn out to be based on projections rather than fact.

''I think this whole business of trying to prevent kids from smoking being the impetus behind legislation is great politics,'' said Richard Kluger, the author of ''Ashes to Ashes'' (Knopf, 1996), a history of the United States' battle over smoking and health. ''But it is nonsense in terms of anything that you can put numbers next to.''

Everyone in the tobacco debate agrees that reducing youth smoking would have major benefits because nearly all long-term smokers start as teen-agers. But few studies have analyzed how steps like price increases and advertising bans affect youth-smoking. And those have often produced contradictory results.

Consider the issue of cigarette pricing. In recent Congressional testimony, Lawrence H. Summers, the Deputy Treasury Secretary, cited studies saying that every 10 percent increase in the price of a pack of cigarettes would produce up to a 7 percent reduction in the number of children who smoke. Those studies argue that such a drop would occur because children are far more sensitive to price increases than adults.

''The best way to combat youth smoking is to raise the price,'' Mr. Summers said.

But a recent study by researchers at Cornell University came to a far different conclusion, including a finding that the types of studies cited by Mr. Summers may be based on a faulty assumption.

Donald Kenkel, an associate professor of policy analysis and management at Cornell, said earlier studies tried to draw national patterns by correlating youth smoking rates and cigarette prices in various states at a given time.

But in the Cornell study, which looked at youth smoking rates and cigarette prices over a period of years, researchers found that price had little effect. For example, the study found that states that increased tobacco taxes did not have significantly fewer children who started smoking compared with states that raised taxes at a slower rate or not at all.

Mr. Kenkel added that he had no idea how the price increase being considered by Congress—$1.10 per pack or more—would affect smoking rates because the price of cigarettes, now about $2 a pack, has never jumped so much. And he added that there were so few studies on youth smoking rates and price that any estimate was a guess.

''It is very difficult to do good policy analysis when the research basis is as thin and variable as this,'' Mr. Kenkel said.

Jonathan Gruber, a Treasury Department official, said that the Cornell study had its own methodological flaws and that the earlier findings about prices supported the department's position. He also pointed out that Canada doubled cigarette prices from 1981 to 1991 and saw youth smoking rates fall by half.

Under the tobacco legislation being considered in the United States, cigarette prices would increase by about 50 percent. And while advocates of the legislation say that the increase would reduce youth smoking by 30 percent over the next decade, they say that an additional 30 percent reduction would come through companion measures like advertising restrictions and more penalties for store owners who sold cigarettes to under-age smokers and for youngsters who bought them.

The claim that comprehensive tobacco legislation would reduce youth smoking by 60 percent over the next decade is perhaps that most frequently cited number by advocates of such bills. But that figure first emerged last year in a different context and quickly came under attack.

The American Cancer Society, soon after the settlement plan was reached in June between the tobacco industry and 40 state attorneys general, said that one goal of that agreement—a 60 percent decline in youth smoking rates over the next decade—would spare one million children from early deaths from smoking related diseases. The plan, which recently collapsed, would have raised cigarette prices by about 62 cents over a decade and banned certain types of tobacco advertising and promotional campaigns.

But some tobacco opponents soon found fault with the cancer society's estimates. For one, those critics pointed out that the 60 percent figure represented only a target, and that penalties would be imposed on tobacco companies if it were not reached. And the cancer society, they added, had not performed any analysis of the June deal to determine whether in youth smoking.

''They basically made up the number and I think it was totally irresponsible of them,'' said Dr. Stanton Glantz, a professor of medicine at the University of California at San Francisco. ''It is like assuming that by snapping our fingers we could make breast cancer go away.''

In a letter to Dr. Glantz, Dr. Michael Thun, the cancer society's vice president for epidemiology and surveillance research, acknowledged that the group's statement was based on an ''if-then'' projection, rather than an analysis of whether the proposal's programs would accomplish that goal.

''The way the number was derived has nothing to do with what will effectively get us there,'' Dr. Thun said in a recent interview.

The new 60 percent estimate is based on a different formulation. But it, like the cancer society statistic, also coincides with a target for reducing youth smoking that would result in industry penalties if not reached. And along with questioning the impact of price on reaching such a goal, experts are at odds over whether advertising bans and sales restrictions would produce the projected 30 percent drop in youth smoking.

In California, for example, youth smoking began to decline in the early 1990's soon after the state began one of the most aggressive anti-smoking campaigns in the country. But it has begun to rise again in recent years.

Dr. John Pierce, a professor of cancer prevention at the University of California at San Diego, said he thought that reversal might reflect the ability of cigarette makers to alter their promotional strategies to keep tobacco attractive to teen-agers even as regulators try to block them.

For their part, cigarette makers, whose internal documents suggest a significant impact on youth smoking from price increases, appear happy to play both sides of the statistical fence. Last year, they estimated that the price increase in the June plan would cause sales to drop by nearly 43 percent among all smokers over a decade. But now that Congress is considering raising prices by twice that much, producers have turned around and said that higher prices would undermine, rather than help, efforts to reduce youth smoking.

Steven Duchesne, an industry spokesman, said tobacco companies thought that high cigarette prices would encourage those in the black market to target teen-agers.

''Smugglers would sell cigarettes out of the back of trucks without checking ID's,'' Mr. Duchesne said.

Experts agree that unless significant changes are made in areas like price and advertising, youth smoking rates will not decline. But unlike politicians, many of them are unwilling to make predictions. Instead, they say that the passage of tobacco legislation would guarantee only one thing: the start of a vast social experiment whose outcome is by no means clear.

Mr. ASHCROFT. I am pleased to forward the article to the desk and ask for its inclusion in the RECORD.

Mr. HATCH. Let me ask the Senator, if he will, using another chart, our colleague argued last night that the 1993 American price decrease led to more youth smoking. I would call my colleague's attention to the fact that in at least 1 year both price and youth smoking decreased. Later, there was a dramatic increase in youth smoking without a proportional price increase. These facts provide further evidence that price is not the only determinant of smoking behavior as some would lead us to believe. Is the Senator aware of that?

Mr. ASHCROFT. I am aware of it, and I am convinced that price is not the only determinant.

Mr. HATCH. Now, tobacco analyst Martin Feldman, who actually did the economics on this based upon an extensive model, unlike the Treasury Department, who was willing to testify and face cross-examination before the Judiciary Committee, testified before the Judiciary Committee, and I believe the Senator is aware of this, that between 1986 and 1996, the real price of cigarettes in the United Kingdom, rose by 26 percent and national cigarette consumption fell 17 percent.

Is the Senator aware that youth smoking did not decrease during that same time?

Mr. ASHCROFT. I think that data is very instructive. It tells us something about the fact that the youth culture is not always predictable in terms of traditional economics, that the price may not be the determinant of whether individuals begin smoking as young people.

Mr. HATCH. Is the Senator aware that actually the British Office for National Statistics reported that the percentage of smokers amongst those 11 to 16 increased by 8 percent despite the healthy price increase?

Mr. ASHCROFT. I am pleased that you would bring that to my awareness.

Mr. HATCH. Our colleague from Massachusetts, for whom I have the greatest respect, would lead us to believe that all public health experts advocate a $1.50 price increase to reduce teen smoking. There has never been a U.S. price increase of this magnitude.

Mr. ASHCROFT. I am aware of the fact that this would be a totally unique circumstance never before——

Mr. HATCH. Keep in mid it is a lot more than just a $1.50. That is just the

manufacturer's price. You go on up from there?

Mr. ASHCROFT. It would probably be something in the neighborhood of closer to over $3 in terms of the increase in the price of cigarettes.

Mr. HATCH. Is the Senator aware of the approach that I have been trying to take toward this, that we believe it should be a payment schedule. There would still be excise taxes. We think it should be a payment schedule that the tobacco companies meet regardless of how their profits go, up or down. Is the Senator aware of that?

Mr. ASHCROFT. I am aware of the Senator's position in that regard.

Mr. HATCH. So the payment would not be affected by whether the excise taxes go up or down. The payments would have to be made over a number of years, all $428 billion of them, which is $60 billion more than in the settlement. Is the Senator aware of this, $60 billion more than the attorneys general, Castano group, et cetera, and tobacco companies' agreement back on June 20, 1997? Is the Senator aware of it?

Mr. ASHCROFT. I am aware of the Senator's intention in that respect.

Mr. HATCH. So it is a stiff increase in penalty, but at least it is at a level where perhaps we can get the companies to come back on board and at least voluntarily agree to the advertising protocols, consent protocols, and voluntarily agree to the look-back provisions and make them, thus, constitutional.

Mr. ASHCROFT. I understand the Senator's position.

Mr. HATCH. You understand my position on that?

In 1996—is the Senator aware in 1996 Secretary Shalala estimated that the 1996 FDA rule would reduce smoking by 50 percent over 7 years? Guess what? There was no price increase in that regulation.

> Secretary Shalala used the word ''historic''—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. Out goal is very straightforward; to reduce the amount of teenage smoking in the United States by half over the next 7 years.

Are you aware of that statement by our Secretary, our esteemed Secretary?

Mr. ASHCROFT. I am aware of that statement.

Mr. HATCH. Well, there was no price increase in that recognition. How, we are being led to believe that price is the answer. It goes further. David Kesler said this:

> Don't let the simplicity of these proposals fool you. If all elements of the antismoking package come into play together, change could be felt within a single generation, and we could see nicotine addiction go the way of small pox and polio.

Are you aware of that statement by the former——

Mr. ASHCROFT. I am aware of the statement of Dr. Kessler.

Mr. HATCH. Former head of the FDA? Here is one by President Clinton:

> That's why a year ago I worked with the FDA, and we launched this 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.

That was President Clinton's statement. Is the Senator aware of that?

Mr. ASHCROFT. Indeed it was.

Mr. HATCH. I think the point I am making here is no matter what we do here will be a price increase. The question is, How far can you increase it without it being counterproductive and producing an overwhelming black market in contraband all over our country. Is the Senator as concerned about that as I am?

Mr. ASHCROFT. I am deeply concerned about the creation of a black market which not only destabilizes any of the intentions of this bill, but probably would make cigarettes far more available to young people than they are in society today.

Mr. HATCH. I appreciate the Senator's comments. These quotes by Donna Shalala, by David Kessler, by the President of the United States, with regard to the FDA regulation supposedly going to reduce teen smoking by 50 percent over 7 years—guess what, there was no price increase in that regulation. Now we are led to believe that price increases are the sole answer—at least by the arguments made by the other side on this issue.

Is the Senator aware—let me just examine another factor and see if he is aware of that. We are being told the Senate's inaction on a $1.50 price increase over the next 3 years will culminate in children dying. Is the Senator aware of that argument.

Mr. ASHCROFT. I am aware of that argument.

Mr. HATCH. It seems to have been made here regularly. If that is the case, why, then, did the President of the United States advocate for a price increase of up to $1.50 over 10 years? What does our colleague from Massachusetts know that the President didn't know?

Mr. ASHCROFT. I am not in a position to answer that question. I think the question is a very good question, but it would have to be addressed to the Senator from Massachusetts.

Mr. HATCH. Let me just say this, and ask this question. You know, the very people who are arguing for this $1.50 increase, it seems to me, are the very people who are pricing this bill right out of the marketplace so we cannot get a constitutionally sound bill. Is the Senator aware of that?

Mr. ASHCROFT. I believe that they have increased this, the cost of this bill, by hundreds of billions of dollars.

Mr. HATCH. We have had witnesses from the left and the right, constitutional experts, come before our committee and say that, basically, without a voluntary consent protocol or a voluntary consent decree with the companies on board, that literally—literally, you could not have the advertising restrictions.

Mr. ASHCROFT. I think it is pretty clear that the infringement of the first amendment that has been applied by the highest courts to commercial speech as well as speech by ordinary citizens would be substantial were it not to have the complicity of those affected.

Mr. HATCH. Was not the Senator there in those Judiciary Committee hearings when these experts on constitutional law from the left to the right said this bill would not be constitutional, would be highly suspect.

Mr. ASHCROFT. I am aware of that.

Mr. HATCH. Unconstitutional both on the advertising restrictions, which of course that is what the FDA regulations call for, and on the look-back provisions? Just to mention two.

Mr. ASHCROFT. I am very well aware of the serious constitutional problems of this proposed measure, which would be intensified, absent the agreement of the companies themselves.

Mr. HATCH. Does the Senator remember Floyd Abrams, leading first amendment expert in this country, in my opinion and I think in the opinion of most people, from the left to the right, in his statement:

> Any legislation of Congress which would purport to do by law what the proposed settlement would do by agreement, in terms restricting constitutionally protected commercial speech, is, in my estimation, destined to be held unconstitutional? It is unlikely that at the end of the day the FDA's proposed regulations could survive first amendment scrutiny.

Does the Senator remember that?

Mr. ASHCROFT. I am aware of that statement before the committee.

Mr. HATCH. Is the Senator aware that the American Civil Liberties Union, speaking to the Senate Judiciary Committee, February 20, 1998, had this to say:

> Both the legislation and proposed regulation by the Food and Drug Administration are wholly unprecedented and, if enacted, will most likely fail to withstand constitutional challenges.

Mr. ASHCROFT. I am.

Mr. HATCH. Is the Senator aware that Judge Robert Bork said on January 16, 1996:

> The recent proposal of the FDA to restrict severely the first amendment rights of American companies and individuals who in one way or another have any connection with tobacco products is patently unconstitutional under the Supreme Court's current doctrine concerning commercial speech, as well as under the original understanding of the first amendment.

Mr. ASHCROFT. I am aware of that. That is why I mentioned the commercial speech reservations that I had earlier.

Mr. HATCH. Isn't it a wonderful thing that the commerce bill, or should I say the managers' amendment, has done that which nobody else has ever been able to do in the history of this country; that is, bring together the ACLU and Robert Bork on this issue.

Mr. ASHCROFT. That, indeed, is an amazing feat.

Mr. HATCH. It really is. But we also had testimony from Larry Tribe, on the left, who also basically said this would be very constitutionally suspect. Now, to make a long story short, the very people who are arguing—I will ask the Senator this. Aren't the very people who are arguing for this $1.50 increase the people who have basically blown the tobacco companies out of the equation so that you cannot get the voluntary consent decrees to make these matters constitutional so that this will work, not just from a price increase standpoint but from an advertising restrictions standpoint, and from a look-back provision standpoint?

Mr. ASHCROFT. I think it is pretty clear they have boosted, or seek to boost the kind of financial impact to a very serious—hundreds of billions of dollars—extent.

My objection is that this is all passed on to low-income people, consumers. Obviously there are other impacts as well. Obviously it affects the ability of companies to participate in this kind of settlement.

Mr. HATCH. Is the Senator aware of, similarly, last week we heard testimony on this issue. I asked Professor Burt Neuborne of the NYU law school specifically if he thought the FDA rules could pass constitutional muster. I have to say, he was one of the most impressive constitutional experts I have had in my 22 years of listening to constitutional law from experts on the Judiciary Committee. In asking him a question, I pointed out that earlier in the hearing that Mr. David Ogden, counsel to the Attorney General, testified that the FDA rules were narrowly tailored and could satisfy the leading cases in the area of commercial free speech, the Supreme Court's decision in 44 Liquormart, and the Scenic Hudson cases.

So I asked Professor Neuborne whether the FDA rules were narrowly tailored, as required by current Supreme Court doctrine. I want to see if the Senator remembers what he said.

He said:

> I could start by semantics. Mr. Ogden of the Justice Department used the word ''appropriately tailored.'' He is too good a lawyer to use the words ''narrowly tailored'' because the FDA rules are not narrowly tailored. The FDA rules take the position that all color, all figures, all human beings are inherently attractive to children in a way that causes them to smoke.

Is the Senator aware of that?

Mr. ASHCROFT. I am aware of that. I think it is a profound insight and it absolutely represents good legal analysis.

Mr. HATCH. He went on to say:

> But its not a narrowly tailored response to say that all use of color, all use of human figures, all use of imagery is banned so that adults can't see them either, and I don't think that could be reasonably defended.

Do you remember that?

Mr. ASHCROFT. I am aware of that statement and I happen to agree that there is a very serious constitutional problem with this kind of limitation, even of commercial speech.

Mr. HATCH. He is not alone. I venture to say that any constitutional expert who tries to contradict what these gentlemen have said is going to be in severe jeopardy of losing his or her reputation.

Is the Senator aware that this whole push to raise the cost, to pile on, that basically knocks the tobacco companies out of the equation, to pile on—which is what is happening in this bill and what certainly would be extended by the amendment of the distinguished Senator from Massachusetts—that that basically knocks the tobacco companies out?

Mr. ASHCROFT. I am not in a position to say whether or not what the tobacco companies could do.

Mr. HATCH. They have said——

Mr. ASHCROFT. They have indicated clearly that the additions and the aggravations and the different kinds of changes that have been made have made it impossible for them to continue in their support of the measure.

Mr. HATCH. There is no doubt in my mind that they are not going to continue unless we get this into some reasonable posture. Is the Senator aware that many people lost their breath when they first heard of $368.5 billion as the settlement figure given last June 20 by the attorneys general, the Castano group and the tobacco companies? They were astounded. Is the Senator aware of that?

Mr. ASHCROFT. I am aware of it, and if the people lost their breath thinking this was to be paid by the tobacco companies, they will really lose their breath when they understand these costs are mandated by the statute to be passed on to consumers.

Mr. HATCH. I think the Senator is aware, is he not, that there has to be a way to pay for the program? If you don't have the voluntary consent of the companies, albeit kicking and screaming, then how do you make the bill constitutional in the end? Is the Senator aware of that?

Mr. ASHCROFT. I am aware of the Senator's position.

Mr. HATCH. Is the Senator aware of another position this Senator has, and I think many others as well, and that is that if this bill passes in its current form and is not constitutional, that there will be at least 10 years of effective litigation by the tobacco companies who are not going to allow them to climb all over them, especially when they know these provisions are unconstitutional? Is the Senator aware of that?

Mr. ASHCROFT. I am aware of that, and during that period of time, the poor people, the working-class people of the United States are going to have a very, very serious tax increase as a result of this kind of greed expressed here.

Mr. HATCH. Is the Senator aware that we have 3,000 kids beginning smoking every day and 1,000 will die a premature death?

Mr. ASHCROFT. I am aware that 3,000 children try smoking every day. I am also aware there are about 8,000 children, according to General McCaffrey, who try drugs every day. I am concerned we do not have a so-called solution here that really shoves people even more into the drug category.

Mr. HATCH. Is the Senator aware that if a young teenager smokes, there is an 8 times propensity to graduate to marijuana, and if that teenager then graduates to marijuana, there is a greater propensity to graduate to harder drugs?

Mr. ASHCROFT. I am aware of linkages that have been drawn between marijuana smoking and hard drugs.

Mr. HATCH. So if this price increases that we are talking about here, way above the $368.5 billion, do not bring the tobacco companies on board—and the tobacco companies say they are not going to come on board—then, basically, we are going to have 10 years of constitutional litigation where approximately 1 million children a year will start a habit later leading to their premature death because we failed to act properly in this matter. Is the Senator aware of that?

Mr. ASHCROFT. I am aware of the fact that the absence of the tobacco companies in any final resolution would result in very serious litigation which would involve serious delays.

Mr. HATCH. Is the Senator aware that I have fought the tobacco industry my whole Senate career, and I take second place to nobody as far as trying to get this matter under control?

Mr. ASHCROFT. Indeed, I am.

Mr. HATCH. Is the Senator aware that on one occasion, I was accused—I won't say by whom—of being a pawn for the tobacco companies, because I want to see this thing work and get it done?

Mr. ASHCROFT. There are a number of incredible things that have been said about the Senator, and I think that is one of them.

Mr. HATCH. Well, it was very offensive to me. If we don't work this out so that the parties agree in a consent decree, then we are going to have years of litigation where even more people will die from smoking-related diseases and millions of kids will be hooked on cigarettes.

In 1996, as I said, and I ask the Senator if he remembers this, Secretary Shalala estimated that the 1996 FDA rule would reduce smoking by 50 percent over 7 years. David Kessler said it. The President believes that. There was no price increase involved in that, just the rule. But that rule will not be in effect if we don't have a voluntary consent decree.

And, I might add, there are those who believe that rule shouldn't be in effect under current FDA law, the way it is currently written.

Let me ask the Senator to consider another fact. We are being told that

the Senate's inaction on a $1.50 price increase over the next 3 years will result in children dying. If that is the case, then why did the President of the United States advocate for a price increase of up to $1.50 but over 10 years? Is the Senator aware that Surgeon General Satcher, our Nation's doctor, did not call for a $1.50 price increase?

Mr. ASHCROFT. I am pleased to be made aware of that by the Senator from Utah.

Mr. HATCH. Rather, he echoed the President's position. He referred to prices as one of the most cost-effective, short-term strategies to reduce youth smoking. Will the Senator help me to understand their failure to be advocates, if the evidence is, as our colleague from Massachusetts said, ''overwhelming and powerful''? More recently, my colleague and I attended a Judiciary Committee hearing to determine if it is possible to design a plan to keep kids from smoking. Is the Senator aware of this? Dr. Greg Connally, head of the Massachusetts drug control program, testified that the remarkable success of the Massachusetts program in reducing by 30 percent cigarette consumption in the 18- to 24-year-olds was because of the clean air indoor legislation and advertising. Is the Senator aware of that?

Mr. ASHCROFT. I am aware of it, and that is why I think it is unnecessary to massively burden working Americans with an oppressive tax in order to achieve what State and local entities are doing without this kind of imposition on working people of America.

Mr. HATCH. That came right out of Massachusetts.

Mr. KENNEDY. Will the Senator yield on that point?

Mr. HATCH. Let me finish this line of thought, and I will be happy to yield.

Mr. ASHCROFT. I reassert my right to the floor, and I will be happy to yield for another question, but I have yielded to the Senator from Utah and the floor is not his to yield.

The PRESIDING OFFICER. The Senator from Missouri controls the floor.

Mr. ASHCROFT. I yield to the Senator from Utah.

Mr. HATCH. Let's look more closely at the 1994 IOM study which is the basis of the 1998 IOM study. A fair reading of this 1994 IOM study seems far less definitive than is being portrayed by some in this debate.

On page 187 of the 1994 Institute of Medicine study, it says:

> Only a few studies have examined the question of whether cigarette price increases affect teenagers differently than adults.

It then reviewed the only three studies done to that point in the United States. It found relatively high price elasticities in two of these studies but noted that the third study, the second National Health and Nutrition Examination Survey, ''failed to find a statistically significant effect of cigarette prices on cigarette smoking in youths age 12 through 17.'' Is the Senator aware of that?

Mr. ASHCROFT. I am aware of it, and I am pleased to have you remind us all of the information in these studies.

Mr. HATCH. So the data that is not so categorical as being portrayed by the proponents of this amendment. In fact, the 1994 IOM report noted the conflict, not the consensus, in the data. It noted that that requires further study.

On page 188 of the IOM study, it says this:

> The conflicting results of the few U.S. studies have examined the impact of cigarette prices on consumption by adolescents, including possible substitution of smokeless tobacco products in response to higher cigarette prices, reinforce the need for new research to assess the potential for using higher tobacco taxes to deter adolescent tobacco use.

Is the Senator aware of that?

Mr. ASHCROFT. It is clear that the studies are conflicting. Some of the assumptions which have been purported by others to be universal simply are not universal and are not supportable when they are alleged to be universal.

Mr. HATCH. Is the Senator aware that in a recent peer-reviewed article in the Journal of the American Medical Association, the authors conclude that price increases have limited value? Is the Senator aware of that?

Mr. ASHCROFT. I am pleased to be aware of it and thank the Senator for bringing it to the attention of the Senate.

Mr. HATCH. Since the tobacco companies cut their prices to wipe out the tax increases, these public health scientists attributed the success of the tobacco control program in Massachusetts to other components of the comprehensive program. Is the Senator aware of that?

Mr. ASHCROFT. Yes, I am.

Mr. HATCH. In the same hearing, Dr. William Roper, who is Dean of the University of North Carolina School of Public Health, called for a significant price increase but failed to recommend an amount. Is the Senator aware of that?

Mr. ASHCROFT. I am.

Mr. HATCH. Dr. Michael Fiore, director of the University of Wisconsin School of Medicine Center for Tobacco Research and Prevention and Chair of the Agency for Health Care Policy and Research clinical practice guideline panel on smoking cessation testified that one of the most effective ways to reduce youth smoking is to focus on the current adult smokers. He never mentioned a price increase to reduce youth smoking. Is the Senator aware of that?

Mr. ASHCROFT. I am aware of it.

Mr. HATCH. We all know teenage behavior is at best unpredictable. Dr. Warner of the University of Michigan estimated that the 1983 doubling of the Federal excise tax would decrease the number of teenage smokers by 800,000. This estimate fell short by one-fourth. This overzealous estimate should give all of us pause in stepping into the unchartered waters of a $1.50 price increase.

We should not lead our mothers in this society to believe that if we raise the price of cigarettes by $1.50, their children will not smoke. Is the Senator aware of that?

Mr. ASHCROFT. I agree with that. We should not mislead parents. I would firmly underscore the idea that the single, most important factor in whether or not young people smoke is the extent to which their parents are active in helping them not to smoke.

Mr. HATCH. I tell my colleagues, I am just about through with my questions for now. I will have many, many more later on other aspects of this bill. But I wanted to get these points across. I really appreciate the courtesy of my colleague and his forbearance in being willing to answer all these questions.

The main point is, there cannot be clear and unequivocal support for a price increase of $1.50. I have never seen a price increase of that magnitude. That has never been done.

Dr. Chaloupka also writes that less educated persons are less price responsive. An American adult, who is a one-pack-a-day smoker would face a $547 increase. The Senator has been making that case, I believe. Is that correct?

Mr. ASHCROFT. Yes. I believe a one-pack-a-day habit in participating in smoking would cost an additional $547—if you had three packs a day, it takes you to about $1,600. Money that is taken from the family. It does not matter how much the family makes. It could be very low income. Most smokers tend to be in the low-income areas. So it is a very, very aggressive tax on low-income America.

Mr. HATCH. This tax increase would take away more than 5 percent of the income of an American making $10,000 a year. Is that correct?

Mr. ASHCROFT. In some cases that is the kind of bite it would take out of their ability to buy food, shelter, and clothing to provide for their families.

Mr. HATCH. Is it not correct, I ask my colleague from Missouri, who has been making very important points here during this debate, is it correct that currently smokers with incomes under $30,000 pay almost 50 percent of the tobacco excise tax?

Mr. ASHCROFT. Well, right here under the new plan it is projected to almost 60 percent.

Mr. HATCH. Right. If this $1.50 goes through, it will be probably that high. And even at $1.10, it would be approaching 60 percent; is that correct?

Mr. ASHCROFT. That is correct.

Mr. HATCH. Well, I am disappointed that some of my colleagues on the other side of the aisle are so ready to support a new tax-and-spend program supposedly aimed at children but weighing so heavily on the backs of addicted, low-income adult workers under the guise that they are helping children.

Does the Senator agree with me on that?

Mr. ASHCROFT. I do.

Mr. KERRY. Will the Senator yield?

Mr. HATCH. I will take only a few more minutes.

While I agree—I will make this clear—that a price increase is an important component of a comprehensive program, the reason I have gone through all this is there is no clear and convincing evidence of what that amount should be.

Let us be honest, the CBO found there is uncertainty and the price rise is not foolproof.

Do you agree with that?

Mr. ASHCROFT. I do agree that a price rise is certainly not a foolproof strategy for reducing teen smoking. There are ways to reduce teen smoking, and a number of them are not included in this legislation.

Mr. HATCH. I would just like to ask my friend maybe one or two more questions.

If we have to have a tobacco settlement, would it not be much better to force the tobacco companies to come back on board so we can resolve the constitutional issues and have voluntary consent protocols so we can actually reduce youth smoking?

Mr. ASHCROFT. My view is we should target to do things we can actually do to reduce teen smoking, and we have to do it in a way that is not an oppressive tax burden on hard-working families, especially low-income families in America.

The proposal to raise this tax to $1.50, the proposal to have it at $1.10 is an unacceptable incursion into the ability of families to provide for themselves. That is why I oppose this $1.10 pass-through tax on American consumers, particularly low-income individuals.

Mr. HATCH. Is the Senator aware that this Senator, the chairman of the Judiciary Committee, has spent an extensive amount of time studying this issue, trying to come up with a way that you can punish the tobacco companies while getting their consent to the advertising restrictions, so they have to live up to the deal?

Mr. ASHCROFT. I am fully aware of the Senator's efforts in this respect and say he is to be commended for working so hard as he has. I know of no other individual who has dedicated himself more thoroughly to the attempt to resolve these issues than the Senator from Utah as the chairman of the Judiciary Committee.

Mr. HATCH. Is the Senator aware of the Senator from Utah's long-term antipathy toward this industry?

Mr. ASHCROFT. Indeed I am. Everyone is aware of that. We could submit that for the RECORD for which people could take judicial note.

Mr. HATCH. Is the Senator aware of how hard the Senator from Utah studied just exactly what would be the highest amount we could charge and still keep the tobacco companies—yes, kicking and screaming and fighting, and say they are gouged—on board to get these voluntary consent protocols so we can make this matter constitutional?

Mr. ASHCROFT. I think it is pretty clear we can often find how hard someone has worked and studied by the nature of the questions they have asked. The nature of the questions you have asked is such that everyone can know that you have done perhaps as much work as anyone could possibly do in examining these issues.

Mr. HATCH. Is the Senator aware——

Mr. KERRY. Will the Senator yield for an administrative question?

Mr. HATCH. I have one or two questions.

Mr. KERRY. It is not up to the Senator from Utah to make that decision.

The PRESIDING OFFICER (Mr. BURNS). Will the Senator respond?

Mr. HATCH. Will the Senator yield further to me?

Mr. ASHCROFT. I will not yield for a different set of questions at this time. I am yielding to the Senator from Utah at this time.

Mr. KERRY. I thank the Chair.

Mr. HATCH. I would be happy to—I do not think the Senator from Utah is abusing the rules. I think I have the privilege to ask all the questions I can. I think these have been intelligent questions. I think they have been right on point. I think they hopefully will help to elucidate what we need to know.

Mr. KERRY. The Senator is not entitled to make a statement.

Mr. HATCH. Does the Senator agree with my last statement?

Mr. ASHCROFT. Yes, I do.

Mr. HATCH. Now——

Mr. KERRY. Mr. President, could I ask one administrative question of the Senator from Missouri?

The PRESIDING OFFICER. Will the Senator from Missouri yield for a question?

Mr. ASHCROFT. The Senator from Missouri will yield for an administrative question on the presumption and understanding that I retain the floor after the question has been asked.

The PRESIDING OFFICER. The Senator will not lose the floor upon responding to the question.

Mr. KERRY. Mr. President, I will not assert this, but ask the Senator from Missouri if he is aware that under the rules of the Senate, and under precedence of the Senate, a Senator may yield for a question, a Senator may not yield for a statement in the guise of a question, and a Senator may not yield for a question proceeded by or followed by a statement. And that under rule 194 of the Senate, either by request of the Senator or by decision of the Chair, a Senator may be asked, in fact, to give up his right to the floor and take his seat if that rule is violated? Is the Senator aware of that?

Mr. ASHCROFT. I am aware of that.

Mr. KERRY. I thank the Chair.

Mr. HATCH. Will the Senator yield?

Mr. ASHCROFT. I am pleased to yield to the Senator from Utah for a question and thank him for his questions. I appreciate the way in which he has framed these questions. I think it has been very productive and helpful in this debate.

Mr. HATCH. I thank the Senator for his leadership on the floor in pointing out the problems that exist with regard to this ''piling on'' mentality. Is the Senator aware that we did it in the catastrophic bill, and we all lost that?

Mr. ASHCROFT. I am aware of that.

Mr. HATCH. I have no doubt that if the managers' amendment of $1.10 goes through—does the Senator have any doubt that if a managers' amendment of $1.10 goes though, let alone $1.50, that we will wind up with another similar process and problems on our hands?

Mr. ASHCROFT. I think we have a major problem on our hands. I am not concerned about piling on the companies—I am concerned about piling on the consumers, or piling on the poor people of America a tax burden which they should not be asked to carry for reasons which I think are inadequate to justify.

Mr. HATCH. I agree with the Senator and ask a final question. I apologize to my colleagues for taking this time. As everybody knows, I don't take an awful lot of time on the floor. If we are going to resolve this matter, it seems to me, and I wonder if the Senator would agree with me, that we have to take into consideration the approximately 50 million users of tobacco products in this society, many of whom are hooked on these products, or at least addicted to them; we have to consider the children; we have to consider using this money for tobacco-related purposes to the utmost extent that we can.

Would the Senator agree with me on those?

Mr. ASHCROFT. I agree we have to do what we can to appropriately use what resources we can to reduce teen smoking.

Mr. HATCH. I am concerned about what is going on on the floor right now. I am concerned about the managers' amendment. I am concerned about it ever really working, and I imagine the Senator—and this is a question—is as concerned as I am.

Mr. ASHCROFT. I am deeply concerned, particularly about the impact of these massive taxes on low-income families and there ability to make ends meet and maintain their independence.

Mr. HATCH. Despite what Michael Douglas said in the popular movie ''Wall Street,'' greed is not good, and it is especially onerous and burdensome when the greed comes from Congress itself.

Would the Senator agree with me on that?

Mr. ASHCROFT. I agree that greed is not good, and it is particularly repugnant when it is Government asking for more and more from people who can afford it less and less. I think that is what we have here—those who are asking for more and more from consumers who can afford less and less.

Mr. HATCH. I want to personally compliment the Senator for his work on the floor. I know he has taken a lot of time and has had to give up his office work and a lot of other things to be able to join in this colloquy, but this is important. I believe his colloquy is important if we want to understand both sides of this issue on the $1.50. I want to compliment the Senator for being willing to have the fortitude, the dedication, and the drive to stand here and do this.

I apologize to the rest of my colleagues for having taken as long as I have to ask these questions, but I think every question has been pertinent and to the point and every question has tried to enlighten, and that is what questions are for. That is why the rules provide for it.

I thank my colleague for allowing me to do this.

Mr. ASHCROFT. I am pleased to have had the opportunity to answer the questions. I indicated the nature of the questions has been a very specific, particularly questions regarding a variety of studies. These studies have challenged the fallacious assumption that there is an automatic streamline correlation between price increase and potential for reducing smoking, especially among young people, and the clear indication on the part of the Senator from Utah, through his questions, of the amount of study, efforts, investigation, and analysis in which he has engaged is the kind of analysis, investigation, study, and questioning that will refine our ability to make the right decision here.

(Earlier the following occurred and, by unanimous consent, was ordered to be printed at this point in the RECORD.)

Mr. MCCAIN. Mr. President, I ask the Senator to yield for a minute so I can make an administrative announcement. it has nothing to do with the issue at hand; it is so that we can provide courtesy to other Members.

Mr. ASHCROFT. Mr. President, I am please to yield, with this understanding: I ask unanimous consent that at the conclusion of the remarks of the manager of the bill, I be allowed again to speak and have my position on the floor.

Mr. CONRAD. Mr. President, reserving the right to object.

Mr. MCCAIN. Let me just do this first.

Mr. CONRAD. Reserving the right to object, let me understand this. The Senator from Missouri is asking that at the end of the managers' remarks he be recognized?

Mr. ASHCROFT. I will yield only in a way that does not forfeit my right to the floor.

The PRESIDING OFFICER (Mr. HUTCHINSON). Is there objection?

Mr. CONRAD. I won't object.

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

Mr. MCCAIN. Mr. President, the reason I interrupt is that many Members were laboring under the correct impression that we were probably going to have a vote about now on a tabling motion. Obviously, because of the extent of the debate and the desire of both sides to speak, we will not have the tabling motion at this time. I will do so after it appears that most Members on both sides have had an opportunity to talk about the issue. I think the Senator from Massachusetts agrees that we would not want to have a tabling motion since the other side has not had an opportunity to speak.

Mr. HATCH. Will the Senator yield?

Mr. MCCAIN. Can I finish speaking? Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Missouri has yielded to the manager of the bill and then, by unanimous consent, he will resume recognition.

Mr. MCCAIN. Mr. President, I believe the unanimous consent agreement ends when I complete my remarks; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. MCCAIN. Mr. President, I ask the indulgence of the Senator from Missouri and the Senator from Utah until I finish my remarks. I think that is a fairly common courtesy that is extended around here.

We intend to have a tabling motion on both the Ashcroft second-degree amendment and on the underlying Kennedy amendment, and I would guess probably within a couple of hours we will be able to finish the discussion on this side and have ample time to respond on that side. For the benefit of my colleagues, I am trying to make this process as convenient as I can for every Member of the Senate so that they can anticipate and adjust their schedules accordingly. I have now completed my remarks.

Mr. HATCH. Mr. President, I ask unanimous consent that the remarks of the distinguished Senator from Arizona not interrupt our questions and remarks.

Mr. ASHCROFT. Mr. President, I ask unanimous consent that the remarks of the Senator from Arizona not interrupt the questions of the Senator from Utah in the RECORD.

I am pleased to yield to the Senator from Utah for a question.

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

Mr. HATCH. We were going through this CBO report. I apologize to the distinguished Senator from Arizona for irritating him. I thought he had finished his remarks. I always intend to extend courtesy throughout the Senate.

Mr. KERRY. Would the Senator extend that courtesy to me for the purpose of an administrative question?

Mr. HATCH. Yes.

Mr. ASHCROFT. Mr. President, I reassert my right to the floor and indicate that I would be pleased to yield to the minority manager of the bill for purposes of an administrative question, with the understanding that at the conclusion of his remarks, or question, I reacquire the right to the floor.

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

The Senator from Massachusetts is recognized.

Mr. KERRY. I thank the Senator from Missouri very much.

Mr. ASHCROFT. If there was a question propounded to me, it was during the time when I was listening to another question. I need to have it again propounded.

Mr. KERRY. I did not propound a question yet. I was waiting for the Senator to finish. I simply wanted to ask the following. There was an effort between the other manager and myself to try to have comity here so that we weren't really operating in a strict sense by asserting rights to the floor. We were trying to move back and forth in a relatively fair manner, without any sense of trying to cut anybody off. There is no effort here to stop somebody from being able to speak. There is an effort to try to share the opportunities with a lot of busy Senators. So what we are trying to do is get a sense of the length of time, in fairness to colleagues who are lined up to speak.

If the Senator wants to continue to speak, that is obviously his privilege. He can also come back at any time and resume speaking. We are making no effort to hold the floor on this side. We are making no effort to delay. Each of the Senators will speak for a brief period of time. So we are very happy to accommodate our colleagues. I simply ask him if he might give us, at this point, some indication of either when he would complete this round or whether he would be willing to allow some other Senators, perhaps, to have a chance to also speak and then perhaps come back. We are trying to do this in a fair-minded way.

Mr. ASHCROFT. May I answer the question without forfeiting my right to the floor?

The PRESIDING OFFICER. Yes.

Mr. ASHCROFT. I earlier agreed and, as a matter of fact, urged you to have Members from your side go ahead of me. I don't mind them having a chance to speak. When we sought unanimous consent for that, it was objected to by the manager of the bill. I had intended, in every respect, to provide for ample debate.

My view is that this is a very important topic. I learned last night in an announcement by those managing this bill that there would be an effort made to table this amendment without giving a full opportunity for discussion and that there was a time set without even so much as seeking an agreement from Senators as to how much time could be spent.

In my judgment, if you are going to have an $868 billion tax increase on the American people in pursuit of an objective, which is allegedly the reduction of teen smoking, but has lots of other consequences and is unlikely to achieve the objective, we ought to at least be able to debate it. So I am very willing to consider full debate. I want

to have that on this issue. But the managers of this bill have basically signaled to me that they intend to truncate debate, that they don't want this discussed.

So it was my judgment that I needed to come to the floor and bring the evidence with me and then speak about this bill. I intend to speak about it and say what I think needs to be said. I am very pleased to have questions raised. But when questions are raised, obviously, that comes out of the time for me to make my remarks. That would extend the time. I think my position is clear. Early on, I tried to make it possible for those in the Chamber to go ahead of me and make remarks, and that was rejected. So if my only choice is to make my own remarks, then I will make my own remarks. But I sought to make it possible for others to speak.

Mr. KERRY. Mr. President, without the Senator losing any right to the floor, I ask if I may ask a question.

Mr. ASHCROFT. With the understanding that I reacquire the floor at the conclusion of the question, I would be happy to yield.

Mr. KERRY. Mr. President, I ask my colleague if he would agree to the following structure then.

Would it be agreeable to the Senator from Missouri, since he and the intercessions of the Senator from Utah have now taken up about an hour and 15 minutes, if we were to have perhaps 45 minutes or an hour for those on our side to speak, with the understanding that when they are finished the Senator from Missouri would then be recognized to again continue his remarks?

Mr. ASHCROFT. I would like to let the Senator from Utah finish his line of questioning, and then I would be agreeable to such.

Mr. KERRY. Again, without the Senator losing his right to the floor, I propound a question. How long does the Senator from Utah think that might be?

Mr. HATCH. Am I entitled to speak? I don't think it will be too much longer. But I would like to go through my questions. I am not intending to delay here. This is a very large bill, perhaps the largest the Senate has ever considered, at least in recent memory. We need to question its full impact as we proceed. That is the right way to make policy on such an important issue.

Mr. KERRY. Again, I ask the question without the Senator losing his right to the floor. Could we then enter into an agreement that I ask unanimous consent that when the Senator from Utah has completed his series of questions to the Senator from Missouri, that at that time there be 1 hour allocated to this side of the aisle, to the Democrats, for their debate, at which point the Senator from Missouri would again be recognized to resume his comments?

Mr. GRAMM. Reserving the right to object, Mr. President.

Mr. PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, it is clear we are dealing with an issue of grave importance, representing tremendous amounts of money, with very strong passions on the issue. And, quite frankly, there is relatively little good information about the bill. We don't even know what the impact of this amendment would be in terms of the cost of the product on which the tax would be imposed. The logical thing to do is follow the rules of the Senate. The rules of the Senate are very clear. As long as a Senator wishes to speak, or answer questions, that Senator has the right to do it.

I think, rather than interrupting the process, we would all be better off to just follow the rules of the Senate.

On that basis, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. KERRY. Mr. President, parliamentary inquiry: Is it not a rule of the Senate that one may ask for unanimous consent and, in asking for unanimous consent, we are following the rules of the Senate?

The PRESIDING OFFICER. The Senator is correct.

Mr. KERRY. I thank the Chair.

The PRESIDING OFFICER. Objection was heard.

The Senator from Missouri has the floor.

Mr. HARKIN. Mr. President, will the Senator yield for a unanimous consent request?

Mr. ASHCROFT. I will yield with the understanding that my right to the floor is not forfeited to the Senator from Iowa.

PRIVILEGE OF THE FLOOR

Mr. HARKIN. Mr. President, I ask unanimous consent that Michele Chang, a detailee to my staff, and Peter Reinecke and Sabrina Corlette of my staff be granted floor privileges for the duration of the consideration of S. 1415.

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

Mr. HARKIN. I thank the Senator.

Mr. CONRAD. Will the Senator from Missouri yield for a question?

Mr. HATCH. If I could continue——

Mr. ASHCROFT. I would like to yield to the Senator, but I am in the midst of yielding for questions to the Senator from Utah. I want to persist in that line of questioning. So I reassert my right to the floor.

If the Senator from Utah was asking me a question, I would ask him to request that I yield for the purpose of a question.

Mr. HATCH. Will the Senator please ask unanimous consent that the colloquy not be interrupted?

Mr. ASHCROFT. I ask unanimous consent of the Presiding Officer that our colloquy not be interrupted by these other proceedings, and that the other proceedings be printed suitably at the end of the questioning.

Mr. MCCAIN. Reserving the right to object, I certainly wouldn't want to interrupt that important colloquy.

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

Mr. HATCH. I say that the distinguished Senator from Arizona may not appreciate this colloquy.

Mr. ASHCROFT. If that is a question, I am aware of that fact.

Mr. HATCH. I have to admit that I don't appreciate some of the colloquies that have gone on before, but Senators have a right to do so. This is too important an issue for the American public. We need to look at the real facts on such important legislation. We are not just trying to run any bill through because some people want to. I think this legislation deserves debate. We are talking about price levels that will amount to huge tax increases for some American people. We are talking a bill which does not have the cooperation of the tobacco companies, thus raising serious constitutional questions.

(End of earliest proceedings.)

Mr. ASHCROFT. Mr. President, I am deeply troubled about the fact that we are, in this process, taxing American families and taxing those American families who have very limited income. Fifty-nine point four percent of the $755 billion that my amendment would take out of this bill, which are taxes on consumers—59.4 percent of that is to be paid by families with incomes of less than $30,000. If you move it up to the $60,000 level, you are talking abut almost two-thirds of the people, hard-working families from our culture, who struggle to put clothing on the backs of their children and the right kind of food on the table.

There is a suggestion by some that they can just stop smoking automatically. If they are going to stop smoking, why are we counting on the money? We are counting on receiving almost $1 trillion over the next 25 years from these folks, and it is predicated on the idea that they can't stop smoking. If it were a switch that we could flip on and off, perhaps we would go find the switch and do it. But that is not what we are talking about. We are talking about taxing individuals who don't have any elasticity of demand.

There has been a lot of talk about the elasticity of demand, economics—that if you elevate the price, the demand will go down. If people are addicted, they can't stop, so they have to pay. That is these folks here—59.4 percent of the individuals paying this tax will be individuals making under $30,000 a year.

Americans are working longer and harder than ever to pay their taxes. The number of moms and dads, two parents in the family, both working; or in single-parent families, obviously, the only parent is working—we are taking more and more of their resources. We take now more of the income of the American people than ever before in taxes. We are at peace, we are in prosperity, but still, Government is costing more than ever before. We have charged so much for Government, we

are finding we have a $43 billion surplus. CBO says it might be up to a $63 billion surplus.

What are we going to do? Instead of giving people their money back, instead of saying, ''You send it, we spend it,'' we should be saying, ''You earned it, we returned it.'' No, we are not doing that. Where are we going with this? We are inviting another $868 billion of burden on those who can least afford to pay it. It is just incredible. We should be debating how to return the money to taxpayers, not 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.

I might add that earlier I sent to the desk a modification of the amendment making technical changes. That does not require anything. I want to indicate to the Senate that I had done so, and it doesn't require action.

This proposed increase in Government and taxes is the biggest proposed increase since President Clinton's proposed increase on health care. My own sense is that it took a while for the people of the country to realize what the Federal takeover in health care was going to do to this country, when the American people figured out what it was going to cost. And when the American people understand that this isn't a penalty on the tobacco companies, this $755 billion that I want to knock out of this bill isn't something that the tobacco companies will pay, this is something consumers will pay.

The law specifically forbids a tobacco company from passing this on to consumers. There is a mandatory rule that this can't come out of the profits of tobacco companies. This can't come out of their retained earnings. This can't come out of their capitalization. This has to be imposed on the backs of these workers, these folks who are making under $30,000 a year, these additional folks making under $60,000 a year.

Here we could have an additional 17 boards and commissions. There is the statute: ''Payments to be Passed Through to Consumers''—not payments to be endured or suffered by the tobacco companies. But these are payments to be undertaken by poor families. Three packs a day, $1,600 a year—that is what they are asking for, $1,600 a year off of the tables, out of the houses, out of the budget for the children in these families. That is what this is a law about. This is a law that would take an enormous amount of resources from the families of America. They are already paying taxes that are virtually out of sight. They are already paying taxes for more than food, clothing, shelter, and transportation combined in this country, and we are going to add to the poorest of the poor this incredible burden. Seventeen boards, commissions, and agencies—they say they have been removed from the legislation. The bureaucracies envisaged by the bill will still be there; it is just that they are no longer sort of visible. We have gone from unaccountability to anonymity. That will not cure things. This huge tax increase would be levied against those who are least capable of paying.

According to the Congressional Research Service, tobacco taxes are perhaps the most regressive tax that is levied in America. It is a tax that hits poor people the hardest. And we are discussing what we want to do with that $868 billion of additional burden on the poor. About 60 percent of this tax increase would fall on families earning $30,000 a year or less. Those earning less than $10,000 a year make up only 10 percent of the population, but 32 percent of those people smoke. So the current tobacco tax represents 5 percent of the smokers' income in this category.

This would take from the people who are struggling to make ends meet, making $10,000 a year, 5 percent of their income. That is really a pack-a-day habit we are talking about. We are not talking about a two-packs-a-day habit. If they have two packs a day, it is far more than 5 percent of $10,000. Those making between $10,000 and $20,000 a year are only 18 percent of the population; however, 30 percent of them smoke. The current tobacco tax would take a real chunk—2 percent of the smokers' income—in that category. This bill amounts to a tax increase on 31 percent of Americans who earn under $20,000 a year.

So among those who are the poorest of our hard-working Americans, who are low-income, they are the people who really get hit with this. And 31 percent of all people making less than $20,000 a year are the individuals who are going to be sustaining this tax burden. Households earning less than $10,000 a year will feel the bite of this tax increase most of all.

The Joint Committee on Taxation estimates that these households, those earning less that $10,000 a year overall, would see their Federal taxes rise by 44.6 percent—44.6 percent. Those making between $10,000 a year and $20,000 a year make up 18 percent of the population; 30 percent of them smoke. In most areas of the country, somebody earning $10,000 a year is well below the poverty line. But here we come. We are so interested in additional revenue, at a time when we have surplus, that we are willing to sock it to those who are low-income individuals.

We spend much of our time in this body trying to find solutions for those in this income bracket. We have tax credits; we have welfare programs; we have educational grants; we have job training programs. They cost us billions of dollars a year. We try to lift people in those low-income brackets out of their problems and difficulties. However, today, Members of this body are enthusiastically saddling them with a huge, huge tax burden. In fact, some are even trying to make it worse.

It is pretty clear that some people have come and said that people will stop smoking. I will get to that next. Here it is. The kind of tax increase, if you are making under $10,000 a year, is 44 percent. We are not really tax increasing anybody since most smokers are concentrated in this part of the graph. Low-income people are going to pay the lion's share. They are going to have very significant increases in their tax load.

Now, some Members were critical about the statement that this is a huge tax increase on low-income people. It was stated that I was assuming that they would be irresponsible and not take care of their families' needs. I am not saying here that anybody is irresponsible. I do think that the Government has frequently been irresponsible. It is irresponsible to take this much of the income from people who are trying to clothe their families and feed their families.

The revenue assumptions in this bill are based on the fact that most people will continue to smoke. You can't have it both ways. You can't say that people are going to suddenly stop smoking; you can't say that and still say you are going to spend the money and collect the money. This is basically a tax, a tax that relates to the increase in the price of cigarettes, a tax that passes money from low-income, hard-working Americans to big Government in America so the Government can do a wide variety of things.

Frankly, I think some of the things that this proposes to do are literally laughable. Some of the programs that are in this bill are designed to curtail smoking overseas. So we are going to tax low-income Americans, folks who are struggling at $10,000, $15,000, or $20,000 a year to make ends meet; we are going to take money from them and go overseas and run antismoking campaigns. Now, in my judgment, that is a very, very serious disconnect with what we are supposed to do. We are supposed to make it possible for Americans to live decently and independently and provide for their children, to have a framework in which Government at least lets them enjoy the fruits of the things they labor to produce; and if we don't do that, it seems to me that we obviously have failed.

I don't believe we should be taking money from hard-working, low-income Americans and putting it into a foreign aid system that tries to tell people on the other side of the world how they should act and what they should do. If I believed that everybody would quit smoking, the impact of this bill obviously would not be so significant because it would not be a tax. But it is clear that there will be a tax, and there is a predicated set of receipts that is going to run between three-quarters of a trillion dollars and a trillion dollars. Everyone in this Chamber, the administration, and health officials are making the assumption that people will continue to smoke.

As currently drafted, this legislation will cause somebody who smokes two

packs daily to pay the Government an additional $803 a year. A lot of families could take a vacation on $803. A lot of families could buy additional clothing. A lot of families could afford courses at a junior college to change their skill levels and upgrade their jobs. A lot of families could care for a relative or otherwise do something that we need to get done rather than send this money to Washington, DC. That is $803 for somebody who smokes two packs a day. For a family smoking three packs a day, it is even more.

My amendment would prevent that from happening. My amendment simply says we are not going to punish the American people for that which the tobacco companies have done; we are not going to hurt the hard-working Americans of low-income as a means of objecting to the abuses of big tobacco.

Moreover, as currently drafted, this legislation allows the tobacco companies to deduct the mandatory payments that are ultimately to be paid by consumers as regular business expenses. Over 5 years, that kind of writeoff would be worth about $36 billion in the tobacco industry. So if we are giving a tax break to the tobacco industry that is going to be worth $36 billion to them over 5 years, and part of that comes as a result of the fact that we are taxing individual consumers, I think that is really unfair.

Let's take a second to understand this. In this legislation that is supposed to be so tough on the tobacco industry—and, frankly, the tobacco industry participated in formulating almost all of the basic components of this legislation—the companies act as a tax collector by sending the U.S. Treasury $102 billion over the next 5 years. Then they get a tax deduction, and they cost U.S. taxpayers—all taxpayers, whether they are smokers or not—$36 billion in lost revenues because of the tax deduction.

What you get here is a subsidy through the back door. They send in $102 billion they collect from people and then they get $36 billion of it back as a tax break for the company. I think that is a particularly anomalous result. That is a result which we certainly do not really want to have. They collect money from poor, hard-working Americans, turn it in, and when they turn it in they get a tax deduction of $36 billion.

Before we consider passing a massive tax increase, it should behoove us to review the government's record thus far in respect to taxes, spending, and government employment. Where have we been recently in terms of tax increases, in terms of spending? In Washington, taxes and spending are the only things more addictive than nicotine. Policymakers in Washington think they know better how to spend the money of families than American families do.

In the 15 years prior to 1995, Congress passed 13 major tax increases. Last year's Taxpayer Relief Act was the first meaningful tax cut since 1981. The tobacco tax increase would more than erase that relief. We need more tax relief, not less. If we have the increase that is proposed here, it will totally erase the relief we gave last year. The tobacco industry tax, then, proposed in this bill is not a tax on the industry. It is a tax on the consumers. It would more than erase the relief we gave them last year.

The tax relief date has now set a record of May 10. People work longer this year for the Government than ever before. Federal, State, and local taxes claim 37.6 percent of the income of a median two-income family in 1997, more than the couple spent on food, and shelter, on clothing, and transportation combined.

During Bill Clinton's first 5 years in office the Federal Government collected 19 cents in taxes for every dollar increase in the gross domestic product. According to the Joint Economic Committee, the Federal Government is now taking a higher share of economic growth than under any President in recent history. The Joint Economic Committee continues, The average rate during the entire era before Clinton from Presidents Eisenhower to Bush was 19 percent. Obviously, the Federal Government has yet to reject the idea that it can just tax and spend and tax and spend.

The PRESIDING OFFICER. The Chair notes that you wanted to modify your amendment. Is that correct?

AMENDMENT NO. 2427, AS MODIFIED

Mr. ASHCROFT. That is correct. I modify my amendment which is at the desk, which is technical in nature.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (No. 2427), as modified, is as follows:

In lieu of the language proposed to be inserted insert the following:

CERTAIN PROVISIONS RELATING TO AMOUNTS IN TRUST FUND NULL AND VOID.—

Notwithstanding any other provision of law, the following provisions of this Act shall be null and void and not given effect:

(1) Paragraphs (1) and (2) of Section 401(b);
(2) Section 402(a); and
(3) Sections 401 through 406.

Mr. MCCAIN. Parliamentary inquiry, Mr. President: Does that last request require a unanimous consent?

The PRESIDING OFFICER. It does not require a UC.

Mr. MCCAIN. Thank you.

Mr. ASHCROFT. Mr. President, I thank the Chair.

Members of this body have been arguing over the past few days that there is no tax in this bill. In fact, the Finance Committee, in its mark, at least tried to level with the American people by reporting out a bill that calls it a tax. For a long time this was sailing under a sail which was mislabeled. Webster's Dictionary defines a tax as a compulsory payment, usually a percentage levied on income, property, values, sales prices, et cetera, for the support of government. Let's lay this argument to rest now and forever. This is a tax. It is a compulsory payment made at the point of sale for the benefit of government. In this bill we have compulsory payments by the industry.

The bill then requires the cost of these payments to be passed on as price increases to consumers, and even penalizes companies if they fail to collect this tax. Payments are used to fund massive programs for Federal and State governments. It has been said that industry is the group that is convincing people this is a tax bill. Frankly, industry couldn't make this a tax bill if it weren't a tax bill. Frankly, this body cannot keep it from being a tax bill if the language of the bill is really taxing. What we know is that the Senate can't keep it from being a tax if it is really a tax by calling it something else, and industry couldn't make it a tax by calling it a tax. The truth of the matter is it is an elevated price required to be collected, the proceeds of which go to support government.

The supporters of this bill claim this legislation is needed to curb teen smoking. ''Do it for the children'' is all we hear. But this bill is about big government, not about protecting the health of young people. It is about more bureaucracy. It is about more Federal programs. It is about higher taxes, new bureaucracy.

The bill reported out of committee contained 19 new boards, commissions, and agencies—17 new boards, commissions and agencies—a blatant expansion of government claim under immediate and harsh criticism. What happened? We have a claim that the bureaucracy has been eliminated. But is it really? I don't think that it is really eliminated. I think the names have been changed. But the same tangled mess as this chart represents still exists in this bill.

This is the structure of the National Tobacco Policy and Youth Smoking Reduction Act that was reported by the Senate Commerce Committee on the 1st of May 1998, just a couple weeks ago. This is a complicated set of extremes. I might add that these are funding extremes. Money is flowing like a flood. The bureaucracy is still in this bill. It is just more anonymous, less visible, less accountable. The names may have been changed, but it is still the same animal.

Let's look at the whole chart. Here we have the International Tobacco Control Trust Fund. Interesting. The International Tobacco Control Trust Fund, foreign aid grants to support tobacco control. The international program is still here. I will talk more about it in a minute.

The Tobacco Asbestos Trust Fund, $21 billion allows payments to be made for asbestos claims when Congress enacts qualifying legislation. Payments will be made out of the tobacco trust fund for the 22-percent set-aside for public health expenditures.

Compliance bonuses for States: Here it is. It is still in there.

Research activities for CDC, Institute for Medicine, and NIH are still in there.

State licensing program grants are still in there.

The National Tobacco Free Education Program is still on the chart.

The Indian tribe enforcement bureaucracy is still there.

The Indian tribe public health grants are still in there.

Counteradvertising programs are still in there.

The prevention of tobacco smuggling measure is still in there.

Veterans programs are still in there.

The National Tobacco Document Depository is still here.

Smoking cessation programs are here.

Child care development block grants are still there.

We are going to be taxing those lowest income families to provide additional child care for others.

Tobacco community revitalization, this is the tobacco farmer; very serious questions about this particular portion of the bill.

The Senator from Texas talked about the so-called Tobacco Community Revitalization Program. He brought out, as a matter of fact, on the floor yesterday the fact that he priced tobacco allotments per acre. It could be purchased for about $3,500 or $3,600. Then he indicated that the payment envisaged here was a multiple of about five times that high.

The international programs, which I mentioned, are kind of interesting. The committee bill contained the American Center on Global Health and Tobacco, which was authorized to receive $150 million a year so that we could sort of be influential overseas with our policy on tobacco.

We want to tax the lowest income families in America. We want to tax hard-working people, increase their taxes. My amendment would delete $755 billion in taxes on these individuals contained in this bill.

This bill is designed to fund things like the American Center on Global Health and Tobacco. The center is not to be found in the managers' amendment. In its place, the Secretary of Health and Human Services is authorized to establish an international tobacco control awareness effort. So instead of having this agency sort of be out there created by the statute, we have just authorized the bureaucracy to create a new agency. The Secretary of Health and Human Services is authorized to establish an international tobacco control awareness effort.

Now, here we have to remember—we are taxing American low-income families to do this—59.4 percent of all the taxes that go to establish this international program on tobacco awareness are going to come from families making less than $30,000 a year. What is this new effort required to do? One, support the development of appropriate governmental control activities in foreign countries—enhance foreign countries' capacities to collect, analyze, and disseminate data about the cost of tobacco use.

We are going to fund foreign countries so that they can have studies on how much it costs to use tobacco. And we are going to do that by taxing low-income people. Sixty cents out of every dollar in this program is going to come from families with less than $30,000—low-income individuals, less than $30,000. How much money will this cost?

Mr. KERRY. Mr. President, will the Senator from Missouri be willing to yield for a question?

The PRESIDING OFFICER. Will the Senator yield for a question?

Mr. ASHCROFT. I will for a question.

Mr. KERRY. Mr. President, I would ask the Senator from Missouri whether he is aware that the chart that he has there is the representation of the bill when it came out of the Commerce Committee, not of the managers' amendment, and that under the managers' amendment all bureaucracies were, in fact, eliminated and only three existing entities exist? I wonder if the Senator is aware that there are only three entities.

Mr. ASHCROFT. As a matter of fact, I have been speaking about that. I indicated that this was the chart and these functions remain. But very frequently, instead of the bureaucracy still being there and labeled and identified, you have a transfer from the bureaucracy to something that you just ask the Secretary to do.

For instance, I have just been talking about the transition from the international tobacco control trust fund, and in its place the new bill has ''the Secretary of Health and Human Services is authorized to establish.'' So instead of actually establishing, you just authorize that a bureaucrat establishes it. You get it out of the bill, but you still have it in terms of consequence, and you still have all the money available to be spent for the same purposes.

That is my understanding of what has happened here, and you are going to have $35 million each year for the first 5 years, and then such funds as may be necessary for these international activities. So I am aware of the fact that the bureaucracies were taken out of the bill ostensibly, but I am also aware of the fact that what you let go out the front door it looks to me like you bring back in the back door, because the Secretary of Health and Human Services is authorized to establish—it is not in the bill anymore, but the Secretary of Health and Human Services is authorized to establish an international control awareness effort, and that is basically for the same purposes.

Mr. KERRY. Mr. President, will the Senator further yield for a question without losing his right to the floor?

Mr. ASHCROFT. Yes.

Mr. KERRY. Is the Senator not aware that each of those responsibilities which are designated to existing entities are already existing programs and existing efforts? Most of the requirements, whether it is money in public health, money in farmer community assistance, or health research, they are all ongoing programs, but that this augments their ability to be able to achieve the goals of existing programs?

Mr. ASHCROFT. I understand that some of these programs are already programs which are undertaken, but not even close to the extent that this bill mandates—thus expanding the already oversized Government bureaucracy. I also understand that what we have here is a pot of money that we think we can generate by taxing the lowest-income, hardest-working poor people in the country. And what we are going to do is to start spending more money for these overseas studies, and we are going to put 60 percent of that additional money that comes out of this additional $868 billion tax—$6 out of every $10 is going to come out of the pockets of Americans earning less than $30,000 a year. That is really troubling me.

Mr. HUTCHINSON. Mr. President, will the Senator from Missouri yield for a question?

Mr. ASHCROFT. I am pleased to yield for a question, understanding I do not yield the floor.

Mr. HUTCHINSON. I presided the previous hour, and I was fascinated by some of the information that the Senator has been providing our colleagues and the American people. Did I hear the Senator correctly that 60 percent of the increased taxes in the base bill would fall upon lower-income Americans?

Mr. ASHCROFT. Well, people who earn less than $30,000 a year would pay, according to the estimates, 59.4 percent. So I don't want to inordinately suggest that it is a full 60. It is 59.4 percent of those taxes would hit people who earn less than $30,000 a year.

Mr. HUTCHINSON. For my benefit, how much in the base bill would a pack of cigarettes increase?

Mr. ASHCROFT. Well, in the base bill it has been suggested that the increase in the cost of a package of cigarettes would be about—total increase would be about $2.68 at a minimum. That includes all the things that are in the bill. The $1.10 which is the mandated price increase, by the time it works its way through the system, would be about a $2.68 increase in the price of cigarettes.

Mr. HUTCHINSON. Two dollars and what?

Mr. ASHCROFT. A $2.68 increase.

Mr. HUTCHINSON. Would the consumer buying a package of cigarettes actually see the price go up that much?

Mr. ASHCROFT. Yes. I would say it is fair to say they would be seeing that increase in terms of the consequences of the bureaucracy in this bill.

Mr. HUTCHINSON. For a family of three, let's suppose, a mom and dad

and a child, in which one or both smoke two packs a day between them or separately—but two packs a day—then we are taking $5 a day, $1,500 a year, away from their consumable income. Is my math approximately correct on that?

Mr. ASHCROFT. It would include the current cost of the cigarettes. We are talking about a two-pack-a-day thing. It is really about, the increase is about—you are right, as a matter of fact.

Mr. HUTCHINSON. So even with a $1.10 increase, we are looking at better than $2 a day, or a $600, $700 increase?

Mr. ASHCROFT. Yes. At $1.10 a day, 365 days would be about $400, and for two packs, that would take it to $800. I think it figures out to $803, if it is just at $1.10 on the increase.

Mr. HUTCHINSON. I did a little focus grouping in Arkansas where I just asked people—one lady had six children, five of whom smoke. They are between the ages are 35 and 40, grown children. I asked her would they quit smoking if it went up $1.50 a pack. She laughed. She said, ''No, they won't. They are addicted, and they wouldn't do it.''

Mr. ASHCROFT. My view—and I am pleased to have the question—my view is, this bill is predicated on the idea that people won't quit. If this bill were predicated on the idea that people would quit, we would not have the big numbers and the big money to pass around. We are assuming that these people who earn less than $30,000 a year are strapped in the habit of smoking, can't quit, and therefore we are going to be able to have $868 billion of their money over the next 25 years.

Mr. HUTCHINSON. If I could ask the Senator from Missouri, if a family is making $30,000, with children—and there are many of those in Arkansas, many, many, tens of thousands—assuming the budget is tight already, they are having a hard time making ends meet, that every dollar is already spent, where then would you anticipate them cutting back to pay that additional tax for cigarettes that is envisioned in this proposal?

Mr. ASHCROFT. Families have a tough decision where they cut back, but I imagine it would hurt virtually everything they do in some measure. I doubt if they would take it all out of one area. For instance, I don't think they would stop driving their car, and I don't think they would stop eating. They can't do that. But I think virtually every aspect of their existence. If you are talking $800, $1,200 a year, $100 a month, for instance, on three packs a day, if you take that $100 of a month out of the budget of low income families, we may drive some of them into dependency. And that is last thing government should do is make it hard for people to provide for their families. We should be finding ways to make it easier for people to provide for their families.

Mr. HUTCHINSON. With this very dramatic tax increase on low and middle income families, some people could loose their health insurance, end up on Medicaid conceivably?

Mr. ASHCROFT. Obviously, they could be forced into all kinds of reliance on outside sources. With the stress that would happen to a family that lost $100 a month by virture of this kind of massive Federal tax on the family, who knows what happens even in the way the family is composed in a setting like that because financial stress is a big part of the challenge to families generally. This is an anti-family measure. This takes from families a very serious proportion of the resources they use to care for one another. And when we say that Government wants this money so badly it will take it from you, and we know you are going to pay it because you are addicted and can't stop, we have really allowed the greed of Government to overtake us. And to say to families, it doesn't matter about you, we are so interested in doing what we want to do—and it does shock me that we are going to spend this money overseas, keeping data about the costs of smoking overseas. I just can't imagine how many folks in Arkansas or my home State of Missouri, who are earning $30,000 or $10,000 or $15,000, would want to make these kinds of payments so they could keep track of the costs of smoking in foreign jurisdictions. That is mind-boggling.

Mr. HUTCHINSON. If the Senator will yield for a further question?

Mr. ASHCROFT. I will yield for a further question.

Mr. HUTCHINSON. Last weekend I read a 35-page summary of the 750-page original bill, but with the changes that have been envisioned—and the Senator has mentioned this in his remarks—how much would be going overseas for smoking cessation and education programs overseas? How much was that?

Mr. ASHCROFT. The bill, I think, provides that there are $350 million for each of the first 5 years. And then, after that, there would be ''such sums as may be necessary.''

Mr. HUTCHINSON. Did I hear the Senator correctly in describing this as a kind of foreign aid bill, at least to some extent?

Mr. ASHCROFT. We are paying for governments overseas. We are paying for someone else's government, for their studies overseas. We are helping foreign governments decide how costly it is for their citizens, I guess. I don't know if this is an idea to make sure—we want people overseas to make sure they realize how much it is costing them to smoke?

I think we have a responsibility to people in this country, who know how much it is costing them to live, to let them keep some of the money they earn so they can help their families. But the $350 million a year that goes into this program is something that I seriously question whether we want to tax the lowest income people in America in order to achieve.

Mr. HUTCHINSON. Am I correct in understanding that this would be a massive transfer of wealth from the lower-income Americans to citizens—people who are not even citizens of this country?

Mr. ASHCROFT. Most certainly. It would be taking money from low-income Americans and transferring what resource they have to provide for their families, a significant portion of it, and sending it to foreign governments so they can conduct studies about what the costs of smoking are in their culture.

Mr. HUTCHINSON. Am I further correct that the States that have low per capita income—because almost 60 percent of this will fall on those earning under $30,000 a year, States like Arkansas, which is ranked in the lower 5 or 10 percent of income in the Nation—that this would fall disproportionately upon those lower-income States?

Mr. ASHCROFT. Obviously. You know, 60 percent of all these sums are going to come from people who earn less than $30,000 a year. So States that have a high population that earn in the category of less than $30,000 year are going to be paying far more of this than the other States which have high-income individuals and are not so populated by individuals who smoke.

Now the real correlation is, if you smoke, you are going to pay this increase in taxes. It turns out that smoking is the custom, is the choice—I think it is a bad one; I have never thought smoking was a good choice—it is the choice of people who are low-income, and it is something they feel they choose to do. It just astounds me that only in Washington, DC, is a bad choice made by free people the basis for taxation.

People are free. We haven't suggested they are not free to make this choice. We just want to make it hard. We are apparently willing to make it hard for those people, and we are willing to do that in order to fund overseas programs.

Mr. HUTCHINSON. Of course I appreciate that. I don't smoke. I have never taken any money from any of the tobacco companies. I know anybody who objects to this bill will be portrayed as being a defender of tobacco companies. I have never taken any.

But my question for the Senator would be. Has there been any study as to what kind of fiscal impact this would have on State and local governments? And is there a potential of it undermining the revenue base that local governments would have because of the increased taxation at the Federal level?

Mr. ASHCROFT. There are some interesting things that come as a result of this proposed tax increase.

No. 1, it would mean that the Federal Government profited more than any other entity or institution from smoking in this culture. We would have more benefit from smoking than any of the companies would in profit. So the

Federal Government would become the No. 1 beneficiary of tobacco use in the country.

No. 2, if there is a serious black market problem with contraband cigarettes, then that changes a number of calculations. One of the things it will change is, if people go into the black market on cigarettes sales, they not only don't pay their Federal tax, which is this additional $1.50 that is being proposed here today per pack, but they will also not be paying the State tax. You can't imagine some contraband person saying, ''We are going to go ahead and pay all the State taxes on these contraband cigarettes, but we are not going to pay the Federal tax.''

So it might well be if the black market develops a sense of intensity and there is a substantial velocity in the black market, that money which had previously been paid to States by cigarette marketers, that money from those packs that are no longer being sold in the open market but are being sold in the black market, States could lose that revenue stream which they now have from the legitimate sale of cigarettes.

It should be noted that there is already a black market problem in cigarettes because of different State levels and just because the tax is so high. This would probably—frankly, it might serve to make millionaires out of some people who are already dabbling in the black market for cigarettes.

Mr. HUTCHINSON. If the Senator will yield for one final question, as I listened to his comments, they reflected my own feelings—his concern about low-income Americans. It struck me that those who have professed to be the greatest defenders of the poor are those who seem to be the proponents of this massive tax increase upon working poor Americans. But the Earned-Income Tax Credit Program is a program designed to assist those who are working Americans, low-income working Americans, to prevent them from falling into dependency and being on the welfare system.

Is there anything in this base bill that would, in a sense, compensate those low-income working Americans who are going to see this very confiscatory tax imposed upon them through this dramatic increase in the price of cigarettes, to assist them in reforming the EITC Program or in some way offsetting these additional taxes that they will be paying? Or is this an absolute, real loss of consumable income for those who are most poor in our society?

Mr. ASHCROFT. This is a very good question. I thank the Senator for asking it. These are hardworking people, struggling. They get up early in the day, work late at night, sometimes rely on friends and relatives to help care for their children. Sometimes they can afford day care; sometimes they can't. But, basically, this is a bill which says we are going to take their money and we are going to spend it in this kind of bureaucracy.

As I indicated, some of these bureaucracies are relabeled and they are not constituted independently anymore. Some of these are constituted only by virtue of the fact that they are authorized for a Secretary, a Cabinet Secretary, to appoint. But, by and large, in the grand scheme of things, this is a situation where the money goes; it does not come. And the money—there is no specific indemnity for individuals who are the people who are hit by this tax. I know of nothing in this bill that says, for people who have a very serious consequence as a result of this tax, we are going to mitigate it in some way. It is simply not there.

Frankly, we have to be honest. The proponents want to impose this tax to make it very difficult for people to smoke. But for people who are addicted, it will be more difficult for them to stop. And that is why they can presume that we will be collecting these hundreds and hundreds and hundreds of billions of dollars.

Mr. HUTCHINSON. I thank the Senator.

Mr. ASHCROFT. Mr. President, I thank the Senator from Arkansas for the kinds of inquiries that he raised. They go right to the heart of the issue. This tax is focused on the lowest-income individuals in the United States, people who have the least capacity to pay. Frequently, people making in the $30,000 range will be young people. They haven't gotten their incomes up high. They are the people with children in their families, so they need to be able to provide for those children. They need to be able to make sure they are cared for. They need to try to start putting something away so those kids can someday go to college. Instead of allowing them to put something away, we are going to take something away.

For a two-pack-a-day family, that is $803 we are going to take away. Pardon me, that is under the $1.10 figure; that is not under the $1.50 figure. For a three-pack-a-day family, that will take you over $100 a month we are going to take away so that the family can't put it away for when they have needs. Frequently, in many of these families, they are not in a position to put anything away. These are families literally making it from check to check, and we are intending to come in and make this kind of substantial demand on them.

The bill requires States to have massive licensing schemes for retailers who sell tobacco products. So there will be significant new bureaucracies at the State level. These are just examples of bureaucracy in this bill. I want to mention that just once more. One of the strongest aspects of this bill is the States will be eligible to receive a total of $100 million a year in compliance grants if they reach a certain level where kids are unable to purchase tobacco products.

Then it requires States to give out part of those funds to retailers with outstanding compliance records. Let me make it clear. It currently is illegal for a minor to purchase tobacco products in every State of the Union. However, Congress is now establishing a program of bureaucracy to reward retailers for following the law. I think it is pretty clear that this is the kind of double whammy that Government too frequently has. It is against the law in the States for retailers to sell cigarettes to youngsters, and now we are going to have a special incentive program paying large amounts of money, up to $100 million a year, if the retailers will only abide by the law.

Mr. INHOFE. Will the Senator yield?

Mr. ASHCROFT. I will be happy to yield to the Senator from Oklahoma for a question.

Mr. INHOFE. I was presiding the other day, and I want to make sure I understood you correctly. You drew a relationship between our tax reductions that we were able to pass last year that we all went home and were so proud of—and we are talking about the child credit, and we are talking about the estate tax changes, relating that to the tax increase under certain assumptions. I would like to have you repeat that for my benefit.

Mr. ASHCROFT. I think the facts are these: That this massive tax on poor people in the United States would more than wipe out the entire tax cut passed last year, and that is at the assumption level of $1.10 a pack—not at the assumption level of $1.50 a pack, which is the Kennedy proposal.

I want to make it clear that I am against the $1.10-a-pack increase, not because it is an increase on the tobacco companies, but precisely because it is not. This is not a tax or an injury to the tobacco companies; this is something that is required of the consumer.

What I am saying is that we would collect so much money—even at $1.10 a pack—from people that it would totally erase last year's tax relief.

Mr. INHOFE. If you will yield further, you are talking about the child tax credit, you are talking about the education incentives, the estate and gift tax reductions, the IRA exemptions, the corporate AMT reductions—all of these would be offset in terms of a tax increase?

Mr. ASHCROFT. The family kinds of things, the capital gains sort of things—these are the things that would be totally wiped out by the additional collections which would be mandated under this bill. They are mandated that they be collected from, basically, the poorest people in the culture—60 percent, basically, under $30,000. It would mean that over time, over the last 2 years, we would have had a tax increase not a tax decrease.

Mr. INHOFE. If you will yield further, I think so often we talk about the fact that 54 percent of the taxes would be paid by people with incomes under $30,000 a year. We forget sometimes to mention that only 3.7 percent of the tax will be borne by those with incomes over $115,000, which I think is very significant.

I ask you this question since you represent the fine State of Missouri and I represent your neighboring State of Oklahoma. I had an experience and I just want to see if Missouri is anything like Oklahoma.

Over the last 10 days, I have had 3 days of townhall meetings throughout the State. As you know, I am active in aviation. I have all these townhall meetings at airports. With 20 meetings in 3 days—that was kind of a record for me, because normally I do five a day—not one time in one townhall meeting, in Watonga, OK, in Oklahoma City, in Miami, OK, right up on your border, or anyplace in Oklahoma, did anyone bring up the subject of the tobacco bill.

I brought it up in about half those meetings just because nobody had asked the question about this tobacco bill. Then when I talked to them about it, they said they had read about it and they said, ''We're opposed to it.''

In Oklahoma, in those meetings, there was not one hand that went up when I asked, ''Is there anyone here who is in support of this tobacco tax increase in this tobacco bill?'' Not one.

Is there something unusual about Oklahoma, or could it be that this is really a beltway issue? Have you tested your people in Missouri on this?

Mr. ASHCROFT. My encounter has been this: First of all, the bill is not raised, but when people find out that instead of punishing the tobacco companies, we are taxing tobacco users, so that an individual who earns less than $30,000 a year, if he is a two-pack-a-day smoker, he is going to pay an additional $803 in taxes, they don't understand that. They say, ''Wait a second, if you are trying to punish evil tobacco companies, if that is your objective, punish the companies but don't punish hard-working Americans who are struggling to make ends meet.''

My phones have begun to ring when people began to understand that this is not a circumstance where we are going to try to punish the tobacco companies to that extent. The real punishment comes because this law requires—this law forbids the tobacco company from taking any of this tax out of its earnings—it requires the company to ''pass it on.''

What is interesting, it is even more anomalous than that. The tobacco company collects this $109 billion in the next 5 years, or whatever it is, and turns it into the Government, and we give them a tax deduction for it so that they end up having a $36 billion subsidy that comes back for their having, basically, been involved in the collection of this sum of payment to the Government.

My own view is that when people find out this bill really is a bill against hard-working Americans and it is a tax measure, that is when we are going to start hearing more about it. People thought this was antitobacco. There are some things in the bill that distress the tobacco companies, but, frankly, I am more distressed about what we do for them—shutting down their liability, cutting it off. I think it is wrong to say that there is a certain amount that they can be liable for and no more.

You don't have any guarantees against lawsuits as a citizen. If you do things that are wrong, people can sue you. There is no limit to what can be collected against you if you do things that are wrong. This bill puts clear limits in for the tobacco companies, basically saying no matter what you do, you can only have this much money awarded against you in court.

So no matter how many people are affected, whether it is cancer or emphysema, lung disease, heart disease, no matter how much it is that the courts might allocate against you, we are going to lock down the thing in this bill, we are going to provide a limitation.

Some people don't understand. Originally, they thought this was anti-tobacco companies, and the companies are upset with them, but there are lots of things in here which are procompany and they are really anticonsumer.

Mr. INHOFE. That is interesting.

Let me ask just one more question, if I might, because I haven't heard it in this debate actually coming up. I had an experience. Over the Easter recess, I went on a missionary trip over to west Africa to Togo, Nigeria, Benin, and that area. I thought it was the appropriate thing to do, to go over and talk about Jesus on the Easter break.

The international publications I saw when I changed planes in Paris going down over the Sahara Desert and then again coming out of the Middle East, had articles—this is, what, 2 weeks ago, 3 weeks ago—articles on what a great boom our tobacco bill in this country is going to do for their tobacco industries. They were referring to both legal and illegal, I suspect. But has anybody looked at the effect that this would have on the economies of those areas where they would be direct beneficiaries of what we do here if this thing should pass?

Mr. ASHCROFT. I think it is clear that there has been inadequate examination. This bill hasn't had the kind of scoring that normally attends a bill. This bill was rushed and changed. The ink was not dry on the changes when the bill was submitted.

Virtually no one had read the entire bill when it was offered. And we are now in this debate on the bill. And that is why I am willing to take the kind of time we are taking to discuss it.

It was suggested yesterday that this massive tax increase would be concluded, that we would know what we were going to do on it because they were going to have a motion to table, and that motion to table would end this debate.

I just do not think when you have this kind of massive Government—a 17-agency creation; $868 billion—that you rush through. I think it is clear we need to have the kind of thorough discussion, discussion that would allow us to debate the issues.

Mr. INHOFE. I thank the Senator for yielding.

Lastly, I just ask if your office has received the same thing our office has. We count letters when they come in and we read these letters from people who have picked up notions on this thing. And they are running right now in Oklahoma to my office—this is the district offices in Oklahoma as well as the office here—about 10 to 1 against this massive takeover by the Federal Government. And one of the major concerns they say is, ''What's next?'' You know, it is tobacco today. Then alcohol? Then fatty foods? Or what is going to be next?

Mr. ASHCROFT. Fatty foods I am worried about. I eat so many of them and I do not want them to take away burgers.

(Mr. HAGEL assumed the chair.)

Mr. INHOFE. The last thing I mention is, I read an article in the Wall Street Journal, I think last week, that talked about the nations that have actually had this happen, causing great increases in taxes to try to stop that particular habit—Denmark, Sweden, so forth—and that the result has been they have had to repeal those tax increases in almost every case.

Are you aware of that?

Mr. ASHCROFT. Yes. The debate this morning really helped, I think, to clarify the issue, that in England, for example, it is said that half of all cigarettes are sold on the black market.

Mr. INHOFE. Yes.

Mr. ASHCROFT. Senator HUTCHINSON just asked me a very important question. If we drive things into black market sales, then States which have been relying on reasonable tobacco taxes as a funding stream—if the tobacco sales go into the black market and underground, we actually make it very difficult for those States to continue with their programs because we will deprive them of the same stream.

America has seen the kind of chaos that can come to law enforcement when we condition people to do things that are illegal because Government gets so invasive and heavyhanded.

And if we condition people to be involved in illegal activities, where we have inordinate unjustifiable taxes that are imposed on consumers, and we prepare them and teach them to be involved in the black market, it is a lesson which we will regret having taught for a long, long time.

Mr. INHOFE. I applaud the Senator for taking the leadership to stop this from happening. And I appreciate your yielding for questions.

Mr. ASHCROFT. I thank the Senator from Oklahoma and really appreciate the questions which he propounds because they get to the heart of the matter. And I appreciate also the fact that you have relayed your experience with your town hall meetings.

No other Senator in the U.S. Senate, I would venture to say, no other public official, deals with the public as intimately and aggressively as you do. You

know, five town hall meetings a day, hopping from airport to airport; of course no other Senator that I know of has flown a light plane around the world on his own. I know that JOHN GLENN has orbited the Earth. But you have stopped and talked to people most everywhere and certainly in Oklahoma.

So I thank you for bringing that particular item to our attention.

Mr. INHOFE. I would only respond by saying that I think I have told Senator GLENN, I may have more hours than he has, but he has a lot more miles.

Mr. ASHCROFT. I am sure that is the case. I thank the Senator from Oklahoma.

I just want to say this question of the black market is a very serious question.

If we aggravate the already tender situation which exists regarding the smuggling of cigarettes, we could literally create a very serious problem. And the problem not only relates to the loss of revenue to the Government, but it is also an issue that would and could be a problem which moves the black market in cigarettes from the sort of commercial area where black market cigarettes now are sold to stores and then the stores illegally sell cigarettes that have not had the right taxes paid on them. It could move it into the general population.

If we start teaching young people that they can buy cigarettes cheaply on the black market, and they start to do things like that, it is, in my judgment, a very, very, very serious problem in terms of what we have taught and what we have conditioned in this culture.

Furthermore, if we move the black market into sort of a retail situation—and I have some awareness of this because when I was Governor of my State, we had a significant cigarette tax, at least compared to neighboring States. There is some tobacco grown in Missouri, but very, very little. But we border on serious tobacco States, like Kentucky and Tennessee. And those States had very low tax rates. We had substantially higher tax rates. There were lots of cigarettes that came across the border of our States, but they really were not sold on the retail market. They were sold to folks who would sell them in stores with phony tax stamps and the like.

But if we get to the point where we are going to have black market cigarettes sold in retail, and we condition young people to start saying that ''I can break the law here,'' there are two consequences. One, that is a very bad thing to get young people into. Two, those who are willing to break the law, to retail market substances which are illegal to sell to youngsters, probably will be selling other substances. So they may well be selling drugs, and they may say to the youngsters, ''What do you want? I have cigarettes. I have marijuana. I have drugs.'' And if you drive the price of cigarettes up substantially, it begins to make the price differential far less. So I have very serious reservations about what we might do in terms of a black market.

Mr. ENZI. Mr. President, would the Senator yield for a question?

Mr. ASHCROFT. I would be pleased to yield for a question to the Senator from Wyoming.

Mr. ENZI. Thank you for yielding.

I appreciate the vast amount of knowledge that you have shared. And I have actually a series of questions that I would like to have answered in regard to the bill. And like I say, I have been very impressed at all the knowledge.

Mr. ASHCROFT. I hope I can answer these questions.

Mr. ENZI. I recognize you do not have a laptop in which you can store all this vast information; you are using strictly the computer there. But I have some concerns, and I would like to know what you think on these concerns.

When I was out in Wyoming this last weekend, one of the State Senators there brought me the question—he said, ''Now during the last session of the legislature, we looked at putting a 15-cent a pack''—that is 15, not 50—''cent a pack tax on cigarettes in our State. And that would raise $8 million a year for us. And now I hear Congress talking about''—and at the time his knowledge was only on the $1.10, not the much higher $1.50; it was $1.10 a pack—''and out of the $1.10 a pack,'' which of course will be levied on Wyoming just the same way the 15-cent a pack would be levied, ''our State will get $6 million.''

He is a little bit concerned about where all the revenue might be going. How could there be a miscalculation of that magnitude on the amount of funds that would be delivered by this? He has done extensive research into it. And I have to say that causes some concern for me, too—when 15 cents a pack will produce $8 million and $1.10 will only produce $6 million.

I guess maybe you might interpret that the $1.50 increase is to bring that up to $8 million for us. But that sounds like a poor way to do business.

Could it be that the $1.50 costs so much to collect, coming back here, so much gets held by the bureaucracy, that we are only going to get $6 million bucks out of $1.10?

Mr. ASHCROFT. I would venture to say the State of Wyoming does not have a foreign aid program under the guise of the cigarette tax. So you will not have a program to develop an awareness overseas of the costs of smoking.

One of the things that is in the international aspect of the bill we have here is that money will be taken, hundreds of millions of dollars every year will be sent to help foreign governments trying to decide what the cost of smoking is in their culture. I just don't think it is very likely that the Wyoming House of Representatives and Senate, which you presided over at one time, would be making that kind—the answer is, that is just a small part of what we are doing here.

I admit the foreign aid is not a big part of this bill, but there are 17 new boards and commissions in the Federal Government, specific and categoric programs, and this isn't designed to provide income to the States. This is really a program that will provide income to the Federal Government. It will provide massive amounts of income to trial attorneys. It will provide serious income to tobacco farmers. If the one aspect of this bill goes through, it will give them about $18,000 an acre for their allotments. Of course, farmers don't even own the allotments. In a lot of cases, it is owned by someone else. Most of the lands could be bought for far less than $18,000 an acre.

We are in a situation where this is a Federal measure which is going to support everything from foreign aid to trial lawyers and Federal programs. It is no wonder it won't do Wyoming good.

Mr. ENZI. I need to ask how people would expect me to support $1.10 a pack when the State legislature looked at 15 cents a pack totally dedicated to health and turned that down.

This one, as you mentioned, has all of these other ramifications. I know that one of the ramifications is to cut down on teen smoking. So I have addressed that in a number of trips I have made to the State. I tried to visit schools on Friday, and I am in Wyoming most of the time. I wonder how $1.10 is going to cause any concern. After all, kids will pay $50 for a pair of tennis shoes—I actually said $50 to see if people were paying attention. They will pay $150—I was in the shoe business for 28 years—$150 for a pair of tennis shoes. The parents can't afford it, but the kids can. In talking to these kids, they seemed to think that $1.10 a pack would be a deterrent for a few days until they realized how they were going to raise the other $1.10 a pack and maybe smoke one cigarette less, but probably not smoke cigarettes less.

These kids asked me, and I want to ask you, how the price of a pack of cigarettes going up will deter smoking when the cost of marijuana is extremely high and there is no indication of it going down and there is still an increase in marijuana smoking. That is all black market. So if we think we are doing an elimination of the black market, that creates a great deal of concern to me, and apparently to you. I ask the Senator to give me some kind of an indication of whether the Senator thinks that price will make a difference.

Mr. ASHCROFT. I thank the Senator from Wyoming for the question. This was the subject of a very serious set of questions that were propounded by the Senator from Utah earlier today. He literally went through the studies that have been presented by the administration and the studies that are being used to support the demand for a $1.50-a-pack increase, the demands being

made by Senator KENNEDY in his proposal. Those individuals are not satisfied with $1.10 a pack. They want to take it up to $1.50 a pack as a tax increase.

Frankly, when you look at all the data, you can look at part of the graph and it looks like it reinforces what is being said about smoking going down when you increase the price. Price—CBO seriously questions price in terms of whether elasticity of demand depends on price. They raise a serious question about that, and they cite studies to challenge it. Of course, there isn't any elasticity in demand when a person is addicted.

So for the poor people of America who have been smoking and are smoking, we are basically going to trap them, so that a poor person, even at the $1.10 level which is in the bill now—Senator KENNEDY wants to move it to $1.50 per pack—at $1.10, that is two packs a day at $800 a year. Poor people cannot afford to take that out of the family budget. You sit around the kitchen table and say: What are we going to be able to do this year? Can we get the new refrigerator? We need this, that, or the other.

If we walk in and say, the first thing we have to do is take $803 out of your budget, it restricts the capacities of families to operate. So not only are we threatening to do something that could hurt governments but we will undermine the capacities of families to support themselves.

I think it is tragic when resources are consumed in smoking. I have never smoked cigarettes. I don't believe it is a good investment. But people are free to do that. I am not here to tell them what their life is and how they can operate. But for us to simply say we will hit the low-income people of America with $400 if they are one-pack-a-day, $800 in new taxes if they are two-packs-a-day people, or if we are talking about what the Kennedy proposal is, to give yourself basically a 40-percent increase on that, it is an amazing bite that we will ask to take out of the disposable income of people.

Mr. ENZI. Let me ask another question that deals with this, particularly with the kids smoking, because we have been trying to get at this problem of kids smoking for some time now.

I know the Senator is as distressed as I am that 3,000 kids a day are starting this life-threatening addiction. Although I wonder if you know more about where those estimates come from, because as far as I can tell, they are estimates, as is the percentage, that this will drop. We are talking about a 60-percent drop in youth smoking, and I think that is based on Larry Summers, Deputy Treasury Summers, when he said a 10-percent increase in the pack of cigarettes would produce a 7-percent reduction in the number of children who smoke. We seem to be going with the theory that if you raise it high enough, it will get to zero. That doesn't seem to equate with anything else that is happening.

I ask the Senator if he has seen—probably not—the latest issue of the George Washington University magazine.

Mr. ASHCROFT. I have not.

Mr. ENZI. A magazine put out by a university. I am a graduate of that, so I think it is the premier university of the District.

Mr. ASHCROFT. I will not respond to that question with an affirmative, but I will respect the institution.

Mr. ENZI. The feature of this month's magazine is actually called ''Smoke Signals,'' and it is about the terrible rise in smoking on university campuses. Now we are above the teenage level. We are talking about a group who are more educated than other people. It would seem that they ought to know more about smoking than the others. Obviously they don't, because even though the rules of the university are increasing, the amount of smoking is also increasing.

They have done a fairly extensive interview session with students from the university to find out what the causes are, why it is going up. It ranges from rebelliousness to all-out addiction, to a number of other things.

I ask if the Senator would be willing to have the article from the magazine printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From GW Magazine, Spring 1998]

SMOKE SIGNALS

(By Jared Sher)

When it comes to smoking, America's colleges and universities have come a long way since 1877—the year Dartmouth forced its scholarship students to sign a pledge not to spend any money on liquor, tobacco, dancing or billiards.

Today, college students have the freedom to indulge in all of those. Increasingly, they're doing just that, especially when it comes to cigarettes and cigars. The recent rise in the number of students who say they light up has some educators and medical professionals fuming.

According to an annual survey of college freshmen conducted by researchers at UCLA, more than 16 percent of the nation's first-year students said they had smoked in the past year. While that's not quite an epidemic, there's concern because the 1998 mark is the highest in nearly 30 years. That 16 percent is a significant surge after the mid-1980s, when the percentage dipped into single digits for four straight years.

Not only are the numbers rising; they are doing so after decades of clear medical evidence that smoking can kill. Despite all the warning signs, America's youth are picking up the habit with little regard for the potential long-term health hazards.

Such is the case at GW as well. Although no studies have been conducted to determine the exact number of smokers, campus watchdogs believe the figure to be close to—and perhaps higher than—the national average.

Smokers remain a fixture in Foggy Bottom. Even though smoking is banned in all University buildings except residence halls, cigarettes are readily available from street vendors as well as the Marvin Center convenience store. And students—as well as faculty and staff members—can often be seen puffing away on the front steps of Gelman Library, or just while walking down the street.

So why do GW students continue a habit they know is dangerous? The reasons range from rebelliousness to an all-out addiction that is extremely difficult to overcome, especially in a high-stress academic environment. Most students acknowledge the dangers of smoking, but many say they can and will quit before the health risks become a long-term threat to them.

''It's the immortality issue. Young people don't think they're mortal,'' says Matthew Sokolowski, BA '97, education coordinator at the Jewish Historical Society of Greater Washington. Sokolowski started smoking when he was 10 or 11, having picked up the habit in the Boy Scouts. He thinks younger smokers often are ignorant of the risks. ''It's only people who are 45 or 50 getting sick, so you think, 'Oh, I can smoke as much as I want.' '' Now he admits he is addicted, and trying to quit is extremely difficult. Sokolowski has devised his own program for quitting, whereby he steadily decreases the number of cigarettes he allows himself to buy. ''I knew I wasn't going to be able to quit in college,'' he says, because the stress levels were simply too high.

That's been a problem for a number of GW smokers, many of whom say they started smoking simply to socialize, but now are stuck with the habit. While they all recognized the health hazards that are all-too-apparent these days, ''the addiction outweighs it,'' according to Zeid Sabella, a senior from Jordan.

''I'VE GOT TO QUIT''

''Every day you say, 'I want to quit, I've got to quit,'" he says, ''but you never do.'' He says smoking has taken its toll on him physically already, a problem he notices every time he tries to climb a flight of stairs and has trouble breathing. ''I can't even jog a mile anymore.''

Some students began smoking in high school or junior high just to fit in. Federal data show that the number of high school smokers is growing dramatically.

Other GW undergraduates, like sophomore Molly Bell, from Highland, Mich., picked up the habit almost by accident. ''I think it had to do with my mom. She said, 'You want to smoke, let's go get some cigarettes,'" Bell recalls. ''Then I just started after that, even though her point was to get me not to smoke, like I'd smoke so much I'd puke or something. It didn't work.'' She was 15 at the time; she has now been smoking for four years.

Once her parents realized their plan had backfired, they tried to get her to quit. They even put her on a nicotine patch. ''But every time I'd leave the house, I'd rip it off and put it on my dashboard,'' she says. Ultimately, she says, no physical remedy will work until the smoker is mentally ready to quit.

Still, Bell remains confident that she'll quit once she leaves school. ''I'm going to stop when I'm trying to conceive. At that point I'll be able to because I won't want to screw up my kids.'' One motivating factor: Her aunt smoked while she was pregnant, and when the baby was born, it had to be placed on a respirator.

''I can't imagine quitting, and I don't know if I ever will,'' laments 21-year-old junior Danielle Marcelli from Philadelphia. Marcelli first tried a cigarette when she was 15 and hanging out with friends. Now, she too is addicted and smokes one-and-a-half packs a day. ''I didn't think it was bad because my whole family did it.''

Tobacco companies and Congress are discussing legislation through which the companies would pay more than $300 billion to help gain protection from lawsuits. Speculating on the price hike that could accompany such legislation, Marcelli says, ''Sometimes I say that if they really do raise it to

$4 a pack, then I'll quit.'' But she reflects for a moment and changes her mind. ''I would probably get a job if I had to support it, if it came down to it.''

Her roommate, Angel Fischer, tried her first cigarette when she was just seven years old. She says that she is not addicted, but she smokes anyway. She doesn't worry about health risks, especially since she says she can quit at any time. ''I think about it with my father, I don't think about it with myself, because he's older and he's got that horrible cough,'' Fischer says. ''I don't think I'll ever get to that stage. I just have them when I'm out late.''

Fischer adds that the stress of a school environment helps explain why so many students smoke. ''You can ask the same questions about drinking or drugs or sex. Especially in college with all the stress. Around midterms, it's like give me cigarettes now!'' she says.

Senior Anne Henderson, 21, says she is ''surprised how many young people do smoke, considering they know the dangers.'' Nonetheless, she has been smoking on and off for five years. ''It has to do with lifestyle. I do it on a social level. A lot of social activity revolves around smoking. It does calm my nerves, especially when I'm stressed out.''

She too is confident that she'll be able to quit when she graduates. ''I'm not worried about when I'm 80,'' she says.

A SURPRISING INCREASE

''We feel like we've been seeing a lot of smoking on campus,'' says Susan Haney, outreach coordinator for the Student Health Service. ''It's alarming to see an increase.''

Experts agree that it's surprising to see increasing numbers of people taking up a habit that any doctor will tell you has a good chance of killing you. They also agree that two factors impede efforts to stop smoking before it starts among teenagers in America's junior high and high schools.

First of all, ''young people see themselves as impenetrable fortresses, believing that they will live long and prosper,'' according to LeNorman Strong, GW's assistant vice president for Student and Academic Support Services' Special Services. ''Their sense of being invulnerable is a major challenge to educating them to make safe and healthy choices of lifestyle.''

Secondly, *messages regarding the dangers of smoking are not reaching enough children*. Too often, the content of a message is aimed at getting people to stop smoking once they have already started. Not enough attention is being paid to preventing people from taking up the habit in the first place.

''*A lot of the education has been geared toward adults, not youngsters,*'' says Strong, who until last August was GW's executive director of campus life.

Moreover, children continue to see *television and movie personalities smoking on the screen*, an activity that does not go unnoticed when children decide to take up the habit Dr. Gigi El-Gayoumi, an associate professor of internal medicine at the GW Medical Center, cited a recent study that showed teen-icon Winona Ryder to be the actress who smokes the most on-screen, for example.

''These are very powerful images,'' she says, adding that the proposed tobacco deal between tobacco companies and the U.S. government has as one of its major focuses ''reducing teenage smoking and the targeting of advertising on teenagers.''

THE BANZHAF WAY: SUE THE BASTARDS!

These images may have contributed to the recent increase in smoking among teenagers. That, in turn, may mean more smoking on campus. ''We know that smoking had previously gone down considerably among older teens, but has been rising dramatically over the past two or three years,'' says John Banzhaf, a GW Law School professor who founded ASH (*Action on Smoking and Health*), a public interest legal action group. ''These are the people who are about to get into GW.''

Banzhaf, who has long been a thorn in the side of the tobacco industry, has used legal action, instead of persuasion and lobbying techniques, to win his battles against smoking. His motto, he says, is ''Sue the bastards.'' His actions are widely credited with leading to the ban on tobacco advertising on television and the ban on smoking on domestic airline flights.

He also was instrumental in the effort that ultimately banned smoking in every GW academic and administrative building in 1995.

At GW, Banzhaf has never hesitated to speak out. Once, he interrupted a student-sponsored movie in the Marvin Center because people in the audience were smoking in violation of law. Another time, he remembers eating lunch in the University Club, when he came across two fellow faculty members smoking in an area that did not have a sign permitting smoking. ''I almost had them arrested,'' he says. They left the club just before the police arrived.

Each time he fought for further restrictions, he met heavy resistance. ''And yet each time we've taken a step toward eliminating this thing, it's worked,'' he says. When the University decided to ban smoking in the vending machine area on the ground level of the Marvin Center, ''people said there'd be a riot if we did it.'' Suffice it to say there was no riot, and for that matter very little controversy, which only reinforces Banzhaf's argument.

''Suddenly people began to realize there isn't a requirement that you have to permit smoking,'' he says.

BAN SMOKING IN RESIDENCE HALLS?

Most GW student smokers support the smoking ban in buildings, claiming the health hazards are too well known to justify putting non-smokers at risk. Some, however, think the ban has gone a little too far.

''It's ridiculous,'' says Rany Al-Baghdadi, a senior from Syria. ''There's a lot of smokers. What would it hurt non-smokers to have a smoking lounge in the library or the Marvin Center? Someone that's complaining about second-hand smoke when he's 50 meters away from me—you know, get a life.''

Al-Baghadadi says that because it is so difficult to quit, GW should make some accommodation for smokers. ''If it were easy to quit, there wouldn't be any smokers.''

His friend Zeid Sabella, the senior from Jordan, disagrees, ''One thing I am for is choice. A lot of people don't like smoking. For example, I don't like smoking in my bedroom. I stinks up the place.'' Sabella thinks it is entirely justified to keep smoking out of campus buildings.

Sandra Falus, a sophomore from Hungary, thinks so too. ''I know people who used to work in the Marvin Center Newsstand when that area was the smoking section.'' She says her friends had to quit their jobs because they suffered from exposure to second-hand smoke. She adds that since most smokers know what they are doing is unhealthy, they don't feel discriminated against when they have to smoke outdoors.

Molly Bell says: ''As long as they don't ban it in the dorms, there won't be an outcry.''

In fact, the last bastions for GW smokers have been the residence halls, which remain islands of smokers' rights amid a sea of restrictions. GW officials say the rationale behind keeping the housing smoker-friendly is privacy, and the differing rights of people in their homes versus their workplaces.

''There is regular discussion about banning smoking in residential rooms, and it is often generated by students,'' says GW administrator LeNorman Strong, but ''that's private space. While the University does have some rights as a landlord, we work hard to protect the privacy of students.''

Banzhaf is not certain that's enough of a reason to allow the behavior to continue. ''I'm sure if someone wanted to clean his bicycle with benzine in his dorm room, he wouldn't be allowed,'' he says.

As for the legality of a smoking ban in residence halls, Linda J. Schutjer, GW's assistant general counsel, is not confident it would survive a challenge by current residents. ''It's an issue of workplace versus where you live,'' she says, adding that a ban in the dorms would likely do nothing to stem the tide of smoking. ''It seems to me smoking is not against the law, and if people want to come here and smoke, there should be some accommodation made for that.''

Student Health Service's Haney, who is also a family nurse practitioner, agrees. ''I'm not really sure a ban is going to help. I don't think anybody's going to quit to come into a residence hall,'' she says, suggesting that students would sooner seek out off-campus housing than quit smoking.

Another area of concern to smoking opponents on campus is the Marvin Center convenience store, which sells cigarettes. Students are allowed to purchase products from the store using their meal cards. Although Schutjer says it is against policy to sell cigarettes on the meal card, it happens anyway.

Despite all the controversy, smoking has not gone away. Even in areas where it's banned, says Schutjer, ''I'm not saying people aren't smoking. They're not supposed to be. We still get occasional complaints.'' The University takes steps to stop violators that may range from suspension to dismissal. Recently, one employee of the GW Medical Center was dismissed when he refused to stop his workplace habit in the basement of the GW Hospital.

Smoking education lags significantly behind other areas, such as AIDS and alcohol-abuse education. Nevertheless, both educators and medical professionals at GW have committed themselves to renewed vigilance in helping smokers quit. Haney says that clinicians at the Student Health Service always make a point of asking about smoking when they take patient histories. If they come across a smoker, the clinicians make it clear that there are readily available resources—such as the patch—that can facilitate quitting.

''We try to make people aware that we're there for them. We don't want to badger them, but we don't want, by not saying anything, to let someone think we condone smoking or don't think it's a health issue,'' says Haney.

It's important for smokers to figure out for themselves why they smoke, Haney says. Only then can they find a successful method for quitting. She adds that Student Health is looking into reviving smoking-cessation programs here in a joint effort with the American Lung Association. Last Nov. 20, as part of the American Cancer Society's Great American Smokeout, Student Health offered ''Butts for Bubbles''—an exchange of cigarette packs for bubble liquid—at a table outside J Street.

Ultimately, Haney would like to conduct a thorough survey to find how many smokers GW has and what their demographics are—in other words, ''whom we should be targeting,'' she says.

''Smoking is something that needs to take priority.''

Mr. ASHCROFT. I ask unanimous consent that the article be printed in the RECORD.

Mr. ENZI. I was fascinated to note that one of the people interviewed in this, one of the professors at GW is the person who founded ASH, the Action on Smoking and Health group, that I know from my days as mayor of Gillette has been very active in discouraging smoking, and their advocacy has been on antismoking ads.

I ask the Senator if he reflects a little bit on what the effect of the antismoking ads might be. They went to ads; they went to billboards. I have a plastic sign in my office that thanks visitors for not smoking. They also had a number of very clever slogans. I am not sure whether the Senator might have heard them. Some of them were very disgusting and had people in disgusting situations that were smoking, all to curb, particularly, teen smoking. I think that has had some effect. It had some effect on members of my family. I think that it did help to cut down some of the teen smoking. But I would like to ask you what you think the effects on doing the antismoking would—how well those would work on particularly teenagers as opposed to, or in conjunction with—whichever way you would care to answer it—a rise in price of tobacco?

Mr. ASHCROFT. Well, I think there are ways to discourage smoking. I think the most effective discouragement is when parents work with their children, just like with drugs. I think that is the best way for parents to make sure their children don't smoke. Obviously, there are things that we can do in government to help. A number of States and local governments have literally made it illegal for youngsters to be in possession of tobacco, just like they have made it illegal for youngsters to be in possession of alcohol in certain settings. I think those are the options.

One of the things I say in response to your question—because the Senator addresses the issue of 3,000 a day—is that the 3,000-a-day figure, in my judgment, underestimates the number of kids who try cigarettes a day. I have heard estimates as high as 6,000.

What is interesting to me is that the drug czar, Gen. McCaffrey, indicates that 8,000 youngsters a day try illegal drugs. We are here with an administration that wants to impose a tax of $868 billion on basically low-income people in the United States to work on smoking, but there is a notable absence in this administration in terms of what it wants to do about drugs. The most eloquent thing this administration has been able to utter about drugs is, ''I didn't inhale.'' The second most eloquent thing was on MTV where the President said, ''If I had to do it over again, I would inhale.''

Now, when you have the President of the United States talking about inhaling drugs, I don't think that goes very far toward stopping people from smoking cigarettes. We have to be careful that we don't get our priorities out of whack so that we drive the price of cigarettes up or drive cigarettes into a black-market situation where they will be offered as part of a menu of illegal drugs, where students and young people in the culture might not only become acclimated and accustomed to dealing with black-market figures, which would be a very bad lesson to teach, but it would also, perhaps, introduce people to drug use as much as it does with cigarette use.

I firmly believe that cigarette use is deleterious, bad for your health. Frankly, everybody knows that. King James, the guy who directed the translation of the Bible hundreds of years ago, admonished the people of England that this stuff is bad for you, that it is not good for you, it is bad for your health. We have known it, and there are a lot of things that are true about cigarette ads. I don't approve of them and I don't like them appealing to our children. But let's also understand that most young people who start with cigarettes know it is not good for their health.

Mr. ENZI. Will the Senator yield for another question?

Mr. ASHCROFT. I would be pleased to yield.

Mr. ENZI. Mr. President, I am kind of fascinated that on our desks, every day throughout the session, we get a copy of whatever bill is being debated, even if it is the same one being debated the day before; and if we take it back to our office, another one miraculously appears the next day, in spite of the amount of paper involved with that and, as a plug for a computer, don't you think it would cut down on the amount of paper if we could utilize a computer on the floor? That is not really my question. This is a 753-page bill that is appearing on our desks. I know that you are aware that this isn't even the bill we are debating.

Mr. ASHCROFT. I am aware of the fact that this is constantly in flux. As a matter of fact, we talk about the absence of dry ink on so many things that we consider here. When you are talking about a $868 billion tax increase, I think we ought to at least see dry ink before we vote.

Mr. ENZI. Yes, I have to agree. I want to ask, since this is 753 pages, and there is another newer version that is 482 pages—

Mr. ASHCROFT. This is the newer version. This one isn't bound. I don't know how many pages we have here, but it would be a real task, and to rush through something like that would be a disservice to the American people, particularly those who would pay the huge increases in taxes.

Mr. ENZI. The bill we are debating is the 753-page one, which miraculously appears on our desks, even though the 482-page bill, which has significant revisions in it, isn't available to us without a special request, and this appears to be the official version. But whether it is 753 pages or 482 pages, it is a great deal for us to cover, even with all of the help of our staffs.

So I am curious as to whether the Senator feels that there is an adequate coverage of all types of tobacco done in this? We keep talking about cigarettes. When I was growing up, there was a period of time when my dad thought cigarettes were pretty high, so he rolled his own. It is kind of a western tradition. You get a little pack of Bull Durham and some cigarette papers. Today, people would probably think you were using illegal drugs if they saw you doing that. We are phrasing this in that form, anyway. People might go back to rolling their own. But they take this thin piece of paper and put a little dip in it—I watched him do this so many times, but I have not smoked—and then he put the tobacco in there and he had to lick the piece of paper and fold it over, and that thin paper would then stick, and it would have the semblance of a somewhat cruddy cigarette. I suspect that even though cigarettes are not healthy, they were probably more unhealthy. The advantage was that we saved the little canvas bag that it came in, filled it with sand, and used that as a sinker on our fishing lines in the canyon near our home and fished for trout. The tobacco bag worked well for catching trout.

It was years later that I learned what it was probably doing to his lungs and eventually did do to him. I wonder if you feel that this adequately covers all of the types of tobacco and places an equivalent tax on them. We talk about the black market, but what we are talking about here is a shift from one type of tobacco to another to get a lower price, and even some exclusions, apparently, for small manufacturing companies.

So is this just going to force people to ''unbundle'' their companies—that is one of the words we use around here—and form a whole bunch of small companies that manufacture this to avoid the tax? I watched people work loopholes on tax bills when I was the chairman of the Senate revenue committee in Wyoming. I knew when we were holding hearings that there was someone out there who, at the moment we were debating the bill, already knew the loophole and they were anxious to go out and benefit from that. They weren't going to share that with us.

So do you feel there is going to be some kind of a shift done on this to the other kinds of tobacco as well as to the black market?

Mr. ASHCROFT. The Senator from Wyoming asks a very, very important question. Frankly, it is a question to which I do not know the answer. We are still dealing with a bill that is in the process and, obviously, if you run the price up on one kind of smoking, you may be encouraging another kind of smoking—whether you are encouraging cigarettes bought on the black market, or whether you are encouraging a roll-your-own variety. I remember those slogans that used to be used, like ''save your roll and roll your own.'' But you wouldn't make a real

savings in your roll if there was a disparity in the price here. My main concern has been that this is not a bill that has much promise to be effective.

You know, the administration, as late as 1996, said they were going to cut tobacco smoking in youngsters by 50 percent in 6 years, and they weren't going to require any price increase. So they were going to be able to cut it in half. Now they don't expect to cut it in half, but they are going to get $868 billion over the next quarter century out of Americans' pockets. I think that is particularly onerous.

You mentioned the relationship of cigarettes and the construction of them with one's own hands, and that obviously makes people think of the marijuana cigarettes that people roll on their own. Frankly, the drug problem is one that bothers me because I think we are inordinately, and perhaps inappropriately, focused, at least to a degree not warranted, on cigarettes rather than on drugs.

As I indicated, General McCaffrey indicated that there are at least, according to his numbers—and the numbers have been tossed around—more kids are trying drugs than they are trying tobacco. I think we ought to be careful that we don't aggravate that problem.

Mr. ENZI. Mr. President, will the Senator yield for another question?

Mr. ASHCROFT. Yes.

Mr. ENZI. Mr. President, I am anxious to know and hope that the Senator from Missouri has the answer to how this 753-page bill or 482-page bill that we haven't had time to complete the review of yet—I realize the Senator may not have the answer to this and what kind of emphasis it places on the family as playing a role in reducing tobacco use. I have seen the statistics. Whether it is drugs or tobacco, the biggest influence on whether kids use them are the parents and the attitudes that the parents have to them. And the parents, even if they smoke, have a good influence on reducing teen smoking or youth smoking by saying that even though they do it, it hurts them; that it is not right, it seems to me.

The bill that is really trying to get at the heart of the problem, and if the statistics all point to the family emphasis, the family attitude, the family direction being the way to reduce smoking, it seems like this bill ought to have something in there that strengthens the family and strengthens their role in doing this. It provides a mechanism for almost everything else in the world, including things that are not health related. So it seems to me like there ought to be something in here that says something to families, ''You can make a difference. How do we get you involved?'' I can't find that. I want to know if the Senator from Missouri is able to find it.

Mr. ASHCROFT. Frankly, I haven't found it. I thank the Senator from Wyoming for asking the question. The impact on families here is pretty serious. But it is financial.

Basically, it is to say that for a three-pack-a-day family there is a minimum of $100 a month that goes out of their expendable income, in addition to the taxes. That is not just the cost for smoking cigarettes. That is additional taxes, $100 a month for three packs a day; that is, if you take the committee's $1.10 range.

My amendment would strip that $1.10 rate out because I don't think it is appropriate to punish people the way the tobacco companies have done. If you go with Senator KENNEDY's proposal, it is a $1.50-a-pack rate. You get to the point of about $1,600 a year for three packs in the family at $1.50. I think that really makes it not only tough for the families to do something about smoking, it makes it really tough for the family to do things about all kinds of other things, like clothing the family, feeding the family, providing shelter and transportation, health care, and other things.

Mr. KERRY. Will the Senator from Missouri yield for a question without losing his right to the floor?

Mr. ASHCROFT. I do.

Mr. KERRY. Mr. President, as the Senator knows, we have been trying to move this along in a fair-minded way. Three and a half hours ago I asked the Senator how long he thought he might be, and we were talking in terms of an hour or so. I know there have been a series of fascinating and very important questions posed in a spontaneous manner. But that said, I wonder if the Senator might be able to share with his colleagues what opportunities other people might have to debate this issue.

Mr. ASHCROFT. I thank the Senator for his question. I feel like I should be able to finish by 2 o'clock, providing I don't spend a lot of time responding to the questions of others. Most of my time on the floor has not been accorded to me to make speeches. It has been in responding to questions. I have to say it is probably better than had I been speaking because I find the questions to be very satisfying and very enlightening.

Mr. KERRY. Will the Senator further yield without losing his right to the floor?

Mr. ASHCROFT. Yes.

Mr. KERRY. Mr. President, I appreciate full well that questions, in a way, have educated the Senate, and all we are trying to do is find a way. Obviously, some other colleagues planned their day, since we tried to do this outside sort of the rigorous assertion of the rules, if you will. That said, would we be able to rely on and could we perhaps enter into an agreement now that the Senator would finish at 2 o'clock at which point we would have an opportunity on our side to be able to allow a number of people to speak for a little period of time to try to balance it out a bit?

Mr. ASHCROFT. If the Senator is talking about the opportunity to curtail debate and schedule a motion to table, that is one of the reasons I felt like I had to move to provide the kind of debate which I have provided, because without consultation, at least with me, about a timeframe for the debate suggested, there would be a motion to table. And that happened in the last issue I was seeking to discuss in the Senate. I purposely wouldn't allow individuals to cut off debate. There is a lot of interest in this measure. I will personally do what I can to wrap up my participation. I will limit the amount of questions to which I will respond and make time available for others.

Mr. KERRY. I thank the Senator. Mr. President, that is exactly what we are trying to find out. I will accept the Senator's word, obviously, that he is going to try to wrap up around 2 o'clock and allow other people to debate. So we will afford that.

I thank the Senator from Missouri.

Mr. ASHCROFT. Mr. President, I might add that I was a part of the committee that considered this bill. The committee was interested in getting the bill out. It is no secret that I was the only member of the committee that voted against sending the bill to the floor. But I was asked not to have these kinds of discussions. The idea was that we wanted to get a bill to the floor where we could have discussion. That is what I want to have. I want to have that kind of discussion. There was an effort not to have too much happen in committee. I understand that much. My own view is if they would prefer to have the discussion of these issues on the floor, that is fine with me. But if you say you don't want a lot of discussion in committee, and you say you don't want a lot of discussion on the floor, you are trying to truncate the debate. You want this thing to go through before we actually have the complete documents on what is in it. It is a $868 billion tax increase. It finally dawned on me that I had better stand up and speak, and I had better try to accommodate the other individuals who want to speak.

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Will the Senator yield?

Mr. ASHCROFT. I will yield.

The PRESIDING OFFICER. The Chair reminds all Senators that the Senator retains the floor only for yielding for the purpose of a question, not for the purpose of a statement. And I want all Senators to understand that the Senator could lose the floor if the individual who he yields to chooses to make a statement rather than ask a question.

Does the Senator yield for that purpose?

Mr. ASHCROFT. I yield for the purpose of a question, and I would request the person to whom I am yielding to please preface your remarks. Does the Senator agree or not agree, if there is going to be a very strict approach, which, frankly, there has never been in my understanding of the Senate to that kind of question. I ask that he start his question that way. I don't want to yield the floor based on technical failure, if the Senator will begin with words of an interrogatory nature.

Mr. ENZI. Yes. Does the Senator feel that the $1.10 or $1.50, as it is $1.50 right now, would have the amount of money the FDA needs to do the kind of enforcement we have been putting on them? Does the Senator think that when we talked about in the Labor Committee, which I am on, the $34 million amount for the FDA and all of the things that would do, and that this bill has considerably more money in it than that for the FDA, does the Senator think that we are doing overkill, perhaps, with the FDA? Will they be able to adequately use the amount of money that we are talking about in this bill for that agency alone? It is a considerable expansion of that agency. Do you think that our agencies are set up in a manner that they can escalate the amount of spending that they are very good at, but can they escalate the amount of spending they are doing to meet these new amounts that are coming in, particularly with the FDA, which is critical to this?

Mr. ASHCROFT. I think that is an appropriate question. There is almost a 50-percent increase in funding for the FDA. Or did the Senator say more than that? Frankly, I have every confidence that Federal agencies will spend the money you give them.

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Mr. ASHCROFT. I think that is an appropriate question. There is almost a 50-percent increase in funding for the FDA. Or did the Senator say more than that? Frankly, I have every confidence that Federal agencies will spend the money you give them.

Mr. ASHCROFT. I believe that he calls into very serious question the idea that price alone is a major factor, or a controlling factor. And he does so effectively by citing the kinds of information that the Senator has mentioned.

Mr. CRAIG. I have sat for well over an hour now this morning, listening to the colloquies, the questions, and the debates between the Senator from Missouri and the others who engaged him, concerned as we all are about teenage smoking, and concerned as we all are about what appears to have been a targeted effort on the part of some tobacco companies to increase teenage smoking. But the Senator from Missouri also cited a poll, as did the Senator from Texas, that indicates that amongst Americans the No. 1 issue with their teenage children is not smoking but drugs. Would the Senator from Missouri agree with that?

Mr. ASHCROFT. I am aware of the poll and I am aware of the concern. And I believe that is correct. I believe Americans are far more fearful that their children will be involved with illicit drugs than they are that their children might experiment with smoking.

Mr. CRAIG. That same poll said that only 3 percent of Americans recognize the use of tobacco products as a concern for their teenagers. I think their greatest concern was that the most damaging would be drugs and other activities. Would the Senator from Missouri agree with that?

Mr. ASHCROFT. I think the poll was very clear about that: 39 percent cared about drugs; 3 percent said they were worried about smoking.

Mr. CRAIG. Does the bill that the Senator from Arizona brings forward deal with the issue of drugs or the misuse of drugs by our teenage populations in this country?

Mr. ASHCROFT. Not to my knowledge.

Mr. CRAIG. A great deal of assumptions suggest that teenagers would slow their smoking, or discontinue smoking, or not start smoking as a result of this bill. Yet, all of the other studies indicate that is probably not the case. The Senator from Missouri cites a concern for elevated activities in black-market sales; is that not true?

Mr. ASHCROFT. Yes. I have pointed out that not only would elevated activities in black-market sales result in perhaps even lower prices for cigarettes, but it could, as a matter of fact, be a way in which individuals are introduced to drug use.

Mr. CRAIG. Is it not so that countries that have increased the price per pack of cigarettes dramatically, and found that those cigarettes then moved into a black market, backed away from those taxes to bring those products back into the market and away from the illicit activity of the black market?

Mr. ASHCROFT. I think that has been a very clear experience. This precipitous increase in the rates of taxes on cigarettes has been a very sad experience by promoting black markets. Great Britain, or England, is said to have a black market of about 50 percent of all of its consumption. That is obviously something we don't want to teach or institute in this country. And other countries—Canada had a serious, very, very serious, bad experience with its precipitous rise in the increase of taxes on these kinds of products.

Mr. CRAIG. This Senator from Idaho is concerned that those who would sell black-market cigarettes are also now selling marijuana and cocaine to our young people. Does the Senator from Missouri have the same fear?

Mr. ASHCROFT. Obviously, if we were to take cigarette smuggling, which is now a commercial activity—the cigarettes are largely delivered to stores and are sold in the ordinary course of business. If we were to take that out of the commercial activity arena and put it into the retail activity, so that they would be sold on street corners by drug dealers or others who would sell contraband in a retail fashion, I think we threaten substantially the young people of this country with the introduction in an array of things that would be sold. Someone might offer: Now, you can either have cigarettes here or the marijuana here or these pills here, or like that.

So, putting cigarettes into that setting may be a very evil sort of introduction of those individuals to the drug culture in a way that they would not otherwise be exposed.

Mr. CRAIG. Let me thank the Senator from Missouri for yielding. I know he said he would like to conclude by 2.

I also appreciate his stressing the need for an expanded debate of this issue. I hope the leadership, and obviously the managers of the bill, recognize that and are now recognizing the importance that we debate this fully. I appreciate the responses of the Senator from Missouri to my questions.

Mr. ASHCROFT. I thank the Senator from Idaho for his valuable questions. I will now conclude. I have given my word to fellow colleagues in the Senate that I would try to be out by 2 o'clock, and I will. I thank the Senate for its accommodation.

Frankly, I appreciate this institution because it does provide a way for individuals who really feel strongly about this measure to be able to talk about it.

We have a bill. The Senator from Wyoming pointed out that it was not the one laid on the desk, because we have changes so rapidly. But here is the bill. There it is. This bill represents a $868 billion tax increase on the backs of America's poorest working families; 60 percent—59.4 percent. Let me not exaggerate. The estimate is 59.4 percent of the $868 billion—59.4 percent of the $868 billion from this measure is to be paid for by people earning less than $30,000 a year.

I believe we should reject it. This is a massive tax increase. This is a massive expansion of Government. This is an affront to the effort of families to provide for themselves. And I believe it is something that will be counterproductive. It invites all kinds of pernicious activity, including the black market, including the potential for increased drug utilization, including the loss of revenue to States when the black market emerges and no longer do those selling cigarettes pay even State taxes.

But at the very bottom of it all, this is a $868 billion tax to be shouldered by the hard-working families who earn less than $30,000 a year. That is inappropriate and to me it is unacceptable. I do not believe any of the lofty pie-in-the-sky—supposedly supported by studies—objectives really justify it. We should pursue those objectives in ways that are more likely to be successful and less likely to be destructive of the capacity of hard-working families to survive.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I ask unanimous consent that this side now be permitted to consume, it is 2 o'clock, maybe 1 hour 15 minutes, to be divided among Members on our side in order to have an opportunity to debate the bill.

The PRESIDING OFFICER. Is there objection to the request?

Mr. MCCAIN. Reserving the right—I do not object.

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

The Senator from Massachusetts will be recognized to control the time for 1 hour 15 minutes under his control.

Mr. MCCAIN. Will the Senator yield to me?

Mr. KERRY. I will be happy to yield to my friend from Arizona for his purpose.

Mr. MCCAIN. I just say to my colleagues that after the 1 hour 15 minutes that has just been agreed to on the other side of the aisle, I intend to offer a tabling motion at that time. No matter what happens to that motion, then we would like to proceed to an amendment on this side which would be that of Senator GREGG. And then, following disposition of that, whether that is agreed to or not, we would then go to the Senator's side, back and forth, as we have.

Also, if my friend from Massachusetts will indulge me, I ask unanimous consent that a letter from the National Association of Convenience Stores be printed in the RECORD, part of which says:

NACS, the National Association of Convenience Stores, is very pleased that we have reached an agreement with your committee and others involved in the process and NACS will not object to the Senate's passage of S. 1415.

So, obviously, the National Association of Convenience Stores have a different view of this legislation than the Senator from Missouri.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NACS,
Alexandria, VA, May 18, 1998.

Hon. JOHN MCCAIN, Chairman,
Hon. ERNEST F. HOLLINGS, Ranking Member,
Committee on Commerce, Science, and Transportation, Dirksen Senate Office Building, Washington, DC.

DEAR SENATORS MCCAIN AND HOLLINGS: The National Association of Convenience Stores (NACS) is writing to express our thanks and appreciation for addressing our primary concerns surrounding the ''National Tobacco Policy Youth Smoking Reduction Act,'' (S. 1415) which is being considered this week.

As you know, NACS first expressed opposition to S. 1415 because it would have given FDA expansive authority to prohibit tobacco sales by specific categories of stores. This authority was so broad, that many small businesses, who have themselves had no record or history of unlawful sales to minors, could lose the ability to sell a legal product. Our second concern was that the legislation would exempt certain tobacco retailers from all point-of-sale restrictions thereby placing traditional retailers, such as convenience stores, at a serious competitive disadvantage.

Over the last several weeks we have had an opportunity to meet with your respective staffs and discuss alternatives to these issues while also ensuring that we reach our common goal—reducing underage consumption of tobacco by minors. NACS is very pleased that we have reached an agreement with your committee and others involved in the process and NACS will not object to the Senate's passage of S. 1415. NACS will also communicate this message to all our members as well as allied trade associations that have expressed similar concerns.

Thank you again for your willingness to work with our industry on these very critical issues.

Sincerely,

MARC KATZ,
Vice President, Government Relations.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

AMENDMENT NO. 2422

Mr. KERRY. Mr. President, we have now been listening for a number of hours to the fundamental arguments in opposition to the amendment by the senior Senator from Massachusetts. Before yielding to colleagues who are not at this moment here, let me take a moment to say a few words about it.

I think any individuals listening to this debate, if they are not aware of some of the history of the Senate or the history of how issues fall on either side here, might say, gee, that is a pretty good point.

The Senator from Missouri suggested that this is a big price increase, and it is going to hurt the poor. I simply ask those listening to this debate who measure these things to think about the history of who has defended the poor people and who has defended the interests of the working families of this country.

It would be absurd to suggest that the senior Senator from Massachusetts, who has been the champion of the minimum wage, the champion of health care for children, the champion of education for people who don't have access to it, who has consistently fought to protect the interests of working families and of the poor, is somehow now doing something that is totally contrary to those years of commitment and record.

Yesterday evening, the Senator from Missouri held up a chart of all of the tax increases that have passed in recent years in the Senate. It is interesting, because if you look at every one of those tax increases, there was an enormous difference, like night and day, between who was protected by Senator KENNEDY and the Democrats on this side of the aisle and who was protected by the Republicans.

That is not the debate today. I don't want to go back through that entirely, except to say that the record is absolutely clear that in every one of the tax proposals of our friends on the other side of the aisle, people at the upper-income level made out better, and it was Senator KENNEDY and Democrats and others who fought to protect the working American. It was only after our efforts in the major budget agreement of last year that a single mother earning $40,000 managed to get even some tax benefit, and that tax benefit went from zero to $1,000 because we stood up and fought for that person.

That is not the fight today, except, Mr. President, to the degree that we are talking about where some people are coming from. We are talking about the lives of children. That has been lost in all of the debate over the last 3½ hours. We are talking about the lives of America's children. We know to a certainty that 6,000 kids will try cigarettes every single day, 3,000 of those kids will continue to smoke, and 1,000 of those children will die early as a consequence of a tobacco-related disease. That is what we are talking about on the floor of the U.S. Senate.

It is an insult to suggest that the parents of working families or the parents of the poorest people in America don't care as much about their kids having access to tobacco as other families. It is an insult to suggest that they are happy with the charts that show over the last years, there has been an 80-percent increase among black and Hispanic, people of color, an 80.2-percent increase in their use of cigarettes in 1991, and in non-Hispanic and nonblack, it has only been 22 percent. Why is that? I will tell you one of the reasons why, because the tobacco companies specifically targeted low-income communities. They went after them.

It is a sad part of the history of this entire effort that we now know, as a result of courageous attorneys general around the country who have sued the tobacco companies, who have gotten documents from the tobacco companies, we now know specifically about this targeting. We know that they targeted young people. They specifically set out to create addicts. What this debate is about is how you stop that. How do you get kids to stop smoking? How do you keep them away from cigarettes?

Again and again, in the last 3½ hours, we have heard Senators say, ''Oh, all it is going to do is raise the price. Why aren't they doing'' this; ''Why aren't they doing'' that; ''No cessation programs, no research.'' That is not true. That is just not true, Mr. President.

The fact is that in this legislation, there are a number of things that take place—cessation, research, counter-advertisements, penalties, licensing to

restrict youth access. It is unlawful for kids to buy the cigarettes, to possess the cigarettes. There is a lot of the strengthening of the law with respect to those things that will make a difference in kids' lives.

One other thing also makes a difference, Mr. President—how much it costs. Sure, kids spend 100 bucks, 150 bucks sometimes on a pair of sneakers, whatever, but it is usually not a cash transaction. It is usually a very specific transaction where parents have helped them to be able to do that. It is the cash they have in their pocket. It is the pocket change, pocket money, whatever they can scrounge up that they spend on something like a cigarette that they are not allowed to buy, and most of their parents don't want them buying. If the price goes up, their disposable income is less available to buy cigarettes.

We know this. This is not conjecture, as has been alleged. This is known as a matter of a number of studies, all of which show that for every 10-percent increase in the price of a pack of cigarettes, youth smoking will drop by about 7 percent.

So the 40-cent difference that we are talking about in Senator KENNEDY's amendment is not just 40 cents. It is not just money. It means that 2.7 million fewer kids will become regular smokers, and that about 800,000 or so over a period of years will not die as a result of that. That is what we are talking about. We are talking about lives here.

It is a matter of fact, also, that Dr. Koop and the Koop-Kessler commission and the Institute of Medicine have actually recommended an immediate $2 increase. I just ask anybody in America: Who do you believe? Do you believe Dr. Koop, the former Surgeon General of the United States, who had the courage to talk about these issues to the Nation, or do you believe the advertisements of people who have an interest of making millions and millions of dollars in the same way they have over the years, people who were willing to lie and lie and lie to the American people about what the impact was, even when they knew what the impact was; people who are willing to target our children and say, ''This is the next generation of smokers. We have got to suck them in. We have got to get them addicted.''

That is the fight on the floor of the U.S. Senate—who is going to protect our children and who is willing to let the companies off the hook?

The fact is the studies show that if you raise the price—now, is raising that price a little bit tough on some working folks who buy the cigarettes? The answer is yes. I am going to be honest about that. But you know, it is a lot tougher when their kid gets cancer, and it is a lot tougher when the country has to pick up the costs of 400,000 people a year dying as a result of this addictive substance.

It is a known fact that 86 percent of all of the people who smoke started when they were young, they started as kids. So if you want to reduce the cost of our pulmonary sections of our hospitals, if you want to reduce the cost of kidney-related tobacco diseases, or heart diseases, emphysema, cancer, the way you reduce the cost is by reducing the number of people who have access to it.

Now, isn't it strange, in Europe, even after we raise the price, it will still cost more for a pack of cigarettes in European countries than here? What do they know that we do not know? It seems to me that we ought to be responsible in this effort.

I know my colleagues are here now and want to speak. There is more to say. But I will reserve that time. I want to give them ample opportunity to be able to speak.

I yield 10 minutes to the Senator from Rhode Island and after that, portion it out.

The PRESIDING OFFICER (Mr. DEWINE). The Senator from Rhode Island.

Mr. REED. Thank you, Mr. President.

I thank the Senator from Massachusetts for yielding me time.

Yesterday, I had the privilege of attending a meeting, along with my colleagues, Senator KENNEDY, Senator CONRAD and Senator LAUTENBERG, with C. Everett Koop. And Dr. Koop had the right prescription for this aspect of the legislation. His prescription was quite simple: raise the price per pack by $1.50. As the preeminent public health official in this country, indeed in some respects America's family doctor, I believe his advice should be taken to heart by this body and we should move to support this amendment by Senator KENNEDY.

I am a very proud cosponsor of this amendment. Indeed, this is not a radical departure. Two committees of the Senate have already passed this amendment—the Senate Finance Committee and the Senate Budget Committee. They have done so on a bipartisan basis.

So what is at stake here is reaffirming and confirming what has been done already, what has been advocated by public health officials; and that is to raise the price per pack by $1.50.

Study after study has confirmed the fact that this will make an important impact on the rate of teenage smoking. But these studies are less dramatic than the words of people who probably know best the effect of price and consumption with respect to tobacco products—the wards of the industry itself.

In 1981, a Philip Morris internal document stated, and I quote:

> In any event, and for whatever reason, it is clear that price has a pronounced effect on the smoking prevalence of teenagers, and that the goals of reducing teenage smoking and balancing the budget would both be served by increasing the Federal excise tax on cigarettes.

That is not Dr. Koop. That is not the proponents of this amendment. That is the tobacco industry, coolly, carefully assessing what price does to teenage smoking. And it reduces it.

In 1987, another Philip Morris internal document lamented a decline in youth smoking caused by price increases, their price increases. The document stated:

> We don't need to have that happen again. So if the industry understands what will be affected by a price increase, we should understand also. But as I have indicated, research findings from various sources confirm the fact that a price increase will affect dramatically, decisively, and positively the decline of teenage smoking.

In listening to this debate, one is struck by the different approaches one could take to the goal of reducing teenage smoking. I think there are just two basic ways you can do that. First, if we are really sincere about reducing teenage smoking, we can create an elaborate regulatory bureaucratic structure with agents in every community who would monitor teen smoking, with reports that would go back and forth about teen smoking, with supervision of the distribution network, and all sorts of ways to do it. Or we could use the market—the most efficient device created by humanity to allocate goods and services—we could use the market.

That is what this amendment proposes to do. It simply says, if we raise the price of cigarettes, we will cause a decline in teenage smoking—efficiently, dramatically, and effectively.

So I argue, if anyone is a believer in the affect of the market on behavior, if anyone believes that price makes a difference—and I think that is the credo of both parties, but certainly the Republican Party—you would be in favor of a market-oriented approach like this to curtail teen smoking.

The only other alternative is that we are really not talking about curtailing teen smoking on the floor today; we are talking about something else. But if you believe that we are here to reduce teenage smoking, and you believe that the market can work wonders in terms of allocated goods and services, you should be supporting this amendment.

Now, as I indicated, the evidence is replete from many different sources of this effect. Reports from the Institute of Medicine's National Academy of Sciences, the National Cancer Institute, the Department of the Treasury, the Surgeon General—all these indicate the correlation between price increases and reduced teenage smoking.

A National Bureau of Economic Research study in 1996 found that young people were three times as sensitive to cigarette prices as older smokers.

A 1997 study in Tobacco Control found a strong relationship between cigarette prices and youth smoking, with each 10-percent increase in price resulting in a 9-percent reduction in youth smoking.

In its 1998 report, ''Taking Action to Reduce Tobacco Use,'' the Institute of Medicine of the National Academy of Sciences concluded that:

* * * the single most direct and reliable method for reducing consumption is to increase the price of tobacco products, thus encouraging the cessation and reducing the level of initiation of tobacco use.

A National Cancer Institute expert panel in 1993 reported that ''a substantial increase in tobacco excise taxes may be the single most effective measure for decreasing tobacco consumption,'' and they also concluded that ''an excise tax reduces consumption by children and teenagers at least as much as it reduces consumption by adults.''

The 1994 Surgeon General's report, likewise, indicated a real price increase would significantly reduce cigarette smoking.

All of this data, all of these studies, come to the same conclusion: If we want to reduce teenage smoking, if we want to use the efficient allocation mechanism of the market, we should raise the price to a significant level—$1.50 per pack.

Now, all of these experiences are academic. We can have a battle of reports and analysis back and forth here. But we have a real-life example:

In Canada, between 1979 and 1991, when real prices increased from $2.09 to $5.42, smoking rates among young people 15 to 19 years old fell from 42 percent to 16 percent while overall consumption of tobacco products also declined—a huge decrease.

Now, this was a big sample, the country of Canada. Real price increases and real dramatic results in decreasing teenage smoking. And we have to do this because we all know and we all recite repeatedly the statistics: 50 million Americans addicted to tobacco; 1 out of every 3 of these individuals will die prematurely from tobacco-related diseases; three-quarters of them want to quit smoking, but they cannot because it is an addictive substance.

The conclusion they have come to and we should is it is better that they never start. It is better that we take steps to curtail teenage smoking when there is a chance to divert a young person away from this addiction. We know that over 90 percent of smokers started before they were 18—again, a clarion call to us to take action to protect the youth of this country.

Each year, 1 million children become regular smokers. And, as I said, one-third of them will die prematurely. There are 5 million kids under 18 currently alive today who will die from tobacco-related diseases across the country.

It is disturbing, in my home State of Rhode Island, while smoking levels have flattened out with respect to the overall population, high school students seem to be smoking 25 percent more than they were just a few years ago.

We have to act now. We have to use the most decisive tool we have, and that is price increases, to affect the behavior of young people so that we will not see them needlessly die from tobacco-related diseases.

I support wholeheartedly and enthusiastically the effort by my colleagues to ensure that we have an increase that will do the job, that will have an effective way to curtail teen smoking.

With that, I yield back my time to the Senator from Massachusetts.

Mr. KERRY. How much time did the Senator from Rhode Island consume?

The PRESIDING OFFICER. There is a total time of 54 minutes 20 seconds remaining.

Mr. KERRY. I yield 10 minutes to the Senator from Florida.

Mr. GRAHAM. Thank you, Mr. President.

PRIVILEGE OF THE FLOOR

Mr. GRAHAM. Mr. President, I ask unanimous consent Miss Susan Goodman of my staff be accorded floor privileges during the consideration of S. 1415.

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

Mr. GRAHAM. Mr. President, we have just been subjected in the U.S. Senate to what I think could appropriately be described as a filibuster—4 hours of wandering discussion on an amendment that is now before the Senate.

During those 4 hours of that filibuster, 500 American youth under the age of 18 commenced their first use of tobacco products. One-third of those 500 American youth during that 4-hour filibuster who started to use tobacco will die, die prematurely of a tobacco-related affliction.

I have heard as I walked through the Chamber during this 4 hours mocking comments: Does anybody believe that we are really here to try to reduce teenage smoking? Does anybody really feel we are here to reduce teenage smoking? The answer is yes, we are here to reduce teenage smoking. That is the only legitimate reason that we can be here. Anyone who does not start their debate by a clear statement of their commitment to that objective has debased this national debate about the future of tobacco and the youth of America.

In 4 hours, 500 American youth have taken up smoking. Since May 20 of 1997, 1 year ago, the number is 1,095,000 American youth under the age of 18 have taken up the use of tobacco, and 365,000 of those American youth who have taken up tobacco in the last 1 year will die prematurely of a tobacco-related affliction. It is to them that this debate is directed.

Mr. President, the best public health advisers available to us have recommended that we set as a goal a 65-percent reduction in teenage smoking over the next 10 years. That is a challenging goal, but it is an attainable goal. It is a goal which is going to stretch us in the political community. It is going to stretch those in the health, the education, and especially the families of America to their best in terms of beginning to attack this scourge which, as my colleague from Rhode Island has just indicated, is a growing scourge of teenage smoking.

I believe that an important part of achieving that goal of a 65-percent reduction is to raise the price of cigarettes to as high a level as can be achieved without inducing other negative consequences, and to do that as quickly as possible. For that reason, I am a cosponsor of this amendment which would raise the price to what has been recommended by the public health community, $1.50 per pack, and to do so in 3 years. This is consistent with legislation which I have cosponsored with Senators CHAFEE and HARKIN.

It is not the only thing we need to do. We also need to have a comprehensive attack against teenage smoking. That comprehensive attack needs to include weapons such as restrictions on marketing and promotion—no more Marlboro Man, no more Joe Camel, appealing to our young people. It needs to include effective cessation efforts in the schools through public methods of communication. It needs to include look-back provisions which will surcharge the industry and individual companies if they fail to meet the nationally established goals for reduction of teenage smoking. All of those are important.

But the reality is that the single most important part of achieving the goal of a 65-percent reduction in teenage smoking is to get the price to as high a level as reasonable as quickly as possible. The best estimates are that 85 percent of the effectiveness in terms of reducing teenage smoking will come through monetary means. The other 15 percent will be the softer, more psychological efforts at education and restraint on promotion and advertising.

It is appropriate that we should be using the monetary means as the principal force to achieve the goal of a 65-percent reduction. Some of those who have spoken, either spoken directly or spoken through the form of very elongated questions, have inferred that there is something wrong with inserting the economic component into this debate. The fact is, there already is a substantial economic component.

As Members know, four States, including my own, have reached very significant settlements with the tobacco industry, in which the industry essentially admitted that their costs in terms of cost to treat people with addictions related to their use of tobacco are in the billions of dollars. This is not a cost-free decision if we do nothing. If we do nothing, we accept the fact that we will continue having the American taxpayers pay these enormous annual costs to treat the illnesses of people who have been induced to smoke tobacco.

It is also appropriate in this era of free-market economies, where we are looking to laws such as supply and demand rather than laws of regulation as a mean of affecting human behavior, that we insert as the cornerstone of this legislation a significant economic disincentive for people to utilize tobacco products, a disincentive which

we know will have its primary effect on younger smokers, smokers to whom discretionary income is more limited, smokers who are less physically addicted to the use of tobacco.

Mr. President, for those who will oppose this amendment, I issue this challenge. If you are not prepared to accept the goal of a 65-percent reduction in teenage smoking, then what is your goal and why are you prepared to support a lessened goal, recognizing that every percentage point below 65 percent means that you are consigning thousands of American young people each year to the scourge, the cost, the social issues related to the use of tobacco, and one-third of those who start the process will end up dying prematurely because of a tobacco-related affliction?

If you are not prepared to accept the 65-percent goal, defend an alternative. If you accept the 65-percent goal but are unwilling to accept those things which are necessary to achieve it, then what is your alternative? What will be the additional items that you will substitute for what the best experts in the public health community say is required to achieve that 65-percent goal?

We know that some of those noneconomic factors are already under assault, such as the promotion in advertising. So it becomes even more important that we adopt the amendment, as offered by Senator KENNEDY and others, which will raise the price to the $1.50 level.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. GRAHAM. Also having expired during that 10 minutes I have been speaking, have been 41 American youth who have taken up smoking during the time I have been speaking; 14 of those will expire prematurely because of tobacco-related affliction. It is to them that this debate and this issue is dedicated.

Mr. KERRY. Mr. President, I yield 7 minutes to the Senator from North Dakota.

The PRESIDING OFFICER (Mr. HAGEL). The Senator from North Dakota.

Mr. CONRAD. Mr. President, I have heard a lot of misinformation on the floor of the Senate this morning. I heard the Senator from Texas talk about an opinion piece in the Washington Post this morning saying that if this $1.50 a pack were passed, we would have a massive black market. The Senator failed to point out who wrote the opinion piece. That opinion piece, which I cited as being written by a Mr. Nick Brookes, was in fact written by Mr. Nick Brookes. But who is he? He is the chairman and chief executive officer of the Brown & Williamson Tobacco Corporation. Well, there is a credible source on this issue.

It didn't end there. I heard another of my colleagues suggest this morning that what has happened here is going to lead to a $3 increase in the price of a pack of cigarettes, even though the proposal is to add $1.50. How does that turn into $3? It is magical. They don't really explain it, but they say that the $1.50 that would be imposed by this Chamber all of a sudden turns into $3. Do you know whom they cite as an expert? It is fascinating whom they cite as an expert. They cite Salomon SMITH Barney. They cite their analyst.

It is very interesting to check the records on Salomon Smith Barney and see what they might have in the way of tobacco holdings. Do you know what you would find out? Salomon Smith Barney and the other source they have talked about this morning, Sanford Bernstein, together, own over 50 million shares of stock in the two top tobacco firms. Salomon Smith Barney owns 16 million shares of Philip Morris, 3 million shares of RJR. Sanford Bernstein, the other analyst quoted here, owns 30 million shares of Philip Morris, and they own 13 million shares of RJR. Do you think they are an objective observer here? I don't think so. I think they have a lot at stake financially in the outcome of this debate, and they are trying to influence that debate with this hocus pocus analysis—hocus pocus that turns a $1.50 price increase magically into a $3 price increase. It is nonsense.

The Treasury Department says that a $1.50 price increase translates into—surprise of all surprises—a $1.50 price increase. The FTC says a $1.50 price increase translates into a $1.50 price increase. Dr. Harris at MIT, perhaps the most objective independent observer—out of Government, out of industry—says that a $1.50 price increase translates into a $1.50 price increase.

Mr. President, the question of whether or not raising prices will reduce consumption is a very simple matter. There isn't an economist in America who would tell you that if you raise the price of something, the consumption won't fall. Every economist understands that basic rule of economics. The experts all agree that youth smoking will decline as prices increase. Dr. Chaloupka, who has done perhaps the most thorough study of all of the studies, concluded that a $1.10 price increase would lead to a 32-percent reduction. Dr. Chaloupka's work says that it will lead to a 33-percent decline in usage, and the $1.50 will lead to a 51-percent decline in usage. Those are estimates by economists.

We don't need to just look to economists, we can look to the public health community. Here I have a letter from Dr. Koop and Dr. Kessler, perhaps the two most credible sources on these questions. Dr. Koop, of course, is a former Surgeon General of the United States who served under a Republican administration, and Dr. Kessler is a former head of the FDA who served under a Republican administration and a Democratic administration. They say $1.50 a pack. The American Lung Association says $1.50 a pack. The American Heart Association says $1.50 a pack. The American College of Cardiology says $1.50 a pack. The American Academy of Pediatrics say $1.50 a pack. Those are the public health groups. They have weighed in and they have made clear that is what we ought to do.

But if you don't believe the economists, if you don't believe the public health community, maybe you ought to listen to the New York Times, what they have said. They have said in an editorial this morning that you ought to go to $1.50 a pack. It is right here. The New York Times of this morning:

> The bill, drafted by Senator McCain and approved by the Senate Commerce Committee, would raise cigarette prices by $1.10 * * * That amount should be increased to at least $1.50 per pack, which public health experts estimate is needed to cut youth smoking * * *

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. CONRAD. I ask for an additional 2 minutes.

Mr. KERRY. I ask unanimous consent to add 5 minutes total time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. KERRY. I yield 2 more minutes to the Senator from North Dakota.

Mr. CONRAD. Mr. President, if you don't want to listen to any of those folks, how about listening to the industry itself. This, I think, is dispositive on the debate. This is exhibit 11591 from the Minnesota trial. Myron Johnston, Philip Morris. Subject: Handling and excise tax. These are the industry's own words:

> The 1982–83 round of price increases prevented 500,000 teenagers from starting to smoke * * * those teenagers are now 18 to 21 years old. This means that 420,000 of the nonstarters would have been Philip Morris smokers. We were hit hard. We don't need that to happen again.

Mr. President, if there is any question in any Senator's mind as to whether or not increasing prices will reduce youth smoking, here is what the industry says, based on history. They say in 1982–83 when excise taxes were increased, 500,000 teenagers were prevented from starting to smoke. Those are the industry's own words. If you don't believe any of that, Mr. President, here is the experience in Canada. The price went up, youth smoking went down. The relationship is as clear as a bell.

So the question before this body is, Whom are we going to protect? Are we going to protect the lives of kids, or are we going to protect the profits of the industry? This analysis shows that if we go to $1.50, 2.7 million kids are going to be prevented from smoking. That means 800,000 lives will be extended and perhaps saved.

The industry says, well, it will bankrupt them. Here are the facts. If we go to a $1.10-per-pack price increase, their profits in 2003 will be $5 billion, according to the Treasury Department. If, instead, we go to a $1.50, their profits will be $4.3 billion. So the choice is clear—800,000 lives or $700 million in industry

profits. That is the question before this Chamber. Do we save 800,000 lives of kids, or do we protect $700 million of industry profits?

Mr. KERRY. Mr. President, I thank the Senator from North Dakota. I particularly thank him for his leadership on this issue.

I yield 5 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, I am delighted to be here today to support this important amendment offered by Senators KENNEDY, GRAHAM, HARKIN, and others. I have worked closely with Senators BOB GRAHAM and TOM HARKIN for the past several months on the issue of a comprehensive tobacco bill. We came to one inescapable conclusion, which has been voiced by the Senator from North Dakota and a host of others this afternoon: A steep increase in the price of tobacco products over a short time is the single most important thing we can do to reduce tobacco use among children, or to deter them from taking up smoking.

How did we come to this conclusion? Well, Mr. President, we listened to the experts. Who are the experts? They are economists, public health researchers, and even tobacco industry officials. They have all concluded that price increases dramatically reduce smoking among children.

When I say experts, who am I talking about? Mr. President, there are plenty to choose from. The Institute of Medicine, the National Academy of Sciences, the National Cancer Institute, U.S. Department of Treasury, and U.S. Surgeon General have all documented the fact that increases in tobacco prices have been shown to decrease tobacco use among children.

Furthermore, Mr. President, economists from the Massachusetts Institute of Technology, University of Illinois at Chicago, University of Michigan, among others, have found a strong relationship between cigarette prices and youth smoking. Cigarette prices go up, youth smoking declines; cigarette prices go down, youth smoking increases. These institutions that I ticked off are hardly fly-by-night institutions.

If we doubt the expertise of these groups, why don't we take a look and see what the tobacco industry has said. I know the Senator from North Dakota has some quotes from the tobacco industry. I would like to supplement those with others.

In 1981, the Philip Morris documents show that company officials said the following:

''Since youth and young adult price elasticity are much larger than adult price elasticity''—in other words, the relationship between price going up, consumption down; price down, consumption up; those are what we call elasticities—''while adult smokers account for the bulk of cigarette sales, a substantial excise increase would substantially reduce smoking participation by young new smokers, but leave industry sales largely unchanged.''

In other words, it is the young people who decline. The old people, it does not affect them. That is a Philip Morris official saying that.

Mr. President, the evidence is clear. The most effective thing we can do to prevent our children from taking that first deadly cigarette is to increase the price quickly and steeply.

I urge my colleagues to join me in supporting the Kennedy amendment.

I thank the Chair. I thank the floor managers.

Mr. KERRY. Mr. President, I thank the Senator from Rhode Island. He has worked on these issues for a long time. I think his voice is one of both reason and enormous credibility.

I yield 6 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Thank you, Mr. President. I thank our friend for yielding this time. I thank the Senator from Massachusetts for his leadership on this, and the senior Senator from Massachusetts for offering this important amendment.

For those of you following this debate who are wondering what is happened here, we are 4 hours behind where we were supposed to be. There was a minifilibuster on the floor here when the Senator from Missouri took the floor and slowed us down. So we will have a backlog of amendments with the Memorial Day weekend coming in the hopes that we will not finish this bill. This is a time-honored Senate tradition. You have seen it earlier on the floor. We are now 4 hours late.

I have an important amendment to offer, and I hope to offer it today. And others want to do the same. I say to those who are joining in the minifilibusters that the clock may be on their side but history is not. They are on the wrong side of history in supporting the positions of the tobacco companies.

Pick up the morning paper and take a look at what the tobacco companies are telling Americans about why they oppose the McCain bill, and why they believe the legislation we are considering on this floor, which would increase the cost of a pack of cigarettes to reduce the number of children smoking, the tobacco companies say that is wrong. Are the tobacco companies credible?

Exhibit A, photograph A, eight tobacco company executives, 4 years ago standing before a House committee, under oath swearing that tobacco is not addictive. I rest my case about their credibility.

There are three issues for us to consider here in this debate.

The first, will price increase reduce teen smoking? It has been shown and needs to be shown again. We have a living example in Canada. As the price of the product went up, children smoking went down. We know that kids have less disposable income. You raise the price of the product, a few of them will say, ''I don't think I can afford this habit.''

That is what we are driving at. The experts come along and tell us that is right.

We have a statement from Frank Chaloupka, Associate Professor of Economics at the University of Illinois at Chicago who says: ''Based on this research, I estimate that a $1.50 increase in the federal cigarette tax''—Senator KENNEDY's bill, which I support—''implemented over 3 years and maintained in real, inflation-adjusted terms, will cut the prevalence of youth smoking in half.''

Will price increases reduce teen smoking? Clearly they will.

Second is a $1.50 price increase better than $1.10? It is a reasonable question to ask. I think we can see what happens when we deal with an increase of $1.50 over $1.10.

Take a look at this chart. If we had no change in the cigarette tax, this is basically what would occur. We would expect the same prevalence of smoking. If we had a change of a $1.10 increase in the cost of cigarettes, we can see a 34-percent reduction in the number of young people who are smoking. Now, take a look at $1.50. The conclusion is obvious; a 56-percent reduction.

So as we increase the price of the product, children stop using it, not only in economic models, but in our historical experience in Canada.

The third question is this taxpayer. That is a legitimate question.

I will concede that the opponents of this tobacco legislation say that this tax will necessarily hit lower-income Americans the hardest because they smoke the most. There are a lot of explanations for that, not the least of which is the tobacco industry, which over the years has really targeted those folks. Go into any inner-city area in America and take a look at the billboards and you will see block after block of alcohol and tobacco advertising. They believe that these folks and that income category are more vulnerable to become addicted to tobacco products. They have been successful in luring them.

So we can tax the product and it will necessarily hit those in the lower-income category. Is it fair for us to tax it? We generally asked Americans what they thought of this idea. I think you might be interested in the results. When a poll was done, this poll was done by a national organization paid for by the American Cancer Society and released a few days ago. The results are that a majority, 59 percent of Americans, favor a $1.50-per-pack increase, Senator KENNEDY's proposed increase, while only 39 percent oppose.

When they were asked what would you do with the money that is raised, what do you think is a reasonable

thing to do with these new tobacco revenues, they said additional health research on cancer, heart disease, and other tobacco-related illness.

That is in this bill. That is exactly what we are setting out to do: 82 percent to fund antitobacco education programs—they think that is a good idea—81 percent, programs that are directed toward children to get them to stop smoking.

So you see what we have here is an attempt to slow down the debate on an important piece of legislation that is literally historic.

Eleven years ago, the Senator from New Jersey, FRANK LAUTENBERG, and I embarked on a little project. I was a Member of the House at the time and he was here in the Senate. The two of us introduced and successfully passed legislation to ban smoking on airplanes. It was the first time the tobacco lobby lost on the floor of the House and the Senate in history. I was proud to be a part of that partnership with Senator LAUTENBERG, and am happy to serve with him today and to be part of this debate as well.

How far we have come. Let us not miss this historic opportunity to pass the Kennedy amendment to make certain that the $1.50 increase will truly reduce the number of kids smoking to make certain that the goal of this legislation to protect our children is one that is served. The tobacco companies have spent billions of dollars to lure and addict these children. Do we have the courage on the floor of the Senate to beat back the filibuster and to muster the votes to protect those children and their families? I think we do.

I rise in strong support of this legislation. I hope my colleagues will join me in voting for it.

I yield the remainder of my time.

Mr. KERRY. Mr. President, I thank the Senator from Illinois for his extremely articulate and compacted comments. I think it is the House training that permits him to come over and do that.

Mr. President, I yield 8 minutes to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Thank you, Mr. President. I thank the distinguished Senator from Massachusetts for allowing me part of the time in the remaining minutes for the debate on this amendment.

Mr. President, I want to say, first, just a quick note to my colleague now in the Senate, formerly in the House, Senator RICHARD DURBIN from Illinois, that at the time we worked on the smoking ban in airplanes, it looked like a hopeless quest. Everyone said, ''You will never get it by.'' We worked, we pleaded, we cajoled, and we tried everything that we knew.

But the odds on the other side were formidable against us. And finally we were able, through consensus, to develop a bill that took a 2-hour ban on smoking in airplanes with the promise that after a study of about 18 months we would reconsider and look at what the consequences were.

Well, it was overwhelmingly popular across the country. People began to demand that we stop smoking in airplanes altogether. Some said, ''How can you suggest that a 2-hour ban is all right but a 4-hour plane ride is full of smoke?''

And so it was by popular demand that we were able to get that kind of a ban in place. And I remind my friend and colleague, Senator DURBIN, in April, the month just closed, we had the 10th anniversary of the implementation of the smoking ban in airplanes. I can tell you, if there is one thing that gets you an applause line when you are doing a town meeting or meet in front of a group, when you say you were part of the authorship of the smoke ban in airplanes, people say thank you, thank you, thank you, and tell you tales about not being able to fly before, having respiratory problems, asthma, you name it, could not get in an airplane, and today they feel as if they have been freed.

Well, it is the same thing here. This debate, frankly, I must tell you, Mr. President, borders at times on the silly. We have to make a decision here about what we are going to do about protecting the health of our people from the ills caused by tobacco and nicotine. And we have come to a conclusion, a sad conclusion, that we cannot change the course of action. I say this, and I say it with terrible regret. We cannot change the habits of some 40 million-plus Americans who are addicted to tobacco and nicotine.

How they got started is a debate of and by itself, whether it was like it was with me in the Army when they used to give us in our emergency rations, in case we got separated from our units or had to depend on that for our sustenance—you always had a four-cigarette pack that you could call on in the event of an emergency when you needed a smoke. People were always waiting for the smoking lamp to go on so that they could smoke. It was encouraged. It was part of our psyche.

I can tell you also, as one who smoked for 20-some years, that stopping was no easy chore. It is not easy for the 40-plus million Americans who are hooked, stuck, can't get out of the tobacco habit. I haven't yet met anyone who smokes who hasn't said to me: You know, I stopped a dozen times. I once stopped for 3 weeks. I once stopped for 4 weeks. And then my brother had the car accident. Or, my team lost on the baseball diamond and we all started smoking and sitting around and moaning—here we are, can't get away.

But we can get away from it if we help our children not to start smoking in the first place, if we can stop them before they take the first puff, the second puff, or the 20th puff on a cigarette, because we know that the hook takes like that, like a fish after bait. And that is what the tobacco companies are doing. They are trolling. They are fishing with bait for more smokers.

They now have a campaign on, a campaign to deceive the American people, a campaign to say that they are just another business and that all these jobs of the people who work in the tobacco industry will be lost and the taxes will be lost. And meanwhile, what they do we wouldn't accept from anybody offshore who wanted to attack our America, kill 400,000 people a year, maim lots of others, render them at times unable to conduct their normal activities, lost productivity from their jobs, et cetera, and get a tax deduction besides—besides all other things, to be able to deduct the cost of addicting people, seducing children. It is an outrage.

Part of the campaign now is very interesting. I get mail, as we all do, from constituents. I have a letter here from a fellow named Jack McDonnell, Rutherford, NJ, which, by the way, is also the home of Tom Pickering, Deputy Secretary of State, a great diplomat.

Mr. McDonnell writes:

> My family received a letter today from the RJ Reynolds Tobacco Company. The letter was addressed to my mother, and requested that she write to you protesting the proposed tobacco legislation . . . Unfortunately, she could not respond herself. She died this February after a long and horrible struggle against emphysema. My father, another ex-smoker, has been diagnosed with terminal lung cancer. My family understands the real costs involved here, and the cost of smoking far exceeds the costs of this legislation.

Now, what happened is the tobacco companies—and the companies I will read off here include Brown & Williamson Tobacco Company, Lorillard, Philip Morris, Inc., RJ Reynolds Tobacco Company, United States Tobacco Company. They send a letter out to people and they write:

> Dear Mr.—

In this case, Robert Martin—

> Since you registered your support for the proposed resolution reached last year between the tobacco industry and Government officials, private plaintiffs' lawyers, and members of the public health community, Washington has decided to press an agenda based on politics.

Politics, not reason.

> Washington has been overtaken by politicians' insatiable desire to tax and spend.

Not by the insatiable desire of a mother and father to save the well-being of their child, not in terms of families who want to keep the family together and do not want to see grandpa with emphysema when he gets to be an age when he could still be functioning normally. No; they describe the insatiable appetite of the politician.

Well, Mr. Martin writes to me. They gave him a postcard to which he could affix a signature and send it to my office. And it says:

> DEAR SENATOR LAUTENBERG: I strongly urge you to oppose any tobacco legislation that raises taxes, produces a black market in cigarettes, threatens nearly 2 million American jobs and expands the Federal bureaucracy.

Reject these things. And it is signed with his name. He wrote underneath that postcard. He sent me a sample of the postcard.

DEAR SENATOR LAUTENBERG: I received this item in the mail. As you can see, I was polled over the telephone by a machine. The material given over the phone was very misleading the way that it was presented. I am against smoking and like to see it abolished. I am a lung cancer survivor. Keep up the good work.

And it carries the signature of Bob Martin. He says:

If there is anything that I can do to be of help, please call.

And he lists his phone number.

So that is the kind of campaign that is going on with these tobacco companies, designed to deceive the public that this is a major kind of public interest campaign that the citizens are rising up against. Let them tell the real story. Let them talk about the 400,000 deaths. Let them talk about the lung disease.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LAUTENBERG. If I could have 1 more minute, please.

Mr. KERRY. Mr. President, I yield to the Senator an additional minute.

Mr. LAUTENBERG. We have to get on with the task of passing the $1.50-per-pack fee. I point out to you, Mr. President, and those who can see it, that the price of cigarettes in major industrial nations is quite a bit different than we have here in the United States: Norway, $6.82 a pack; Denmark, $5.10 a pack; United Kingdom, $4.40. Down we get to the U.S.A., with a current price of about $1.94.

We know one thing, Mr. President. We have heard it in testimony and statements given by colleagues in the Chamber that the way to stop teen smoking most abruptly, to give them a jolt so that they will bolt, is to raise that price and raise it quickly and sufficiently. And $1.50 a pack will do it. With the $1.50 a pack, we can see substantial reductions in the number of those who start smoking. And I hope that when the votes are counted here, people will look and see how their Senators voted to see whether or not they are going to stay with the tobacco companies or whether they are going to stay with the families and protect the children who will be dependent upon tobacco in the future.

The PRESIDING OFFICER (Ms. COLLINS). The Senator's time has expired.

Mr. LAUTENBERG. I yield the floor.

Mr. KERRY. Madam President, I believe I have about 20 minutes left; is that correct?

The PRESIDING OFFICER. There are 18 minutes 16 seconds remaining.

Mr. KERRY. I appreciate that. I yield 5 minutes to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota is recognized for 5 minutes.

Mr. CONRAD. Madam President, one of the key issues before this Chamber is the credibility of the industry. The industry has a long history here of telling us things that just aren't so. I think we can all remember when the industry executives came before Congress, and, under oath, told the U.S. Congress a series of things. One of the things they told us is: ''Tobacco has no ill health effects.''

This is from the industry's own documents, which is a reflection on that claim. This is a 1950s Hill & Knowlton memo quoting an unnamed tobacco company research director who said:

Boy, won't it be wonderful if our company was the first to produce a cancer-free cigarette. What we could do to the competition.

The second claim by the industry has been that nicotine is not addictive. Again, looking at their own documents, this is a 1992 memo from Barbara Heuter, director of Portfolio Management for Philip Morris' domestic tobacco business.

Different people smoke cigarettes for different reasons. But, the primary reason is to deliver nicotine into their bodies. . . . Similar organic chemicals include nicotine, quinine, cocaine, atropine, and morphine.

These are not my words. These are not the words of the public health community. These are the industry's words. And it doesn't stop there.

Tall tale No 3: ''Tobacco companies don't market to children.''

This is from a 1978 memo from a Lorillard tobacco executive. He said, ''The base of our business are high school students.''

High school students are the base of their business. Is there any wonder why we are here on the floor, talking about trying to raise prices to deter teen smoking to save lives? We have the evidence from the industry itself. And it doesn't stop there.

Tall tale No. 4 in this presentation: ''Tobacco companies don't market to children.''

This is from a 1975 report from Philip Morris researcher, Myron Johnston:

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 . . . shows even higher Marlboro market penetration among 15–17 year olds.

In this morning's New York Times we got more confirmation of where this industry stands:

Last year they estimated that the price increase in the June plan would cause sales to drop by nearly 43 percent among all smokers over a decade. But now that Congress is considering raising prices by twice that much, producers have turned around and said that higher prices would undermine, rather than help, efforts to reduce youth smoking.

This is a question of lives versus profits—lives versus profits. That is what the evidence shows. Madam President, 800,000 children will not suffer premature death if we go to $1.50-a-pack price increase. The question is, lives, 800,000 lives, versus profits of the industry, $700 million of profits. Because that is what the experts at Treasury tell us is the difference between $1.10 and $1.50-a-pack price increase. If it is $1.10, their profits in 2003 will be $5 billion. If it is $1.50, their profits are $4.3 billion—a difference of $700 million in profits to the tobacco industry in 2003 versus the question of the lives of 800,000 kids. This is the question before the Chamber, the lives of kids or the profits of the tobacco industry. I hope and expect my colleagues will vote to protect the lives of the kids over the profits of the tobacco industry.

I yield the floor and yield the remainder of my time.

Mr. KERRY. I thank the Senator from North Dakota again. How much time remains?

The PRESIDING OFFICER. The Senator has 13 minutes 9 seconds.

Mr. KERRY. I yield myself 3 minutes and then I will yield the rest to my colleague from Massachusetts.

We heard an argument here today that the price is too high and that we should not have this increase on the price of cigarettes because it is unfair to working people. I talked earlier about the impact on working people of not having this increase. But we heard quoted during the course of the monolog this morning a statement by the CBO. I would like to put in the RECORD the ''Congressional Budget Office Proposed Tobacco Settlement,'' a statement of April 1998, in which they say:

Based on a review of the empirical evidence, CBO concludes that price increases would have a significant negative effect on consumers' demand for cigarettes and, depending on the ultimate increase in price, could be a highly effective way of reducing smoking in the United States.

That is the Congressional Budget Office. Every single independent analysis—and I am talking independent analysis, not hidden analyses that are really one of the tobacco companies under some pseudonym. We are talking about the health experts of America, the people who do these under peer-reviewed and appropriate methods of independent study. They all suggest if you raise that price you will reduce teen smoking. I think every parent in America understands it. Every kid in America understands it. It is fundamental common sense as well as economics. If the price of something goes up and you have only so much money in your pocket, you decide differently how you are going to spend it. That is why we need to heed the advice of Dr. Koop, Dr. Kessler, all of these experts, and do this.

In addition to that, we have heard if you raise the price it will, in fact, increase smuggling. But the truth here again is something different. The Deputy Secretary Treasury, who is responsible for Customs and much of our anti-smuggling effort, said:

The creation of a sound regulatory system, one that will close the distribution chain for tobacco products, will ensure that the diversion and smuggling of tobacco can be effectively controlled, and will not defeat the purposes of comprehensive tobacco legislation.

Madam President, that is precisely what the Senator from Arizona and the

others who have worked on this bill have done. There is an effective regime in here for antismuggling. There is additional money for enforcement. There are additional requirements of markings on cigarette boxes. There is a licensing of company requirements throughout the distribution chain. There is accountability in the system. And there is the ability to enforce.

Moreover, most of the problem of smuggling recently has been American cigarettes going to Europe, because they have the higher price and we have the lower price. So this will, in effect, reduce that and create an equilibrium. I think most of those arguments have, frankly, been misplaced.

In the final analysis, this is a vote about our children. We all know the realities. The statistics have been thrown out again and again. We know how many kids start smoking every day. We know how many will die. We know to a certainty how many Americans are dying every year as a result of the habit they gained when they were kids.

If people want a tax cut, the greatest tax cut you could get is to reduce the burden of their health insurance, the burden—I yield myself 1 additional minute—the burden of all of the costs of our society as a consequence of this addiction, of this narcotic substance. It is incomprehensible that we should not make it fit into a comprehensive plan of control, which is precisely what is in this legislation.

So the vote here is very simple. You can vote to try to save the lives of children or you can vote on the side of all the money that is being spent in those advertisements to protect tobacco companies and keep their profits at the rate they are now at the expense of our children. That is exactly what the vote is on the Senate floor. Every expert says: Raise the price, you reduce smoking of kids. If you don't do that, then you wind up allowing those kids to continue to smoke, to continue to die, to continue to be addicted.

I think the choice is very, very clear. I yield the remainder of my time to the sponsor of this amendment, the senior Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I thank my friend. How much time remains?

The PRESIDING OFFICER. The Senator from Massachusetts has 8 minutes 20 seconds.

Mr. KENNEDY. I yield myself 7½ minutes, if I could, please.

Madam President, I, first of all, thank our leader, Senator DASCHLE, who has been a strong supporter of this particular amendment, a strong defender of the health of the young people of this country and their families, and my colleagues who have all spoken here, and spoken very eloquently and compellingly.

I thank my friend from Massachusetts, our floor manager, JOHN KERRY, KENT CONRAD, the chairman of our task force, and FRANK LAUTENBERG, who is one of the great leaders on the issue of tobacco.

I am enormously grateful for Senator DURBIN's comments as a leader not only in the Senate now but also in the House of Representatives. And the eloquence of BOB GRAHAM earlier today and the compelling arguments that he made, I thought, were enormously convincing.

JACK REED of Rhode Island has been a strong member of our task force and a strong defender of public health.

TOM HARKIN, who has been in and out and has spoken frequently on this issue at different times, and many others, I can go down the list of so many in our caucus. I also thank our friend and colleague from Rhode Island, Senator CHAFEE, for his very strong support on this issue. I commend him for making his statement. He is someone who has been strongly committed to children on different health matters over the years. I thank him for his leadership, and I thank others of our Republican friends who voted for this in the Budget Committee, as well as in the Finance Committee.

We are very hopeful that in just about 20 minutes or so, when the roll is called, that a majority of the Members on both sides of the aisle, Republicans and Democrats alike, are going to vote with the American people, with the families of America and for the children of America.

There will not be a single vote in the U.S. Senate this year that will be more important to 275,000 children than the vote that we are going to have 20 minutes from now. We have the opportunity to make a major difference, a lifesaving difference for those 275,000 children.

The overwhelming, uncontroverted evidence that has been demonstrated during the afternoon of yesterday, last night and in the course of today is the fact that this kind of amendment that we are offering today that will have bipartisan support can make the greatest difference in the public health of the people of this Nation than any other action that we will take in the course of this year. That is a fact, Madam President. It is the most important vote that we will have this year on public health for the families of this country, and we will have it in just a few moments.

We don't have to go over the facts. We know what will happen if this amendment is successful. More than 750,000 young people will not involve themselves in smoking; 250,000 will not develop cancer of the lungs; 250,000 will not develop heart disease because of smoking; 250,000 of them will not develop emphysema, and the list goes on with diseases that result from smoking in this country.

Who are we talking about? We talk about children in this country, but let's be very clear about who those children are. We are talking about children who are as young as 12 years of age. Sixteen percent get started at 12 years of age; 37 percent are 14 and younger; 62 percent are 16 years of age and younger.

These are the individuals who are targeted by the tobacco industry. I listened to those crocodile tears of our colleagues on the other side of the aisle about how distressed they are about what is happening to working families. I give them reassurance, they will have a nice chance to vote for an increase in the minimum wage later on, and we will see how distressed they are about all those working families that they are agonizing about and so distressed about because this is a regressive tax.

The reason it is a regressive tax is because it is the tobacco industry that has targeted the needy and the poor and the working families of this country. It is the tobacco industry that is to blame. It isn't these families. How elite and arrogant it is for those on the other side of the aisle to cry these crocodile tears for working families and their children who are going to get cancer and they don't want to pay those taxes. Those working families care about their children. They care about them no less than those who come from a different socioeconomic background. How arrogant can you be? How insulting can you be to make that argument on the floor of the U.S. Senate.

Finally, Madam President, there can be no argument about what has happened over recent times, the explosion—the explosion—of use of tobacco by teenagers. It is a national disgrace. It is a national disgrace, and we are faced with these facts.

You can talk about smuggling all you want. You can talk about it all you want. These are the facts. This is the issue. Public health is the issue, the fact that it is an 80-percent increase among the black youths in this country, 35 percent by Hispanic youths, 28 percent of the white youths of this country, 32 percent year after year after year after year because of the policies of the tobacco industry. And we can do something about it on the floor of the U.S. Senate. The question is, Will we do so?

The question comes back, If we have to defend ourselves again, all you have to do is—there is one simple chart. We all had our statements and our charts. This one says it all. What this chart says very simply and is expressed very clearly by Philip Morris in a memo of 1987—listen to this:

> The 1982–1983 round of price increases prevented 500,000 teenagers from starting to smoke. This means that 420,000 of the nonstarters would have been Philip Morris smokers. We were hit hard. We don't need that to happen again.

There it is on the chart. There it is in 1982. This is the spike in the increase of price, and that is the drop in terms of teenage smoking.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KENNEDY. I will take 1 more minute.

I say this is demonstrated right here as clear as can be. What we have seen is, as the price has gone up over a period of years, teenage smoking has gone down, except in 1982 when we had the wars, then we had the drop, and we see that incredible spike and the leveling years with $5 billion a year in tobacco advertising, getting those children, holding those children, addicting those children in this country.

Madam President, now is the time. Now is the time to speak up for the children of this country. Now is the time to speak out about public health. We have not heard all morning long, all last night, all yesterday, we have not heard the opposition give the name of one notable, credible public health official who denies what we have stated hour after hour about the dangers for the children of this country—not one. They can't answer it.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KENNEDY. That is why this amendment should be accepted.

Mr. ROBB. Madam President, I rise in opposition to the amendment offered by the Senator from Massachusetts. I do so fully supporting what the authors of the amendment seek to achieve—a reduction in teen smoking.

I, too, want to keep tobacco out of the hands of children. And I'm convinced that the best way to achieve that goal is to pass a reasonable, comprehensive tobacco bill. I have not abandoned hope that such a reasonable bill can still be achieved. But I am convinced that this amendment will make it more difficult to pass comprehensive legislation, and I therefore will vote against it.

For over a year, I have been saying that I believe a resolution of these issues that have dogged the tobacco industry are in the best interests of all concerned, including children, public health advocates, tobacco farmers, workers and their communities, the states and yes, the companies. To achieve the delicate balance that is a prerequisite to enacting such a complex bill, however, we need to remain centered. If the bill becomes too punitive in the one direction, or too protective in the other, we will fail ultimately to take advantage of this historic opportunity to resolve these issues.

In that same spirit, I intend to oppose other amendments which would, if adopted, make final passage of a reasonable bill much less likely.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

AMENDMENT NO. 2427

Mr. KERRY. Madam President, I move to table the Ashcroft second-degree amendment No. 2427, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

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

The PRESIDING OFFICER. There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. To ascertain the presence of a quorum, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. KERRY. Madam President, I ask unanimous consent that at the conclusion of the vote on the tabling of the Ashcroft amendment, the Senator from Texas be afforded 10 minutes to speak, at which point the vote on whatever might occur.

Mr. KENNEDY. Reserving the right to object, will the Senator restate that please?

Mr. KERRY. Madam President, the request is that we would vote on the tabling of the Ashcroft amendment now, at the conclusion of that there would be 10 minutes for the Senator from Texas to speak, at which point the manager for the majority, Senator MCCAIN, would be recognized. That is my request.

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

Mr. KERRY. I thank the Chair.

Mr. MCCAIN. The yeas and nays have been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered.

The question now occurs on agreeing to the motion to lay on the table the amendment offered by the Senator from Missouri, Senator ASHCROFT. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT (when his name was called). Present.

Mr. NICKLES. I announce that the Senator from New Hampshire (Mr. SMITH) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 72, nays 26, as follows:

[Rollcall Vote No. 143 Leg.]

YEAS—72

Abraham	Feingold	Lugar
Akaka	Feinstein	Mack
Baucus	Ford	McCain
Bennett	Frist	Mikulski
Biden	Glenn	Moseley-Braun
Bingaman	Gorton	Moynihan
Bond	Graham	Murkowski
Boxer	Grassley	Murray
Breaux	Gregg	Reed
Brownback	Harkin	Reid
Bryan	Hatch	Robb
Bumpers	Hollings	Roberts
Byrd	Inouye	Rockefeller
Campbell	Jeffords	Roth
Chafee	Johnson	Santorum
Cleland	Kennedy	Sarbanes
Collins	Kerrey	Smith (OR)
Conrad	Kerry	Snowe
D'Amato	Kohl	Specter
Daschle	Landrieu	Stevens
DeWine	Lautenberg	Thurmond
Dodd	Leahy	Torricelli
Dorgan	Levin	Wellstone
Durbin	Lieberman	Wyden

NAYS—26

Allard	Faircloth	Kyl
Ashcroft	Gramm	McConnell
Burns	Grams	Nickles
Coats	Hagel	Sessions
Cochran	Helms	Shelby
Coverdell	Hutchinson	Thomas
Craig	Hutchison	Thompson
Domenici	Inhofe	Warner
Enzi	Kempthorne	

ANSWERED ''PRESENT''—1

Lott

NOT VOTING—1

Smith (NH)

The motion to lay on the table the amendment (No. 2427) was agreed to.

Mr. KERRY. Madam President, I move to reconsider the vote.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Texas is recognized to speak for 10 minutes.

AMENDMENT NO. 2422

Mr. GRAMM. Madam President, we have had over a dozen Senators who have stood up and said that while the Kennedy amendment raises the effective tax on a pack of cigarettes to $1.50 per pack, it has absolutely nothing to do with money. Over and over, our colleagues have said this is not about money, it is about children. They say they don't want the money, they want the impact of higher cigarette prices to discourage children from smoking.

It seems to me, Madam President, that if that is in fact what they want, that there is a simple way to give it to them, and that is, we should attach to the Kennedy amendment a tax cut aimed at the very people who are paying this increase in the price of cigarettes. In doing that—may I have order?

Mr. KERRY. Madam President, I make a point of order that the Senate is not in order.

The PRESIDING OFFICER. The Senate will be in order. We will not proceed until the Senate is in order. The Senator from Texas is entitled to be heard. The Senator's time will not begin until there is order.

The Senator from Texas.

Mr. GRAMM. Madam President, I thank the Presiding Officer.

Madam President, we have a dilemma in that our colleagues assure us that while this amendment raises hundreds of billions of dollars, that it is not about money. They say they don't want the money, they want the impact of higher cigarette prices. But yet the cold reality is, those prices are going to be paid in higher out-of-pocket costs by blue-collar workers all over America. Thirty-four percent of the cost of this tax increase that is now pending as an amendment here in the Senate will be borne by Americans who make less than $15,000 a year. Forty-seven percent of it will be borne by Americans who make less than $22,000 a year.