The Public Health and Education Resource (PHAER) Act

Introduced in the Senate by Sen. Frank R. Lautenberg (D-NJ)
and in the House by Rep. James V. Hansen (R-UT)

PHAER would raise the price of cigarettes to a level that would decrease youth smoking by half.

- PHAER would place a $1.50 Public Health and Education Resource (PHAER) per-pack fee on cigarettes and a comparable fee on other tobacco products.
- The PHAER fee would be phased in by 50-cent increments over three years.
- In the fourth year, the PHAER fee would be indexed for inflation to ensure that youth smoking does not rise again due to inflationary effects. This index will be based on the CPI, the Medical CPI or an increase of 3%, whichever is greater.
- The PHAER fee will raise approximately $494 billion over 25 years (using the tobacco consumption projections of the Joint Committee on Taxation), an average of almost $20 billion per year. Of these funds:

75% (an average of $15 billion per year) will be distributed at the *State* level for:

- Smoking cessation programs and services
- School and community-based tobacco education and prevention programs
- State-level counter-advertising campaigns
- ASSIST and similar community-based tobacco control programs
- Expansion of the Children's Health Insurance Program created in the 1997 Budget Reconciliation Act
- Early childhood development programs through the Maternal Child Health Block Grant and WIC
- Other appropriate public health uses

25% (an average of $5 billion per year) will be distributed at the *Federal* level for:

- Research and prevention programs at NIH and CDC
- FDA jurisdiction over tobacco products
- USDA programs to assist tobacco farmers, their families and their communities
- A national counter-advertising campaign
- Medicare prevention programs and premium and cost-sharing assistance for low-income Medicare beneficiaries
- International Programs to decrease worldwide tobacco-related illness
- The Drug Czar to conduct tobacco education and prevention programs
- The VA to conduct tobacco education, intervention and outreach programs.

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Section-by-Section Summary

Section 101 -- Imposition and Use of Increased Taxes on Tobacco Products

Cigarette Tax

The excise tax will be phased in as follows:

Year	Increase	Total tax per pack
1999	$0.50	$0.74
2000	$0.50 (plus $0.10 from BBA)	$1.34
2001	$0.50	$1.84
2002	$0.00 (plus $0.05 from BBA)	$1.89
2003	*Tobacco tax annually indexed to CPI, Medical CPI, or 3 percent, whichever is greater*	

Other Tobacco Products

- All taxes on other tobacco products are increased proportionally.

Indexing

- The tobacco taxes will be annually indexed by the CPI, the Medical CPI or 3 percent, whichever is greater.

Floor Stocks Taxes

- All tobacco products that have been distributed by the manufacturer before the increase in taxes called for periodically in this bill shall be taxed at the new rate.

Section 102 -- Tax Treatment for Certain Tobacco-Related Expenses

- The increased taxes contained in this bill will be nondeductible for the tobacco companies.

Section 201

- A new Trust Fund is created: The Public Health and Education Resource fund. This Trust Fund will be created in the Department of the Treasury.

The Secretary of Health and Human Services shall distribute 75 percent of the annual amounts collected in the Trust Fund to the States for the following programs:

(not less than/ nor more than)	
10/30*	Tobacco education and prevention programs in schools
10/30	Smoking cessation programs
10/30	Counter advertising programs
10/25	State Children's Health Insurance Program
5/10	WIC/Maternal Child Health Services Block Grant
1/3	ASSIST and other local tobacco control programs
0/5	State health block grant

Allocation Rules

- Each state grant level will be based on the percentage agreed upon by the Attorneys General in their Report by the Allocation Subcommittee on September 16, 1997.

Maintenance of Effort

- States must maintain the same spending on current programs that they spent the year before.

Federal Funding

Twenty-five percent of the annual amounts collected in the Trust Fund shall go to the following Federal programs:

- 10 percent for FDA's tobacco control efforts
- 25 percent for USDA programs to assist tobacco farmers and rural communities
- 20 percent for CDC's tobacco control efforts and NIH
- 20 percent for Medicare preventive benefits and increased support for low income Medicare beneficiaries (QMBs and SLMBs)
- 20 percent for HHS' tobacco counter advertising
- 2 percent for USAID's efforts to decrease tobacco consumption overseas
- 2 percent for Tobacco prevention programs at the Office of National Drug Control Policy (Drug Czar)
- 1 percent for the VA to conduct tobacco education, intervention and outreach programs

Section 301 -- Federal Standards with Respect to Tobacco Products

Repeals Federal preemption of state tobacco laws and regulations.

Section 401 -- Sense of the Senate Regarding Comprehensive Tobacco Legislation

Table 1.

INCREASE IN FEDERAL TAX REVENUES RESULTING FROM THE PHAER ACT

(in billions of dollars)

Year	*Proposed $1.50-per-pack tax, indexed for inflation*	*Inflation indexing of existing tobacco taxes*	*Non-deductibility of proposed tax and inflation adjustments*	***Total increase in tax revenues***
1999	$3.2	$0.0	$1.1	$4.3
2000	7.4	0.0	2.6	10.0
2001	12.0	0.0	4.2	16.2
2002	11.8	0.0	4.1	15.9
2003	12.1	0.3	4.3	16.6
2004	12.6	0.5	4.6	17.8
2005	13.3	0.8	5.0	19.1
2006	14.2	1.1	5.3	20.6
2007	15.0	1.4	5.7	22.1
2008	15.8	1.7	6.1	23.6
2009	16.2	2.0	6.4	24.6
2010	16.7	2.3	6.7	25.7
2011	17.2	2.7	7.0	26.9
2012	17.7	3.0	7.3	28.0
2013	18.3	3.4	7.6	29.2
2014	18.8	3.7	7.9	30.5
2015	19.4	4.1	8.2	31.7
2016	20.0	4.5	8.6	33.0
2017	20.6	4.9	8.9	34.4
2018	21.2	5.3	9.3	35.8
2019	21.8	5.7	9.6	37.2
2020	22.5	6.2	10.0	38.7
2021	23.1	6.6	10.4	40.2
2022	23.8	7.1	10.8	41.8
2023	24.6	7.6	11.2	43.4
TOTAL	*$419.2*	*$75.1*	*$173.0*	***$667.3***

Sources for 10-year, pre-inflation revenue estimates: Joint Committee on Taxation and Congressional Budget Office.

419+75 = PHAER FUND

Does not go in the PHAER FUND

Senate Democratic Task Force Tobacco Legislation

Democratic Caucus Review
2/10/98

The HEALTHY Kids Act

Responsible Tobacco Policy

- Protects Children
- Promotes the Public Health
- Helps Tobacco Farmers
- Resolves Federal, State and Local Legal Claims
- Invests in Children and Health Care
- Savings for Social Security and Medicare
- Reimburses Taxpayers

The HEALTHY Kids Act
Protects Children

1. A Healthy Price Increase
   - $1.50/pack health fee (phased in over three years)
2. Full FDA Authority
3. Strong Look-back Penalties
   - targets 2/3 reduction in youth smoking
   - penalties of 10 cents/pack on industry, 40 cents/pack on companies
4. Comprehensive Anti-tobacco Programs
   - counter-advertising, prevention, cessation, research
5. Retailer Compliance
   - State licensure
   - No sales to minors

The HEALTHY Kids Act
Promotes the Public Health

1. Second Hand Smoke
   - covers most public facilities
   - exempts bars, casinos, bingo parlors, hotel guest rooms, non-fast food small restaurants, prisons, tobacco shops, and private clubs
   - no state or local pre-emption
2. Document Disclosure
   - all relevant documents go to FDA
   - FDA makes public all documents
   - public health interest over-rides trade secret or attorney client privileges
3. International Tobacco Marketing Controls
   - no promotion of US tobacco exports
   - code of conduct: no marketing to foreign children
   - funds international tobacco control efforts
   - requires warning labels

The HEALTHY Kids Act

Helps Tobacco Farmers

1. Provides $10 billion over five years for assistance to farmers and their communities
2. Authorizes funding for--
   - Transition payments to farmers and quota holders
   - Rural and community economic development
   - Retraining for tobacco factory workers and tobacco farmers
   - College scholarships for farm families

The HEALTHY Kids Act

No Immunity

1. No special protection for future misconduct
2. No special protection against individuals' lawsuits for past misconduct
3. Resolves Federal, State and Local legal claims
   - States can opt-out of money and continue lawsuits
   - Cities and counties get a fair share of reimbursement
4. Attorney's Fees
   - Resolved by arbitration panel using ABA guidelines

The HEALTHY Kids Act

Invests in Children and Health, Savings for Social Security and Medicare, Reimburses Taxpayers

1. Payments to States (~~38~~ 41.5%)
   - unrestricted (~~15~~%) 14.5%
   - children's health care, child care, education (~~23~~%) 27%
2. Anti-tobacco Programs (~~17~~%) 15.5%
3. NIH Research (~~22~~%) 21%
4. Medicare (4% initially; grows to 10[redacted]%)
5. Social Security (6% initially; grows to 12[redacted]%)
6. Farmers ([redacted]% for first ten years, then phases out) 12%

Comparison of Tobacco Revenue and Spending

President's Budget and Healthy Kids Act

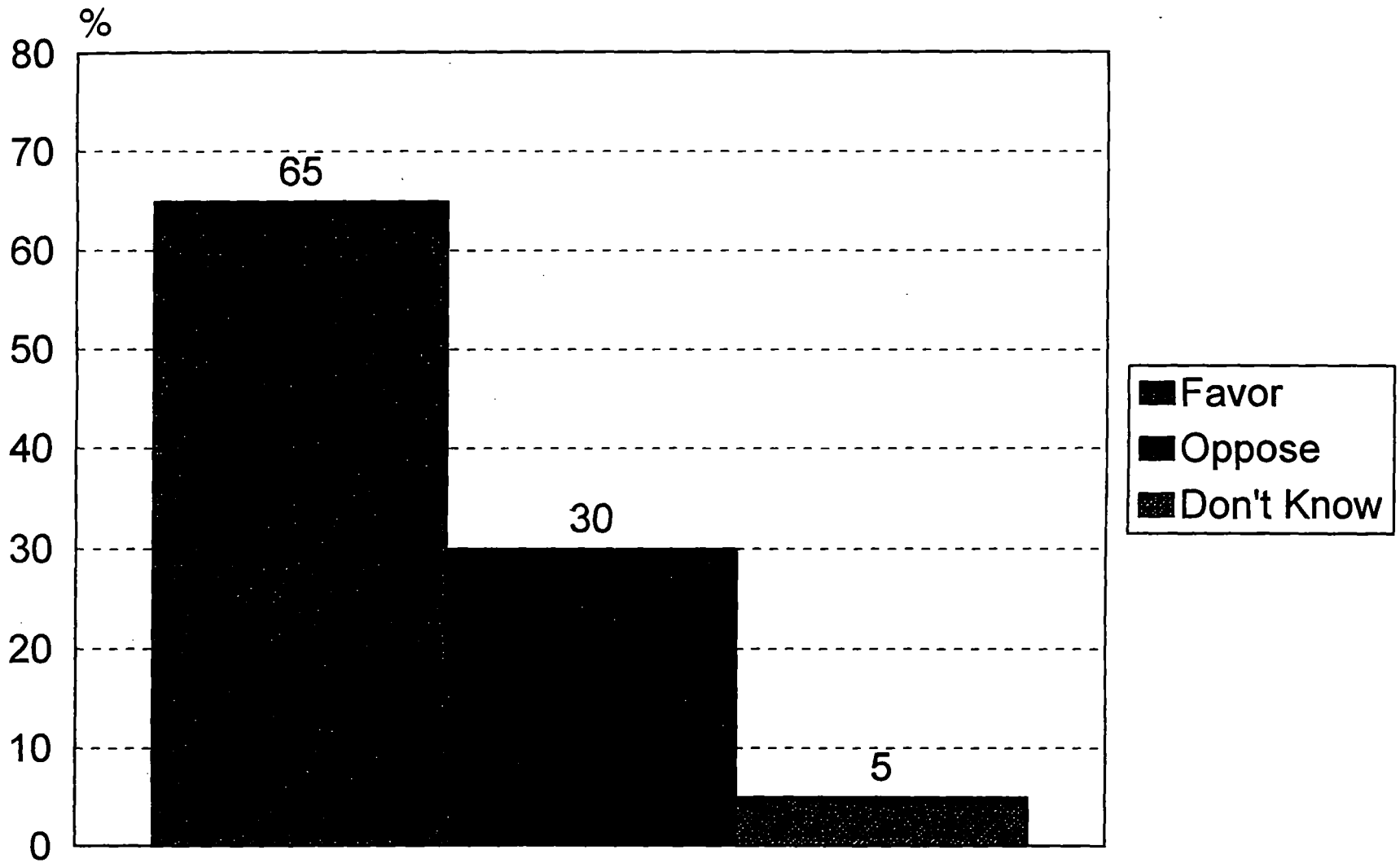
	Healthy Kids Act	President's Budget
Total Revenue (over five years)	about ~~$78~~ 82 billion (estimate pending)	$65.5 billion
States -- unrestricted	$12 billion	$11.8 billion
States -- for child care, education, health insurance (5B) (3B) (14B)	~~$18~~ 22 billion	$15.7 billion
Research	$17 billion for NIH research	$25.3 billion ($17 B for NIH; $8 B for non-health)
Medicare	$3 billion	$0.8 billion
Farmers Anti-tobacco	$10 billion $13 billion	$12.1 billion for both
Savings for Social Security	$5 billion	0

Five Year Projections

Polling Data Shows High Level of Support for:

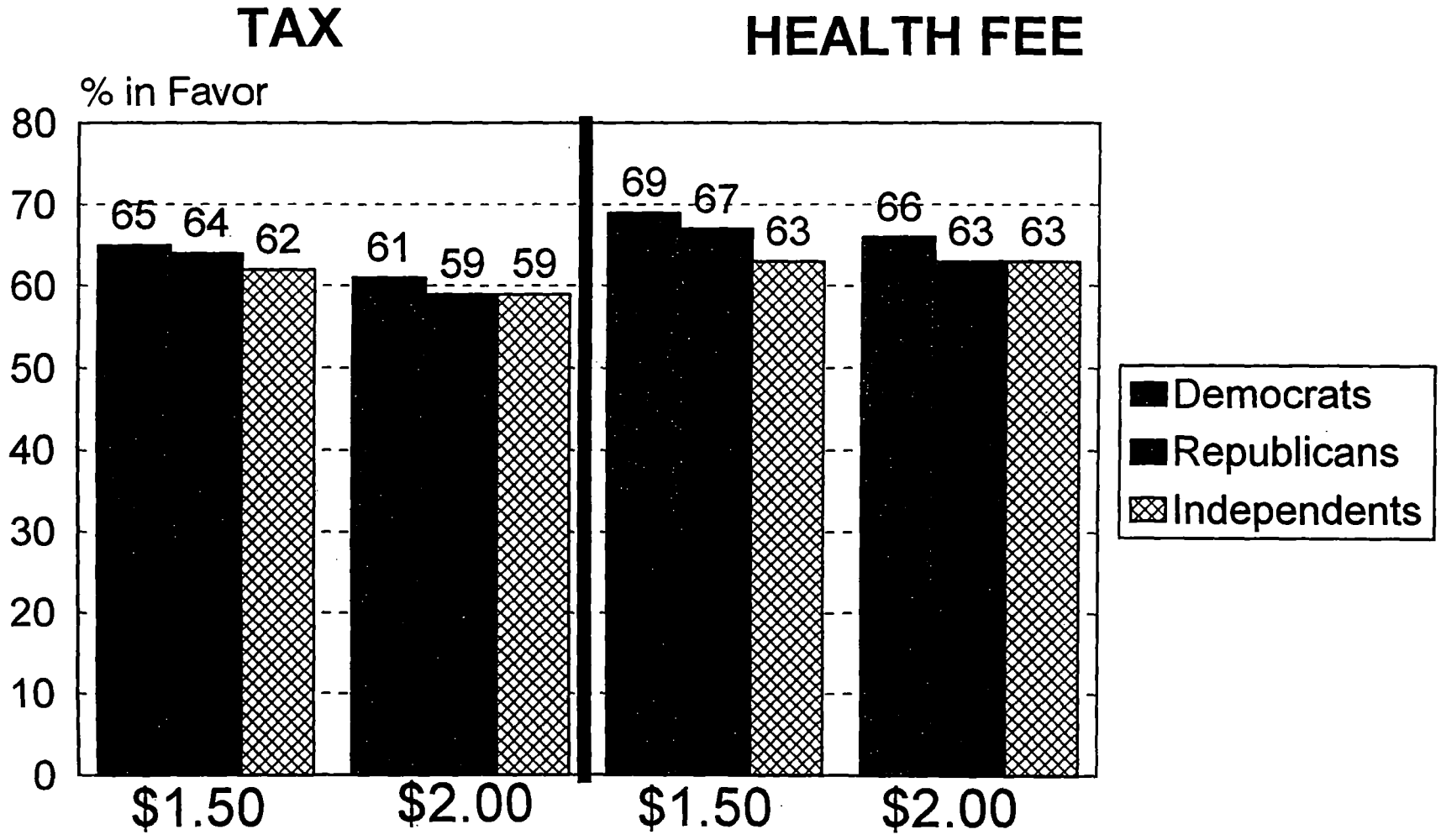
- Significant Per Pack Price Increase
- Strong Lookback Penalties
- No Industry Special Protections

Voters Support a $1.50 Health Fee for Youth Smoking Deterrence & Health Programs by a 2-1 Margin



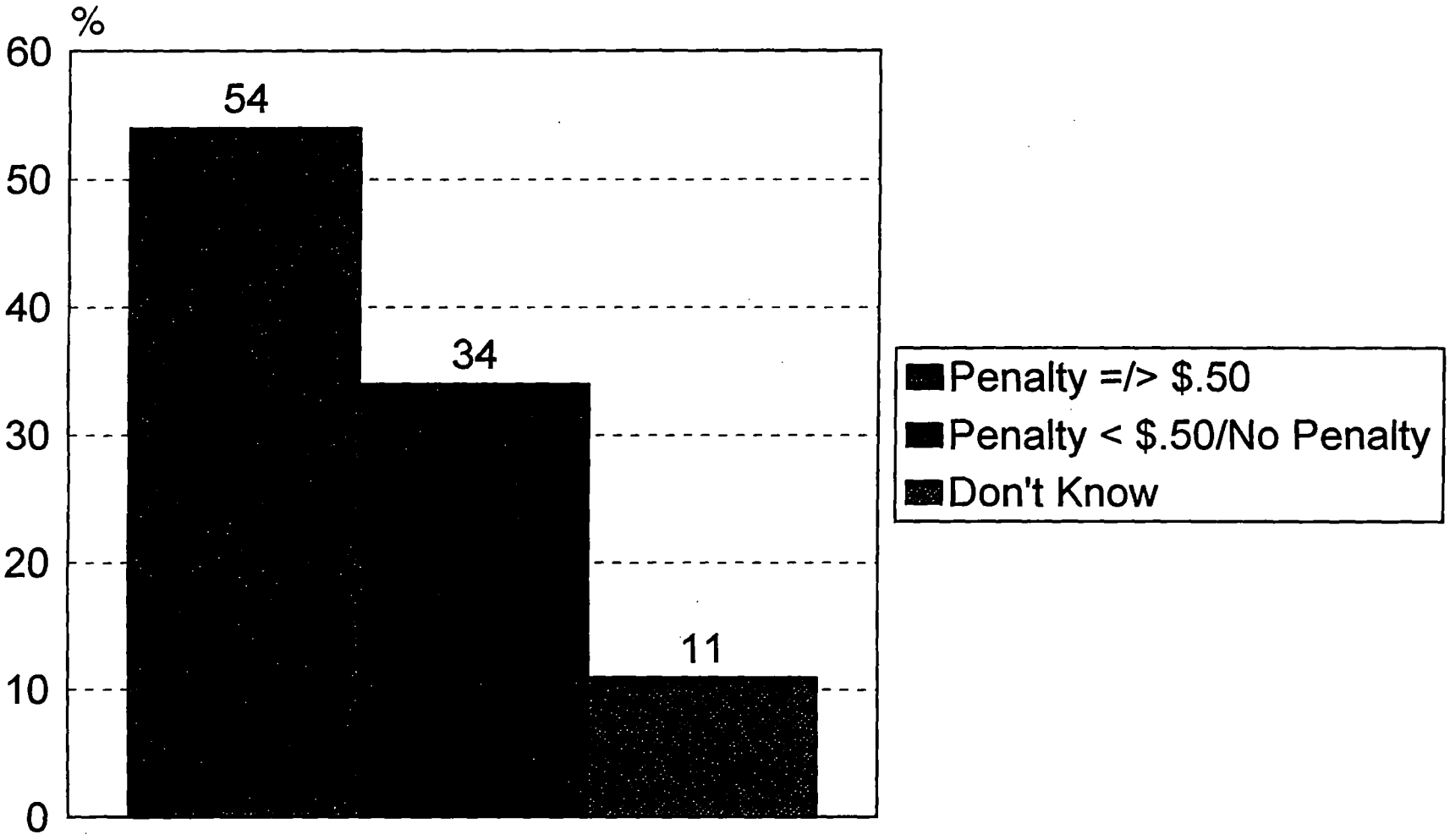
Source: Lake, Sosin, Snell, Perry Assoc. Survey, 1/98

Price Increase Support for Youth Smoking Deterrence and Health Programs Cuts Across Party Lines



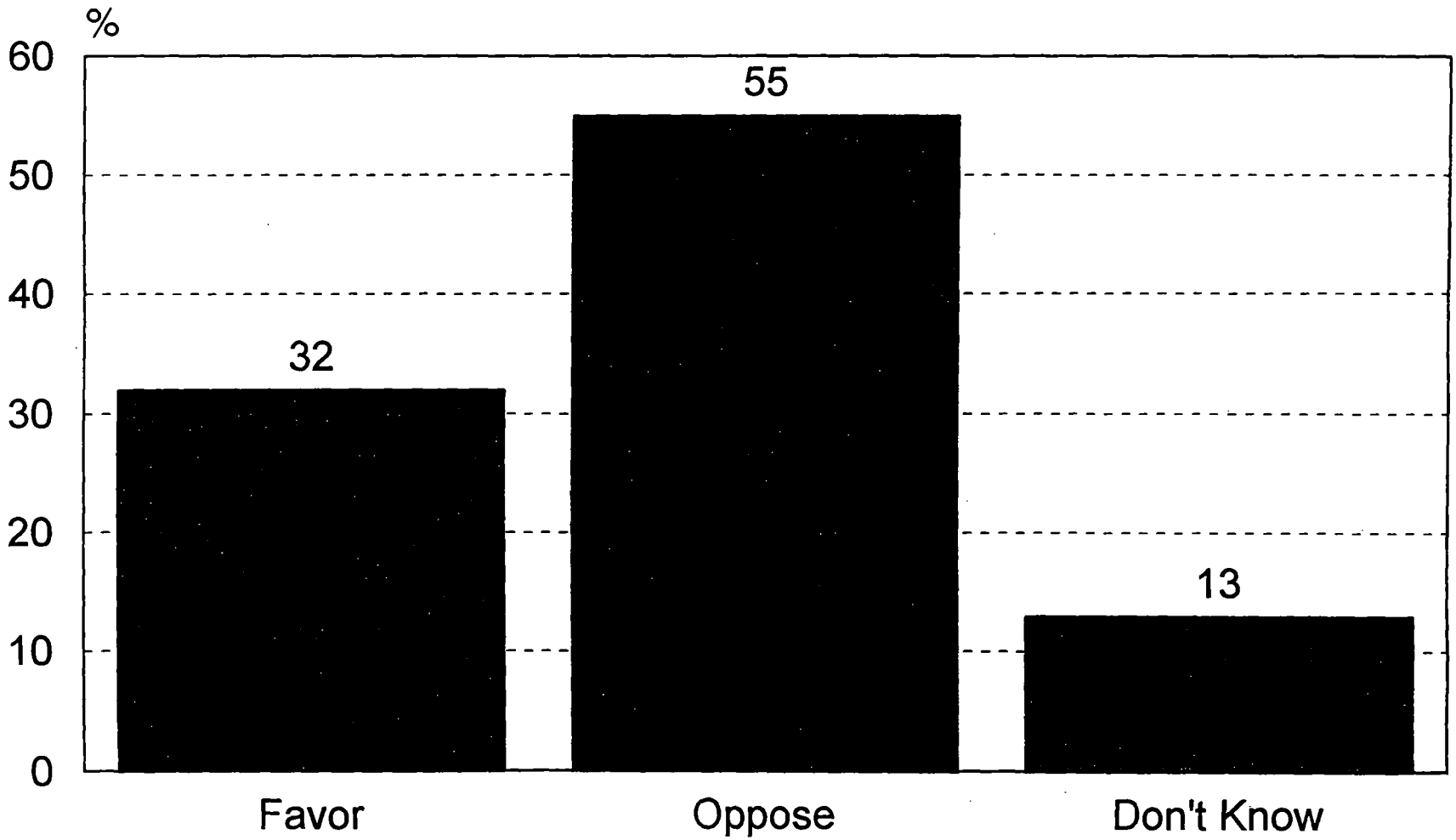
Source: Lake, Sosin, Snell, Perry Assoc. Survey, 1/98

Strong Support for Lookback Penalty of $.50 or More



Source: Lake, Sosin, Snell, Perry Assoc. Survey, 1/98

Voters Are Opposed to Providing Specia Protections to the Tobacco Industry



Source: Lake, Sosin, Snell, Perry Assoc. Survey, 1/98

HEALTHY Kids Act Accomplishes President Clinton's Objectives

President Clinton's Tobacco Principles	HEALTHY Kids Act
Reduce Teen Smoking Including Tough Penalties	X
Full FDA Authority	X
Change Industry Culture	X
Meet Additional Health Goals	X
Protect Tobacco Farmers and Communities	X