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Divider Title: 7

Social Security
May 27, 1999

Q: Where is the administration on the house proposal for a Social Security lock-box?

A: We favor a lock-box that does more to strengthen and protect Social Security. Unfortunately, the House bill does not do enough to protect Social Security and does nothing to extend the life of the Trust Fund.

Social Security
May 21, 1999

Question: **What does the President think about the Breaux-Gregg Social Security plan that was announced yesterday?**

Answer: The President commends the Senators Breaux and Gregg as well as the other co-sponsors of this plan for their courage and hard work. These Senators, unlike some others, are trying to move this process forward and the President applauds them for coming forth with a serious proposal and keeping Social Security alive.

Question: **Is the President willing to support a carve out individual account?**

Answer: The President is resistant to diverting a portion of the payroll tax into an individual account. He still believes that the best framework for securing Social Security on a bipartisan basis is to rely largely on debt reduction to secure the solvency of Social Security's historic guaranteed benefit combined with progressive USA accounts that are separate from the Social Security system.

Question: **Would the President support a COLA cut as set out in the Breaux-Gregg plan?**

Answer: Our policy has always been to try not to put on or take off the table specific policy measures. We are currently analyzing the plan carefully so that we can provide a thoughtful critique that can help contribute to building a bipartisan consensus on reform.

Question: **When is the President going to put out his proposal?**

Answer. Out of the President, the Speaker, and the Majority Leader, only the President has come forward with a plan. His plan would make Social Security solvent until 2055 and calls for a bipartisan effort to achieve reform. He has framed this debate, as far as saving the surplus for Social Security. And he's going to work with Democrats and Republican leaders who don't want to play politics with this issue in order to find a way to preserve the Social Security and Medicare system.

Tobacco FDA Rule
Q&A
March 28, 2000

Q: What is the Administration planning to do next on tobacco now that the Supreme Court has ruled that the FDA does not have jurisdiction over tobacco?

A: I will continue to fight to protect this nation's children from the harms of tobacco. We should not let the tobacco industry recruit 3,000 young people a day as "replacement" smokers and sentence 1,000 of those to early deaths from lung cancer and other diseases. In the Court's ruling last week, all nine Justices made it perfectly clear that they believe tobacco is dangerous, especially to our young people; the majority opinion called it "perhaps the most significant threat to health in the United States." The American people know this. Now the ball is in Congress's court. Congress should do the right thing, show that they understand the danger to our young people and give the FDA's tobacco regulations the force of law.

In the meantime, I plan to fight on every front to reduce youth smoking and to hold the tobacco industry accountable – by charging the tobacco industry an assessment for every underage smoker, increasing the price of cigarettes by 25 cents a pack, and putting in place an important initiative to ensure Medicaid beneficiaries have access to drug treatments to help them quit smoking. The Justice Department is also working to recover from the tobacco companies the billions of dollars in direct health costs incurred by the federal government as a result of smoking. I call on Congress to support these efforts, not undermine them as some have threatened to do.

Q: How does the Supreme Court case relate to the case brought by the Justice Department against the tobacco industry?

A: These cases are completely separate and different. The Justice Department's suit, filed against the tobacco industry last September, is about recovering the federal costs of smoking-related illnesses – billions of taxpayer dollars through Medicare, veterans' health and other federal health care programs. The Supreme Court's ruling was on a challenge by the tobacco industry to the Food and Drug Administration's regulation protecting children from tobacco. But let me say this about the lawsuit: there are some in Congress who want to kill funding for this effort, and I think it is unconscionable that they would deny taxpayers their day in court. Congress should support this effort, not undermine it.

Q: How exactly would the FDA rule have regulated tobacco?

A: These provisions would have helped stop young people from smoking before they start by eliminating advertising aimed at children and curbing minors' access to tobacco products. Provisions include:

- Restricting Advertising Aimed at Children – including banning outdoor advertising within a 1000 feet of schools and public playgrounds and limiting advertising ion publications with significant youth readership to black-and-white text.

- Discouraging Tobacco Sales to Minors – including requiring age verification by photo ID for anyone appearing age 26 or younger and banning vending machines except in adult-only facilities.

Another critical component of the effective tobacco regulation was ensuring that the FDA has sufficient authority to impose additional restrictions as future circumstances warrant.

Tobacco Q&A
September 22, 1999

Q: Is it true as reported in The Washington Post that the Justice Department will file its tobacco lawsuit today? What does the suit charge and will it seek $25 billion in damages as reported in The New York Times?

A: The President announced in his State of the Union address that the Justice Department was preparing litigation against the tobacco industry. Over the years, smoking has cost taxpayers billions of dollars through Medicare, veterans' health, and other federal health care programs. The Justice Department is properly seeking to give America's taxpayers their day in court. Decisions about the timing and the content of tobacco litigation are made by the Justice Department, and you should direct all questions to them.

Background: The Attorney General is scheduling a press conference this morning at 11:30 to discuss the litigation.

Q: Why can't the White House comment? Don't you know what's in the litigation?

A: The White House has a long-standing practice of not commenting on litigation brought by the Justice Department, and of referring inquiries to the Department. This applies to all types of litigation.

Q: Is the Administration still seeking $20 million to fund this particular litigation and will the Department pursue its litigation if it does not receive the additional funds?

A: Tobacco litigation will be a complex undertaking, with an immense evidentiary record and unprecedented potential damages. It is clear that the tobacco companies will spend far more than $20 million defending this matter – in a case with one state (Minnesota) a single defendant (R.J.Reynolds) stated in court that it spent more than $90 million simply to create and operate its litigation database (not counting its other legal expenses). In light of the billions of dollars the federal government spends on tobacco-related diseases, we believe the taxpayers will recoup their investment in this litigation many times over.

The Justice Department is already preparing litigation with FY99 funds, but we're going to insist on those funds in this year's budget. It is critically important that the tobacco industry -- which has engaged in a course of deliberate misconduct over the last five decades to hide the addictive nature of tobacco and to suppress information about the health risks of tobacco use -- is held responsible for its actions.

Q: Are you going to continue to seek a 55 cent increase in tobacco taxes? By bringing the lawsuit, isn't the Administration double-taxing the industry?

A: We are going to continue to seek a 55 cent increase in the tobacco tax -- not only is it good fiscal policy but it's good health policy too. Raising the price of cigarettes is one of the most effective ways to prevent kids from starting to smoke. By increasing the price of cigarettes, we'll save lives – a million over the next five years – and at the same time protect the Social Security trust fund, honoring our commitment to our parents and grandparents while protecting our children. Raising the price of cigarettes so fewer children will smoke and holding the tobacco industry accountable for misconduct are two separate policy issues.

Additional Tobacco Q&A
September 22, 1999

Q: Did the President or any White House staff direct the Justice Department on what kind of lawsuit to file against the tobacco industry or make his views known in any way?

A: Absolutely not. The content and the timing of the litigation was completely determined by the Justice Department.

Q: Did the Justice Department communicate with the White House about its plans to file a lawsuit today?

A: As with other legal matters, the Justice Department has periodically provided general updates to the White House counsel about the status of the litigation plan. Late yesterday, the Justice Department informed the White House that it was filing the lawsuit today.

POTUS Statement on Supreme Court Tobacco Decision
April 26, 1999

I am very pleased that the Supreme Court has agreed to take up the case regarding the Food and Drug Administration's regulation of tobacco products. Almost three years ago, the FDA put in place a regulation to protect our children from tobacco, which the tobacco companies challenged in court. I remain firmly committed to the FDA rule, which will help stop young people from smoking before they start by eliminating advertising aimed at children and curbing minors' access to tobacco products. Every day, 3,000 young people become regular smokers and 1,000 will have their lives cut short as a result. If the leadership in Congress would act responsibly, it would act now to confirm FDA's authority and take this matter out of the courts.

Tobacco Q&As on FDA Supreme Court Case
April 26, 1999

Q: What is the Administration's reaction to the Supreme Court decision?

A: We are very pleased that the Supreme Court has agreed to take up the case regarding the Food and Drug Administration's regulation of tobacco products. Almost three years ago, the FDA put in place a regulation to protect our children from tobacco, which the tobacco companies challenged in court. The President remains firmly committed to the FDA rule, which will help stop young people from smoking before they start by eliminating advertising aimed at children and curbing minors' access to tobacco products. Every day, 3,000 young people become regular smokers and 1,000 will have their lives cut short as a result. If the leadership in Congress would act responsibly, it would act now to confirm FDA's authority and take this matter out of the courts.

Q: When is the Supreme Court expected to take up this tobacco case?

A: The Supreme Court will determine the timing, which is expected to be during the new session beginning in October.

Q: What is the status of the FDA rule now that this matter is in the courts?

A: In April 1997, when the federal district court upheld the Food and Drug Administration's authority to regulate tobacco products, the court ordered the FDA not to put in place the rule's restrictions on tobacco advertising and other marketing aimed at children, pending appeal, but did allow the FDA to go forward with certain important rules restricting youth access to tobacco products. These access restrictions sets 18 as the minimum age for purchasing tobacco products and require retailers to check photo ID of anyone younger than age 27. FDA, through an appropriation from Congress, helps enforce these restrictions through inspections, conducted primarily through contracts with the states. FDA currently has contracts with 41 states plus D.C. and the Virgin Islands to enforce these access restrictions and will be putting in place its own inspections in the remaining 9 states (North Dakota, South Dakota, Oregon, Wyoming, Montana, Ohio, Indiana, Wisconsin, and Nebraska).

Q: Are the FDA advertising restrictions really needed, now that the tobacco companies agreed to certain restrictions – such as eliminating billboards -- as part of last year's settlement with the states?

A: Yes, the FDA's restrictions are needed to halt tobacco advertising and marketing aimed at children. The FDA's rules are far more comprehensive than those the tobacco companies agreed to in the settlement and will do much more to prevent youth smoking. For example the FDA rule limits tobacco ads in newspapers and magazines with significant youth readership to black and white text, while last year's settlement did not limit print advertising at all. Moreover, the FDA rule banned all tobacco advertising within 1,000 feet of a school, and limited all outdoor advertising to black and white text, while the state settlement allows retailer and other non-billboard ads near schools and with color images that appeal to children.

Q: What is the Administration planning to do next on tobacco?

A: The President will continue to fight to protect this nation's children from the death and diseases caused by tobacco. We should not let the tobacco industry recruit 3,000 young people a day as "replacement" smokers and sentence 1,000 of those to early deaths from lung cancer and other diseases.

The Administration will fight to increase the price of cigarettes so fewer young people will smoke; affirm the Food and Drug Administration's authority to halt advertising aimed at kids; continue to protect tobacco farmers and their communities; work with states and Congress to settle federal Medicaid claims in exchange for a commitment that funds be spent to prevent youth smoking, protect tobacco farmers, improve public health, and assist children; and recover from the tobacco companies the billions of dollars in direct health costs incurred by the federal government as a result of smoking.

The President strongly opposes any legislation waiving the federal government's claim to tobacco settlement funds without a commitment from the states to use tobacco settlement funds to prevent youth smoking. Without such a commitment, states won't have to spend one penny of the $246 billion settlement to prevent youth smoking.

Q: When is the Department of Justice going to file the federal tobacco suit?

A: That is a matter for the Justice Department's task for to decide.

Date: 04/26/99 Time: 10:13
SWASHINGTON (AP) The Supreme Court agreed today to decide

WASHINGTON (AP) The Supreme Court agreed today to decide whether the Food and Drug Administration can crack down on cigarette sales to minors.

The court will hear a Clinton administration appeal in which government lawyers say FDA's 1996 decision to start regulating tobacco as a drug was justified by new evidence that the tobacco industry intended its products to feed consumers' nicotine habits.

''Unless this court grants review, an unparalleled opportunity to curb tobacco use by children ... will be lost,'' the government's appeal said.

A federal appeals court ruled that Congress, not the FDA, has the authority to make the ''major policy decision'' of how to regulate cigarettes and chewing tobacco. The effect of the lower court's ruling was to leave no FDA role in regulating tobacco products.

The FDA's rules are part of growing efforts to curb the tobacco industry. Although Congress failed to pass a nationwide settlement last year, all 50 states have reached settlements in which tobacco companies will pay them $246 billion for the cost of treating smoking-related illnesses.

The federal government also plans to sue the industry to recover federal health-insurance costs for treating such illnesses. And the industry faces individual and class-action lawsuits by smokers and their families.

For decades, the FDA said it lacked authority to regulate tobacco so long as cigarette manufacturers did not claim that smoking provided health benefits. But the government reversed itself in 1996 and classified tobacco products as ''drugs'' and ''devices'' subject to federal regulation.

All 50 states already ban tobacco sales to anyone under 18. In addition to adopting that rule, the FDA required stores to demand photo I.D. from all tobacco purchasers under age 27 and limited vending-machine cigarette sales to adult-only locations, such as bars.

Federal regulators also banned tobacco billboards within 1,000 feet of a school or playground, and set other limits on cigarette ads.

Tobacco companies challenged the rules. In April 1997, U.S. District Judge William Osteen upheld the FDA's authority to regulate tobacco and upheld the crackdown on sales to minors, but threw out the advertising restrictions.

The 4th U.S. Circuit Court of Appeals ruled last August that the FDA could not regulate tobacco at all. ''Congress never intended to give the FDA jurisdiction over tobacco products,'' the appeals court said.

In the appeal acted on today, Justice Department lawyers said the August ruling ''invalidated the most important public health and safety rulemaking that FDA had conducted in the past 50 years.''

Before 1996, ''the FDA simply did not have clear and compelling evidence that nicotine is extremely addictive, that consumers use tobacco products because they are addicted'' and that companies manipulate cigarettes' nicotine content, they said.

The appeal, supported by 39 states, said the FDA considered banning all cigarette sales, even to adults, but decided it would be dangerous to ban a product ''to which so many millions of people are addicted.''

The tobacco industry says FDA regulation of tobacco would force a ban because federal law allows marketing only of drugs that are proven safe and effective.

Short of a ban, the industry contends FDA regulation would let the agency control the contents of cigarettes, allow them to be sold only by prescription or limit the stores that can sell them.

The industry's lawyers said that setting tobacco policy is a political task for Congress, which already has prohibited tobacco advertising on radio and television, banned smoking on airplanes and required warning labels on cigarette packages.

''The FDA has overreached,'' the tobacco companies' lawyers said. They added that the main settlement reached last November between the industry and 46 states sets many of the limits sought by the FDA.

Cigarette billboards across the country were taken down this month as required by the settlement, which also bars companies from using cartoon characters in ads or distributing caps, T-shirts and other merchandise bearing cigarette logos.

The case is FDA vs. Brown and Williamson, 98-1152.

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Tobacco Q&A
April 13, 1999

Q: **What do you think of the lawsuits the tobacco industry has recently lost, including the recent verdict in Oregon? Do you think that the public's attitude towards tobacco companies is changing?**

A: I don't want to comment specifically on any of these verdicts, but these awards do suggest that the public is fed up with the tobacco industry's "business as usual." Every day, 3,000 children become smokers, and 1,000 have their lives shortened as a result. Tobacco is linked to over 400,000 deaths a year from cancer, respiratory illness, heart disease and other problems. The tobacco industry may think that it killed this issue last year, but I believe that is a great misjudgement. We are only going to increase the pressure on the industry to change the way it does business, and eventually the tobacco industry will have to stop marketing its products to our children.

Tobacco Litigation Team / Consulting Announcement
Tuesday, April 6, 1999
Q&A

Q: **What happens after June 30, 1999?**
A: Although the contract expires on June 30, we have the option to renew it and continue to seek the firm's consulting services after that time.

Q: **Will the firm represent the government in a lawsuit?**
A: Under this agreement, the firm is only authorized to provide advice and assistance to the Department's tobacco litigation team.

Follow-up:
Q: **Is it a possibility that the firm will eventually represent the government?**
A: There are not plans for that. This agreement is for the firm to act in a consulting role to the Justice Department's litigation team.

Q: **Are you considering a contingency fee arrangement in the future with the firm?**
A: No. The contract does not contemplate payment to the firm of any "contingency fee" related to potential recoveries. We do not intend to enter into any contingency fee arrangement in connection with this litigation.

Q: **Would you ever consider such an agreement?**
A: I can't imagine that we would. This has not been discussed as an option.

Q: **Isn't it a conflict of interest for the firm to represent Minnesota and the United States?**
A: No. This agreement has been thoroughly examined by our ethics experts and there is not a conflict of interest.

Q: **Did you compete this contract with other firms?**
A: No. It was clear that Robins, Kaplan, Miller & Ciresi is extraordinarily qualified in this area of litigation.

Q: **Do you think this decision creates the appearance that you don't have full confidence in the lawyers in the Department of Justice?**
A: No. Clearly this firm has exceptional experience that the Justice Department lawyers can use in their case against the tobacco industry. Attorneys at the firm have spent thousands of hours reviewing millions of documents produced in Minnesota's tobacco case. They will be able to make an invaluable contribution to the efforts of the outstanding team that has been assembled already at the Department. We have complete confidence in the team of experienced government litigators we have assembled.

Q: **How many lawyers are on the tobacco litigation team from the Department?**
A: Currently the team consists of about 10 full-time attorneys. There are about 10 additional attorneys from various divisions of the Department working with the full-time team.

Q: **What divisions are represented on the team?**
A: The attorneys on the full-time team are from the Civil Division, but there are also attorneys from the Office of Legal Counsel, Antitrust Division, the Criminal Division and the Environment and Natural Resources Division working with them.

Q: **How does the fact that the criminal investigation may be coming to a close affect the tobacco litigation team?**
A: I have no information about the criminal investigation, but there is no connection.

Q: **How far along is the litigation plan?**
A: The litigation team continues to review and assess the various legal theories and is developing those theories and determining the most effective approach to recover federal health care expenditures from the tobacco industry.

Q: **Do you have a timeline for when litigation will be brought against the industry.**
A: No.

Tobacco Q&A
February 16, 1999

Q: Isn't the Administration's tobacco proposal dead on arrival?

A: Last year's state tobacco settlement was a step in the right direction but more needs to be done to protect children and reduce youth smoking. We need to increase the price of cigarettes so fewer people start to smoke; reaffirm the Food and Drug Administration's authority to halt advertising aimed at kids; continue to protect tobacco farmers and their communities; work with states and Congress to settle federal Medicaid claims in exchange for a commitment that funds be spent to prevent youth smoking, protect tobacco farmers, improve public health, and assist children; and recover from the tobacco companies the direct health care costs incurred by the federal government as a result of smoking.

I am hopeful that Congress will join me in this effort, and I am determined to do everything I can to bring about this result. If the tobacco industry thinks that it killed this issue last year or that it concluded the issue by settling with the states, it is wrong. We are only going to increase the pressure on the industry to change the way it does business.

Q: What do you think of the tobacco industry's recent loss in California? Does the verdict there make a federal suit more likely to prevail?

A: I don't want to comment specifically on the $51.5 million verdict against Philip Morris, but the amount of punitive damages there suggests that the public is fed up with the tobacco industry's "business as usual." Every day 3,000 children become smokers, and 1,000 have their lives shortened as a result. The plaintiff in California, who began smoking when she was 15, was just one of those children.

The federal suit I announced last month was predicated on the Justice Department's independent determination that there are good grounds to recover tobacco-related health care costs from the companies. I don't think the verdict in California makes the federal suit more likely to prevail, but the facts of that case do point out the great importance of taking additional steps to reduce youth smoking.

Q: When will the Justice Department file its suit against the tobacco industry?

A: That is a matter for the Justice Department's task force to determine. Litigation will be brought when the Justice Department is fully prepared to do so.

Q: In addition to filing a federal suit against the tobacco companies and seeking another increase in the federal excise tax, you want a share of the state settlement as well. Why?

A: About fifty-seven percent of the state settlement is reimbursement for Medicaid costs originally paid by the federal government, and current law requires the Administration to recoup this share of the settlement. As I have said many times, I want to work with the states and Congress to enact legislation to resolve this claim in exchange for a commitment that these funds will be spent to prevent youth smoking, protect tobacco farmers, improve public health, and assist children. Without this legislation, states won't have to spend one penny of the settlement on reducing youth smoking.

Tobacco Q&A
January 22, 1999

Q: What does the Administration think of the agreement of the tobacco companies to set up a $5 billion trust fund to help assist U.S. tobacco farmers?

A: We are encouraged that the states and industry were able to negotiate a package to compensate farmers. The President has repeatedly made clear his commitment to protecting tobacco farmers and their communities. In the State of the Union, he explicitly re-affirmed his position that we can seek to reduce youth smoking and also protect tobacco farmers.

Q: How do you respond to the charges that the goals of reducing youth smoking and protecting farmers are contradictory?

A: They are not contradictory goals at all. The President does not want the tobacco companies to go out of business, only out of the business of selling to children. The tobacco farmers have played by the rules, and should be protected. The President firmly believes that we can reduce youth smoking and protect tobacco farmers and their communities at the same time.

Q: What is the Administration's response to the press conference yesterday held by Sens. Kay Baily Hutchison and Bob Graham, joined by Sens. Slade Gorton, Evan Bayh, and George Voinovich and some state Attorneys General, calling to block any federal efforts to recover a share of the states' recent $246 billion tobacco settlement?

A: As we have said many times, the federal government has an obligation under federal Medicaid law to recoup part of the state settlements, and the agencies will take appropriate administrative action to do so. We hope to pass tobacco legislation this year that will include a provision, agreed to by the states, under which the federal government will waive its claims to state money in exchange for a commitment by the states to use a certain portion of the money for specified activities, including public health and children's programs.

Tobacco Q&A
January 20, 1999

Q: What did the President announce last night?

A: The President announced that the Justice Department is preparing a litigation plan to take the tobacco companies to court for smoking-related federal health care costs. The Justice Department, after studying this matter for several months, has determined that the tobacco companies' potential liability is massive and that there are appropriate bases for recovery, and the Justice Department is putting together a task force to make decisions on the best way to bring litigation.

Q: What claims will the suit assert? What damages will it seek? Will there be more than one suit?

A: These are matters for the Justice Department's task force to determine. The Justice Department has noted two possible theories on which to proceed: the Medical Care Recovery Act and the Medicare Secondary Payer Act. And possible costs to be recovered include those under Medicare, the Federal Employee Health Benefits program, military and veterans benefits, and the Indian Health Service. But these are all matters that will be evaluated and decided on by the Task Force, and in general we will not be discussing our litigation strategy in public.

Q: When will the suit be brought?

A: This is a matter for the Justice Department's task force to determine. Litigation will be brought when the Justice Department is fully prepared to do so.

Q: Hasn't the Justice Department been looking at this for a long time? Why did it suddenly reach this decision?

A: The Justice Department has been reviewing this matter since the collapse of tobacco legislation last summer. After careful consideration and vigorous debate, the Justice Department concluded that there were viable grounds to recover tobacco-related health care costs from the companies.

Q: Did the President direct the Attorney General to bring this suit?

A: No. The Justice Department made this decision, based on its analysis of the relevant legal questions. The President of course supports the Attorney General's determination.

Q: Did the White House talk to the Justice Department about bringing the suit?

A: The Justice Department did keep the White House lawyers apprised of its analysis, and White House lawyers asked questions and offered views as appropriate. It was always clear that any decision to proceed with tobacco litigation would be made by the Attorney General.

Q: But did the White House lawyers try to persuade the Justice Department to bring the suit?

A: All the lawyers -- both from the Justice Department and from the White House -- were trying to understand and analyze the issues involved as completely as possible. The White House lawyers always understood that this would be the Attorney General's decision, and did not try to engage in any "arm-twisting."

Q: Who will be handling this litigation in the Justice Department?

A: The litigation will be run out of the civil division, although other units of the Justice Department may also play a role in particular aspects of the litigation.

Q: How does this litigation relate to the federal government's claim for recoupment of a portion of the states' settlement money?

A: There is no connection at all between the two things. The task force will be evaluating claims against the tobacco companies, <u>not</u> the states. Issues concerning recoupment of the state settlements are entirely separate and distinct.

Q: Why is the President suing the tobacco companies <u>and</u> asking for a tax increase to reimburse the federal government for the costs of tobacco-related disease. Isn't this double-dipping?

A: First, the tax increase will reimburse the government only for the non-Medicare costs of tobacco-related disease in the future. It would not reimburse the government for Medicare costs or for <u>any</u> past costs. Second and more important, these are different kinds of decisions. The Justice Department's determination to proceed in this area follows from its analysis of the tobacco companies' potential liability to the government. The decision to seek an increased tax, which was made in the White House, followed from our public health objective of reducing youth smoking.

Tobacco Q&A
January 19, 1999

Q: **What did the President announce in the State of the Union regarding a federal tobacco lawsuit?**

A: The President announced that the Department of Justice intends to sue the tobacco industry to recover federal tobacco-related costs, and is now developing a litigation plan and creating a task force to prepare the litigation.

Q: **What will the suit allege?**

A: The Department of Justice has determined that the federal government has viable and significant claims against the tobacco industry. The Department is in the process of determining what claims to allege, what theories to rely on, how many suits to bring and where to bring them. The Department does not intend to comment on these matters as it prepares the litigation.

Q: **When will the Justice Department bring suit?**

A: When the Department has completed its preparations. Doing this right is more important than doing it quickly.

Q: **Hasn't the Justice Department been looking at this for a while? What's really new here?**

A: What's new is that the Justice Department has decided there are viable grounds for recovery under current law, and the Department is launching a formal task force to develop a lawsuit. The Justice Department will be committing significant resources to this effort.

Q: **How does the Justice Department intend to pay for bringing this massive litigation?**

A: The Department will fund this litigation out of its current budget at this time. The President's FY 2000 budget includes a request for $20 million to fund the Department's efforts.

Q: **Isn't the federal government getting greedy? Not only do you want a share of the state suits and an additional 55 cents per pack tax, but you're also going to sue the industry?**

A: The President is proposing a 55 per pack price increase to meet his goal of reducing youth smoking. This price increase is essentially last year's proposal ($.62-$1.10) adjusted for the fact that state settlements have already produced an increase in the price of tobacco products (around $.40).

In addition, the President believes that taxpayers should not pay the costs imposed on the federal government by the tobacco industry -- the tobacco industry should. The 55 cent price increase proposed by the President will pay for this year's tobacco-related costs in the Department of Defense, the Veterans Administration, the Federal Employees Health Benefits Plan, and the Indian Health Service, but it will not cover any past costs for these programs or any past or present costs in the Medicare program.

This suit is not against the states for a portion of their settlement money. But because federal taxpayers pay 57 percent of Medicaid costs, we are obliged under federal Medicaid law to recoup part of the state settlements. As we have said many times, we hope to reach an agreement this year to enact legislation to waive our claims to state money in exchange for a commitment by the states to use tobacco money for specified activities including public health and children's programs.

→BUDGET OVERLAP

Tobacco Q & A

What exactly did the President announce in the State of the Union address?

The President announced that the Department is developing a plan to bring the tobacco industry to court to recover federal expenditures caused by tobacco use. Tobacco-related illnesses cost the taxpayers over $ ___ billion per year. This is an unprecedented potential liability and the Department believes that there are viable grounds on which to seek recovery.

What does the President's announcement actually mean?

After reviewing the relevant facts and law, the Department has determined that there are a number of appropriate bases on which to recover from the tobacco industry for federal health care expenditures. We are now committing additional resources and increasing our efforts to prepare a plan to bring law suits, where appropriate.

Hasn't the Department been looking at this for a while?

The Department has looked at these issues at different times in the past and has been actively reviewing the factual and legal issues since the failure of comprehensive tobacco legislation in the last Congress.

What has changed now?

The Department is forming a task force to prepare to litigate to recover these costs. This task force will make decisions on the scope and types of cases that we will pursue.

Has the Department definitely decided to sue?

Yes. Final decisions about when and where to file the lawsuit or suits will be made after the task force completes its assessment, but at this time the Department believes that there are viable grounds for recovery under federal law.

Could the task force ultimately decide not to file litigation?

I don't want to tie the task force's hands, but we believe that there are viable grounds for recovery under current law.

On what theories will the United States base its recovery?

The task force will, of course, make decisions about appropriate theories to pursue. There is no question, however, that the United States has the authority to pursue recovery for those who injure recipients of federal health care benefits under the Medical Care Recovery Act, 42 U.S.C. §§ 2651-53, which permits recovery from those who commit a tort that causes the federal government to pay out health care benefits, and the Medicare Secondary Payer Act, 42 U.S.C. § 1395y(b), which permits the United States to recover from those responsible to pay, under appropriate circumstances, for injury done to recipients of Medicare. [We will not comment further on potential theories at this time.]

Will the United States take the same approach as the States?

We have extensively reviewed the theories pursued by the States and may pursue some of the same theories, but federal law provides other avenues for recovery as well. The task force will assess all available theories and develop the most effective litigation plan.

It has been suggested that the federal government could only pursue recovery one smoker at a time. Does the Department agree with this assessment? Wouldn't this make a recovery burdensome and inefficient?

As I indicated, the task force will review and decide such questions prior to filing any suit.

When/Where will these lawsuits be filed?

These decisions will be made by the task force, but they will be working to bring appropriate suits as soon as possible.

Who will serve on the task force?

The task force will be run out of the Department's Civil Division, but will draw on other Department components as well.

Who will head the task force?

The Civil Division will head the task force with DAAGs Phil Bartz and Donald Remy supervising. We have already begun to pull the task force together. ?

Will the task force be located in the same place?

Yes. We have located office space and are working out the details.

Will you hire outside attorneys, like David Boies in the Microsoft case?

It is a possibility. There are a number of attorneys with significant experience litigating against the tobacco industry who could be a valuable part of this team.

Will the Department pay outside attorneys on a contingent fee basis?

No.

The litigation will be a major undertaking. Does the Department currently have the resources that it needs to pursue this litigation?

The Department will be working with existing resources this year, but will seek additional resources in FY2000 [Can we say this?]. Yes

Will the Department build on evidence compiled by the states in bringing their litigation – for example, the evidence uncovered by Minnesota demonstrating that the tobacco companies worked together for years to hide the dangers associated with tobacco use?

Yes. As a result of the State lawsuits, there are millions of pages of documents that have been made public. These documents demonstrate that the tobacco companies have targeted children and hidden the addictive and dangerous nature of their product. The task force thus will build on this effort in developing its suits.

What programs will the Department seek recovery for?

The United States provides health care benefits through a wide variety of programs, including Medicare, Veterans' benefits, benefits to members of the armed services, CHAMPUS, the Federal Employee Health Benefits program, and the Indian Health Service. The task force will look at all of these programs.

Hasn't the tobacco industry paid enough? $200 billion to the states?

The states were recovering money expended under the Medicaid program. The President's announcement relates to a plan to recover funds expended under other federal programs, where the federal government pays directly for directly. The amount of money paid out by the federal government ~~under various~~ programs is even larger than that paid out by the states through the Medicaid programs. ?

Will the Department sue the states to recover its share of Medicaid dollars?

The President's announcement had nothing to do with the state settlement and the task force will not be involved in recovery of Medicaid dollars. Those decisions are to be made in the first instance by HHS.

Why did the President and not the Attorney General announce this initiative?

This is an unprecedented liability that we believe is owed to the United State treasury and is a enormous commitment of resources. It is thus a matter significant enough to warrant a Presidential announcement.

Isn't this a violation of Department of Justice policy?

No. We are announcing the formation of a task force to review these issues. The fact that the President chose to announce this simply underscores the importance of our effort and the massive potential liability that is owed to the federal government.

Isn't it odd to announce a plan to bring lawsuits before actually bringing them? Isn't this unfair to the tobacco companies?

It may be unusual, but, as has long been recognized with respect to the lawsuits brought by the states, the tobacco industry's potential liability for government provided health care is unprecedented. Any effort to recover this money is similarly unprecedented. [In addition to its significance, we needed to announce our intention because we will be seeking additional funding from Congress for FY2000 as the task force continues its efforts]. ok

Aren't you concerned that this task force will be viewed as a political move?

Politics has nothing to do with the formation of the task force. The Department believes that there are viable theories on which to recover a massive amount of money owed to the federal treasury. The states have already settled their claims with the tobacco industry for approximately $200 billion dollars. The federal government has paid out many times that amount over the last 40 years in medical care arising out of tobacco use.

Isn't this just extortion? Isn't the administration just trying to force the tobacco industry back to the bargaining table in Congress?

No. We are basing the formation of the task force on our review of the facts and law, not on anything else. The Department believes that there are viable theories on which to recover a massive amount of money owed to the federal treasury. That the tobacco industry has already settled similar claims against the states for approximately $200 billion dollars should demonstrate the appropriateness of this course of action.

Tobacco Q&A
January 15, 1999

Q: Is the Administration proposing to raise the price of a pack of cigarettes by 55 cents, as reported in several newspapers?

A: Yes -- the Administration will propose to increase the federal excise tax on cigarettes by 55 cents. In addition, we will propose to accelerate already enacted excise tax increases to FY 2000. All proceeds from these proposals would go to reimbursing the government for the direct health care costs it incurs as a result of tobacco smoking.

Q: The New York Times reported today that the Administration will use a tobacco tax to fund a wide variety of social programs in this year's budget. Is that accurate?

A: Absolutely not. Every cent of the tobacco tax will pay for health care costs that the federal government incurs each year as a result of tobacco smoking. Specifically, all this money will fund the costs that the Department of Defense, the Veterans Administration, the Federal Employee Health Benefits Plan, and the Indian Health Service incur each year to treat tobacco-related disease. We learned from the experience of last year, and we made sure that every penny of this money is tied to tobacco-related health costs.

Q: But won't that free up other money in your budget to pay for the Administration's social programs? After all, money is fungible?

A: The simple point is this: if Congress passes the Administration's proposal, the tobacco companies will pay for the costs that the federal government incurs as a result of smoking. By contrast, if Congress fails to pass this proposal, the taxpayers will pay for those costs. What our budget proposal does is to shift the costs of tobacco from every taxpayer in the country to the tobacco companies. That's exactly what the state tobacco suits did, and that's what our budget does as well.

Q: How did you arrive at the figure of 55 cents a pack?

A: This is the figure that will allow us to meet the President's goals for reducing youth smoking. It is essentially last year's proposal ($.62-$1.10) adjusted for the fact that the state settlements have already produced an increase in the price of tobacco products (around $.40).

Q: What will the budget do with respect to federal recoupment of money from the state tobacco settlements?

A: As several newspapers have reported, the Administration does not budget any monies from recoupment in FY 2000 (the first year of the budget), but does assume recoupment of some state settlement monies in the outyears. This is designed to give us a year to do what the President has long said he wants: work with Congress and the states to reach an agreement, in the context of tobacco legislation, on the appropriate uses of this money. As we have said many times, we have an obligation under federal Medicaid law to recoup part of the state settlements and we will take appropriate administrative action to do so. But because we hope to reach an agreement this year with the states and Congress on resolving these federal claims, we did not want to book and spend these monies in the first year of the budget.

[Note: If you are not completely sure you understand the recoupment issue, you should refer all questions to Jack, Bruce, or Elena.]

Q: How do you intend to spend the recoupment monies that the Administration is budgeting in FY 2001 and later years?

A: The budget will not say how these monies will be spent. Remember that the budget begins to book this money only in 2001, so there's no immediate need to designate this money to particular purposes. Instead, we will wait to see if we can reach agreement on this question with the states and Congress. As we have said many times, we hope to reach an agreement this year waiving our claims to state money in exchange for a commitment by the states to use tobacco money for specified activities including public health and children's programs. We expect future budgets to reflect this agreement.

Tobacco Q&A
January 14, 1999

Q. What steps is the Administration considering to protect farmers from the negative impact of an increase in tobacco taxes?

A. The Administration remains committed to protecting tobacco farmers and their communities, and strongly supports on-going efforts by state, farmer, and industry representatives to provide resources and purchase commitments to tobacco farmers. Farmers who never marketed cigarettes to children and worked hard to sell a legal crop should be protected. The Administration looks forward to working with all parties as this process continues, including Members of Congress, to ensure the financial well-being of tobacco farmers, their families, and their communities.

Tobacco Q&A
January 14, 1999

Q: Is the Wall Street Journal correct in reporting today that the Administration will propose to raise the price of a pack of cigarettes by 55 cents?

A: The Journal report is generally accurate with respect to the Administration's proposals to raise the price of cigarettes and thereby reduce youth smoking. As the Administration's budget will show, all proceeds from this price increase would go to reimbursing the government for the direct health care costs it incurs as a result of tobacco smoking.

Q: Is the Wall Street Journal accurate in reporting that the Administration's budget assumes recoupment of some state settlement monies in FY 2001 and afterward, but not in FY 2000 (the first year of the budget)?

A: The Administration has long said that it has an obligation under federal law to recoup a portion of the state settlements. We also have said, however, that we are open to working with Congress and the states to resolve these valid federal claims in the context of tobacco legislation. The budget is consistent with this longstanding position: it makes clear that the federal government has a rightful claim to a portion of the state settlements, but also gives everyone some time to see if these claims can be resolved in a mutually acceptable fashion as part of a bill to reduce youth smoking.

Q: What does the Administration think of the information reported in this weekend's New York Times that some states are considering spending tobacco settlement funds on non-health items, such as roads and tax cuts? And is the Administration going to claim a share of the recent tobacco state settlement?

A: The President has always said that tobacco settlement funds should be spent to promote public health and assist children. Under current law, the federal government is obligated to recoup a portion of these tobacco recoveries, and the Administration will proceed in accord with that statutory obligation. The President, however, has made clear that he is open to working with the states to enact tobacco legislation that, among other things, resolves these federal claims in exchange for a commitment by the states to use tobacco money for specified activities including public health and children's programs.

Q&A
July 30, 1998

Q. What does today's new study from the Centers for Disease Control on tobacco say?

A. Today's study indicates that cigarette price increases would lower smoking rates and improve public health. It also indicates that the decrease in smoking rates would be particularly great for lower income, minority, and younger populations. Controlling for important factors like income and education, blacks are twice as responsive as whites to price increases and Hispanics are even more price responsive. About one quarter of 18-24 year old Hispanic smokers and approximately 10 percent of 18-24 year old black smokers are estimated to quit smoking altogether in response to a 10-percent price increase, with the effect of price on smoking rates declining with age. The study examined data on adults only.

Q. The study measures "price elasticity". What does that mean?

A. Price elasticity measures the amount of decrease in consumption that occurs from a 1% increase in price. The CDC found an overall price elasticity of -0.25. This means that for every 10% increase in the price of cigarettes, overall consumption goes down 2.5%.

Q. During deliberations on the McCain bill, the Department of Treasury maintained that the total price elasticity on cigarettes is -0.45. Doesn't the current study, which estimates a total price elasticity of only -0.25, undermine the Treasury estimate?

A. No. The reported overall price elasticity of -0.25 is only slightly smaller than the commonly reported consensus range of -0.3 to -0.5 and the point estimate used by the Department of Treasury, and is broadly consistent with the range of -0.25 to -0.5 used by the Congressional Budget Office in their analyses of possible tobacco settlement legislation. Additionally, the methods used in this study may have underestimated the full or long-term price effect on adult smokers. Another study -- by Nobel-prize winning economist Gary Becker -- used similar data but a slightly different approach, and found a short-run elasticity of about -0.4 and a long-run elasticity of about -0.75, illustrating that the effect of a price increase could get larger over time. The CDC study only examined short term effects.

As C.O. noted in its review of the data, "the estimated price elasticities vary from study to study because no two estimates are based on exactly the same population, time period, definition of smoking, control variables, model of price response, or statistical model." In this light, the CDC's overall price elasticity of -0.25 is broadly consistent with other studies of price elasticity.

Q. Don't the results of this study, which says that Blacks are more likely to quit than whites in response to a price increase, contradict the recent study which said that Blacks have higher nicotine levels in their blood, making it more difficult to quit?

A. These are difficult questions, and we need far more research in this area before we can fully understand these complex issues. This research will someday enable us to target interventions to particular communities in order to help people quit and to prevent young people from smoking in the first place. That is why the President's call for a significant increase in funding for medical research is such a critical component of comprehensive tobacco legislation designed to reduce youth smoking.

Q. Do you think that today's study will have any impact on the prospects for tobacco legislation in Congress?

A. This new study should make it even more clear to the American people why we need comprehensive federal legislation to prevent young people from smoking before they start. Such legislation needs to significantly raise price of cigarettes to reduce teen smoking, give FDA full authority over tobacco products, impose heavy surcharges on tobacco companies that keep marketing cigarettes to young people, and contain significant funding for critically important counteradvertising programs, smoking cessation, and medical research.

Press Contact at the Centers for Disease Control: Sylvia Rosas (770) 488-5493.

Tobacco Q & A
June 19, 1998

Q. Why did the President today express opposition to a "skinny" tobacco bill? Why do you need a comprehensive bill?

A. We do not want a bill written by the industry that fails to take meaningful steps to reduce youth smoking. We want a comprehensive bill that will protect children, not the industry -- a bill that will make a real dent in youth smoking. Every day, 3000 children and adolescents begin smoking, and 1,000 will die prematurely as a result. Experts agree that in order to dramatically reduce youth smoking we need to take a comprehensive approach that will attack the problem from a variety of angles.

- Price: All experts agree that the single most important step we can take to reduce youth smoking is to raise the price of a pack of cigarettes significantly. That is why the President has proposed raising the price of cigarettes by $1.10 over five years -- an increase that both the Treasury Department and the Congressional Budget Office agree should cut youth smoking by about a third.

- Advertising: Studies show that industry advertising significantly contributes to youth smoking rates. The Treasury Department has estimated that the advertising and marketing restrictions in the McCain bill should cut youth smoking by about 15 percent. This is a conservative estimate: an American Medical Association study recently found that a full 34% of teen smoking is attributable to promotional activities.

- FDA Jurisdiction: Reaffirming the FDA authority over tobacco products is necessary to help stop young people from smoking before they start. Currently, nearly 90 percent of people begin smoking before age 18, despite the laws that make it illegal to sell cigarettes to minors.

- Access: To ensure underage children don't have access to tobacco products, legislation must require verification of age by photo ID for anyone 26 or younger, require face-to-face sales, and ban vending machines except in adult only facilities. Legislation must include funds to ensure compliance with these access restrictions.

- Surcharges: Strong lookback surcharges will act as an insurance policy to ensure that the tobacco industry takes meaningful steps to reduce youth smoking. If the bill's provisions on price, advertising, and FDA jurisdiction do not bring youth smoking down as much as expected, penalties will kick in to ensure that the industry has every incentive to take further action to reduce youth smoking.

All of these measures support and reinforce each other; all are necessary to ensure that legislation dramatically reduces youth smoking.

Tobacco Q&A
June 17, 1998

Q. If this bill does not pass the Senate, what will you do? Will you support other tobacco legislation?

A. We are confident that the McCain bill will pass the Senate. It is a good strong bill with bipartisan support that will cut youth smoking in half and save a million lives over the next five years. The Senate has also resolved three issues that Republicans cared very much about -- namely, using funding under the bill for tax cuts and anti-drug efforts, and limiting attorneys' fees. There is now no reason for the Republicans to vote against this legislation. If they come out of today's closed-door meeting determined to kill the bill, it can only be because of the strong influence -- and the large contributions -- of the tobacco industry.

Q. What is your position on Senator Gorton's amendment to the tobacco bill on attorneys fees which passed the Senate yesterday? Doesn't this just function as a form of liability protection for the tobacco companies, as today's Los Angeles Times reports?

A. The President's overriding priority is ensuring that tobacco legislation promotes the public health. He does not view the issue of legal fees as central to this effort, and he has not made a specific proposal on how the legislation should handle legal fees. In general, he believes that the lawyers who brought the tobacco suits should be fairly compensated, but that they should not be paid out of proportion to the work they actually did and the risks they actually undertook. Senator Gorton's amendment only surfaced very recently and we have not had a chance to review it carefully, but we will do so.

Q. What is the Administration's position on the tobacco farmers' provisions under debate today in the Senate?

A. The Administration strongly supports the LEAF Act sponsored by Senators Ford and Hollings. That measure would maintain a tobacco control program and provide appropriate levels of funding for farm programs. The LEAF Act would guarantee stable prices for small farmers, control the amount of tobacco grown in the United States, offer farmers the option of having their tobacco quotas bought out, and provide adequate funding for economic transition for rural communities. The Administration does not support the legislation sponsored by Senator Lugar. That legislation would end the tobacco program at a cost of $18 billion over the next three years. The Lugar measure would lead to increased production of tobacco in the United States, destabilize prices for small farmers, and require large cuts in health spending pending in the McCain legislation. Indeed, the Lugar measure would require health research and public health programs in the pending tobacco legislation to be cut by 69% over the next three years.

Q. Is there a possibility of a compromise on tobacco farmer issues? Does the Administration support a compromise?

A. The Administration strongly supports a compromise on the tobacco farmers issues and believes one is possible. Legislation can protect tobacco farmers and their communities and at the same time work to reduce youth smoking. We understand that Senator Ford has reached out to Senator Lugar and others and we are hopeful that they will eventually be able to reach agreement.

Tobacco Q&A
June 11, 1998

Q. How do you react to the editorial in today's Washington Post stating that the McCain legislation is turning into a "shell" given the tax and anti-drug votes?

A. The tobacco policy contained in the bill is extremely strong and in fact has gotten stronger during Senate consideration. The bill will save a million lives over the next five years by raising the price of cigarettes by $1.10, reaffirming the FDA's full authority over tobacco, protecting all Americans against environmental tobacco smoke, and imposing even stronger lookback surcharges on tobacco companies if youth smoking does not decline by 67% over the next decade. The bill also still contains substantial funds for critically important counteradvertising programs, smoking cessation, and medical research. It is true that significant differences over spending exist, and we will make every effort as we make progress on this bill to fund our health priorities and ensure that we rein back irresponsible tax cut proposals. But we should remember that this bill contains extremely strong provisions to reduce youth smoking and that this has always been the President's first priority. We will have time to work through the spending issues, and we believe it is critical that this strong tobacco bill move forward.

Q. What is your reaction to the vote on the Gramm amendment?

A. We opposed the Gramm amendment: it absorbs too much of the funding from the tobacco trust fund; it is insufficiently targeted; and most important, it may take funds from the surplus, which the president believes must be saved until we have protected social security. We will work hard over the coming weeks and months to ensure that any tax cut is fully paid for and does not come out of general revenues, in line with the President's priority of protecting Social Security first.

Q. Would the President veto the legislation over the Gramm amendment?

A. We do not think it will come to that. We will work hard over the coming weeks and months to ensure that any tax cut is fully paid for and does not come out of general revenues, in line with the President's priority of protecting Social Security first. There is plenty of time to work this through as we continue to move forward on this important public health legislation.

Q. Do you support the Kerry-Bond amendment to the tobacco legislation to increase funding for child care, which Senator Kerry discussed on the floor this morning?

A. We have no position on that amendment. The President is satisfied with the child care funding currently in the bill.

The McCain bill provides that 40 percent of funds received will go to the states, totaling

$196.5 billion over 25 years. Half of these state funds must be used for designated programs to enhance the health and well-being of children and families most in need, including child care. If states were to spend their restricted funding in proportion to current expenditures (and use 6% for the Children's Health Insurance Program), at least 40% of the funds, or over $5 billion over 5 years, could go to child care.

Tobacco Q&A
June 9, 1998

Q: Doesn't the cloture vote today in the Senate show that the tobacco bill -- and with it, much of your domestic program -- is dead for this year?

A: I don't believe so. Just yesterday, the House Commerce Committee released additional documents showing that the tobacco companies knew their products were harmful and addictive -- but other documents have shown us that the companies continued marketing those products to children. As we take votes over the course of this year, both in the House and in the Senate, information of that kind is going to force Congress to act, and to do so on a bipartisan basis. One vote is not going to end the debate. After all the positioning and maneuvering and partisan bickering, we will still have a problem that the American people will demand that their government address. And I am confident that over the next months, we will find a way to do exactly that, by enacting bipartisan comprehensive tobacco legislation to reduce youth smoking.

Q. What is your position on the amendments to the tobacco bill that would provide tax cuts to married people?

A. I am skeptical of attempts to divert funding away from public health and medical research for a tax cut. I am concerned that these amendments will endanger our priorities -- namely, providing for smoking cessation and prevention, counteradvertising, research into smoking related diseases such as cancer and heart disease, assistance to farmers and farming communities, and reimbursement to the states for their expenditures for smoking-related illnesses. Of course, tax cuts come in different shapes and sizes, and some would jeopardize my health care priorities more than others. For this reason, I very much prefer Senator Daschle's amendment to Senator Gramm's amendment, because it is reasonably sized, because it includes a tax cut for some health care costs, and because it is better targeted to families who actually have a marriage penalty.

Q. What is your position on the Craig/Coverdell anti-drug amendment to the tobacco bill?

A. Drug abuse among youth is a deadly serious issue, and I welcome discussions with Congress about how to make further progress in this area. But we should not allow people to manipulate the drug issue -- and other issues even further afield from the main concern of this bill -- to kill tobacco legislation. The Craig-Coverdell amendment includes numerous provisions that have nothing to do with youth smoking, including school voucher proposals and anti-union provisions. We must focus in this bill on reducing youth smoking and not allow Members of Congress to inject poison pills that have nothing to do with this issue..

Q. What is your view of activity on tobacco legislation in the House?

A. As you know, the House leadership has been waiting to see what the Senate will do, so not as much progress has been made there as I would have liked. But even in the House, the momentum is building. Representatives Hansen, Meehan and Waxman have proposed a good bipartisan bill that has over 90 co-sponsors. I look forward to working with them and all of their House colleagues once Senate action is completed to pass comprehensive tobacco legislation. I believe House members will produce a bill soon because they know that if they do not, the American people will hold them accountable.

Tobacco Q&A
June 2, 1998

Q: Does the President support the Gramm amendment to the tobacco bill?

A: No, because the Gramm amendment would prevent the legislation from achieving important health goals. The McCain Manager's amendment contains $59 billion over 5 years for health research and public health programs, assistance to farmers and their communities, and the states. Under the Gramm amendment, $46 billion would go to tax cuts, reducing the funding available for these other important purposes by 78 percent.

The Gramm amendment would eviscerate funding for critical public health programs such as smoking cessation, education and counteradvertising. This would significantly undermine efforts to reduce youth smoking in this country and help adults who want to quit. Critical funding for medical research would also be cut drastically, including research into smoking-related diseases such as cancer and heart disease. The amendment would also leave very little funding available for the states. Thus, states would be expected to forgo their claims in court and receive, in exchange, only minimal compensation for their enormous expenditures related to smoking-related illnesses. Finally, the amendment would leave almost nothing left over for tobacco farmers, who have done nothing wrong and who deserve to be compensated for the losses they will suffer as a result of tobacco legislation.

Background information: The Gramm amendment would cost approximately $46 billion over 5 years. It would provide a tax deduction of $3,450 to married couples filing a joint return with incomes below $50,000. Because couples in this income range are in the 15 percent tax bracket, the deduction would be worth about $518 per year. It is billed as an amendment to eliminate the marriage penalty, but it actually provides an across-the-board tax cut to all married couples with incomes under $50,000, regardless of whether they actually experience a marriage penalty under the tax code.

Q: Would the President consider a less costly effort to lessen the marriage penalty?

A: Our priority is to ensure adequate funding for public health programs to reduce youth smoking and health research to cure tobacco-related diseases, while also providing states and tobacco farmers with the compensation they deserve. While the President has a strong record of providing low- and middle- income Americans with tax relief, he will not jeopardize his youth smoking goals by supporting irresponsible tax cuts in the context of this legislation. If someone proposes a targeted and reasonable sized tax proposal that does not interfere with these goals, of course the Administration will review it. But so far, we have not seen any such proposals; the tax cuts being talked about now are cuts that will severely undermine the core purposes of this legislation.

Q: Does the President support the Durbin amendment?

A: The President is satisfied with the lookback surcharges currently in the bill. As you know, the President believes that tobacco legislation should include company-specific surcharges to provide incentives to reduce youth smoking, and in negotiations with Senator McCain before he brought the bill to the floor, we managed to add a strong company specific youth lookback surcharge. The provision imposes a company-specific surcharge of $1000 per percentage point by which the company misses its youth smoking reduction target -- which amounts to two times the profit of hooking a teenager. In light of this agreement with Senator McCain, we are not supporting the Durbin amendment. However, because we recognize that reasonable people may differ as to how best to structure these incentives, we also are not opposing it.

Background Information: The Durbin amendment cuts the industry-wide surcharge, while increasing (but also capping) the company-specific surcharge. In addition, the Durbin amendment would raise the McCain bill's youth smoking reduction targets from 60% over 10 years to 67% over 10 years. See the chart below for more background.

Tobacco Legislation Youth Lookback Provisions

	McCain	**Durbin Amendment**
Youth Smoking Reduction Targets	15% in years 3-4 30% in years 5-6 50% in years 7-9 60% in years 10 and beyond	20% in years 3-4 40% in years 5-6 55% in years 7-9 67% in years 10 and beyond
Surcharges		
1. Industry-wide	$80 million for the first 5 percentage points by which the industry misses the target, $160 million for the next five, and $240 million for each point thereafter.	$40 million for the first 5 percentage points by which the industry misses the target, and $120 million for each point thereafter.
2. Company-specific	$1000 for each teen by which the company misses its youth smoking reduction target. This figure (which is equivalent to about $64 million per percentage point) represents twice the forgone profits of hooking a teen.	$80 million per percentage point for the first 5 percentage points, and $240 million per percentage point thereafter. This figure represents approximately 2.5 times forgone profits for the first 5 percentage points, and about 7.5 times foregone profits for the next 19 percentage points. After that, the cap (see below) kicks in to prevent additional surcharges.
Caps on Payments		
1. Industry-wide	$4 billion	$2 billion
2. Company Specific	None	$5 billion

Tobacco Q&A
May 22, 1998

Q: What does the Senate vote in favor of the Gregg amendment to strip the liability provisions mean for the McCain bill?

A: It's a bump in the road, not something that will have long-term consequences: we have every expectation that the Senate will pass the McCain legislation when it reconvenes after the Memorial Day recess. There is no question that the bill is a good, strong bill that will dramatically reduce youth smoking in this country, and we do not believe that this one vote changes the outlook for its passage. Many of those who voted for the Gregg amendment in the Senate hoped to kill the bill, but many others are very committed to passing comprehensive tobacco legislation to reduce youth smoking. We believe that a majority of the Senate will stand with the public health community and say "no more" to tobacco companies that have preyed upon children for far too long.

Tobacco Q&A
May 20, 1998

Q: What does the President think of the new McCain bill?

A: The President today urged Congress to pass the McCain bill this week. He noted significant improvements in the bill that will help reduce youth smoking and protect the public health, including tougher lookback surcharges, enhanced environmental tobacco smoke protections, improved liability provisions, elimination of the antitrust exemption, and spending for public health, health research, assistance for farmers, and assistance to states, including for child care. The McCain bill, as modified by the new manger's amendment, is a strong bill and the President urged Congress to sign it.

Q. Specifically, what changes were made in the manager's amendment?

A. Our discussions with Senators McCain and Hollings significantly strengthened the bill in all the key areas in which the President had called for improvements. These improvements include:

- Tough industry-wide and company-specific surcharges that will finally make reducing youth smoking the tobacco companies' bottom line;
- Protection for all Americans from the health hazards of secondhand smoke;
- A dedicated fund to provide for a substantial increase in health research funding; a nationwide counteradvertising campaign to reduce youth smoking; effective state and local programs in tobacco education, prevention, and cessation; law enforcement efforts to prevent smuggling and crack down on retailers who sell tobacco products to children; assistance for tobacco farmers and their communities; and funds for the states to make additional efforts to promote public health and protect children; and
- No antitrust exemption for the tobacco industry;
- Strong licensing and anti-smuggling provisions to prevent the emergence of a contraband market and prosecute violators;
- Elimination of special protection for parent companies of tobacco manufacturers, an increase in the annual cap on damages to $8 billion per year, and changes to ensure that legal protections are available only to tobacco companies that change the way they do business, by agreeing to accept sweeping restrictions on advertising, continue making annual payments and lookback surcharges even if those provisions are struck down, make substantial progress toward meeting the youth smoking reduction targets, prevent their top management from taking part in any scheme to promote smuggling, and abide by the terms of the legislation rather than tying it up in court.

Q. How is the spending apportioned in the manager's amendment?

A. The manager's package contains key provisions to fund important public health programs, health research, and assistance for farmers. It also provides funding to states to be used for a variety of programs, including child care.

Approximately 22 percent of expected revenues from the legislation will go to fund research at NIH, CDC, and Agency for Health Care Policy and Research (AHCPR). Another 22 percent will fund smoking cessation programs, prevention and education programs, international tobacco control efforts, and a variety of enforcement efforts at both the federal and state levels to minimize smuggling and crack down on retailers who sell tobacco products to children. All proceeds from lookback surcharges will go to prevention and education programs.

Forty percent of expected revenues will go to states, with half unrestricted and half to be used for designated purposes -- the Child Care and Development Block Grant, the Safe and Drug-Free Schools Program, Eisenhower Grants, child welfare programs (Title IV-B), the Maternal and Child Health Block Grant, Substance Abuse grant programs, and a limited match for the Children's Health Insurance Program. This entire list is directed at the health and well-being of children and families most in need of assistance.

The remainder of expected revenues from the legislation will go to protect tobacco farmers and to provide assistance to their communities, through the mechanisms of the LEAF Act.

Finally, excess revenues will go to the Medicare program.

Q. But how can the President sign a bill that does not contain real funding for child care or his class size initiative?

A. The McCain bill provides that 40 percent of funds received will go to the states, totaling $196.5 billion over 25 years. Half of these state funds must be used for designated programs to enhance the health and well-being of children and families most in need, including child care. If states were to spend their restricted funding in proportion to current expenditures (and use 6% for the Children's Health Insurance Program), about 45% of the funds, or approximately $5.5 billion over 5 years, could go to child care.

Q. Would you support an amendment to raise the price per pack from $1.10 to $1.50? The public health groups believe $1.50 is necessary to reduce youth smoking.

A. The President called for a $1.10 per-pack price increase in his budget, because this is the increase that the Administration estimates is necessary to meet our youth smoking reduction targets. We have not changed this position. The President, however, will sign a comprehensive tobacco bill meeting his principles that contains a $1.50 per-pack price increase.

Q. **How do you respond to the charges of some of the public health groups that you have sold out by supporting a $1.10 per pack increase instead of $1.50, and by not pressing for even stronger provisions in other areas?**

A. Our negotiations with Senators McCain and Hollings significantly strengthened the bill in the key areas where we called for improvements -- namely, strengthening the lookback penalties, including by imposing strong company-specific penalties, strengthening the environmental tobacco smoke protections, eliminating the antitrust exemption, improving the liability provisions, and funding the President's public health priorities. We have always said, starting with our budget, that a $1.10 per-pack price increase will ensure that we meet the President's youth smoking target, and we have no reason to deviate from that position. The President, however, will sign a comprehensive tobacco bill meeting his principles that contains a $1.50 per-pack increase. And if the bill is further strengthened on the floor in other areas, the Administration will hardly object

Q: **Yesterday, Senator Gregg, Dr. Koop, and Dr. Kessler held a press conference calling for the liability cap to be stripped from the tobacco bill. What's the President's position on this?**

A: We vigorously oppose Senator Gregg's amendment to strip the liability provisions from the bill. As revised in the McCain manager's amendment, the liability cap is nothing more than a way to help change the way tobacco companies do business. The new $8 billion annual cap on legal damages will be available only to tobacco companies that agree to accept sweeping restrictions on advertising, continue making annual payments and lookback surcharges even if those provisions are struck down, make substantial progress toward meeting the youth smoking reduction targets, prevent their top management from taking part in any scheme to promote smuggling, and abide by the terms of the legislation rather than tying it up in court. Stripping the cap may well endanger this bill, and we will fight this effort.

Q. **How exactly were the liability provisions improved in Senator McCain's Manager's Amendment?**

A. Senator McCain's Manager's Amendment contains key improvements in the bill's civil liability provisions. These changes include:

- Ensuring that the bill's liability provisions -- i.e., the settlement of state lawsuits and the annual damages cap -- apply only to companies that agree to accept sweeping advertising restrictions and to comply with the key terms of the law, even if those provisions are struck down;

- Raising the annual liability cap from $6.5 billion to $8 billion (the same amount as in the Chafee-Harkin bill), with all damage judgements to be paid by the industry;

- Strengthening the provisions in the bill that link liability protections to the achievement of youth smoking targets, by removing liability protections from a company that misses its targets by 20 percent or more unless it proves that it used best efforts to reduce youth smoking;

- Permitting suits against parent companies and affiliates of tobacco manufacturers, as well as their attorneys;

- Ensuring that individuals with tobacco-related disease can use evidence of their addiction in suits against tobacco companies; and

- Ensuring that tobacco companies cannot escape their obligations by making fraudulent transfers or declaring bankruptcy.

In addition, the manager's amendment retains important provisions from the underlying bill:

- The bill contains no limits on class action lawsuits and does not limit the amount that anyone can recover from a tobacco company; and

- The bill assists plaintiffs who have minimal resources in suing big tobacco companies by creating judicial presumptions that the use of tobacco causes a wide array of diseases.

Q. How have the lookback provisions changed in the Manager's Amendment?

A. Unlike the underlying bill, which contained only industry-wide surcharges, the manager's amendment contains important company specific surcharges that will provide each company with a powerful incentive to change their behavior and stop marketing to kids. In addition, the manager's amendment strengthens the industry-wide surcharge.

- The manager's amendment contains an uncapped company-specific surcharge of $1,000 per youth smoker for every youth smoker by which the company misses its youth smoking targets. This surcharge represents <u>twice</u> the lifetime profits that a company earns from any youth smoker. The companies will not be able to pass these company-specific surcharges onto price, because any price differential between companies will dramatically affect their share of the adult market.

  At the levels specified in the manager's amendment, company specific surcharges will reduce <u>profits</u> by $640 million for every 10 points. The Treasury Department and OMB estimate that a 20-point miss in 2003 would represent one-third of total industry profits. By affecting their bottom line in this dramatic fashion, the company-specific surcharges in the manager's amendment will provide a significant incentive for tobacco companies to change their behavior and reduce sales to children.

- The manager's package also raises the cap on industry-wide lookback surcharges from $3.5 billion per year to $4 billion per year. The Treasury Department and OMB estimate that if targets are not met and the full $4 billion industry-wide surcharge is levied, the price of a pack of cigarettes will rise by about 35 cents.

Q. What do you think of the debate over the competing Hollings and Lugar farmers initiatives?

A. The President has made protecting tobacco farmers and their communities one of his key principles for national tobacco legislation, and he believes that Senator Ford's LEAF Act, which was part of the Commerce Committee bill, fully meets this standard. He supports giving farmers the chance to have their quotas bought out if they so choose, while maintaining a price stabilization program.

The President has significant concerns about Senator Lugar's proposal. He is concerned that it does not provide adequate protections for farmers. He also shares the concerns of some public health groups, including the Campaign for Tobacco-Free Kids, about ending a tobacco control program, because doing so could increase dramatically the amount of tobacco grown in this country -- essentially providing a subsidy to the companies.

Most important, the President urges the Congress to work through this impasse, which was largely caused by procedural gamesmanship, and get on with the business of passing comprehensive legislation to reduce youth smoking.

Q. Are you comfortable with the "watered down" international provisions in the tobacco bill?

A. Smoking is a global health problem, and international tobacco control efforts are an important component of S.1415. However, the 2-cent per pack fee for funding international tobacco control efforts that originally appeared in S.1415 was an unconstitutional tax on exports and the provisions on advertising and marketing overseas as drafted were unenforceable and therefore ineffective. Senator McCain's manager's amendment improves these provisions by authorizing multilateral efforts to control international tobacco use and encourage other nations to adopt youth smoking reduction laws similar to our own.

Q: What is the President's position on capping attorneys fees?

A: The President's overriding priority is ensuring that tobacco legislation promotes the public health. He does not view the issue of legal fees as central to this effort, and he has not made a specific proposal on how legislation should handle legal fees. In general, he believes that the lawyers who brought the tobacco suits should be fairly compensated, but that they should not be paid out of proportion to the work they actually did and the risks they actually undertook.

Q. Why do you focus on tobacco but ignore drugs?

A. We are not by any means ignoring drugs. In fact, under the spending provisions that we negotiated in the McCain bill, states may use their designated funds for substance abuse treatment and prevention programs and the Safe and Drug Free Schools program. In addition, the President has a comprehensive proposal to target drugs. Nobody disagrees about the need to be tough on drug use, but that is no excuse to be less than tough on youth smoking.

Q: What exactly is the President's strategy on drugs?

A. This past February President Clinton released the 1998 National Drug Control Strategy, a comprehensive ten-year plan to reduce drug use and availability by 50% -- to a historic new low. The strategy is backed by a $17 billion anti-drug budget in FY 1999 -- the largest ever presented to Congress, with a $1.1 billion increase over last year's budget.

While the strategy incorporates specific goals and objectives in the areas of drug treatment and prevention, domestic law enforcement, interdiction, and international programs, its number one goal is to educate and enable our youth to reject illegal drugs. That is why the largest budget increases (15% over last year's funding levels) are targeted for this purpose. In contrast, Speaker Gingrich and the House Republicans tried to cut the Safe and Drug-Free Schools program -- the program that funds anti-drug efforts in 97% of the nation's school districts -- by a full 50% just a few years ago.

Key initiatives in the drug strategy include:

Protecting Kids:
- $195 Million National Youth Anti-Drug Media Campaign to make sure that when kids turn on the television or surf the "net," they learn about the dangers of drugs.
- $50 Million for School Drug Prevention Coordinators to improve and expand the Safe and Drug-Free Schools program by hiring more than 1,000 new prevention professionals to work with thousands of schools in preventing drug use.

Strengthening Our Borders:
- $163 Million for Border Patrol to hire 1,000 new Border Patrol officers and for "force multiplying" technology.

- $54 Million for Advanced Technology for the Customs Service to deploy advanced technologies, such as X-ray systems and remote video surveillance.
- $75.4 Million to Support Interdiction Efforts in the Andean region and Caribbean, and to train Mexican counterdrug forces.

Strengthening Law Enforcement:

- $38 Million to Crack Down on Methamphetamine and Heroin by hiring 100 new DEA agents, expanding the Administration's anti-methamphetamine initiative, and targeting heroin traffickers.

Breaking the Cycle of Drugs and Crime:

- $85 Million to Promote Coerced Abstinence to help state and local governments implement drug testing, treatment, and graduated sanctions for drug offenders.

Closing the Treatment Gap:

- $200 Million Increase for Substance Abuse Block Grants to help states close the treatment gap.

Tobacco Q&A
May 19, 1998

Q: What does the President think of the new McCain bill?

A: The President is pleased that the bill contains significant improvements that will help reduce youth smoking and protect the public health, including tougher lookback surcharges, enhanced environmental tobacco smoke protections, improved liability provisions, elimination of the antitrust exemption, and spending for public health, health research, assistance for farmers, and the states, including child care and professional teacher development. The McCain bill, as modified by the new manger's amendment, is a strong bill that meet's the President's principles.

Q: Today Senator Gregg, Dr. Koop, and Dr. Kessler are holding a press conference calling for the liability cap to be stripped from the tobacco bill. What's the President's position on this?

A: We vigorously oppose Senator Gregg's amendment to strip the liability provisions from the bill. As revised in the McCain manager's amendment, the liability cap is nothing more than a way to help change the way tobacco companies do business. The new $8 billion annual cap on legal damages will be available only to tobacco companies that agree to accept sweeping restrictions on advertising, continue making annual payments and lookback surcharges even if those provisions are struck down, make substantial progress toward meeting the youth smoking reduction targets, prevent their top management from taking part in any scheme to promote smuggling, and abide by the terms of the legislation rather than tying it up in court. Stripping the cap may well endanger this bill, and we will fight this effort.

Q. What do you think of the debate over the competing Hollings and Lugar farmers initiatives?

A. The President has made protecting tobacco farmers and their communities one of his key principles for national tobacco legislation, and he believes that Senator Ford's LEAF Act, which was part of the Commerce Committee bill, fully meets this standard. He supports giving farmers the chance to have their quotas bought out if they so choose, while maintaining a price stabilization program.

The President has significant concerns about Senator Lugar's proposal. He is concerned that it does not provide adequate protections for farmers. He also shares the concerns of some public health groups, including the Campaign for Tobacco-Free Kids, about ending a tobacco control program, because doing so could increase dramatically the amount of tobacco grown in this country -- essentially providing a subsidy to the companies.

Most important, the President urges the Congress to work through this impasse, which was largely caused by procedural gamesmanship, and get on with the business of passing comprehensive legislation to reduce youth smoking.

Q. Are you comfortable with the "watered down" regulations on the export of cigarettes in the tobacco bill?

A. Smoking is a global health problem, and international tobacco control efforts are an important component of S.1415. However, the 2-cent per pack fee for funding international tobacco control efforts that originally appeared in S.1415 was an unconstitutional tax on exports and the provisions as drafted were unenforceable and therefore ineffective. Senator McCain's manager's amendment improves these provisions by authorizing multilateral efforts to control international tobacco use and encourage other nations to adopt youth smoking reduction laws similar to our own.

Q: Some Senators plan on offering an amendment to cap attorneys' fees. What is the President's position?

A: The President's overriding priority is ensuring that tobacco legislation promotes the public health. He does not view the issue of legal fees as central to this effort, and he has not made a specific proposal on how legislation should handle legal fees. In general, he believes that the lawyers who brought the tobacco suits should be fairly compensated, but that they should not be paid out of proportion to the work they actually did and the risks they actually undertook.

Tobacco Q&A's
May 15, 1998

Q. Do you support the $1.50 per pack price increase that passed the Senate Finance Committee?

A. The President called for a $1.10 per-pack price increase in his budget, because this is the increase that the Administration estimates is necessary to meet our youth smoking reduction targets. We have not changed this position. We are, of course, extremely pleased that the Senate Finance Committee recognized that a substantial price increase is necessary to reduce youth smoking. The President certainly will sign a comprehensive tobacco bill meeting his principles that contains a $1.50 per-pack price increase.

Q. What have you been up to in your discussions with Senator McCain? What have you agreed to?

A. Over the past week we have been engaged in fruitful discussions with Senators McCain and Hollings on a manager's amendment that will make key improvements to the bill. We have pressed for changes to the bill that will (1) substantially strengthen the lookback penalties by raising the cap on industry-wide payment and establishing significant, uncapped company-specific penalties; (2) significantly strengthen the environmental tobacco smoke protections; (3) raise the liability cap and eliminate many of the related liability protections; (4) narrow the antitrust exemption; and (5) create a scheme to apportion funds in order to meet the President's public health priorities.

Q. Haven't you caved on the President's demands that a significant portion of the state funds go to child care?

A. At the very least, some portion of the funds going to the states will have to be spent on a designated list of items, which will include both child care and class size reduction. We expect states to spend a significant a portion of their funding in these two areas. We also expect an amendment to come to the floor designating additional funding for child care. While we have not seen the text of the amendment yet, we expect to support it.

Q. How do you respond to the charges of some of the public health groups that you have sold out by supporting a $1.10 per pack increase instead of $1.50, and by not pressing for even stronger provisions in other areas?

A. Our discussions with Senators McCain and Hollings will significantly strengthen the bill in the key areas where we called for improvements -- namely, strengthening the lookback penalties, including by imposing strong company-specific penalties, strengthening the environmental tobacco smoke protections, narrowing the antitrust exemption, improving the liability provisions, and funding the President's public health priorities. We have always said, starting with our budget, that a $1.10 per-pack price increase will ensure that we meet the President's youth smoking target, and we have no reason to deviate from that position. The President certainly will sign a comprehensive tobacco bill meeting his principles that contains a $1.50 per-pack increase. And if the bill is further strengthened on the floor in other areas, the Administration will hardly object

Tobacco Q&A
May 11, 1998

Q. How do you react to criticism from veterans groups regarding the $10.5 billion cut in VA benefits for smoking related illness?

A. The FY 1999 budget reverses a 1997 Department of Veterans Affairs General Counsel opinion that veterans are entitled to disability benefits for smoking-related disabilities acquired *after* service and due *solely* to nicotine dependence begun in the military. These benefits would cost $17 billion over five years. The Administration strongly supports veterans compensation, but these are not traditional VA benefits, and veterans never had them before the GC opinion. There is no question that we should compensate veterans for smoking-related illnesses that became manifest during military service. However, awarding compensation for tobacco-related illnesses acquired after military service -- frequently decades later -- goes well beyond the purpose of the veterans disability program. Nowhere else does the US government assume liability and provide compensation for tobacco use. In fact, Congress already took similar action in 1990 regarding benefits for illnesses related to drug and alcohol use during military service. In line with this approach, the budget instead contains $87 million annually to fund a new smoking cessation program for all veterans who began smoking in the military.

Tobacco Q&A
May 11, 1998

Q. How do you respond to Senator Nickles' analysis which says that the McCain bill will actually cost the tobacco companies $753 to $869 billion over 25 years, instead of the $516 billion that you assert?

A. Senator Nickles is playing games with numbers to try to prevent Congress from passing comprehensive tobacco legislation. The main reason why Senator Nickles' price is so high is that he is using inflated -- not constant -- dollars. But this debate has always been framed in terms of uninflated dollars, which is the only fair way to analyze this question. Senator Nickles is just trying to make the McCain bill look larger than it is. Under Senator Nickles' logic, the cost of the AG's settlement would rise from $368.5 billion to $539.9 billion over 25 years. In addition, Senator Nickles' analysis assumes that the industry will face maximum penalties for failing to reduce youth smoking, even though that is entirely under the industry's control and we expect these payments to be far lower. It is time that the Republican leadership stop playing games and get serious about passing bipartisan comprehensive tobacco legislation designed to reduce youth smoking.

Tobacco Q&A
May 6, 1998

Q: I understand Minnesota may be close to settling its tobacco lawsuit. If there is a settlement, what will it mean for tobacco legislation?

A: We think it will add to the momentum behind strong, comprehensive, and bipartisan tobacco legislation. In four states now, the tobacco industry has been held accountable -- and has agreed to tough measures to reduce youth smoking. The remaining challenge is to pass legislation that puts these and other measures into place on a national level. All our nation's children are at risk from tobacco, and we must have comprehensive national legislation to stop young Americans from smoking before they start.

Background: According to CNN, under the settlement being drafted, the tobacco companies would pay Minnesota and Blue Cross and Blue Shield, more than $5 billion over the next 25 years. Other portions of the proposal, according to "St. Paul's Pioneer Press," are permanent injunctions to combat marketing cigarettes to minors and engaging in anti-competitive activities; the shutdown of the Council for Tobacco Research, an organization used to raise doubts about the health hazards of smoking; and the release of more internal tobacco company documents.

Q: I understand that Reps. Hansen and Meehan may introduce a new tobacco bill today. What's your view of it?

A: I commend Representatives Hansen and Meehan for their hard work to put together a strong, bipartisan comprehensive tobacco bill designed to reduce youth smoking in this country. The Hansen-Meehan bill contains a substantial price increase, strong industry and company penalties for failure to reduce youth smoking, full FDA authority to regulate tobacco, strong restrictions on advertising and youth marketing of tobacco products, and strong protections against exposure to environmental tobacco smoke. I look forward to working with them to ensure that their legislation adequately protects tobacco farmers and to pass a comprehensive tobacco bill this year.

Q: I understand General McCaffrey released a statement today on tobacco. What did he say?

A: In his statement, General McCaffrey said "tobacco use by young people plays a dangerous role in leading to more dangerous, illicit drugs" and "a responsible drug policy must include preventing youth cigarette use."

General McCaffrey made the remarks after meeting in Biloxi with Mississippi Attorney General Mike Moore.

Q&As on Tobacco
May 5, 1998

Q: Do you think you'll get a tobacco bill this year?

A: I believe we have an historic opportunity to pass bipartisan legislation this year which contains all the elements necessary to reduce teen smoking. And I'm going to do everything I can to put politics aside and pass legislation that will achieve that objective. Senator McCain's legislation, which passed the Commerce Committee by a 19-1 vote, is a strong step in the right direction on the road to passing comprehensive tobacco legislation. It shows real momentum in both parties to pass effective, comprehensive tobacco legislation this year.

Q: Isn't the McCain bill a big government, big tax proposal?

A: No. What this bill does is to attack the problem of youth smoking comprehensively, as all experts say we need to do, by combining strong provisions on price, penalties, advertising and access, and FDA jurisdiction. Although we have some differences with Senator McCain, he also recognizes the need to move forward on all these fronts to reduce youth smoking. That's not about big government. It's about sensible, bipartisan steps to dramatically reduce youth smoking.

Q. But won't the McCain bill create 17 new federal bureaucracies?

A. No -- this isn't about big government. What the bill does is to ensure that the federal government has the authority to regulate tobacco products in order to reduce youth smoking, as well as the ability to target tobacco revenues to strong public health and research efforts. The so-called "bureaucracies" that the industry is now complaining about are nothing more than what's necessary to protect the public health in this way -- to ensure that cigarettes are not sold to minors, to promote effective education, and to encourage smoking cessation. The proof that this is an industry con job is clear: almost all these provisions were in the June 1997 proposed settlement put forward by 41 state attorneys general, which the industry agreed to. The industry is criticizing these provisions now only because the political tide has turned against it, and certain other aspects of the legislation have gotten stronger.

Q: Are you worried about the bill creating a black market?

A: This is a serious issue, but we believe we can ensure that no significant black market emerges. We think we can minimize any smuggling through a system similar to the one that's been in place for alcoholic beverages for over sixty years by: 1) creating a "closed" distribution system for tobacco products so that only licensed entities can sell or buy products; 2) clearly branding packages for export, to prevent them from being diverted; and 3) establishing and enforcing penalties and other actions for violators. Senator McCain's bill largely addresses these issues; it provides a strong foundation for anti-smuggling legislation that will prevent the emergence of a black market.

Q: Wouldn't this scheme extend the reach of the federal government to every mom-and-pop grocery store or 7-11?

A: No. We support with a system that places primary responsibility for licensing retailers on state governments, as the McCain bill does. Thirty six states already license retail sellers of tobacco products, so this is not a major change. The important thing is to work with Congress to devise a scheme that will facilitate the effort to prevent smuggling, while not burdening retailers. The Administration will work with Congress, and the retailers themselves, on this issue.

Q: Won't the McCain bill bankrupt the companies? Lots of Wall Street analysts say it will.

A: We don't want to put the tobacco companies out of business. We just want to put them out of the business of selling cigarettes to kids. A central feature of comprehensive tobacco legislation is to ensure that most of the payments made by the tobacco companies are passed on to price, in order to reduce youth smoking. As a result, there will be at most a modest impact on the profitability of the tobacco companies. This is also an industry with significant cash flow and net assets that will allow it to easily absorb this modest profit decline. The operating earnings of RJR, Philip Morris, and Loews last year were *$18 billion.* Even RJR, the most highly leveraged firm in this industry, had a $1.5 billion operating profit for its domestic tobacco business, and has over $4 billion in net assets from its Nabisco stock holdings. The only real risk of bankruptcy comes from losing a rash of lawsuits in court.

Q. What do you think of the House Republican proposal to link drugs and tobacco in a single bill?

A. Nobody disagrees about the need to be tough on drug use, but that is no excuse to be less than tough on youth smoking. We need to pass strong, comprehensive tobacco legislation this year that dramatically reduces youth smoking by raising the pack of cigarettes, imposing tough penalties on companies that continue to sell to kids, granting the FDA authority over tobacco products, and restricting advertising and marketing to children. The McCain bill, which passed the Senate Commerce Committee by a 19-1 vote three weeks ago, is a strong step in that direction. If Republicans want to add good anti-drug provisions to a comprehensive tobacco bill of this kind, I have no objections. But the bill must address the problem of youth smoking comprehensively; anti-drug provisions can't serve as an excuse for watered-down tobacco legislation.

Q. What is wrong with passing a "skinny" tobacco bill? Why do you need a comprehensive bill?

A. Every day, 3000 children and adolescents begin smoking, and 1,000 will die prematurely as a result. Experts agree that in order to dramatically reduce youth smoking we need to take a comprehensive approach that will attack the problem from a variety of angles.

- Price: All experts agree that the single most important step we can take to reduce youth smoking is to raise the price of a pack of cigarettes significantly. That is why I proposed raising the price of cigarettes by $1.10 over five years -- an increase that both the Treasury Department and the Congressional Budget Office agree should cut youth smoking by about a third.

- Advertising: Studies show that industry advertising significantly contributes to youth smoking rates. The Treasury Department has estimated that the advertising and marketing restrictions in the McCain bill should cut youth smoking by about 15 percent. This is a conservative estimate: an American Medical Association study recently found that a full 34% of teen smoking is attributable to promotional activities.

- FDA Jurisdiction: Reaffirming the FDA authority over tobacco products is necessary to help stop young people from smoking before they start. Currently, nearly 90 percent of people begin smoking before age 18, despite the laws that make it illegal to sell cigarettes to minors. FDA Authority will ensure that young people do not have access to these products.

- Penalties: Strong lookback penalties will act as an insurance policy to ensure that the tobacco industry takes meaningful steps to reduce youth smoking. If the bill's provisions on price, advertising, and FDA jurisdiction do not bring youth smoking down as much as expected, penalties will kick in to ensure that the industry has every incentive to take further action to reduce youth smoking.

All of these measures support and reinforce each other; all are necessary to ensure that legislation dramatically reduces youth smoking.