tobacco budget



## Table S–7. TOBACCO LEGISLATION

(In billions of dollars)

| | Estimate 1999 | 2000 | 2001 | 2002 | 2003 | Total 1999–2003 |
|---|---|---|---|---|---|---|
| **USES OF RECEIPTS FROM TOBACCO LEGISLATION** | | | | | | |
| **Federally-operated Programs:** | | | | | | |
| Research Fund for America | 3.6 | 4.6 | 5.0 | 5.7 | 6.3 | 25.3 |
| Food and Drug Administration Enforcement Activities | 0.1 | 0.2 | 0.3 | 0.3 | 0.3 | 1.2 |
| Health and Human Services/Centers for Disease Control Smoking Prevention | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.4 |
| Medicare Beneficiaries Cancer Clinical Trials Demonstration | 0.2 | 0.2 | 0.3 | .......... | .......... | 0.8 |
| Subtotal, Federally-operated programs | 4.0 | 5.1 | 5.6 | 6.1 | 6.7 | 27.5 |
| **State-administered Programs:** | | | | | | |
| Child Care and Development Block Grant | 1.2 | 1.3 | 1.4 | 1.6 | 2.1 | 7.5 |
| Medicaid Child Outreach Reforms | 0.1 | 0.2 | 0.2 | 0.2 | 0.2 | 0.9 |
| Class Size Initiative | 1.1 | 1.3 | 1.5 | 1.7 | 1.7 | 7.3 |
| Subtotal, State-administered programs | 2.4 | 2.7 | 3.1 | 3.5 | 4.0 | 15.7 |
| **Other Uses** (Includes unrestricted funds for States, cessation programs, farmer assistance, etc.) | 3.4 | 3.9 | 4.6 | 5.0 | 5.4 | 22.3 |
| **Total Uses** | **9.8** | **11.8** | **13.3** | **14.5** | **16.1** | **65.5** |
| **TOBACCO LEGISLATION RECEIPTS PROPOSED** | **9.8** | **11.8** | **13.3** | **14.5** | **16.1** | **65.5** |

Budget

# GOP Seeks to Block White House Move To Fund Programs With Tobacco Money

By Jeffrey Taylor
Staff Reporter of The Wall Street Journal

WASHINGTON—As the Clinton administration expressed cautious support for limiting the tobacco industry's legal liability, House Republicans unveiled legislation to block the White House from spending any tobacco money on new programs.

Justice Department official David Ogden said the White House can accept "reasonable provisions modifying the civil liability of the tobacco industry." His remarks to the House Judiciary Committee sparked both optimism that broad tobacco legislation is possible this year, and bitter bipartisan attacks on the White House.

Democrats echoed Republicans' long-standing criticism that President Clinton doesn't follow up on his administration's pronouncements with legislative proposals. They chided Mr. Ogden, for instance, for deflecting questions on how much legal relief the administration is prepared to grant to cigarette makers. "I resent the administration's unwillingness at this stage to get specific," Democratic Rep. Barney Frank of Massachusetts said. "At this rate, we're not going to get there."

Last September, Mr. Clinton called on Congress to toughen the proposed \$368.5 billion national tobacco settlement, but didn't say whether he supported its liability protections for the industry.

Meanwhile, with the backing of House Majority Leader Dick Armey of Texas, two GOP congressmen introduced legislation to block Mr. Clinton's tobacco-money plan. "We are laying down a marker," said Arkansas Rep. Asa Hutchinson, who introduced the bill with Roy Blunt of Missouri. Tobacco money "is not a candy store the president can use to pay for whatever he wants." The president's recent budget proposal would allocate \$65 billion in tobacco money to new programs, particularly child care, over five years.

The bill would require that any tobacco money not targeted for antismoking measures be earmarked for tax cuts and to pay down the national debt.

The proposed settlement's legal relief was the tobacco industry's main reason for agreeing to provisions to curb underage smoking and restrict marketing and advertising. The protections include a cap on the industry's annual legal payouts; a ban on future class-action lawsuits; and elimination of punitive damages in civil lawsuits alleging past industry misconduct.

While the White House would prefer there be no legal relief for the industry, spokesman Michael McCurry said that "reasonable limits ... would not be a deal-breaker." The proposed settlement, he said, "struck the wrong balance."

The settlement requires extensive disclosure of tobacco documents, but gives the industry some legal protection from them. Mr. Ogden suggested that the ban on punitive damages not apply in cases in which the industry didn't fully disclose all relevant facts. He said tobacco companies shouldn't "become special favorites of the law," but added that some relief may be necessary in exchange for the huge sums of money and public-health concessions the industry would provide in a comprehensive tobacco bill.

Some prominent Republican lawmakers, including Senate Judiciary Committee Chairman Orrin Hatch of Utah, hailed Mr. Ogden's testimony as a sign of movement by the White House. It "greatly increases the probability that broad, bipartisan consensus can be reached on the tobacco settlement," Mr. Hatch said.

House committee members offered a bleaker view. Democrat John Conyers of Michigan released another sampling of embarrassing documents that he said show the industry's effort to target African-Americans. One was a 1973 R.J. Reynolds marketing profile that contained a study of black smokers aged 14 to 20 years old. A 1981 RJR marketing plan said blacks "do not respond well to sophisticated or subtle humor in advertising."

Another witness, John C. Coffee Jr., a law professor at Columbia University, called the settlement's prohibition on class-action lawsuits overly broad. He recommended that Congress permit some consolidation of lawsuits to avoid damaging the individuals' courtroom clout.

THE WALL STREET JOURNAL
FRIDAY, FEBRUARY 6, 1998

# White House Shifts Signals On Tobacco

## *Limits on Lawsuits Could Be Part of Deal*

By Saundra Torry
Washington Post Staff Writer

The Clinton administration yesterday told Congress that it could accept some limits on lawsuits against the tobacco industry, if that were necessary to secure approval of a comprehensive national tobacco settlement.

The issue of legal protection from lawsuits for cigarette makers has become a pivotal and increasingly contentious point in the political battle over the proposed tobacco deal. Lawmakers and factions on all sides of the deal are analyzing each nuance of every phrase, as key officials stake out positions on legal protection and other provisions in the proposed $368.5 billion agreement.

Yesterday, when a Justice Department official testified in Congress that the administration could accept "reasonable" limits on civil lawsuits in a bill with strong public health components, a flurry of concern ensued, particularly among Senate Democrats. Some were angered that the White House would send this public signal when the political tide appears to be turning against the legal protections the industry wants as part of a deal.

"I want to remind the White House and Republicans: Momentum is moving rapidly against special protections for the industry, and now is not the time to send a signal that puts us in reverse," said Sen. Frank R. Lautenberg (D-N.J.), a vocal tobacco opponent.

After calls from several Senate offices to the White House, press secretary Michael McCurry issued a clarification of the testimony, and other officials said the administration's stance on the issue had not changed since last summer, when the proposed settlement was reached.

"As we've said all along, we'd prefer comprehensive tobacco legislation without limits on liability," said domestic policy adviser Bruce Reed. "But if Congress comes up with a comprehensive bill that meets the president's five principles, including raising cigarette prices by up to $1.50 [a pack] over 10 years, some kind of limits are not a deal-breaker."

That seemed to assuage some critics, but one Democratic congressional staff member said the clarification "was more confusing" than the original statement.

Meanwhile, at the House Judiciary Committee hearing where David W. Ogden, a top Justice Department official, testified, some Democrats joined Republicans in deriding the White House for being too vague and failing to send Congress tobacco legislation.

"I resent the administration's unwillingness . . . to get specific," Rep. Barney Frank (D-Mass) said. "I do not think you can be on all sides of this issue."

In an interview, Judiciary Committee Chairman Henry J. Hyde (R-Ill.) said he was "dismayed at the [administration's] bland presentation. . . . They have not shown leadership."

The issue of granting the industry legal protection has emerged as one of the most divisive in the debate over the deal, in which the industry would agree to broad marketing restrictions and to paying hundreds of billions of dollars over 25 years. In exchange, the companies have sought broad protection from a deluge of civil lawsuits, now and in the future.

The proposed settlement, which would require congressional approval, would provide the industry a measure of predictability, including a cap—starting at $2 billion a year and rising to $5 billion—on damages to be paid in any year, along with a bar on punitive damages for past acts. The deal also would bar collective suits against the industry, including massive class action suits and small collections of claims.

Yesterday, an industry lawyer argued that it's wrong to describe the legal protections as "immunity" from lawsuits, as many critics have, because individuals still would be able to sue the industry and "receive every dollar awarded" in actual damages.

The issue has split many of the groups with deep interest in tobacco policy, particularly in the public health community. Some public health groups have formed a coalition, Save Lives Not Tobacco, which cites opposition to legal protection as one of its five guiding principles in fighting the deal. That group was formed by the American Lung Association, Public Citizen and smaller regional anti-tobacco organizations.

Even within groups that support tobacco legislation based in part on the proposed settlement, legal protection remains a hot issue. The American Medical Association's House of Delegates, for instance, has voted to oppose legal protection—a position at odds with the group's leadership.

**FOR MORE INFORMATION**

*To read Post stories on past settlements with the tobacco industry, click on the above symbol on the front page of The Post's Web site at www.washingtonpost.com*

The Washington Post
FRIDAY, FEBRUARY 6, 1998

# Clinton Could Abide Protection for Cigarette Makers

By DAVID E. ROSENBAUM

WASHINGTON, Feb. 5 — The Clinton Administration said today that it would be willing to give tobacco companies limited protection from lawsuits if that was the only way to get legislation enacted to raise the price of cigarettes and force the industry to restrict advertising and marketing.

In the first Administration testimony since Congress began seriously considering tobacco legislation this year, David W. Ogden, the counselor to Attorney General Janet Reno, told the House Judiciary Committee that "reasonable provisions modifying the civil liability of the tobacco industry would not be a deal-breaker."

Mr. Ogden was challenged by lawmakers from both parties, because he was vague about exactly what elements President Clinton wanted in tobacco legislation.

The President and those in the Administration who speak for him have said they want to work with Congress to enact such legislation, but they have not proposed a bill of their own.

"If the Administration wants this to be a successful legislative effort," said Representative Charles T. Canady, Republican of Florida, "I think the Administration is going to have to be specific about what it will support and to posit positive proposals for us to consider."

Representative Steve Chabot, Republican of Ohio, accused the White House of "woeful lack of leadership" on the issue.

Many of the Democrats on the committee agreed with that assessment. Representative Barney Frank of Massachusetts declared:

"These are very important issues, and I resent the Administration's unwillingness at this date to get specific. I do not think you can be on all sides of this issue."

Mr. Ogden, who was testifying because Deputy Attorney General Eric H. Holder Jr. was ill, responded patiently that the Administration's goal was "to work together with the Congress to develop the provisions rather than to come up with our own pre-established set of provisions."

This strategy reflects the lesson the Administration learned in 1994 when it put forward specific legislation to change the nation's health care system and saw the details picked apart piece by piece until the measure finally died.

## Vagueness from the White House, growing impatience in Congress.

Ever since — on the budget, on Social Security, on Medicare and on almost every other difficult legislative issue — the Administration has forced the Republicans who control Congress to stick their necks out first and has then tried to shape the legislation to fit its own preferences. The tactic has worked on such matters as children's health and medical insurance.

In the case of tobacco legislation, President Clinton has merely stated five general goals. The bill, he has said, should raise the price of cigarettes by as much as $1.50 a pack over the next 10 years to discourage teen-agers from smoking, give the Food and Drug Administration authority to regulate all tobacco products, prohibit marketing and advertising directed toward children, promote smoking cessation and prevention programs, and limit any resulting damage to tobacco farmers and their communities.

Mr. Ogden said the Administration regarded the $368.5 billion agreement reached last year by the tobacco companies and the attorneys general of about 40 states as "a template for constructing a legislative solution."

One main element of that agreement, and one of the most widely criticized, would give the tobacco companies considerable protection from lawsuits. Class-action suits against them would be prohibited, as would punitive damages for past practices of the industry.

In return, the tobacco companies would pay not only the $368.5 billion but, if youth smoking rates failed to drop, fines as well; would restrict their advertising, and would accept considerable Government regulation.

The idea of protecting the industry from lawsuits is politically unpopular and has become even more since new evidence began emerging that for years the tobacco companies' marketing strategy was to get teen-agers hooked on cigarettes. Protection from lawsuits "is and certainly should be dead," Representative Martin T. Meehan, Democrat of Massachusetts, said at the hearing today.

But Mr. Ogden cautioned that such protection might be the only way to get the tobacco companies to agree to restrictions, like those on advertising, that might otherwise be held unconstitutional.

One option, Mr. Ogden suggested, might be to retain the possibility of punitive damages against the companies in cases where the suit was based on facts that had not been disclosed to the public and to Congress.

# *In Close-Knit Army Community, Picking Jury for Soldier is Hard*

By JANE GROSS

FORT BELVOIR, Va., Feb. 5 — In the United States Army, which is like a small town, just about every command sergeant major seems to know and admire Sgt. Maj. Gene C. McKinney and his identical twin, James.

That collegial culture has complicated jury selection in the court-martial of Sergeant Major McKinney here and delayed opening statements today. Sergeant Major McKinney is charged with 19 counts of sexual misconduct against six military women. If convicted, he could serve 55 years in prison.

Seven of the first 12 potential jurors have been dismissed by the presiding judge, Col. Ferdinand D. Clervi. Most were fellow sergeants major who knew the defendant well enough to raise concerns about their impartiality. To complete the panel, a second round of candidates was summoned this afternoon, and in that group, too, most knew Sergeant Major McKinney.

During questioning on Wednesday and today, many of the sergeants major called Sergeant Major McKinney by his first name. They had squired him around on base visits when he was the highest-ranking enlisted man in the Army, drunk with him at military conventions, E-mailed their commiseration after he was charged and socialized with his twin.

Empaneling a jury has been slowed by regulations governing military trials. For courts-martial, the panel must have at least five members. One-third of the jurors must be sergeants major who have served at that rank longer than Sergeant Major McKinney.

After the first round of jury selection, five panelists remained. But only one was a sergeant major. In the second round, two female lieutenant colonels and five male sergeants major were to be questioned by the judge, the prosecutor and the defense lawyer. Three of the sergeants major were interviewed this afternoon, and all said they had friendly relationships with Sergeant Major McKinney or his brother, also a sergeant major.

The rest will be interviewed tomorrow.

The New York Times
*FRIDAY, FEBRUARY 6, 1998*

Jose/Tom

We need a response

Office of the Speaker
United States House of Representatives
Washington, DC 20515

February 3, 1998

Tobacco/Youth

The Honorable William J. Clinton
The White House
1600 Pennsylvania Avenue, NW
Washington, D.C. 20500

Dear Mr. President,

The skyrocketing rate of teen drug use over the past six years is a national disaster. In your State of the Union address, you labeled the "epidemic of teen smoking" as the "gravest health threat that they [children] face." Unfortunately, your assertion is dead wrong. As millions of parents can tell you, the gravest health threat facing our children is not tobacco but the epidemic of teenage drug use.

Tobacco is dangerous, and I agree that we need to concentrate on the number of children who become addicted to cigarettes every day—this is a tragic and reckless first step toward cancer, sickness and death. We cannot, though, focus on nicotine to the exclusion of cocaine and heroin.

Contrary to your claim in Tuesday's speech, drug use has *risen* dramatically since your election in 1992. The 1996 National Household Survey on Drug Abuse showed that the rate of illegal drug use among young adults jumped to 9.0 percent in 1996 from 5.3 percent in 1992. These rates are unacceptable and dangerous—both to the health of our children and to the health of our nation.

All of us must send a clear and consistent message to our young people that drugs are illegal, dangerous, and wrong. In contrast, your near silence on the subject—both in your State of the Union address and in other public appearances—was an abdication of responsibility and a wasted opportunity.

I challenge you to end the silence and stop neglecting drug and alcohol abuse, which have a significant impact on our nation through increased violence—both on the streets and in the home—and through the loss of a generation of future leaders, teachers, parents and citizens. It is a disgrace after years of declining drug use due in large part to Nancy Reagan's simple and consistent message of "Just Say No," that lax leadership has allowed drug use to skyrocket among America's youth. As you said about teen smoking, let's do what it takes to bring teen drug use down. I look forward to working with you on a more constructive and vocal approach.

Sincerely,

Newt Gingrich

Newt Gingrich
Speaker of the House

## REV-36 INCREASE EXCISE TAXES ON TOBACCO AND ALCOHOLIC BEVERAGES

| Addition to Current-Law Revenues | Annual Added Revenues (Billions of dollars) 1998 | 1999 | 2000 | 2001 | 2002 | Five-Year Cumulative Total |
|---|---|---|---|---|---|---|
| Increase the Cigarette Tax to 48 Cents per Pack | 2.6 | 3.4 | 3.5 | 3.5 | 3.5 | 16.5 |
| Increase the Cigarette Tax to 99 Cents per Pack | 6.4 | 8.4 | 8.5 | 8.6 | 8.7 | 40.6 |
| Increase All Alcoholic Beverage Taxes to $16 per Proof Gallon | 3.6 | 4.4 | 4.4 | 4.4 | 4.4 | 21.2 |
| Index Cigarette and Alcohol Tax Rates for Inflation | 0.2 | 0.5 | 0.7 | 1.1 | 1.3 | 3.8 |

SOURCE: Joint Committee on Taxation.

NOTE: Estimates are net of reduced income and payroll tax revenues.

Kimpner - cannot understand this [illegible], he disagrees

Federal alcohol and tobacco taxes raised about $13 billion in 1996, including $7 billion from taxes on distilled spirits, beer, and wine and $6 billion from taxes on tobacco. Together they represented nearly one-quarter of revenues from all excise taxes and about 1 percent of total federal revenues.

24d ⇒ 6 b.11

Smoking and drinking can create costs to society that the prices of tobacco and alcoholic beverages do not reflect. Examples of those "external costs" include higher health insurance costs to cover the medical expenses linked to smoking and drinking, the effects of cigarette smoke on the health of nonsmokers, and the loss of lives and property in alcohol-related accidents.

48d → 9.5 99d 14.7 (6+8.7)

By raising the price of tobacco and alcoholic beverages, excise taxes can result in consumers' paying the full cost for smoking and drinking. If excise taxes lead to reduced consumption of tobacco and alcoholic beverages, then increasing them would decrease the total external costs that smoking and drinking produce. If those external costs primarily come from heavy or abusive consumption, however, higher taxes on tobacco and alcoholic beverages could unduly penalize moderate and infrequent smokers and drinkers. Furthermore, some research suggests that, at least for tobacco, current taxes may more than adequately compensate for the external costs that smokers impose on society.

Increasing excise taxes to reduce consumption may be desirable regardless of the effect on external costs if consumers are either unaware of or underestimate the harm that their smoking and drinking does to them. If most consumers of cigarettes overestimate rather than underestimate the risks involved with smoking, as some studies have shown, then additional taxes would not be warranted. Teenagers, however, may not be prepared to evaluate the long-term effects of smoking and drinking. Evidence suggests that teenage smoking and drinking declines in response to higher prices for tobacco and alcoholic beverages. A number of national medical organizations have supported a substantial increase in the existing federal excise tax on tobacco in the interests of reducing teenage smoking.

Taxes on tobacco and alcoholic beverages are regressive when compared with annual family income; that is, such taxes are a greater percentage of income for low-income families than for middle- and upper-income families.

Phase-in equity and phase 50 & 4 yrs + inflation index

**Draft – For internal use only**

Table 1.

**INCREASE IN FEDERAL TAX REVENUES RESULTING FROM THE PHAER ACT**
(in billions of dollars)

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

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

$\boxed{419+75 = \text{PHAER FUND}}$

Does ~~not~~ go in the PHAER FUND

Jim Klumpner Dem. Econ Budget

Dave Mendelsohn 224-5881

Kennedy → $ for non-deductibility

Mike Udell JCT

## OPTION 2: MINOR CHANGES TO THE SETTLEMENT

**Amount of Funds Available for Health Investments:**

- Some of the funding recommendations in the Settlement could be modified. Specifically, it is assumed that the tax revenue from the BBA would be restored and the look-back would be increased with its revenue shared 50/50 between the states and the Federal government.

**Options for Uses of Funds (in addition to previous option):**

- **Public health initiatives ($200-400 million / year):** The increase in funds would be enough to supplement important public health programs but not enough to support larger initiatives. Options include:

**Option 2. Minor Changes in Settlement ($ billions)**

| | 1 Yr | 5 Yrs | 10 Yrs |
|---|---|---|---|
| **Residual funds:** | | | |
| Settlement: | 2-3 | 18 | 44 |
| Additional: | | | |
| Subtotal: | | | |
| **Uses:** | | | |
| Research Supplement: | 1-2 | 11 | 26 |
| Public Health Initiative: | 0.2-0.4 | 1-2 | 5-10 |
| Subtotal: | 2-3 | 18 | 44 |

**Children's public health**: Complement the children's health initiative and the zero-to-three focus with programs such as tobacco prevention in school-based clinics (expand CDC's school-based health programs) and expanded community-health center and Healthy Start programs to provide prenatal care.

**Tobacco-related problems**: Address tobacco-related problems through: (1) national media campaigns and grants to community-based coalitions to disseminate state-of-the-art prevention and treatment methods for cardiovascular disease and cancer, which are tobacco-related diseases; and (2) expanding substance abuse programs since smokers are 8 times more likely to use illicit substances.

specifically cardiovascular & cancer

**Discussion:**

- The advantages include:

  - **Needed public health programs**: Although the Settlement provides funds for direct tobacco-related research, cessation, and education, it does not explicitly fund related, important activities such as addressing problems caused by or related to tobacco use. ... employer contribution. This policy provides temporary premium assistance for families losing insurance due to job transitions.

- The disadvantages include:
  - Medicaid outreach ...
  - **Modifies Settlement:** Although the changes are small, they may be controversial. ... Medicaid. This initiative is consistent with the Settlement negotiators' original
  - **Not bold enough:** Several small initiatives may not have the same visibility and support as one large idea.

Research

**TOBACCO BACKGROUND**
**December 5, 1997**

## I. Current Legislative Status

### A. Senate leadership split with Hatch

* Hatch attempt at bipartsian bill with Kennedy was rebuffed. No Republican's have signed on. Bill is not perfect on FDA, costs $400 billion. Kennedy has introduced bill with no legal protection for companies.

* Nickles has set deadline, McCain has introduced version of settlement.

* Farm State Senators-- Ford, Lugar, Robb introduce farmer specific bills.

### B. House waiting on Bliley

* House is less fragmented jurisdictionally than Senate, so a bill might appear more easily here.

* Bliley has not introduced bill, has made some independant gestures on documents, and seems willing to work with Waxman.

* Waxman doesn't have much incentive to get a workable bill soon unless it looks like the Senate D's are starting to compromise on immunity issues.

### C. Major Issues

* Getting D's to give companies liability protections.
* Dividing up the money.
* Figuring out the penalties, price increases.

### D. Recommendations/Next steps

3/Mar/11

Bennett

- curfew story nexus

- school uniform story

Jules Bennet

1 Bonnie's photo

2 2.75 4.11.
American

Ed Rose
Illegal
hum.s.

① options list
② what is on tax side

Real money or ↑ deficit

254 bill.

# INCREMENTAL TOBACCO REVENUES REQUIRED FOR VARIOUS INITIATIVES

## REDUCED ADDITIONAL FUNDS

Revenues in billions (current $); per-pack equivalents in current $

| | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | FY99-03 | FY99-08 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Increment to Double NIH's Budget in 10 Yrs. | 1.0 | 2.0 | 3.1 | 4.3 | 5.6 | 7.0 | 8.5 | 10.1 | 11.8 | 13.6 | 16.1 | 67.1 |
| Additional Funds | ~~2.5~~ 1.5 | 2.5 | 2.5 | 2.5 | 2.5 | 2.5 | 2.5 | 2.5 | 2.5 | 2.5 | 12.5 | 25.0 |
| Annual Net Payments to States | 4.0 | 4.5 | 4.5 | 6.5 | 6.5 | 8.0 | 8.0 | ~~8.0~~ | ~~8.0~~ | ~~8.0~~ | 26.0 | 66.0 |
| Tobacco Settlement Base Spending | 2.5 | 3.1 | 3.6 | 3.8 | 4.4 | 5.0 | 5.0 | 5.1 | 7.3 | 7.3 | 17.4 | 47.1 |
| **TOTAL REVENUES ($ in billions)** | **10.0** | **12.1** | **13.7** | **17.1** | **19.0** | **22.5** | **24.0** | **25.7** | **29.6** | **31.4** | **72.0** | **205.2** |
| *Per Pack Equivalent* | *0.64* | *~~0.85~~* .64 | *0.99* | *1.36* | *1.58* | *2.05* 1.36 | *2.25* | *2.49* | *3.31* | *~~3.72~~* 2.49 | | |
| | .5 | 2 | 2.65 | 4.99 | 4 | ~~5.5~~ | 5.5 | 5.5 | 5.5 | 5.5 | | |

– should count as pt. of budget

– Cessation $1 bill. is too high, but low priority

Standard scoring method. Includes offset for losses in other taxes

Energy

8.5 10. 11.7 13.1 15 17.0 17 20 24 26

27.4

.50 tax
.5 billion

if – 8.0 10. 11.5 12.9

1/2 tax

2.50

1.50
18.5 billion

.50

1.50

12/5/97 tobtax5a xls

· Ds want to politic

Rs want to avoid
getting screwed

· R's will back off
if D's want to politic

· We need to make calc. that a deal
is good. public wants.

100 people from this camp.
→ Confused
→
→ discr → mand.
Cap
4 → 3

VA, Snowbirds

didn't affect deficit

# INCREMENTAL TOBACCO REVENUES REQUIRED FOR VARIOUS INITIATIVES

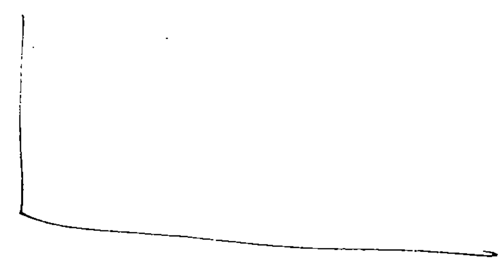
Revenues in billions (current $); per-pack equivalents in current $

| | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | FY99-03 | FY99-08 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Increment to Double NIH's Budget in 10 Yrs.** | 1.0 | 2.0 | 3.1 | 4.3 | 5.6 | 7.0 | 8.5 | 10.1 | 11.8 | 13.6 | 16.1 | 67.1 |
| **Additional Funds** | 5.0 | 5.0 | 5.0 | 5.0 | 5.0 | 5.0 | 5.0 | 5.0 | 5.0 | 5.0 | 25.0 | 50.0 |
| **Annual Net Payments to States** Cessation | 4.0 | 4.5 | 4.5 | 6.5 | 6.5 | 8.0 | 8.0 | 8.0 | 8.0 | 8.0 | 26.0 | 66.0 |
| **Tobacco Settlement Base Spending** | 2.5 | 3.1 | 3.6 | 3.8 | 4.4 | 5.0 | 5.0 | 5.1 | 7.3 | 7.3 | 17.4 | 47.1 |
| TOTAL **REVENUES ($in billions)** Farmers | **12.5** | **14.6** | **16.2** | **19.6** | **21.5** | **25.0** | **26.5** | **28.2** | **32.1** | **33.9** | 84.5 | 230.2 |
| ***Per Pack Equivalent*** | ***0.84*** | ***1.08*** | ***1.24*** | ***1.68*** | ***1.92*** | ***2.50*** | ***2.74*** | ***3.05*** | ***4.80*** | ***5.25*** | | |

1.4

Volume drops

Standard scoring method. Includes offset for losses in other taxes



Draft – For internal use only

Table 1.

INCREASE IN FEDERAL TAX REVENUES RESULTING FROM THE PHAER ACT

(in billions of dollars)

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

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

419 + 75 = PHAER FUND

Does not go in the PHAER FUND

## Package A: Detail on Tobacco Settlement's Specified Base Spending

(BA -- $ in Billions)

| | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | FY99-03 | FY99-08 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Public Health Trust Fund | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| HHS Research on Cessation | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.5 | 1 |
| National Education/Media Campaign | 0.5 | 0.5 | 0.5 | 0.6 | 0.6 | 0.6 | 0.6 | 0.6 | 0.7 | 0.7 | 2.7 | 5.9 |
| State Programs/ASSIST | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| HHS Grants to Reduce Tobacco Use | 0.1 | 0.1 | 0.1 | 0.3 | 0.3 | 0.3 | 0.3 | 0.3 | 0.3 | 0.3 | 0.9 | 2.4 |
| Cessation Trust Fund | 1 | 1.1 | 1.1 | 1.1 | 1.7 | 1.8 | 1.8 | 1.9 | 2 | 2 | 6 | 15.5 |
| FDA Enforcement | 0.3 | 0.3 | 0.3 | 0.3 | 0.3 | 0.4 | 0.4 | 0.4 | 0.4 | 0.4 | 1.5 | 3.5 |
| Payments to Tobacco-Sponsored Teams | 0 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.4 | 0.9 |
| Other (Includes Civil Suits) | 0.5 | 0.9 | 1.4 | 1.3 | 1.3 | 1.7 | 1.7 | 1.7 | 3.7 | 3.7 | 5.4 | 17.9 |
| International | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Farmers | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Total | 2.5 | 3.1 | 3.6 | 3.8 | 4.4 | 5 | 5 | 5.1 | 7.3 | 7.3 | 17.4 | 47.1 |

12/5/97

**TOBACCO BACKGROUND**
**December 5, 1997**

## I. Current Legislative Status

### A. Senate leadership split with Hatch

* Hatch attempt at bipartisan bill with Kennedy was rebuffed. No Republican's have signed on. Bill is not perfect on FDA, costs $400 billion. Kennedy has introduced bill with no legal protection for companies.

* Nickles has set deadline, McCain has introduced version of settlement.

* Farm State Senators-- Ford, Lugar, Robb introduce farmer specific bills.

### B. House waiting on Bliley

* House is less fragmented jurisdictionally than Senate, so a bill might appear more easily here.

* Bliley has not introduced bill, has made some independent gestures on documents, and seems willing to work with Waxman.

* Waxman doesn't have much incentive to get a workable bill soon unless it looks like the Senate D's are starting to compromise on immunity issues.

### C. Major Issues

VP - deal

* Getting D's to give companies liability protections.
* Dividing up the money.
* Figuring out the penalties, price increases.

### D. Recommendations/Next steps

- high profile
- [illegible]
- genuine pursue deal

# TOBACCO BACKGROUND
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### C. Major Issues

* Getting D's to give companies liability protections.
* Dividing up the money.
* Figuring out the penalties, price increases.

### D. Recommendations/Next steps

# INCREMENTAL TOBACCO REVENUES REQUIRED FOR VARIOUS INITIATIVES

Revenues in billions (current $); per-pack equivalents in current $

| | *1999* | *2000* | *2001* | *2002* | *2003* | *2004* | *2005* | *2006* | *2007* | *2008* | FY99-03 | FY99-08 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Increment to Double NIH's Budget in 10 Yrs.** | 1.0 | 2.0 | 3.1 | 4.3 | 5.6 | 7.0 | 8.5 | 10.1 | 11.8 | 13.6 | 16.1 | 67.1 |
| **Additional Funds** | 5.0 | 5.0 | 5.0 | 5.0 | 5.0 | 5.0 | 5.0 | 5.0 | 5.0 | 5.0 | 25.0 | 50.0 |
| **Annual Net Payments to States** | 4.0 | 4.5 | 4.5 | 6.5 | 6.5 | 8.0 | 8.0 | 8.0 | 8.0 | 8.0 | 26.0 | 66.0 |
| **Tobacco Settlement Base Spending** | 2.5 | 3.1 | 3.6 | 3.8 | 4.4 | 5.0 | 5.0 | 5.1 | 7.3 | 7.3 | 17.4 | 47.1 |
| **TOTAL REVENUES ($in billions)** | **12.5** | **14.6** | **16.2** | **19.6** | **21.5** | **25.0** | **26.5** | **28.2** | **32.1** | **33.9** | **84.5** | **230.2** |
| ***Per Pack Equivalent*** | ***0.84*** | ***1.08*** | ***1.24*** | ***1.68*** | ***1.92*** | ***2.50*** | ***2.74*** | ***3.05*** | ***4.80*** | ***5.25*** | | |

Standard scoring method. Includes offset for losses in other taxes

## Package A: Detail on Tobacco Settlement's Specified Base Spending

(BA -- $ in Billions)

| | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | FY99-03 | FY99-08 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Public Health Trust Fund | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| HHS Research on Cessation | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.5 | 1 |
| National Education/Media Campaign | 0.5 | 0.5 | 0.5 | 0.6 | 0.6 | 0.6 | 0.6 | 0.6 | 0.7 | 0.7 | 2.7 | 5.9 |
| State Programs/ASSIST | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| HHS Grants to Reduce Tobacco Use | 0.1 | 0.1 | 0.1 | 0.3 | 0.3 | 0.3 | 0.3 | 0.3 | 0.3 | 0.3 | 0.9 | 2.4 |
| Cessation Trust Fund | 1 | 1.1 | 1.1 | 1.1 | 1.7 | 1.8 | 1.8 | 1.9 | 2 | 2 | 6 | 15.5 |
| FDA Enforcement | 0.3 | 0.3 | 0.3 | 0.3 | 0.3 | 0.4 | 0.4 | 0.4 | 0.4 | 0.4 | 1.5 | 3.5 |
| Payments to Tobacco-Sponsored Teams | 0 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.4 | 0.9 |
| Other (Includes Civil Suits) | 0.5 | 0.9 | 1.4 | 1.3 | 1.3 | 1.7 | 1.7 | 1.7 | 3.7 | 3.7 | 5.4 | 17.9 |
| International | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Farmers | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Total | 2.5 | 3.1 | 3.6 | 3.8 | 4.4 | 5 | 5 | 5.1 | 7.3 | 7.3 | 17.4 | 47.1 |

BR, EK
CBO gave us this if we wouldn't

# Distribution of Revenues Under The Healthy & Smokefree Children Act (S. 1492, Kennedy)

(in billions of nominal dollars)

| | Percent share | 1998 | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | Total 1998-2007 | *For comparison purposes: 25-year revenue estimates* $1.50 tax: revised JCT estimate extrapolated | $1.50 tax increase -- J. Harris estimate | AG settlement estimate: assumes no demand effect 5/ |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **CIGARETTE TAX ($1.50) 1/** | | **6.9** | **14.2** | **17.0** | **17.7** | **17.7** | **18.2** | **18.9** | **19.6** | **20.4** | **20.4** | **170.9** | **561.4** | **652.0** | **368.5** |
| **Allocation of Revenues** | | | | | | | | | | | | | | | |
| **1) Current A.G. Settlement ($.65)** | **43.00%** | | | | | | | | | | | | | | |
| Medicaid Reimbursement to States 2/ | | -0.1 | 1.8 | 2.6 | 2.6 | 2.5 | 2.5 | 2.7 | 2.8 | 2.9 | 2.8 | 23.0 | 77.0 | 116.0 | 193.5 |
| Federal Public Health Programs 3/ | | 2.1 | 2.2 | 2.3 | 2.5 | 2.6 | 2.7 | 2.8 | 2.9 | 3.0 | 3.1 | 26.2 | 84.7 | 84.7 | 98.0 |
| Tobacco Victim Compensation 4/ | | 1.0 | 2.0 | 2.4 | 2.5 | 2.5 | 2.6 | 2.7 | 2.8 | 2.9 | 2.9 | 24.3 | 79.7 | 79.7 | 77000.0 |
| *Subtotal* | | *3.0* | *6.1* | *7.3* | *7.6* | *7.6* | *7.8* | *8.1* | *8.4* | *8.8* | *8.8* | *73.5* | *241.4* | *280.4* | *368.5* |
| **2) Supplemental Federal Allocation ($.85)** | **57.00%** | | | | | | | | | | | | | | |
| Federal Health & Basic Research | | 0.2 | 2.2 | 2.9 | 4.6 | 4.6 | 5.0 | 5.4 | 5.6 | 5.8 | 5.8 | 42.2 | 153.5 | 179.3 | 0.0 |
| Child Development Services and Research | | 0.2 | 2.2 | 2.9 | 4.6 | 4.6 | 5.0 | 5.4 | 5.6 | 5.8 | 5.8 | 42.2 | 153.5 | 179.3 | 0.0 |
| Tobacco Farmer Assistance | | 3.6 | 3.6 | 3.8 | 0.8 | 0.8 | 0.4 | 0.0 | 0.0 | 0.0 | 0.0 | 13.0 | 13.0 | 13.0 | 0.0 |
| *Subtotal* | | *3.9* | *8.1* | *9.7* | *10.1* | *10.1* | *10.4* | *10.8* | *11.2* | *11.6* | *11.6* | *97.4* | *320.0* | *371.6* | 0.0 |
| **TOTAL ALLOCATION** | | **6.9** | **14.2** | **17.0** | **17.7** | **17.7** | **18.2** | **18.9** | **19.6** | **20.4** | **20.4** | **170.9** | **561.4** | **652.0** | **368.5** |

**ADDENDUM**

| **Federal Public Health Programs** | 1998 | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | **10-Yr Total** | **25-Yr Total** | N/A | N/A |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| *Tobacco Counter-Advertising* | 0.5 | 0.5 | 0.5 | 0.5 | 0.6 | 0.6 | 0.6 | 0.6 | 0.6 | 0.7 | 5.7 | 18.3 | | |
| *CDC Prevention Programs* | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 1.0 | 3.5 | | |
| *FDA Tobacco Control Activities* | 0.3 | 0.3 | 0.3 | 0.3 | 0.3 | 0.3 | 0.4 | 0.4 | 0.4 | 0.4 | 3.4 | 11.0 | | |
| *State Block Grants - Tobacco Reduction* | 1.1 | 1.3 | 1.3 | 1.4 | 2.1 | 2.1 | 2.2 | 2.3 | 2.3 | 2.4 | 18.5 | 62.6 | | |
| *Use Reduction/Addiction Research* | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 1.1 | 3.7 | | |
| ***Residual*** | -0.0 | -0.0 | -0.0 | 0.0 | -0.6 | -0.6 | -0.6 | -0.6 | -0.6 | -0.7 | -3.7 | -14.4 | | |

1/ Source: Joint Committee on Taxation, adjusted for non-deductibility tax clause. The tax is phased in by 50-cent increments over the first three years and then adjusted for inflation starting in 2003

2/ Includes both state money and federal assistance. The "federal share" is to be used by the states for specified programs related to child development and education, nutrition and health. Programs include Head Start; CCDBG; IDEA; school nutrition; MCHS Block Grant;

3/ See list in Addendum. Items may not add to totals due to technical problems in the bill. The bill adjusts these amounts for inflation using the CPI for urban consumers. The figures here reflect that adjustment, using CBO's CPI estimates .

4/ The bill language states that 14.2 % of the excise tax revenues will go to tobacco victim compensation, and that this is to be included in the AG settlement allocation.

5/ There is much uncertainty over how much money any tobacco legislation would raise over the long term. The FTC claims that the AG settlement terms would result in actual 25-year revenues of $207 billion, if decline in demand is taken into account.

12/11/97 12:04 PM

# MEMORANDUM

TO: BRUCE REED, ELENA KAGAN

FROM: TOM FREEDMAN, MARY L. SMITH

RE: ECONOMIC FOCUS OF TOBACCO INDUSTRY

DATE: JUNE 30, 1997

---

WHITE HOUSE WORKING GROUPS

1. REGULATORY: FDA, advertising, labeling, and environment.

2. PROGRAM AND BUDGET ISSUES: how to spend the money.

3. LEGAL ISSUES: liability, antitrust.

4. INDUSTRY PERFORMANCE AND ACCOUNTABILITY:
   A) OVERALL ECONOMIC ANALYSIS OF THE TOBACCO INDUSTRY

      - Makeup of tobacco industry and impact of settlement on industry in domestic market and internationally in terms of sales, profits, and projections
      - Advertising
      - Sporting events
      - Vending Machines
      - Impact on retailers generally
      - Farmers

   B) PARTS OF AGREEMENT THAT HAVE DIRECT FINANCIAL IMPLICATIONS
      - targets penalties and incentives (penalties on industry to reduce youth smoking)
      - provisions to keep out new start-ups or becoming foreign entities

   C) INTERNATIONAL PIECE OF TOBACCO CONTROL
      - advertising
      - different conduct overseas
      - general tobacco export promotion

*ANNOTATION OF ECONOMIC IMPACT OF TOBACCO SETTLEMENT*

## INDUSTRY PERFORMANCE AND ACCOUNTABILITY:

## A) OVERALL ECONOMIC ANALYSIS OF THE TOBACCO INDUSTRY

- **Makeup of tobacco industry and impact of settlement on industry in domestic market and internationally in terms of sales, profits, and projections**

### U.S. REVENUES AND CONSUMER SPENDING

- 25.5% of American adults smoke; 1996 consumer spending on tobacco products totaled $46.6 billion; and federal, state, and local excise taxes collected on cigarettes totaled $13.1 billion; world-wide cigarette sales in 1996 amounted to $295.8 billion. (WSJ, 6-23-97)

- Cigarette sales in this country are a $45 billion a year business. The cigarette makers--Philip Morris, R.J. Reynolds, Brown & Williamson, Lorillard, Liggett, and American Tobacco--collect $20 billion in U.S. sales. Taxes account for another $14 billion. The other $11 billion is split by retailers, wholesalers, and farmers. From their $20 billion in sales, the companies make a profit of about $8.4 billion. If the deal goes through, this profit could fall to about $6.7 billion, according to the securities firm Sanford C. Bernstein-- $925 million in lower sales and $800 million in interest on the payments. (Chicago Tribune, 6-22-97)

### JOBS

- The Tobacco Institute's Industry Profile estimates that tobacco was a $65 billion industry that supported at least 662,402 jobs in 1994, the last year for which figures are available. (Washington Times, 6-16-97)

### MARKET SHARE

- Phillip Morris has 50% of US cigarette market; RJR Nabisco has 25%; Brown & Williamson has 15% (N.T. Times 6-25-97)

**OVERSEAS MARKET SHARE**

- The tobacco industry might be helped by growing markets overseas. Philip Morris' market share in Central Europe and Eastern Europe grew from 22% in 1995 to 28% in 1996. Salomen Brothers estimates it will grow to 32% this year. (Baltimore Sun, 6-21-97)

**UP-FRONT PAYMENT UNDER THE SETTLEMENT**

- Philip Morris will provide the majority of the initial $10 billion payment (payment is based on stock market value) --Philip Morris will pay $6.5 billion; RJR Nabisco will pay $600 million (reflects RJR Nabisco's weaker financial position); Brown & Williamson (B.A.T.) will pay $1.7 billion; Lorillard (Loews) $720 million; and U.S. Tobacco (UST) $324 million (N.Y. Times 6-25-97)

**PRICE INCREASES, FUTURE PROFITS AND STOCK VALUE**

- The Value Line Investment Survey forecasts 1997 tobacco industry profits to be $13 billion and expects the long-term net profit growth rate to be 11 percent a year, excluding any impact from the negotiations. (NY Times, 6-26-97)

- Gary C. Black, and analyst with the securities firm Sanford C. Bernstein & Co., predicts that with an agreement, Philip Morris shares could rise to about $60 from about $45 and RJR shares could rise to $48 from about $34. Black believes that marketing expenses are going to drop and there will be no bankruptcy worry. Others disagree. The settlement will require tobacco companies to pay about $15 billion a year, a third of their annual U.S. sales of about $45 billion. Jack Maxwell, a tobacco industry analyst for Wheat First Butcher Singer, believes that the companies will have to borrow a lot of money. Art Cecil, a Baltimore-based analyst for T. Rowe Price, believe that if the price goes up 10%, there generally will be a 4% reduction in consumption. Sanford C. Bernstein estimates an 11% drop in per-pack sales. The settlement of outstanding legal claims would cut industry profits from $8.4 billion to $6.7 billion. (Baltimore Sun, 6-21-97)

- Pay-out averages $14.7 billion a year, more than double the industry's operating profits of $7.2 billion from domestic tobacco sales last year. Tobacco companies plan to offset the cost of the deal by increasing cigarette prices in the US by about 50 cents a pack, so the settlement will have the same effect as a big tax increase. The deal does nothing to impinge on the growth side of their business - their booming overseas sales, particularly in emerging markets. (Financial Times, 6-23-97)

- If the settlement passes Congress, the companies could lose $1.5 billion or so in profits next year, partly caused by lower sales and partly by interest on loans the companies will need to pay for the settlement. But the companies are still expected to make $6.7 billion in profits next year, deal or no deal. (Chicago Tribune, 6-22-97)

**EXPECTED PRICE INCREASE AND IMPACT ON CONSUMPTION**

- Cigarettes might go up 75 cents a pack. Some research shows that every 10% of price increase drives 12% of teen smokers to quit. (USA Today, 6-25-97)

- Poll shows that if settlement increases the cost of cigarettes by 75 cents a pack, 57% said that it would be somewhat likely to cause them to quit. 43% say the price increase would not impact their habit. (USA Today, 6-25-97)

- The 50-cents-a-pack price increase, more than any other aspect of the settlement, may affect people's propensity to smoke. Other countries have found that big price increases reduce demand for cigarettes, particularly among youngsters. Mr. Gary Black, an analyst with Sanford C. Bernstein, has estimated that the price increase could cut consumer purchases by 11%. (Financial Times, 6-23-97)

- John Maxwell, a tobacco analyst at Wheat First Butcher Singer in Richmond, VA, estimates that a 10% price increase usually cuts consumption about 2 to 3%, so a 75-cent increase could reduce smoking by about 20 to 30 percent. Manufacturers could turn to cheaper foreign tobacco, or push generic brands. These generic brands held 41% of the market in 1993, but have since slipped to only 27%. (Chicago Tribune, 6-22-97)

- Studies at the University of Chicago and elsewhere suggest volume sales could fall by as much as 8% for each 10% increase in prices. (Bergen Record, 6-21-97)

- The settlement could add 75 cents to $1 to the price of an average pack of cigarettes. Tax hikes being debated in Congress and in 16 states could raise the average price even more, from $1.85 to $3 or more. Marc I. Cohen, a tobacco analyst at Goldman Sachs & Co., estimates that if there is a 75-cent to $1 retail increase, it will cost the average carton-a-week smoker about $400 to $500 more a year. (Chicago Tribune, 6-22-97)

- Even with the expected price increases, international experience shows that most smokers will not quit. Cigarette prices in Europe already are more than $3 per pack; the average price in Norway is $7. Smoking is still very prevalent in Norway. (Chicago Tribune, 6-22-97)

**DEAL/PENALTY**

- $2 billion cap for reduction in youth smoking comes to 8 cents per pack of cigarettes sold annually, 3 cents of that is tax deductible, so the penalty is really 5 cents a pack (USA Today 6-25-97)

- The agreement provides for a financial penalty of up to $2 billion a year against the tobacco industry if it fails to cut under-age smoking by 60% over the next 10 years -seemingly, a form of guarantee that the deal will work. But the target looks so unrealistic as to suggest that tobacco manufacturers consider an extra $2 billion a year a price worth paying for the legal immunity they will gain. (Financial Times, 6-23-97)

**DEAL/JOBS**

- For tobacco industry workers, John Maxwell, a tobacco industry analyst at Wheat First Butcher Singer in Richmond, VA, says there will possibly be layoffs. (Chicago Tribune, 6-22-97)

**BANS ON ADVERTISING AND IMPACT ON CONSUMPTION**

- Canada imposed a ban on cigarette advertising in 1989. Since then, the percentage of Canadians who smoke has gone up from 30 to 31%. In Finland, teenage smoking has gone up from 22 to 24% since a partial advertising ban in 1978. (Chicago Tribune, 6-22-97)

- **Advertising**

  - Advertisers and ad agencies will not feel much of a pinch from the settlement because they have been shifting their business away from the tobacco companies for years. Billboard owners get about 10% of their total revenue from cigarette advertising. For magazines, it is less than 3%. And cigarette advertising has been banned from television for 26 years. (Chicago Tribune, 6-22-97)

  - According to John Fithian, counsel to the Washington-based Freedom to Advertise Coalition, even if Congress gives the advertising portion of the settlement the force of law, the advertisers can live with it because it will directly affect less than 1% of the industry's total revenues. (Chicago Tribune, 6-22-97)

- **Sporting events**
- **Vending Machines**
- **Impact on retailers generally**

  - Retailers will feel an impact from 3 directions: (1) the public may buy less; (2) the companies may try to shave their markets; and (3) smokers may switch to cheaper brands. Lindsay Hutter, from the National Association of Convenience Stores, says that cigarettes account for 26% of sales in members' stores and will put her members in a much more competitive squeeze. (Chicago Tribune, 6-22-97)

  - Convenience store owners take in $17.3 billion a year, 26% of their sales, by selling one out of every two cigarettes consumers smoke. Lindsay Hutter, of the Alexandria, VA-based National Association of Convenience Stores, even warns of a growing black market in tax-free tobacco, like the one that emerged after Canada raised taxes in the early 1990s. (Bergen Record, 6-21-97)

- **Farmers**

**FEDERAL SUBSIDIES**

- Federal government's subsidies for tobacco farming are relatively small. Direct subsidies ended in the 1980s. Now the subsidies amount to a quota system in which the government licenses the right to grow tobacco and has a federal program to insure farmers against crop losses. The Department of Agriculture has budgeted $145 million for the insurance in the coming fiscal year; in years with no significant losses, it contributes little or nothing to the insurance pool. (The Guardian, 6-24-97; NT Times, 6-23-97)

- Huge export market is helping to make up for drastic declines in domestic consumption, according to Blake Brown, an agricultural economist at North Carolina State University. About 40% of flue-cured tobacco, the kind produced in North Carolina, is exported. However, the farmers are earning less than in the 1970s, as is North Carolina as a whole. Tobacco was 46% of North Carolina's farm income in 1964, but was only 15% in 1994. (The Guardian, 6-24-97; NY Times, 6-23-97)

STATE STATISTICS

- Tobacco is a major crop in the Carolinas, Kentucky, Virginia, and other Southern states. But any ripple effect from the settlement would be felt most strongly in North Carolina, which produces 52% of all domestically grown tobacco. This is home base for much of the $45 billion-a-year tobacco industry. Both Philip Morris and RJ Reynolds, which together account for almost three-fourths of the cigarettes sold in the US, are based in North Carolina. There are about 17,000 tobacco farmers in North Carolina. Mark Vitner, a regional economist at First Union Corp. in North Carolina, said that two decades ago, the tobacco industry represented 20% of North Carolina's economy. Today tobacco accounts for only about 6.5% of the state's economy, or about $12 billion annually. (LA Times, 6-23-97)

- Kentucky and North Carolina are the largest tobacco-producing states. Last year North Carolina's crop sold for $871 million, which resulted in much tax dollars for the federal government. Blake Brown, an agricultural economist who tracks tobacco at North Carolina State University, says farm sales of tobacco generate 15 to 20% of the state revenue and tobacco accounts for about $12 billion of state receipts. Most of the tobacco grows in the North Carolina's eastern and piedmont regions. The crop accounts for one in 11 jobs in the state. This year the tobacco-growing quota is the

largest it has been in 15 years. During the last three years, cigarette production has been breaking record levels. Brown says that cigarette production is on the rise and tobacco is on the rebound and attributes this increase to the European and Japanese markets. (Washington Times, 6-16-97)

- In Virginia, tobacco is the largest cash crop, bringing in $186 million for more than 8,000 farm families in 47 counties in 1996. Even though the state's 2 ½ cents-a-pack tax is the lowest in the nation, it generated $17 million in 1995. 29 cities and 2 counties added $33 million in 1995 in local cigarette taxes. A big part of tobacco's hold on Virginia is the $4,000 an acre that farmers take in for growing tobacco, compared with $136 an acre for wheat and not much more for other crops. Thousands of Mexicans harvest the tobacco fields --the pay is about $5.80 an hour; transportation to and from Mexico is provided, so is housing and health care. Foreign sales have kept the demand for Virginia tobacco high. This year there is an 11.5 % increase in the amount of tobacco that farmers can grow in the states. (Virginian-Pilot, 6-8-97)

- In 1950, North Carolina had 150,764 tobacco farmers; now there are 17,625. The crop back then accounted for 60% of farm income; now it accounts for 20%. While most farmers have diversified to other crops, they say they cannot afford to give up tobacco altogether because it remains the most profitable. (LA Times, 6-23-97)

- In Richmond, Philip Morris, which produces 600 million cigarettes per day, is the city's largest private employer, with 8,000 workers and a yearly payroll of $456 million. The company's suppliers account for another 17,000 jobs in the Richmond area. (Washington Times, 6-25-97)

- In Virginia, in 47 counties, 8,400 farms grow tobacco. Last year's crop brought farmers $186 million. 4% of Virginians earn their living from tobacco, directly or indirectly. (Washington Times, 6-25-97)

## B) PARTS OF AGREEMENT THAT HAVE DIRECT FINANCIAL IMPLICATIONS

- **targets penalties and incentives (penalties on industry to reduce youth smoking)**
- **provisions to keep out new start-ups or becoming foreign entities**

## C) INTERNATIONAL PIECE OF TOBACCO CONTROL

- **advertising**
- **different conduct overseas**
- **general tobacco export promotion**

    - The tobacco industry might be helped by growing markets overseas. Philip Morris' market share in Central Europe and Eastern Europe grew from 22% in 1995 to 28% in 1996. Salomen Brothers estimates it will grow to 32% this year. (Baltimore Sun, 6-21-97)

    - Foreign-grown tobacco has been improving in quality because of technological advancements. It is far cheaper than American tobacco, in part because of price supports and an American quota system that limits production in an attempt to keep demand high. Brazil, Argentina, Zimbabwe, and Malawi are now fierce competitors. (LA Times, 6-23-97)

USA Today 6-23-97
Business Section

# Tobacco's deep roots in the economy

The tobacco industry contributes substantially to the U.S. economy. How much was added to the 1994 economy by people whose income came directly from a tobacco company, farm, supplier (makers of boxes, cellophane and other goods and services needed for tobacco products), or advertising agency that works on tobacco accounts.

**Tobacco is grown on more than 124,000 farms in 23 states and Puerto Rico. Top 10 tobacco-producing states in 1995, by cash receipts:**

(In millions)

| | |
|---|---|
| North Carolina | $871 |
| Kentucky | $615 |
| South Carolina | $187 |
| Tennessee | $178 |
| Virginia | $147 |
| Georgia | $133 |
| Florida | $31 |
| Ohio | $28 |
| Indiana | $25 |
| Pennsylvania | $22 |

- Contribution to gross domestic product: $44.7 billion
- Jobs: 662,402
- Federal/state/local taxes: $20.6 billion

By Vidal Medina, Reuters

**In the field:** Workers harvest tobacco at a Maryland farm. In 1996, about 674,300 acres of tobacco were harvested in the USA — 1.32 billion pounds — down nearly 16% from 1994.

**The USA's two biggest tobacco companies draw much of their tobacco revenue outside the USA**

**1996 tobacco revenues**

| | Philip Morris | RJR Nabisco |
|---|---|---|
| Domestic | $12.5 billion | $4.6 billion |
| International | $24.1 billion | $3.6 billion |

**Tobacco companies are among Corporate America's leading advertisers**

Tobacco advertising, excluding promotional expenses (in millions)

| | |
|---|---|
| 1994 | $450 |
| 1995 | $499 |
| 1996 | $490 |
| 1997[1] | $90 |

1 – January to March

**Where tobacco ad dollars go:**

(In millions)

| | |
|---|---|
| Magazines | $316.5 |
| Event sponsorship | [illegible] |
| Outdoor | $157.6 |
| Cable TV networks | $0.8 |
| Newspapers | $10.0 |
| Sunday magazines | $5.3 |

**The average price for a pack of cigarettes in the USA is $1.85. Average price by state, and how much of that cost is taxes:**

| | Price | Tax |
|---|---|---|
| Washington | $2.65 | 0.825 |
| Massachusetts | $2.45 | 0.770 |
| Hawaii | $2.43 | 0.600 |
| Michigan | $2.34 | 0.750 |
| Dist. Columbia | $2.30 | 0.650 |
| New York | $2.23 | 0.560 |
| Arizona | $2.22 | 0.580 |
| Minnesota | $2.17 | 0.480 |
| Rhode Island | $2.17 | 0.610 |
| Alaska | $2.14 | 0.290 |
| Connecticut | $2.09 | 0.500 |
| Vermont | $2.02 | 0.440 |
| Wisconsin | $2.01 | 0.440 |
| California | $2.00 | 0.370 |
| Illinois[1] | $1.99 | 0.440 |
| Nevada | $1.99 | 0.350 |
| Oregon | $1.98 | 0.680 |
| New Jersey | $1.95 | 0.400 |
| North Dakota | $1.94 | 0.440 |
| Maryland | $1.91 | 0.360 |
| Maine | $1.90 | 0.370 |
| Texas | $1.90 | 0.410 |
| Iowa | $1.89 | 0.360 |
| Utah | $1.86 | 0.265 |
| Nebraska | $1.85 | 0.340 |
| Idaho | $1.84 | 0.280 |
| Florida | $1.83 | 0.339 |
| South Dakota | $1.82 | 0.330 |
| Arkansas | $1.81 | 0.310 |
| New Hampshire | $1.77 | 0.250 |
| Pennsylvania | $1.77 | 0.310 |
| New Mexico | $1.76 | 0.210 |
| Colorado | $1.74 | 0.200 |
| Delaware | $1.72 | 0.240 |
| Oklahoma | $1.72 | 0.230 |
| Kansas[1] | $1.71 | 0.240 |
| Mississippi | $1.69 | 0.180 |
| Alabama[1] | $1.67 | 0.165 |
| Louisiana | $1.67 | 0.200 |
| Ohio | $1.67 | 0.240 |
| Wyoming | $1.64 | 0.120 |
| Montana | $1.65 | 0.180 |
| Missouri[1] | [illegible] | 0.170 |
| Tennessee[1,2] | $1.61 | 0.130 |
| West Virginia | [illegible] | 0.120 |
| Virginia[1] | $1.60 | 0.025 |
| Georgia | $1.59 | 0.120 |
| Indiana | $1.56 | 0.155 |
| South Carolina | $1.54 | 0.070 |
| North Carolina | $1.52 | 0.050 |
| Kentucky[2] | $1.46 | 0.030 |

1 – Counties and cities may impose an additional tax
2 – Additional distribution fees charged

Sources: American Economic Group, Competitive Media Reporting and Publishers Information Bureau, The Tobacco Institute
USA TODAY research by Mary Cadden

By Marcy E. Mullins, USA TODAY

# FAX TRANSMISSION

**SENATE BUDGET COMMITTEE**
621 DIRKSEN SENATE OFFICE BUILDING
WASHINGTON, DC 20510
(202)224-0642
FAX: (202)224-4835

***Date:*** 12-11-97 ***Time:*** 11 a.m.

***To:*** Tom Friedman, DPC

***Fax Number:*** 456-7431

***Re:*** Updated revenue estimates - ciggarette tax

***Sender:*** Diana Meredith 224-5811

***Comments:***

***YOU SHOULD RECEIVE*** 2 ***PAGE(S), INCLUDING THIS COVER SHEET. IF YOU DO NOT RECEIVE ALL THE PAGES, PLEASE CALL (202)224-***5811.

# INCREASE IN FEDERAL TAX REVENUES UNDER
# Kennedy-Lautenberg-Durbin (S. 1491)

(in billions of dollars)

| Year | *Proposed $1.50-per-pack tax, indexed for inflation (3% minimum) 1/* | *Non-deductibility of proposed tax and inflation adjustments /2* | ***Total increase in tax revenues*** |
|---|---|---|---|
| 1998 | $5.1 | $1.8 | $6.9 |
| 1999 | $10.5 | $3.7 | $14.2 |
| 2000 | $12.6 | $4.4 | $17.0 |
| 2001 | $13.1 | $4.6 | $17.7 |
| 2002 | $13.1 | $4.6 | $17.7 |
| 2003 | $13.5 | $4.7 | $18.2 |
| 2004 | $14.0 | $4.9 | $18.9 |
| 2005 | $14.5 | $5.1 | $19.6 |
| 2006 | $15.1 | $5.3 | $20.4 |
| 2007 | $15.1 | $5.3 | $20.4 |
| 2008 | 15.6 | $5.4 | $21.0 |
| 2009 | 16.0 | $5.6 | $21.6 |
| 2010 | 16.5 | $5.8 | $22.3 |
| 2011 | 17.0 | $5.9 | $22.9 |
| 2012 | 17.5 | $6.1 | $23.6 |
| 2013 | 18.0 | $6.3 | $24.3 |
| 2014 | 18.6 | $6.5 | $25.1 |
| 2015 | 19.1 | $6.7 | $25.8 |
| 2016 | 19.7 | $6.9 | $26.6 |
| 2017 | 20.3 | $7.1 | $27.4 |
| 2018 | 20.9 | $7.3 | $28.2 |
| 2019 | 21.5 | $7.5 | $29.1 |
| 2020 | 22.2 | $7.8 | $29.9 |
| 2021 | 22.8 | $8.0 | $30.8 |
| 2022 | 23.5 | $8.2 | $31.8 |
| ***TOTAL*** | *$415.9* | *$145.6* | ***$561.4*** |

$126.7

Mike Vade

1/ The figures for the first 10 years are official JCT estimates. For years 11-25, we used the base figure from year 10 and applied a 3% per annum inflation multiplier.

2/ The official JCT estimate does not account for the provision preventing the deduction of this excise tax as a business expense for income tax purposes. For a rough estimate, we multiplied expected tax revenues by 35 %.

non-deductibility

Kennedy's folks have done their own revenue estimate, I think. Their numbers may be different. Jonathan [illegible] Halpin [illegible]
224-6572

Senate Budget Committee Minority Staff 12/10/97 11:53 AM

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224-6572

Senate Budget Committee Minority Staff 12/10/97 11:53 AM

5 7 1 4 3% = 26 bill. 5.8 = 40 - Split fields tobacco - budget



- 4 W

## Table S–7. TOBACCO LEGISLATION

(In billions of dollars)

| | Estimate 1999 | 2000 | 2001 | 2002 | 2003 | Total 1999–2003 |
|---|---|---|---|---|---|---|
| **USES OF RECEIPTS FROM TOBACCO LEGISLATION** | | | | | | |
| **Federally-operated Programs:** | | | | | | |
| Research Fund for America | 3.6 | 4.6 | 5.0 | 5.7 | 6.3 | 25.3 |
| Food and Drug Administration Enforcement Activities | 0.1 | 0.2 | 0.3 | 0.3 | 0.3 | 1.2 |
| Health and Human Services/Centers for Disease Control Smoking Prevention | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.4 |
| Medicare Beneficiaries Cancer Clinical Trials Demonstration | 0.2 | 0.2 | 0.3 | .......... | .......... | 0.8 |
| Subtotal, Federally-operated programs | 4.0 | 5.1 | 5.6 | 6.1 | 6.7 | 27.5 |
| **State-administered Programs:** | | | | | | |
| Child Care and Development Block Grant | 1.2 | 1.3 | 1.4 | 1.6 | 2.1 | 7.5 |
| Medicaid Child Outreach Reforms | 0.1 | 0.2 | 0.2 | 0.2 | 0.2 | 0.9 |
| Class Size Initiative | 1.1 | 1.3 | 1.5 | 1.7 | 1.7 | 7.3 |
| Subtotal, State-administered programs | 2.4 | 2.7 | 3.1 | 3.5 | 4.0 | 15.7 |
| **Other Uses** (Includes unrestricted funds for States, cessation programs, farmer assistance, etc.) | 3.4 | 3.9 | 4.6 | 5.0 | 5.4 | 22.3 |
| **Total Uses** | **9.8** | **11.8** | **13.3** | **14.5** | **16.1** | **65.5** |
| **TOBACCO LEGISLATION RECEIPTS PROPOSED** | **9.8** | **11.8** | **13.3** | **14.5** | **16.1** | **65.5** |

Children 40,000 grads

Medicare recovery

14.8 +11

Medicare Campaign reform

5 items

-62 4

$1.10 annu

annual industry payments
$1.10 - in fifth
62, 89, 1.10
50-yr estimate
double price & 2x revenue

March 3 -
Donna to McCain

Settlement vs. per pack -

Minor hit on 5 goals
100,000 kids
a yr.

You got as much
as you would have
gotten

Scoring rule 3:
Appropriations can be
considered offset

& break
the
caps

# 'obacco Funds Allocation Adds Settlement Pressure

By Saundra Torry
Washington Post Staff Writer

President Clinton's new budget calls for spending nearly $10 billion from the proposed national tobacco settlement on a wide variety of new initiatives—adding yet another dicey to the increasingly precarious deal.

Clinton proposed using anticipated r from the settlement—$65 billion over the next five —for programs with a strong emphasis on children, health care and research, even though Congress is still in the earliest stages of crafting the legislation needed to the deal a reality.

By including the anticipated in the budget, the White is betting that it will increase on the Republican-controlled Congress to approve tobacco legislation or face political heat for failing to do so. But some public health advocates said they feared that the settlement might be killed in the political cross-fire between the White House and Congress over the budget proposals.

The administration did not specify how the tobacco revenue would be raised, though the budget did mention "annual lump sum payments" by tobacco manufacturers. Clinton said last year that cigarette prices should be raised by $1.50 per pack over the next decade—more than double the increase agreed to by the industry in the proposed settlement of legal claims.

Yesterday, a spokesman said the industry would oppose any excise tax increase, preferring to fund the settlement with annual payments.

Clinton proposed using the anticipated o money for programs, new and old, from smoking cessation to reducing elementary school

The federal government would get the largest share, $4 billion in fiscal 1999, to help start a multibillion-dollar science research program, to enforce Food and Drug Administration rules designed to curb youth smoking and beef up other prevention programs.

States would receive $2.4 billion in fiscal 1999 for child-care programs, a new plan to enroll eligible children in Medicaid and to recruit and train teachers to teach effectively in smaller classes.

Another $3.4 billion is set aside for less clearly defined uses, including smoking cessation programs, assistance to farmers displaced by the tobacco settlement and for "unrestricted" use by the states. It is unclear how those funds would be divided.

The National Governors' Association took aim at that proposal, saying the states—whose lawsuits against the industry sparked the settlement—are concerned that the state payments are "an afterthought" in the president's package and would leave them fighting over money with other groups.

The proposal also drew Republican criticism. Senate Commerce Committee Chairman John McCain (Ariz.) decried Clinton's use of "nonexistent revenue" and failure to detail how the money would be raised. Rep. Thomas J. Bliley Jr. (R-Va.) criticized the president for spending the deal's proceeds while failing to send Congress a tobacco bill.

But Sen. Kent Conrad (N.D.), head of a Democratic Senate task force on tobacco, said the budget proposal strengthens the chances for comprehensive tobacco legislation by putting forward programs that "have strong support in the American public."

If Republicans "don't want to support improving education ... and access to child care," he said, "they will be on the wrong side of history."

**The Washington Post**
TUESDAY, FEBRUARY 3, 1998

# Karla Tucker Loses Bid for Clemency

## *Bush, Court Asked To Halt Execution*

1992 FILE PHOTO/ASSOCIATED PRESS
**Karla Faye Tucker was turned down 16-0, with two abstaining.**

Associated Press

AUSTIN, Tex., Feb. 2—A state board unanimously rejected Karla Faye Tucker's bid for clemency today, leaving only the U.S. Supreme Court and the Texas governor with the power to halt the pickax killer's execution, scheduled for Tuesday.

Despite pleas of mercy, including from Pope John Paul II, the gruesome nature of her crime left the Board of Pardons and Paroles with no qualms, the chairman said. They turned Tucker down 16 to 0, with two members abstaining.

"There is no question as to their vote. There is no question as to how they feel," said chairman Victor Rodriguez. "I, myself, have absolutely no quarrel with the decision to deny Ms. Tucker's request on all fronts."

Tucker, 38, a former teenage prostitute who found religion in prison, would be the first woman executed in Texas since the Civil War. Her execution is scheduled for Tuesday at 6 p.m. CST.

In her appeal before the Supreme Court, Tucker's attorneys contend that the commutation process is flawed and unconstitutional, in part because of the consistent lack of favorable rulings.

A federal judge today rejected their request to stay her execution until the lawsuit is resolved. U.S. District Judge Sam Sparks said in his decision that there is "no constitutional right to clemency under federal law."

All 76 requests to the Board of Pardons and Paroles since 1993 have been rejected, including 16 last year, when the state executed a record 37 convicted killers.

"Texas has no mercy," said David Botsford, Tucker's lawyer. "The clemency process in this state is a farce."

Rodriguez said neither her gender nor her newfound religion played a role in the board's decision. The board also rejected her request for a 60- or 90-day reprieve to allow courts time to consider her challenge to the state's clemency process.

Botsford said Tucker made a videotape in prison Saturday night, asking Gov. George W. Bush (R) for a one-time, 30-day stay of execution—the only action a Texas governor may take independently in death-penalty

*All 76 requests to the Board of Pardons and Paroles since 1993 have been rejected, including 16 last year.*

cases. Bush said he will not make a decision until after the Supreme Court has ruled.

Tucker was sentenced to die for bludgeoning a man and woman to death in 1983, with a companion. The last woman executed in Texas was Chipita Rodriguez, who was hanged in 1863. The last woman executed in the United States was Velma Barfield in North Carolina in 1984.

Preparations for her execution continued, with Tucker being flown from the female death row at a prison in Gatesville to Huntsville, 175 miles away, where executions are carried out. "Her mood was calm and upbeat," prison spokesman David Nunnelee said.

Tobacco
budget
EW

tobacco / budget

## Table S–7. TOBACCO LEGISLATION
(In billions of dollars)

| | Estimate 1999 | 2000 | 2001 | 2002 | 2003 | Total 1999–2003 |
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| Food and Drug Administration Enforcement Activities | 0.1 | 0.2 | 0.3 | 0.3 | 0.3 | 1.2 |
| Health and Human Services/Centers for Disease Control Smoking Prevention | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.4 |
| Medicare Beneficiaries Cancer Clinical Trials Demonstration | 0.2 | 0.2 | 0.3 | .......... | .......... | 0.8 |
| Subtotal, Federally-operated programs | 4.0 | 5.1 | 5.6 | 6.1 | 6.7 | 27.5 |
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| Child Care and Development Block Grant | 1.2 | 1.3 | 1.4 | 1.6 | 2.1 | 7.5 |
| Medicaid Child Outreach Reforms | 0.1 | 0.2 | 0.2 | 0.2 | 0.2 | 0.9 |
| Class Size Initiative | 1.1 | 1.3 | 1.5 | 1.7 | 1.7 | 7.3 |
| Subtotal, State-administered programs | 2.4 | 2.7 | 3.1 | 3.5 | 4.0 | 15.7 |
| **Other Uses** (Includes unrestricted funds for States, cessation programs, farmer assistance, etc.) | 3.4 | 3.9 | 4.6 | 5.0 | 5.4 | 22.3 |
| **Total Uses** | **9.8** | **11.8** | **13.3** | **14.5** | **16.1** | **65.5** |
| **TOBACCO LEGISLATION RECEIPTS PROPOSED** | **9.8** | **11.8** | **13.3** | **14.5** | **16.1** | **65.5** |

TAXES

# Budget Linked to Tobacco Pact and Other Money Sources

By DAVID E. ROSENBAUM

WASHINGTON, Feb. 2 — The surplus that President Clinton forecasts in the budget he sent Congress today hinges in part on his proposals for more than $100 billion in new revenue over the next five years.

The prospects are problematic at best that many of these proposals will be enacted.

Most of the new money in the budget would come from the tobacco industry. The rest would mostly result from ending what the budget calls unwarranted tax benefits for corporations.

The increased revenue would be partly offset by more than $20 billion in tax reductions over five years, primarily to promote child care, education, environmental cleanup and retirement savings.

"I think most of these programs will not come to pass in a Republican Congress," said Representative John R. Kasich of Ohio, a Republican who is chairman of the Budget Committee.

The Republicans who control Congress have forsworn new taxes, are skeptical of a tobacco agreement, generally favor corporate tax breaks and prefer an across-the-board tax cut to tax incentives to achieve social policy goals.

In addition to his tax proposals, the President began a political pre-emptive strike by recommending a variety of restraints on the Internal Revenue Service. Republicans hope to gain politically this year by attacking what they believe to be excessive fervor by the I.R.S. and by passing laws that place restrictions on the tax agency.

The heart of the budget's revenue proposals is the money the President intends to raise from the tobacco industry, $9.8 billion in the next fiscal year and $65.5 billion over five years.

The budget identifies this money simply as "receipts from tobacco legislation" without specifying what the elements of such legislation would be. The President has been careful not to say whether he supports higher taxes on tobacco products, some kind of penalty on the tobacco industry or voluntary payments by tobacco companies.

Last year, the major tobacco companies reached an agreement with about 40 state attorneys general in which the companies would be given protection against most lawsuits in return for a five-year payment of $368.5 billion. The money in the budget could be construed to be the Federal share of this deal.

But the agreement can go into effect only if Congress approves it. Lawmakers have seemed reluctant to grant the companies relief from lawsuits, and without such protection, the companies are not likely to make a voluntary payment to the Federal Government and the states.

While the budget is silent about how the tobacco money would be raised, it is explicit about how it would be spent: for medical research, Food and Drug Administration enforcement, smoking prevention, child care, Medicaid, education and aid to tobacco farmers.

In addition to the tobacco revenue, the budget envisions raising $40 billion over the next five years by reinstating corporate taxes to pay for cleaning up hazardous substances, by extending an expiring tax on gasoline and diesel fuel and by eliminating dozens of obscure corporate tax breaks. Businesses that pay taxes overseas could be affected as could the real estate and insurance industries, among others.

Here are some of the new tax breaks the President proposed:

¶The tax credit to parents of children under 13 to offset part of their child-care expenses would be expanded. The maximum credit would be increased to 50 percent from 30 percent of expenses for families with incomes below $30,000. Parents with incomes above $59,000 would be entitled to a 20 percent credit. Employers would also be given an additional tax incentive to provide child care for their workers.

¶New tax-exempt bonds would be allowed to pay for the construction or rehabilitation of schools.

¶Taxpayers would be entitled to tax credits if they bought homes, heating and cooling equipment and cars that were especially energy-efficient.

¶Small businesses would be offered tax reductions to encourage them to adopt pension and retirement plans for their employees.

¶When workers are laid off, they would not have to pay income tax on the first $2,000 of their severance pay.

The President proposed requiring the Internal Revenue Service to disclose its criteria selecting taxpayers to be audited. New rules would also limit the ability of revenue agents to seize property.

And if the President has his way, taxpayers would no longer make their checks payable to the I.R.S. Instead the checks would be made out to the "United States Treasury."

## New Revenue, New Programs

The Clinton budget counts on $100 billion over five years from unspecified tobacco payments and other revenue.

**What Tobacco Would Pay For**

Programs the Administration hopes to finance with the new revenue. Proposed spending from 1999 to 2003, in billions.

| | |
|---|---|
| **Federal programs** | |
| Health and science research | $25.3 |
| Enforcement of Food and Drug Administration rules | 1.2 |
| Smoking prevention programs | 0.4 |
| New drugs for elderly cancer patients | 0.8 |
| **TOTAL** | **$27.5** |
| **State programs** | |
| Child care block grant | $ 7.5 |
| Extending Medicaid to needy children | 0.9 |
| Program to hire extra teachers to reduce class sizes | 7.3 |
| **TOTAL** | **$15.7** |
| **Other** | **$22.3** |
| **Total** | **$65.5** |

**Other New Revenue ...**

Figures in billions.

| | |
|---|---|
| Changes in the tax code | $23.0 |
| Environmental and toxic waste taxes | 7.4 |
| Airport fees | 6.0 |
| Gasoline and fuel taxes | 1.5 |
| Other | 2.2 |
| **TOTAL** | **$40.1** |

**... And Some Plans for It**

A partial list of initiatives. Figures in billions.

| | |
|---|---|
| Child care subsides | $5.6 |
| Energy efficiency, environmental protection | 3.6 |
| Restore food stamps to legal immigrants | 2.4 |
| Public school construction | 5.0 |
| Low-income housing tax credits | 1.6 |

NOTE: Figures may not add to totals because of rounding.

Source: Office of Management and Budget

The New York Times

The New York Times
TUESDAY, FEBRUARY 3, 1998

Tobacco budget

# FAX TRANSMISSION

SENATE BUDGET COMMITTEE
621 DIRKSEN SENATE OFFICE BUILDING
WASHINGTON, DC 20510
(202)224-0642
FAX: (202)224-4835

**Date:** 12-11-97 **Time:** 11 a.m.

**To:** Tom Friedman, DPC

**Fax Number:** 456-7431

**Re:** Updated revenue estimates - cigarette tax

**Sender:** Diana Meredith 224-5811

**Comments:**

***YOU SHOULD RECEIVE 2 PAGE(S), INCLUDING THIS COVER SHEET. IF YOU DO NOT RECEIVE ALL THE PAGES, PLEASE CALL (202)224-5811.***

## INCREASE IN FEDERAL TAX REVENUES UNDER Kennedy-Lautenberg-Durbin (S. 1491)

(in billions of dollars)

| Year | *Proposed $1.50-per-pack tax, indexed for inflation (3% minimum) 1/* | *Non-deductibility of proposed tax and inflation adjustments /2* | ***Total increase in tax revenues*** |
|---|---|---|---|
| 1998 | $5.1 | $1.8 | $6.9 |
| 1999 | $10.5 | $3.7 | $14.2 |
| 2000 | $12.6 | $4.4 | $17.0 |
| 2001 | $13.1 | $4.6 | $17.7 |
| 2002 | $13.1 | $4.6 | $17.7 |
| 2003 | $13.5 | $4.7 | $18.2 |
| 2004 | $14.0 | $4.9 | $18.9 |
| 2005 | $14.5 | $5.1 | $19.6 |
| 2006 | $15.1 | $5.3 | $20.4 |
| 2007 | $15.1 | $5.3 | $20.4 |
| 2008 | 15.6 | $5.4 | $21.0 |
| 2009 | 16.0 | $5.6 | $21.6 |
| 2010 | 16.5 | $5.8 | $22.3 |
| 2011 | 17.0 | $5.9 | $22.9 |
| 2012 | 17.5 | $6.1 | $23.6 |
| 2013 | 18.0 | $6.3 | $24.3 |
| 2014 | 18.6 | $6.5 | $25.1 |
| 2015 | 19.1 | $6.7 | $25.8 |
| 2016 | 19.7 | $6.9 | $26.6 |
| 2017 | 20.3 | $7.1 | $27.4 |
| 2018 | 20.9 | $7.3 | $28.2 |
| 2019 | 21.5 | $7.5 | $29.1 |
| 2020 | 22.2 | $7.8 | $29.9 |
| 2021 | 22.8 | $8.0 | $30.8 |
| 2022 | 23.5 | $8.2 | $31.8 |
| ***TOTAL*** | ***$415.9*** | ***$145.6*** | ***$561.4*** |

$126.7

n/m valid

1/ The figures for the first 10 years are official JCT estimates. For years 11-25, we used the base figure from year 10 and applied a 3% per annum inflation multiplier.

2/ The official JCT estimate does not account for the provision preventing the deduction of this excise tax as a business expense for income tax purposes. For a rough estimate, we multiplied expected tax revenues by 35 %.

non-deductibility

Kennedy's folks have done their own revenue estimate, I think. Their numbers may be different. Jonathan [illegible] Halpin [illegible]

224-6572

Senate Budget Committee Minority Staff 12/10/97 11:53 AM

REV-36 INCREASE EXCISE TAXES ON TOBACCO AND ALCOHOLIC BEVERAGES

| Addition to Current-Law Revenues | Annual Added Revenues (Billions of dollars) 1998 | 1999 | 2000 | 2001 | 2002 | Five-Year Cumulative Total |
|---|---|---|---|---|---|---|
| Increase the Cigarette Tax to 48 Cents per Pack | 2.6 | 3.4 | 3.5 | 3.5 | 3.5 | 16.5 |
| Increase the Cigarette Tax to 99 Cents per Pack | 6.4 | 8.4 | 8.5 | 8.6 | 8.7 | 40.6 |
| Increase All Alcoholic Beverage Taxes to $16 per Proof Gallon | 3.6 | 4.4 | 4.4 | 4.4 | 4.4 | 21.2 |
| Index Cigarette and Alcohol Tax Rates for Inflation | 0.2 | 0.5 | 0.7 | 1.1 | 1.3 | 3.8 |

SOURCE: Joint Committee on Taxation.

NOTE: Estimates are net of reduced income and payroll tax revenues.

Federal alcohol and tobacco taxes raised about $13 billion in 1996, including $7 billion from taxes on distilled spirits, beer, and wine and $6 billion from taxes on tobacco. Together they represented nearly one-quarter of revenues from all excise taxes and about 1 percent of total federal revenues.

Smoking and drinking can create costs to society that the prices of tobacco and alcoholic beverages do not reflect. Examples of those "external costs" include higher health insurance costs to cover the medical expenses linked to smoking and drinking, the effects of cigarette smoke on the health of nonsmokers, and the loss of lives and property in alcohol-related accidents.

By raising the price of tobacco and alcoholic beverages, excise taxes can result in consumers' paying the full cost for smoking and drinking. If excise taxes lead to reduced consumption of tobacco and alcoholic beverages, then increasing them would decrease the total external costs that smoking and drinking produce. If those external costs primarily come from heavy or abusive consumption, however, higher taxes on tobacco and alcoholic beverages could unduly penalize moderate and infrequent smokers and drinkers. Furthermore, some research suggests that, at least for tobacco, current taxes may more than adequately compensate for the external costs that smokers impose on society.

Increasing excise taxes to reduce consumption may be desirable regardless of the effect on external costs if consumers are either unaware of or underestimate the harm that their smoking and drinking does to them. If most consumers of cigarettes overestimate rather than underestimate the risks involved with smoking, as some studies have shown, then additional taxes would not be warranted. Teenagers, however, may not be prepared to evaluate the long-term effects of smoking and drinking. Evidence suggests that teenage smoking and drinking declines in response to higher prices for tobacco and alcoholic beverages. A number of national medical organizations have supported a substantial increase in the existing federal excise tax on tobacco in the interests of reducing teenage smoking.

Taxes on tobacco and alcoholic beverages are regressive when compared with annual family income; that is, such taxes are a greater percentage of income for low-income families than for middle- and upper-income families.

# Distribution of Revenues Under The Healthy & Smokefree Children Act (S. 1492, Kennedy)

(in billions of nominal dollars)

| | Percent share | 1998 | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | Total 1998-2007 | For comparison purposes: 25-year revenue estimates | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | | | | | $1.50 tax: revised JCT estimate extrapolated | $1.50 tax increase – J. Harris estimate | AG settlement estimate: assumes no demand effect 5/ |
| **C!GARETTE TAX ($1.50) 1/** | | **6.9** | **14.2** | **17.0** | **17.7** | **17.7** | **18.2** | **18.9** | **19.6** | **20.4** | **20.4** | **170.9** | **561.4** | **652.0** | **368.5** |
| **Allocation of Revenues** | | | | | | | | | | | | | | | |
| **1) Current A.G. Settlement ($.65)** | **43.00%** | | | | | | | | | | | | | | |
| Medicaid Reimbursement to States 2/ | | -0.1 | 1.8 | 2.6 | 2.6 | 2.5 | 2.5 | 2.7 | 2.8 | 2.9 | 2.8 | 23.0 | 77.0 | 116.0 | 193.5 |
| Federal Public Health Programs 3/ | | 2.1 | 2.2 | 2.3 | 2.5 | 2.6 | 2.7 | 2.8 | 2.9 | 3.0 | 3.1 | 26.2 | 84.7 | 84.7 | 98.0 |
| Tobacco Victim Compensation 4/ | | 1.0 | 2.0 | 2.4 | 2.5 | 2.5 | 2.6 | 2.7 | 2.8 | 2.9 | 2.9 | 24.3 | 79.7 | 79.7 | 77000.0 |
| *Subtotal* | | *3.0* | *6.1* | *7.3* | *7.6* | *7.6* | *7.8* | *8.1* | *8.4* | *8.8* | *8.8* | *73.5* | *241.4* | *280.4* | *368.5* |
| **2) Supplemental Federal Allocation ($.85)** | **57.00%** | | | | | | | | | | | | | | |
| Federal Health & Basic Research | | 0.2 | 2.2 | 2.9 | 4.6 | 4.6 | 5.0 | 5.4 | 5.6 | 5.8 | 5.8 | 42.2 | 153.5 | 179.3 | 0.0 |
| Child Development Services and Research | | 0.2 | 2.2 | 2.9 | 4.6 | 4.6 | 5.0 | 5.4 | 5.6 | 5.8 | 5.8 | 42.2 | 153.5 | 179.3 | 0.0 |
| Tobacco Farmer Assistance | | 3.6 | 3.6 | 3.8 | 0.8 | 0.8 | 0.4 | 0.0 | 0.0 | 0.0 | 0.0 | 13.0 | 13.0 | 13.0 | 0.0 |
| *Subtotal* | | *3.9* | *8.1* | *9.7* | *10.1* | *10.1* | *10.4* | *10.8* | *11.2* | *11.6* | *11.6* | *97.4* | *320.0* | *371.6* | 0.0 |
| **TOTAL ALLOCATION** | | **6.9** | **14.2** | **17.0** | **17.7** | **17.7** | **18.2** | **18.9** | **19.6** | **20.4** | **20.4** | **170.9** | **561.4** | **652.0** | **368.5** |
| **ADDENDUM** | | | | | | | | | | | | | | | |
| **Federal Public Health Programs** | | | | | | | | | | | | **10-Yr Total** | **25-Yr Total** | N/A | N/A |
| *Tobacco Counter-Advertising* | | 0.5 | 0.5 | 0.5 | 0.5 | 0.6 | 0.6 | 0.6 | 0.6 | 0.6 | 0.7 | 5.7 | 18.3 | | |
| *CDC Prevention Programs* | | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 1.0 | 3.5 | | |
| *FDA Tobacco Control Activities* | | 0.3 | 0.3 | 0.3 | 0.3 | 0.3 | 0.3 | 0.4 | 0.4 | 0.4 | 0.4 | 3.4 | 11.0 | | |
| *State Block Grants - Tobacco Reduction* | | 1.1 | 1.3 | 1.3 | 1.4 | 2.1 | 2.1 | 2.2 | 2.3 | 2.3 | 2.4 | 18.5 | 62.6 | | |
| *Use Reduction/Addiction Research* | | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 1.1 | 3.7 | | |
| ***Residual*** | | -0.0 | -0.0 | -0.0 | 0.0 | -0.6 | -0.6 | -0.6 | -0.6 | -0.6 | -0.7 | -3.7 | -14.4 | | |

1/ Source: Joint Committee on Taxation, adjusted for non-deductibility tax clause. The tax is phased in by 50-cent increments over the first three years and then adjusted for inflation starting in 2003

2/ Includes both state money and federal assistance. The "federal share" is to be used by the states for specified programs related to child development and education, nutrition and health. Programs include Head Start; CCDBG; IDEA; school nutrition; MCHS Block Grant;

3/ See list in Addendum. Items may not add to totals due to technical problems in the bill. The bill adjusts these amounts for inflation using the CPI for urban consumers. The figures here reflect that adjustment, using CBO's CPI estimates .

4/ The bill language states that 14.2 % of the excise tax revenues will go to tobacco victim compensation, and that this is to be included in the AG settlement allocation.

5/ There is much uncertainty over how much money any tobacco legislation would raise over the long term. The FTC claims that the AG settlement terms would result in actual 25-year revenues of $207 billion, if decline in demand is taken into account.

12/11/97 12:04 PM

→ privacy

→ Safety

→ ~~[illegible]~~
fairness

---

Populism

- Fairness →
- ~~safety~~ security – [illegible]
- Freedom – p

new econ

(1) Vigilance

(2)

Values
Freedom

apparent common
food – ~~[illegible]~~ consumer safety

Agro

Values

- unaccountable power – ~~[illegible]~~
- privacy –
- values – conservation –

v-chip

→ worker
→ privacy
→

stocks
fast track

# Distribution of Revenues Under The Healthy & Smokefree Children Act (S. 1492, Kennedy)

(in billions of nominal dollars)

| | Percent share | 1998 | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | Total 1998-2007 | *For comparison purposes: 25-year revenue estimates* $1.50 tax: revised JCT estimate extrapolated | $1.50 tax increase -- J. Harris estimate | AG settlement estimate: assumes no demand effect 5/ |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **CIGARETTE TAX ($1.50) 1/** | | **6.9** | **14.2** | **17.0** | **17.7** | **17.7** | **18.2** | **18.9** | **19.6** | **20.4** | **20.4** | **170.9** | **561.4** | **652.0** | **368.5** |
| **Allocation of Revenues** | | | | | | | | | | | | | | | |
| **1) Current A.G. Settlement ($.65)** | **43.00%** | | | | | | | | | | | | | | |
| Medicaid Reimbursement to States 2/ | | -0.1 | 1.8 | 2.6 | 2.6 | 2.5 | 2.5 | 2.7 | 2.8 | 2.9 | 2.8 | 23.0 | 77.0 | 116.0 | 193.5 |
| Federal Public Health Programs 3/ | | 2.1 | 2.2 | 2.3 | 2.5 | 2.6 | 2.7 | 2.8 | 2.9 | 3.0 | 3.1 | 26.2 | 84.7 | 84.7 | 98.0 |
| Tobacco Victim Compensation 4/ | | 1.0 | 2.0 | 2.4 | 2.5 | 2.5 | 2.6 | 2.7 | 2.8 | 2.9 | 2.9 | 24.3 | 79.7 | 79.7 | 77000.0 |
| *Subtotal* | | *3.0* | *6.1* | *7.3* | *7.6* | *7.6* | *7.8* | *8.1* | *8.4* | *8.8* | *8.8* | *73.5* | *241.4* | *280.4* | *368.5* |
| **2) Supplemental Federal Allocation ($.85)** | **57.00%** | | | | | | | | | | | | | | |
| Federal Health & Basic Research | | 0.2 | 2.2 | 2.9 | 4.6 | 4.6 | 5.0 | 5.4 | 5.6 | 5.8 | 5.8 | 42.2 | 153.5 | 179.3 | 0.0 |
| Child Development Services and Research | | 0.2 | 2.2 | 2.9 | 4.6 | 4.6 | 5.0 | 5.4 | 5.6 | 5.8 | 5.8 | 42.2 | 153.5 | 179.3 | 0.0 |
| Tobacco Farmer Assistance | | 3.6 | 3.6 | 3.8 | 0.8 | 0.8 | 0.4 | 0.0 | 0.0 | 0.0 | 0.0 | 13.0 | 13.0 | 13.0 | 0.0 |
| *Subtotal* | | *3.9* | *8.1* | *9.7* | *10.1* | *10.1* | *10.4* | *10.8* | *11.2* | *11.6* | *11.6* | *97.4* | *320.0* | *371.6* | *0.0* |
| **TOTAL ALLOCATION** | | **6.9** | **14.2** | **17.0** | **17.7** | **17.7** | **18.2** | **18.9** | **19.6** | **20.4** | **20.4** | **170.9** | **561.4** | **652.0** | **368.5** |
| **ADDENDUM** | | | | | | | | | | | | | | | |
| **Federal Public Health Programs** | | | | | | | | | | | | **10-Yr Total** | **25-Yr Total** | N/A | N/A |
| *Tobacco Counter-Advertising* | | 0.5 | 0.5 | 0.5 | 0.5 | 0.6 | 0.6 | 0.6 | 0.6 | 0.6 | 0.7 | 5.7 | 18.3 | | |
| *CDC Prevention Programs* | | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 1.0 | 3.5 | | |
| *FDA Tobacco Control Activities* | | 0.3 | 0.3 | 0.3 | 0.3 | 0.3 | 0.3 | 0.4 | 0.4 | 0.4 | 0.4 | 3.4 | 11.0 | | |
| *State Block Grants - Tobacco Reduction* | | 1.1 | 1.3 | 1.3 | 1.4 | 2.1 | 2.1 | 2.2 | 2.3 | 2.3 | 2.4 | 18.5 | 62.6 | | |
| *Use Reduction/Addiction Research* | | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 1.1 | 3.7 | | |
| ***Residual*** | | -0.0 | -0.0 | -0.0 | 0.0 | -0.6 | -0.6 | -0.6 | -0.6 | -0.6 | -0.7 | -3.7 | -14.4 | | |

1/ Source: Joint Committee on Taxation, adjusted for non-deductibility tax clause. The tax is phased in by 50-cent increments over the first three years and then adjusted for inflation starting in 2003

2/ Includes both state money and federal assistance. The "federal share" is to be used by the states for specified programs related to child development and education, nutrition and health. Programs include Head Start; CCDBG; IDEA; school nutrition; MCHS Block Grant;

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12/11/97 12:04 PM

BR, EK -
CBO gave me this. I said we wouldn't spread

# Distribution of Revenues Under The Healthy & Smokefree Children Act (S. 1492, Kennedy)

(in billions of nominal dollars)

| | Percent share | 1998 | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | Total 1998-2007 | For comparison purposes: 25-year revenue estimates: $1.50 tax: revised JCT estimate extrapolated | $1.50 tax increase -- J. Harris estimate | AG settlement estimate: assumes no demand effect 5/ |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
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| **1) Current A.G. Settlement ($.65)** | **43.00%** | | | | | | | | | | | | | | |
| Medicaid Reimbursement to States 2/ | | -0.1 | 1.8 | 2.6 | 2.6 | 2.5 | 2.5 | 2.7 | 2.8 | 2.9 | 2.8 | 23.0 | 77.0 | 116.0 | 193.5 |
| Federal Public Health Programs 3/ | | 2.1 | 2.2 | 2.3 | 2.5 | 2.6 | 2.7 | 2.8 | 2.9 | 3.0 | 3.1 | 26.2 | 84.7 | 84.7 | 98.0 |
| Tobacco Victim Compensation 4/ | | 1.0 | 2.0 | 2.4 | 2.5 | 2.5 | 2.6 | 2.7 | 2.8 | 2.9 | 2.9 | 24.3 | 79.7 | 79.7 | 77000.0 |
| *Subtotal* | | *3.0* | *6.1* | *7.3* | *7.6* | *7.6* | *7.8* | *8.1* | *8.4* | *8.8* | *8.8* | *73.5* | *241.4* | *280.4* | *368.5* |
| **2) Supplemental Federal Allocation ($.85)** | **57.00%** | | | | | | | | | | | | | | |
| Federal Health & Basic Research | | 0.2 | 2.2 | 2.9 | 4.6 | 4.6 | 5.0 | 5.4 | 5.6 | 5.8 | 5.8 | 42.2 | 153.5 | 179.3 | 0.0 |
| Child Development Services and Research | | 0.2 | 2.2 | 2.9 | 4.6 | 4.6 | 5.0 | 5.4 | 5.6 | 5.8 | 5.8 | 42.2 | 153.5 | 179.3 | 0.0 |
| Tobacco Farmer Assistance | | 3.6 | 3.6 | 3.8 | 0.8 | 0.8 | 0.4 | 0.0 | 0.0 | 0.0 | 0.0 | 13.0 | 13.0 | 13.0 | 0.0 |
| *Subtotal* | | *3.9* | *8.1* | *9.7* | *10.1* | *10.1* | *10.4* | *10.8* | *11.2* | *11.6* | *11.6* | *97.4* | *320.0* | *371.6* | 0.0 |
| **TOTAL ALLOCATION** | | **6.9** | **14.2** | **17.0** | **17.7** | **17.7** | **18.2** | **18.9** | **19.6** | **20.4** | **20.4** | **170.9** | **561.4** | **652.0** | **368.5** |

**ADDENDUM**

| **Federal Public Health Programs** | 1998 | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | **10-Yr Total** | **25-Yr Total** | N/A | N/A |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| *Tobacco Counter-Advertising* | 0.5 | 0.5 | 0.5 | 0.5 | 0.6 | 0.6 | 0.6 | 0.6 | 0.6 | 0.7 | 5.7 | 18.3 | | |
| *CDC Prevention Programs* | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 1.0 | 3.5 | | |
| *FDA Tobacco Control Activities* | 0.3 | 0.3 | 0.3 | 0.3 | 0.3 | 0.3 | 0.4 | 0.4 | 0.4 | 0.4 | 3.4 | 11.0 | | |
| *State Block Grants - Tobacco Reduction* | 1.1 | 1.3 | 1.3 | 1.4 | 2.1 | 2.1 | 2.2 | 2.3 | 2.3 | 2.4 | 18.5 | 62.6 | | |
| *Use Reduction/Addiction Research* | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 1.1 | 3.7 | | |
| ***Residual*** | -0.0 | -0.0 | -0.0 | 0.0 | -0.6 | -0.6 | -0.6 | -0.6 | -0.6 | -0.7 | -3.7 | -14.4 | | |

1/ Source: Joint Committee on Taxation, adjusted for non-deductibility tax clause. The tax is phased in by 50-cent increments over the first three years and then adjusted for inflation starting in 2003

2/ Includes both state money and federal assistance. The "federal share" is to be used by the states for specified programs related to child development and education, nutrition and health. Programs include Head Start; CCDBG; IDEA; school nutrition; MCHS Block Grant;

3/ See list in Addendum. Items may not add to totals due to technical problems in the bill. The bill adjusts these amounts for inflation using the CPI for urban consumers. The figures here reflect that adjustment, using CBO's CPI estimates .

4/ The bill language states that 14.2 % of the excise tax revenues will go to tobacco victim compensation, and that this is to be included in the AG settlement allocation.

5/ There is much uncertainty over how much money any tobacco legislation would raise over the long term. The FTC claims that the AG settlement terms would result in actual 25-year revenues of $207 billion, if decline in demand is taken into account.

12/11/97 12:04 PM

JUDY MANN

# Job Discrimination Still a Menace

Alexis M. Herman, secretary of labor, remembers early in her career working on a private, nonprofit project in Atlanta that was helping minority women get nontraditional jobs in corporate America.

President Lyndon B. Johnson recently had issued Executive Order 11375, which required federal contractors to provide equal opportunity for women. A previous order had forbidden discrimination on the basis of race, creed or national origin.

As Herman explained the new executive order, she heard employers say: "I can't see my wife or daughter doing that job." To which she responded: "Maybe we're not talking about your wife and daughter—but then again, maybe we are."

At a luncheon last week celebrating the 30th anniversary of the order, Herman reminisced and looked forward to the coming battle to preserve federal affirmative action programs. "Most enlightened employers will tell you, if we are to remain globally competitive, we don't have a single person to waste," she said.

The American workplace has been transformed as a result of the order: 4,000 women owned businesses in 1972; 6 million own them today. Affirmative action contributed to the 244 percent increase in the number of women physicians, the 170 percent increase in women firefighters and law enforcement personnel, the 243 percent increase in the number of women in management jobs.

And, Herman said, "I daresay I would not be standing here today and boasting" about the number of female deputies she has, were it not for this executive order. "We had to do the work to get through the door, but make no mistake about it, my friends, it was affirmative action that made it possible. Our work today is keeping those doors open.

"For those who make so much noise today and say affirmative action is no longer needed, I don't know what America they are seeing. I still see women of all ages and races still struggling with issues . . . of pay equity, child care and retirement security, after a lifetime of work."

Republican efforts on the Hill to abolish affirmative action programs fly in the face of workplace realities. They also fly in the face of history. Shirley J. Wilcher, deputy assistant secretary for the Office of Federal Contract Compliance, says people have forgotten that her office and its regulations evolved from a program developed by employers in 1961 to integrate their workplaces. "The purpose was prevention. . . . When you take care of the problem through affirmative action, then you have an equal and fair workplace." When they don't, her office finds discrimination.

One measure of how pervasive this remains today is that her office has obtained $150 million in financial settlements for workers since she took over in 1994. "We're finding discrimination at the entry level as well as the executive suites, in colleges and universities as well as in blue-collar positions." Her office conducts 3,000 to 4,000 compliance reviews each year, at 200,000 federal contracting facilities.

"The most egregious cases are found by compliance review, not because people file complaints. In most cases, people feel too fearful to file complaints."

The office secured more than $600,000 in back pay for women at the University of California at San Diego, and more than $1 million in back pay and salary increases for women working at Blue Cross/Blue Shield in Maryland and Virginia.

One of the worst cases of racial discrimination and sexual harassment, she said, occurred at TIMCO, a North Carolina aviation contractor, which agreed last year to pay $242,600 in back wages and corrective measures. The compliance review started after a male employee raffled off his grandfather's Ku Klux Klan knife on the shop floor. The review uncovered a work environment that Wilcher describes as "the worst I've ever witnessed. The 'n' word was being used constantly. There was so much graffiti on the bathroom walls, they had to pay $30,000 to clean it off.

"I interviewed four women myself who had resigned because they could no longer take the sexual innuendoes and the harassment. One was a licensed aircraft mechanic allowed only to hand out tools to colleagues. Another was called all kinds of names because of her short hair.

"We put it on our list of egregious cases just to remind America [that] not only does discrimination still exist, we still find it in its crudest forms. Our regulations require a company to look at itself. I asked the CEO, 'Didn't you know this was going on?' He was oblivious. We get cases coming in every day."

And as long as that's happening, the need for affirmative action to prevent discrimination should be clear to all of us.

The Washington Post

FRIDAY, DECEMBER 12, 1997

# LETTERS TO THE EDITOR

## *Final Honors for Veterans*

As a widow of a World War II Navy veteran, I was saddened to read The Post article by Eric L. Wee on the downsizing of military rites [front page, Nov. 30]. I feel extremely honored to have buried my husband's ashes this year in Arlington National Cemetery. My husband, Hendrik Boese, was a fireman second class and served in the occupation of the Philippines. Since both he and I are natives of Washington, Arlington Cemetery has been a great source of pride to us.

The Army provided a service for his burial showing great respect for a fallen veteran. My family and I drew much comfort from the ceremony: There was the folding of the flag (which was presented to me), a three-gun salute, and taps was played by a team of Navy seamen. My husband's ashes were then inurned in the Columbarium, a beautiful park-like area provided for those who have been cremated.

For the sake of all veterans who served in the armed services during wartime, our government should find a way to continue to honor them in this manner. This is a final way of expressing our country's appreciation for a job well done to our veterans and their families.

HELEN A. BOESE
McLean

■

We seem to have reached a new low in our treatment of American war veterans with the government's latest policy denying them burial with full military honors. Our unwillingness to expend minimal resources toward a final gesture of respect and recognition of their patriotism and sacrifice is cheap and unworthy of us as a nation. We have managed to change what was a simple and deeply meaningful ceremony into a final insult for those whom most Americans still consider heroes.

Can this policy really be a result of downsizing, as reported by The Post? We are not at war. We have thousands of active-duty National Guard and reserve-unit service personnel stationed in the Washington area. Are all of them constantly engaged in activities so critical to our defense that a very few cannot be spared to form burial honor guards? Can it be that our military has become a bunch of bureaucratic bean counters interested only in the bottom line, even in a matter of honor, or has a false issue been raised as just another bargaining chip in the eternal battle for more funding?

The "problem" of supporting military burials with full honors need not be resolved by a Congress or commander in chief, entities having an increasing lack of appreciation of military honors and traditions. Military commanders are supposed to be primarily leaders—not "managers"—and as such can and must exercise leadership and demonstrate initiative.

Surely, in this instance some system of rotating assignments among many units or reliance on volunteers working temporary details can be developed to meet burial needs. For reasons of honor, pride and morale, the U.S. military must resolve this issue and fully honor those who fought for us and who didn't beg off combat duty because their units were outmanned (i.e., downsized).

ROBERT CAMPOPIANO SR.
Falls Church

■

Eric Wee quotes the director of ceremonies and special events for the U.S. Military District of Washington as saying, "We wanted to perform the service in the worst way."

Yup, that's what they're doing—absolutely the worst way.

JOHN FISCHER
Springfield

## *Dead Fish: The Agricultural Link*

In his Nov. 30 letter, by taking out of context a quotation from the report of the Blue Ribbon Citizens Pfiesteria Action Commission, Larry Porter suggested that the commission did not link agriculture and the poultry industry to dead fish. I sat on the commission, and I believe Mr. Porter misled Post readers.

Although more remains to be learned about *Pfiesteria* outbreaks and the conditions that cause them, there is a well-documented connection between Pfiesteria-like "algal blooms" and overloads of nutrients (most notably, nitrogen and phosphorus). And on the lower Eastern Shore, approximately 70 percent of the nitrogen and 70 percent of the phosphorus load comes from agricultural sources. The percentages are even higher in the Pocomoke River watershed.

The Pfiesteria commission report quotes an earlier report from a panel of scientists known as the Cambridge Forum, which states, "In the long term, decreases in nutrient loading will reduce eutrophication [overenriched water], and in this context will likely lower the risk of toxic outbreaks of Pfiesteria-like dinoflagellates and harmful algal blooms."

Well-managed farms play an important role in the fabric of life in the Chesapeake Bay watershed, but too many others—especially the "factory farms" that concentrate poultry, cows and hogs at almost unimaginable densities—cause problems related to excessive manure production and fertilizer runoff. A 50,000-bird poultry operation—not an unusual size nowadays—produces as much phosphorus and nitrogen in its waste as a town of 3,000 people.

The Chesapeake Bay Foundation has long worked with the state to help farmers adopt environmentally sound agricultural practices. If our legislators support creative measures to reduce nutrient pollution, Marylanders and others in the bay watershed won't have to choose between strong environmental regulations and thriving agricultural, seafood and tourism industries.

WILLIAM C. BAKER
President
Chesapeake Bay Foundation
Annapolis

## *'Not Bad for a Century's Work'*

I enjoyed Sen. Daniel Patrick Moynihan's article on our national capital architecture [op-ed, Nov. 23]. However, he leaves the impression that, except for the Archives Building, construction on the Federal Triangle stopped because of the Great Depression and didn't proceed until the 1960s.

Although I'm not sure of the exact completion dates, at the time I started working for the FBI in the new Department of Justice building in September 1935, all the other structures on the Triangle were in place. These included the Labor Department building, in whose auditorium I attended a number of interesting functions. This now houses the Internal Revenue Service. The beautification of the area, as the senator noted, was pretty well completed with the building of the International Trade and Conference Center on that "parking lot of surpassing ugliness" at the end of the triangle facing 14th Street.

Yes, Sen. Moynihan, "all in all, not a bad century's work."

WALTER McELDOWNEY
Blacksburg, Va.

■

"The Willard is back," writes Sen. Daniel Patrick Moynihan ["Not Bad for a Century's Work," Nov. 23], demonstrating once again that the winners write the histories.

There is no doubt that the 1964 Pennsylvania Avenue plan that he cites has led to many of the splendid structures and amenities along or near that grand national corridor. For the record, however, it should be recalled that this plan, dominated by distinguished members of the architectural establishment, also called for leveling the Willard Hotel, as well as the Washington Hotel, the National Press Building, the National Theater and the old Post Office Building, although its tower would have remained.

To destroy the post office was the only decision by the Pennsylvania Avenue Council that actually required a formal vote. Apparently razing the others was not controversial.

For what purpose? To propose a huge National Square, the least viable element in the entire plan, and one that became the focal point of future criticism by urban planners and community leaders.

It is instructive to recall also The Washington Post's enthusiastic support in an article at the time:

"At first, and out of context, the idea of so huge an open expanse so close to the monumental expanse of the Mall seemed staggering. . . . [But] it is imperative that the unity of this design not be lost, no matter how long it might take to implement it."

By 1970, a Post article noted: "the near universal lack of enthusiasm for the Grand Pennsylvania Avenue plan" and said that "now was not the time for more establishment monumentality." It also urged more creative uses of the Post Office Building, although the council's recommendations explicitly opposed using federal structures for restaurants and retail shops. The Post saw the stone tower as "a good place from which to thumb one's nose at the planners and improvers who would tear down lovely old buildings for their grandiose monotony."

We are fortunate that such projects take a long time, as Sen. Moynihan states. The process of give-and-take on both the plan's concepts and components through the past three decades has borne fruit that will nourish ourselves and future generations. But let's not misrepresent the Pennsylvania Avenue plan as having no major flaws.

DONALD W. LIEF
Portland, Ore.


The Washington Post

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PHILIP L. GRAHAM, 1915-1963

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The Washington Post
Friday, December 12, 1997

# *AVA* ASBESTOS VICTIMS OF AMERICA

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**HEATHER R. BECHTEL-MAURER, EXECUTIVE DIRECTOR - AVA NATIONAL**

EK/Tom - We'll need a position on this eventually. - BR

September 23, 1997

Mr. Bruce Reed
Domestic Policy Council
1600 Pennsylvania Avenue, N.W.
Washington, DC 20500

Dear Mr. Reed:

I am writing on behalf of the 23,482 members of the **Asbestos Victims of America**, a National, Non-Profit Education Organization. We are victims of asbestos disease who, with our families, have suffered a variety of diseases related to exposure to asbestos. Our organization also includes scientists, physicians, and other legal/social/medical professionals.

We are writing to express our disapproval that the proposed tobacco settlement hurts those with asbestos disease. As you know, most asbestos companies are bankrupt and the trusts set up to pay claims lack the resources to adequately compensate victims. For example, the Manville Trust, which is responsible for paying a substantial percentage of asbestos claims, has the funds to pay only ten cents on every dollar. Most other Asbestos companies only pay (if they pay at all) a *very small amount* to us and we can barely survive, least of all afford the costs of medical bills, doctors and the substantial related costs associated with our asbestos related diseases.

The science is absolutely clear that tobacco is a prime cause of many of the diseases suffered by those exposed to asbestos. For example, those who smoked more than a pack a day and were exposed to asbestos are eighty-seven times as likely to get lung cancer as a person who neither smoked nor was exposed to asbestos. The risk of an asbestos worker who did not smoke is less than five times that of a person not exposed asbestos, and the risk of a smoker of a pack a day is ten times the risk of a non-smoker.

Tobacco must be made to accept responsibility for the harm caused by smoking to those exposed to asbestos. If the Congress is to pass a law approving this settlement, we implore you to require that the tobacco companies pay **their fair share** for the harm they have caused us and others like us. Currently the settlement does just the opposite, guaranteeing that tobacco will never be forced to contribute a penny to the victims of tobacco/asbestos disease. Once again Asbestos victims and our families are shut out and forgotten. Once again we remain **uncompensated** for clear and knowledgeable injuries we have sustained.

The settlement is terribly unfair to asbestos victims. Please insist that the tobacco settlement require tobacco to contribute money to pay for the harm caused to those exposed to asbestos. If the settlement is not fixed to require tobacco to pay its fair share to victims of tobacco/asbestos disease, we urge you to oppose the tobacco settlement.

Thank you for your consideration of our request. We trust that we can count on your support for those struggling with the health effects of tobacco and asbestos. Should you require any documentation or additional information please contact me. We are pleased to assist you in this process.

Sincerely,

H.R. Bechtel-Maurer
Executive Director - AVA National

J. PHIL CARLTON, ESQUIRE

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cc: Tom
EK
Jerry

File: Tobacco -
Big Tobacco

TO: Bruce Reed

FROM: Phil Carlton

DATE: October 9, 1997

As you requested.

J. PHIL CARLTON, ESQUIRE

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October 8, 1997

The Honorable Kent Conrad
United States Senate
SH-530 Hart Senate Office Building
Washington, DC 20510-3403

Dear Senator Conrad:

Enclosed is the response from Lorillard Tobacco Company, Philip Morris Companies Inc., R. J. Reynolds Tobacco Company and UST, Inc. to your request for a financial analysis of the impact on the industry of the proposed resolution. Brown & Williamson Tobacco Company will be providing you with a supplement within the next day or so.

Please let me know if I can be of additional service to you and/or members of the Task Force.

With kindest regards.

Sincerely,

Phil Carlton

Phil Carlton

Enclosure

JPC:cda

# Impact of the Proposed Resolution on the U.S. Cigarette Industry

The Conrad Senatorial Task Force has requested the industry to estimate the impact of the proposed resolution on cigarette consumption in the U.S. and its potential effect on individual tobacco company stock prices. This paper attempts to respond to this request despite the significant uncertainties associated with these topics.

## Cigarette Consumption

There has been much speculation on the impact of the proposed resolution on the level and nature of future cigarette consumption in the U.S. Any projection is a perilous exercise, but in this specific instance, it is particularly difficult to predict with any degree of confidence the proposed resolution's effect on cigarette consumption. This inherent uncertainty arises from the unprecedented magnitude and scope of the combined impact of the numerous economic and non-economic measures contained in the proposed resolution.

Cigarette consumption in the U.S. is estimated to have reached a level of 482.7 billion units in 1996 reflecting an annual average decline of 1.3 percent since 1990.[1]

Cigarette consumption levels are a function of numerous parameters and their interrelationships. These parameters include price, price gaps, the availability of substitute products, demographics, inflation, consumer disposable income, social attitudes towards smoking, smoking restrictions, etc. Many of these parameters are subject to considerable uncertainty and will be significantly impacted by the proposed resolution.

Economists measure the impact of real price movements on the purchase of any product through econometric modelling which yields a price elasticity ratio. For example, a price elasticity ratio of -0.5 means that a real price increase of 10 percent generates a reduction in demand of 5 percent. Numerous studies have been conducted that estimate the price elasticity of demand for cigarettes in the U.S. market. The vast majority

[1] Industry estimates of consumption derived from industry shipments adjusted for trade inventory movements.

suggest that elasticity falls between -0.40 and -0.45.[2] These studies rely on historical data to measure elasticity and generally derive estimates based on "short run" or immediate impacts. Some studies have attempted to measure the "long run" elasticity of demand for cigarettes. A study by Economics Nobel Prize laureate, Gary Becker, estimated that the long run response to a permanent change in price falls between -0.73 and -0.79 with an average elasticity factor of -0.75.[3] The Becker study implies that a 10 percent increase in real prices will cause a short run decrease in cigarette sales of approximately 4 percent and a long run decrease in cigarette demand of 7.5 percent.

A March 1994 analysis by Gravelle and Zimmerman of the Congressional Research Service[4] also highlights the fact that the expected long run reduction in demand for cigarettes will be much greater than in the short run. The study implies that the long run elasticity could be as high as -1.2. Thus, under this measure, a 10 percent price increase would result in a long run decline in cigarette sales of 12 percent.

Price elasticity of demand is not independent of real price movements. When consumer prices reach unprecedented levels, sensitivity to price also rises and thus elasticity ratios become more pronounced. Accordingly, the industry conservatively estimates that as a result of the real retail price increases that will result from the implementation of the proposed resolution, price elasticity is likely to fall between -0.5 and -0.75.

U.S. cigarette consumption is estimated to have a negative annual underlying trend, independent of real price movements, of between 1 percent and 2 percent.[5] The proposed resolution incorporates a wide array of measures which will clearly impact this underlying trend in demand. These measures include access restrictions, well funded public education campaigns and billions of dollars earmarked for cessation programs. While it is difficult to predict in an accurate manner the extent to which the underlying negative trend will accelerate, it can safely be assumed that at a very minimum it will increase to a range of between 2 percent and 3 percent.

---

[2] 1989 Surgeon General Report, Table 12 on Page 535.
[3] Becker et al, Analysis of Cigarette Addiction, the American Economic Review, June 1994, Volume 84, No. 3, Page 407, Table 4.
[4] Gravelle and Zimmerman, Cigarette Taxes to Fund Health Care Reform: An Economic Analysis, March 8, 1994, Congressional Research Service, The Library of Congress.
[5] Patrick Fleenor, Tax Foundation - The Effect of Excise Tax Differentials on the Interstate Smuggling and Cross-Border Sales of Cig, arettes in the U.S., October 1996, as well as industry estimates.

In recent weeks the public health community and numerous officials have stated that retail prices will increase by 62 cents per pack by the fifth year of implementation of the proposed resolution. This number is grossly underestimated. For example, it totally ignores the multipliers inherent in the retail price structure of cigarettes, e.g., trade margins and state and local general sales taxes. The industry conservatively estimates that retail prices will increase by an absolute minimum of $1.20 per pack by the fifth year and by an absolute minimum of $1.50 per pack by the tenth year of implementation of the proposed resolution.[6] Accordingly, retail prices will rise at least to the levels that are being advocated by the public health community and the President without the imposition of any additional Federal or State excise taxes.[7]

The following table highlights cigarette demand levels that are derived from price elasticity factors of -0.5 and -0.75 and a downward underlying trend in demand of 2.5 percent:

*Table 1*

Projected Cigarette Consumption
1997 - 2007

(Billion Cigarettes)

| Elasticity | 1997 | 2002 | 2007 | % Variance 2002 vs. 1997 | % Variance 2007 vs. 1997 |
|---|---|---|---|---|---|
| -0.50 | 477.0 | 337.8 | 301.1 | (29.2)% | (36.9)% |
| -0.75 | 477.0 | 300.6 | 269.3 | (37.0)% | (43.5)% |

Over a ten year period it is estimated that cigarette consumption would fall by between 175.9 billion cigarettes and 207.7 billion cigarettes versus 1997 estimated consumption of 477 billion cigarettes.

Table 2 highlights the above-mentioned projections versus cigarette consumption levels that would otherwise have materialized as a result of the secular downward trend of approximately 1.5 percent:

[6] See detailed retail price projections on Table 5, Page 9.
[7] Over and above the prevailing average State Excise tax of $0.33/pack and the $0.39/pack Federal Excise tax as of 2002.

*Table 2*

| Projected Cigarette Consumption 1997 - 2007 (Billion Cigarettes) | 1997 | 2002 | 2007 |
|---|---|---|---|
| Base | 477.0 | 442.3 | 410.1 |
| Scenario 1 | 477.0 | 337.8 | 301.1 |
| Scenario 2 | 477.0 | 300.6 | 269.3 |
| % Variance Versus Base: | | | |
| Scenario 1 | - | (23.6)% | (26.6)% |
| Scenario 2 | - | (32.0)% | (34.3)% |

Such volume declines will have a significant adverse impact on the entire cigarette supply chain. Industry pretax earnings will suffer even if unit margins rise to offset the higher burden of unit fixed costs in the face of declining sales volumes.

The Federal Trade Commission has recently issued a report that alleges that the industry could reap substantial benefits from the proposed resolution.[8] Indeed, the FTC report claims that the industry could raise prices with impunity and thereby generate huge windfall profits. The report also claims that the industry would retain two thirds of incremental revenues to the detriment of the public sector. The report's analysis and conclusions are seriously flawed for the following reasons:

(i) The report erroneously assumes that increases in the retail price of cigarettes beyond the level required to pass through the settlement payments will accrue solely to the manufacturers. For example, under the FTC report's "200% scenario" which entails a retail price of $3.04/pack, the FTC report assumes that

[8] Federal Trade Commission, Competition and the Financial Impact of the Proposed Tobacco Industry Settlement, September, 1997.

the manufacturers' price[9] net of taxes and settlement payments will be $1.42/pack. As highlighted on Table 3, had the FTC used more accurate assumptions in its projections, it would have concluded that the manufacturers' price would be significantly lower than its study suggests under its retail price assumptions.

*Table 3*

| ($ / pack) | 200% Price Increase 2007 FTC Projection | Amended FTC Projection[10] |
|---|---|---|
| Retail Price | $3.04 | $3.04 |
| Federal Excise Tax[(a)] | (0.24) | (0.39) |
| State Excise Tax | (0.32) | (0.33)[(b)] |
| Settlement Payment[(c)] | (0.62) | (0.83) |
| Trade Margin | (0.44)[(d)] | (0.58)[(e)] |
| Sales Tax at 4.7% | -- | (0.14) |
| Manufacturers' Price | $1.42 | $0.77 |

(a) After the publication of the report, the FTC stated that the $0.15/pack excise tax credit ($0.10/pack in 2000 and $0.05/pack in 2002) should not have been factored into its assumptions.

(b) The weighted average state excise tax prevailing in July 1997 was $0.3362/pack reflecting increases in New Hampshire, Utah and Rhode Island.

(c) The minimum 3 percent per annum escalator is omitted by the FTC.

(d) The FTC report does not explicitly divulge the trade margin assumption. The trade margin is derived from the FTC report by deduction and is consistent with the theory expounded in the report that any increase in retail price accrues solely to the manufacturers.

(e) This conservatively assumes that the trade will earn a margin of only 12 percent on any increase in retail price beyond the $1.90/pack .

For perspective, it should be highlighted that the average manufacturers' net selling price in 1996 was $0.80/pack.

[9] Manufacturers' price to wholesalers.
[10] It follows from this analysis that the retail price would have to be $3.81/pack to yield a manufacturers' price of $1.42/pack.

(ii) The assumptions pertaining to industry profitability are simplistic at best.

The FTC report uses a weighted average operating profit of $0.32/pack. The Brown and Williamson Tobacco Corporation (B&W) which accounted for 17.2 percent of industry sales volume in 1996 is omitted from this calculation. Had the FTC report included B&W's operating profits in the weighting, the average operating profit would decline to $0.30/pack, a difference of $500 million dollars in annual industry pretax earnings.

The report fails to specify that a significant proportion of the industry's cost base is composed of fixed costs, i.e., costs that are independent of throughput along the entire supply chain. The report simply assumes that all industry costs are variable. In other words, the FTC assumes that all fixed costs will decline in line with projected volume declines. Under the FTC's premise, a sales volume loss of one billion cigarette packs would erode industry profits by $300 million dollars. In fact the loss would be more than double this level, as fixed costs will remain and the industry would lose the full marginal contribution generated by this volume, i.e., approximately $640 million dollars.

The report admits that in order to "simplify the analysis" it ignores the potential impact of a change in mix, i.e., a potential shift in demand from premium priced brands to either discount or generic products. Premium brands currently account for approximately 72 percent of total sales. For purposes of illustration, should this segment decline to a level of 60 percent with a corresponding increase in the discount segment, the net cost to the industry would be in excess of $600 million in operating profits at prevailing unit margin levels.[11]

The FTC report estimates potential marketing and legal expenditure savings that ostensibly would be derived from the implementation of the proposed resolution. It is by no means certain that the industry will in fact generate savings in its legal expenditures. The FTC fails to take account of the industry's continued exposure to individual litigation and to its obligations in terms of attorneys' fees. Moreover, the FTC fails to account for any cost increases associated with the proposed resolution. It notably omits from its assumptions:

- the interest costs related to the industry up-front payment of $10 billion.

[11] A shift in consumption to the discount segment will result in a lower average retail price than otherwise would be the case and hence volume would be marginally higher. The resulting higher volume would only partially offset the significant margin erosion resulting from an adverse change in mix.

- the significant expenditures required to fully comply with the broad array of regulatory measures that are contained in the proposed resolution.

- the implications of the proposed resolution on the cost of tobacco. Future legislation will in all likelihood contain provisions designed to protect domestic tobacco growers and their communities from the impact of declining volumes. These provisions are likely to increase the direct or indirect cost of tobacco.

- any potential surcharge that would be imposed on the industry in the event that underage smoking incidence would fail to meet the reduction targets that are specified in the proposed resolution.

(iii) The report chooses to neglect the historical pattern of state excise tax increases which have risen at an annual average rate of approximately 5 percent since 1990. It is simply unrealistic to assume that both the Federal Excise Tax and State Excise Taxes will remain at current levels for the next 25 years if industry profitability should ever reach the unprecedented levels that are suggested by the FTC report.

**Company Share Prices**

The inherent uncertainty pertaining to the impact of the proposed resolution on the level and nature of future cigarette consumption and on industry profitability also clearly applies to the reaction of the stock market.

It is an indisputable fact that the stock prices of tobacco companies historically have been volatile and that the relative Price/Earnings ratios of these companies have been adversely impacted by the threat of litigation, despite the fact that the industry has consistently prevailed in the courts.

There are those on Wall Street who believe that the elimination of substantial event risk provides predictability and thus should be a net positive for the tobacco companies. They claim that these companies are all highly diversified and thus the market discount afforded to these non-tobacco assets would be removed.

Conversely, there are others on Wall Street who believe that the proposed resolution will be a net negative for the tobacco companies. They believe that the terms of the resolution are too onerous and that these companies can sustain their successful track record in the courts. Moreover, they argue that any potential expansion in their respective Price/Earnings ratios would be fully offset by the erosion in profitability that these companies will incur as a result of the resolution.

The fact of the matter is that no one is in a position to predict what may happen to individual stock prices.

Table 4 highlights the performance of individual stock prices versus the S&P 500 at market close on September 25, 1997:

*Table 4*

| | September 25, 1997 Stock Prices | | |
|---|---|---|---|
| | Year-End 1995 | Year-End 1996 | P/E Ratio |
| BAT Industries | (7.7)% | 8.2% | 11 |
| Loews | 42.8% | 18.8% | 14 |
| Philip Morris Companies | 38.0% | 10.2% | 15 |
| RJR Nabisco | 8.3% | (2.0)% | 13 |
| S&P 500 | 53.4% | 21.7% | 24 |

Table 4 clearly highlights that the stock market's reaction to date to the terms of the proposed resolution has been negative as every single company has trailed the S&P 500 since both year-end 1995 and year-end 1996 despite solid profit growth and attractive dividend yields.

Wall Street is oriented towards the short term, and the bulk of the projections emanating from Wall Street focus on a period of only 3 years and, in some rare instances, 5 years. In addition, in a bull market everything is viewed optimistically. The long term impact remains uncertain and will depend on each individual company's ability to generate earnings growth through its other businesses.

*Table 5*

**Minimum Retail Price Projections[13]**
**($ / pack of 20 Cigarettes)**

| | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 |
|---|---|---|---|---|---|---|---|---|---|---|---|
| On-going Settlement Payments [a] | - | 0.360 | 0.414 | 0.517 | 0.647 | 0.715 | 0.737 | 0.759 | 0.782 | 0.805 | 0.829 |
| Industry Price [b] | - | 0.027 | 0.054 | 0.082 | 0.111 | 0.141 | 0.171 | 0.202 | 0.234 | 0.267 | 0.300 |
| Federal Excise Tax | - | - | - | 0.100 | 0.100 | 0.150 | 0.150 | 0.150 | 0.150 | 0.150 | 0.150 |
| Trade Margin [c] | - | 0.053 | 0.064 | 0.095 | 0.117 | 0.137 | 0.144 | 0.152 | 0.159 | 0.167 | 0.174 |
| Sales Tax [d] | - | 0.021 | 0.025 | 0.037 | 0.046 | 0.054 | 0.056 | 0.059 | 0.062 | 0.065 | 0.068 |
| Total Increase | - | 0.461 | 0.557 | 0.831 | 1.021 | 1.197 | 1.258 | 1.322 | 1.387 | 1.454 | 1.521 |
| Retail Price | 1.82[e] | 2.28 | 2.38 | 2.65 | 2.84 | 3.02 | 3.08 | 3.14 | 3.21 | 3.27 | 3.34 |

[a] Reflects on-going settlement payments adjusted for volume and indexed at minimum annual rate of 3%.
[b] Only reflects adjustment for inflation of 2.5%.
[c] Assumes a combined 12% rate for both wholesalers and retailers. Current average trade margin, expressed as a percentage of retail price, exceeds 20% and thus this assumption is extremely conservative.
[d] Reflects national average tax of 4.7%.
[e] Average weighted net price to consumer.

[13] These projections exclude any additional federal or state excise taxes and any additional payments that may be required under the terms of the proposed resolution, e.g., surcharges pertaining to the lookback provision.

# PROGRAMS / FUNDS IN TOBACCO SETTLEMENT

**UP-FRONT COMMITMENT ($10 billion over 25 years)**

- A one-time, $10 billion payment would be required as of the date of enactment of the settlement. There is no dedicated use for these funds.

**BASE PAYMENTS ($333.5 billion over 25 years)**

- **Federal and State Uses**

  **Reduction in Tobacco Usage ($5.325 billion)**: For Secretary of HHS to encourage current tobacco users to quit through media-based and non-media based education, prevention and cessation campaigns.

  **FDA ($7.5 billion):** To the Food and Drug Administration (FDA) to enforce the terms of the settlement.

  **Programs like ASSIST ($3.0 billion):** For state and local tobacco control, similar to the community-based model of the ASSIST program

  **Research ($2.5 billion):** On the methods to prevent smoking and help individuals quit.

  **Education ($12.5 billion)**: To fund an Independent, non-profit organization to run a multi-media campaign to discourage and de-glamorize tobacco use.

- **Cessation Fund ($35.5 billion)**: To create a trust fund to promote effective cessation programs and provide financial assistance to access such programs.

- **Teams' Fund ($1.8 billion):** For 10 years, to compensate events, teams, or entries in such events who lose sponsorship by the tobacco industry as a result of the settlement. After 10 years, funds will be reallocated to education, enforcement of provisions, and community-based programs.

- **Health / Other ($265.375 billion / possibly $151.264 billion Federal):** Remainder of the Base Payments; no specified use.

**PUBLIC HEALTH TRUST FUND ($25 billion over 25 years)**

- A Presidential Commission will be created to identify and fund specific tobacco-related medical research

## CDC's Proposed Public Health Initiative

Resources potentially resulting from the tobacco settlement should be used for unmet public health needs. We propose using the settlement dollars in three high priority areas:

### I. Implement Known and Effective Prevention Strategies for Youth ($550 million)

- **School-based Health Education:** This initiative would implement comprehensive school health programs in every State in the Nation and develop and disseminate model policies and programs through national partners. ($100 million)

- **Tobacco:** The initiative would implement a comprehensive approach to tobacco use prevention and substantially strengthen state-based tobacco efforts. ($230 million)

- **Other important youth priorities** ($220 million)
  - Safe America: Through Injury Prevention and Control
  - Healthy Homes, Healthy Children
  - Hazardous Chemical Exposures in Children
  - Prevention of STD-related infertility in youth

### II. Develop and Address Unmet Opportunities for Prevention ($290 million)

- **Cardiovascular Disease:** No national public health program addresses this major cause of tobacco-related death. This initiative would establish that capacity in all States. ($100 million)

- **Monitor the Health of the Nation:** It is vital to have in place adequate health information systems to monitor the impact of public health efforts. CDC and the States do not have the capacity to do this. This initiative would build it. ($120 million)

- **Other Priorities** ($70 million)
  - Asthma prevention
  - Capacity for Occupational Safety and Health
  - Folic Acid for Healthy Babies and Adults

### III. Protect Public Health: Repair Past Damage and Prepare for Urgent Threats ($520 million)

- **Prevention Block Grant:** Public health has eroded over the last two decades, as reported by the IOM. Doubling the prevention block grant would repair that erosion and direct resources to States to use as they see fit to address public health needs. ($150 million)

- **Infectious Diseases: Emerging and Reemerging Threats:** Infectious diseases are the third leading cause of death in the United States. This initiative would implement "A Prevention Strategy for the United States." ($120 million)

- **Other Priorities** ($250 million)
  - Vaccine-preventable Diseases
  - Emergency Preparedness
  - Preventing Environmental Disease

**DRAFT**
**July 3, 1997**

# FACT SHEET
# ON THE U.S. TOBACCO INDUSTRY

## *Production*

- **The United States was the world's second largest tobacco producer** in 1994, accounting for about 9 percent of the estimated 6.44 million metric tons that were produced worldwide.

| Top 10 Leaf Tobacco Producers | | |
|---|---|---|
| | | Metric Tons |
| 1. | China | 2,559,700 |
| 2. | **United States** | **575,389** |
| 3. | India | 524,500 |
| 4. | Brazil | 398,000 |
| 5. | Turkey | 219,983 |
| 6. | Zimbabwe | 209,042 |
| 7. | Indonesia | 171,400 |
| 8. | Greece | 131,875 |
| 9. | Malawi | 130,686 |
| 10. | Italy | 130,400 |

- The U.S. **tobacco crop** in 1995 was worth almost $2.3 billion, making it the seventh largest cash crop for the nation and representing approximately 2.7 percent of the total for all cash crops and farm commodities.

- The **manufacture of tobacco products** accounted for $16.6 billion or 0.2 percent of gross domestic product in 1994, down from 0.6 percent in the early 1960's.

- **U.S. factories produced** 760 billion cigarettes in 1995, of which 234 billion (nearly one-third) were shipped abroad for foreign consumption.

- The manufacture of tobacco products **accounts for 1.2 percent of U.S. industrial output.**

- **Production slid from early 1991 through most of 1993** ... [will find out what was going on], but by mid-1994 returned to levels that prevailed in the late 1980's. (See chart on the next page.)

TOB. & W
Budget

**Tobacco/Budget Q&A**
**February 2, 1998**

**Q: In September, the President said the focus of tobacco legislation should not be about money. In the budget you are submitting today, more than 60 percent of the proposed increase in discretionary spending is paid for by tobacco legislation. Why has the President changed course?**

**A:** The President's course has not changed -- Congress should send the President legislation that will dramatically reduce youth smoking. Experts all agree 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 last September, and again in his State of the Union speech, the President called for Congress to pass legislation that raises cigarette prices by up to $1.50 per pack over the next ten years as necessary to reduce youth smoking. Our budget simply scores that part of the President's plan, and allocates the revenues to programs that promote public health and assist children.

**Q: How can you assume revenues from tobacco legislation when it's not at all certain whether this legislation will pass?**

**A:** It is a normal part of the budget process to account for any revenues that will be raised from proposed legislation. And we believe strongly that Congress will pass comprehensive tobacco legislation this year. If everyone who says they are committed to protecting children from tobacco rolls up their sleeves and gets to work, we will pass a significant piece of legislation.

**Q: Why is it that some of the programs funded with tobacco revenues have no relation to tobacco?**

**A:** Most of the spending is directly related to tobacco, such as health-related research and smoking cessation programs. The rest goes to programs that will assist our children. We wanted to ensure that states get a substantial share of the resources, because of the state's contribution in negotiating the original proposed settlement. It is money that goes to children's programs -- to improve child care and reduce class size -- in recognition that these are shared federal and state goals.

**Q: Doesn't attaching tobacco legislation to particular spending initiatives hurt the chance of passing this legislation?**

**A:** No. It is a normal part of the budget process to propose how to spend any revenues raised from proposed legislation. And we will work on a bipartisan basis with Congress if it has other ideas on the best way to allocate these revenues. There is no reason why allocation issues should hold up the process of comprehensive legislation.

**Q: Doesn't using tobacco legislation as a funding source for important policy proposals -- such as improving child care and reducing class size -- hurt the chances of achieving those proposals?**

**A:** No. We believe Congress will pass tobacco legislation that imposes significant financial burdens on tobacco companies. Of course, no offset proposed in a budget is guaranteed; Congress can reject any proposed way of financing a program. If Congress does not pass comprehensive tobacco legislation, we will work with Congress to find other offsets. These are high Administration priorities, and we will find effective funding mechanisms.

**Q: How much money do you expect to raise from tobacco legislation next year? What about over five years? How did you come to this figure?**

**A:** This budget is designed to reduce youth smoking by 30% in five years and 50% in seven years, which is the President's goal. We calculate that the necessary increase in the price per pack will result in about $10 billion in revenue next year and $65 billion over five years.

**Q: How much does your plan increase the cost of cigarettes?**

**A:** In order to reach the President's goal of reducing youth smoking by 30% in five years, and 50% in seven years, this budget projects about a $1.10 increase in the price of cigarettes over five years.

**Q: What programs is tobacco money used for in the budget?**

**A:** In general, tobacco revenues go toward protecting public health and assisting children. First, the budget provides for funds for anti-smoking activities that will help us meet the goals of reducing youth smoking rates. In addition, there are funds in the budget to support the commitment the President made when he announced his plans for tobacco legislation in September to fund a dramatic expansion of health-related research in America. Finally, in recognition of the states' role in bringing suit against tobacco companies, the budget provides for a substantial amount of money to revert to the states. Some of this money can be used for any purpose. Other funds must be used on state-administered programs to assist children (specifically, for child care, Medicaid child outreach, and class size reduction).

**Q: How much money is there for states in the budget?**

A: The states will receive as much money over five years as they would have received under the original settlement agreement. A large part of this money will be unrestricted; states can use it for whatever purposes they choose. The rest of the money will go to states for state-administered programs to provide child care subsidies and reduce class size. This money represents the usual federal share of Medicaid recoveries, which the Administration believes should go back to the states in recognition of the important role the states played in bringing about this legislation.

**Q: Does your budget assume that the revenues from tobacco legislation will come from increased excise taxes, or from industry payments pursuant to a settlement?**

A: The budget assumes that the money will come from annual industry payments pursuant to a settlement.

**Q: Some of the money is listed under a category called "Other Uses." What is in this category?**

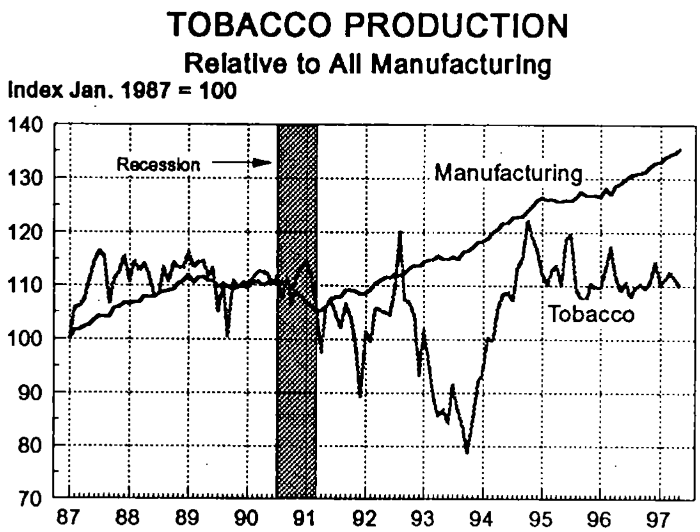
A: This category includes funds that will go to states to use as they see fit, as well as funds for tobacco farmers and for a variety of other uses. We expect final tobacco legislation to make specific allocations within this category.

**Q: Last week, several Republicans came out against tobacco legislation that would grant the industry limits on liability. Many public health leaders are also saying that tobacco legislation must not include limits on liability. Does the president still favor a settlement that would include limits on industry liability?**

A: The President will evaluate tobacco legislation as a whole to determine whether it protects the public health. Liability limits are not necessarily a deal-breaker for us. What's important is achieving comprehensive legislation that includes, for example, a large per-pack price increase, penalties for marketing to children, and broad restrictions on children's access to tobacco.

We hope that these kinds of statements (statements by Republican senators on liability) don't mean that some members are seeking to walk away from their responsibility to protect children by enacting comprehensive tobacco legislation.

Piecemeal legislation won't accomplish our goal. It's not enough just to say we did something if we don't pass comprehensive legislation that really accomplishes our goals.




## *Consumption*

- **Per-capita cigarette consumption has been on a long-term decline** in the United States from a record high of 4,345 in 1963 (based on the population 18 years and over) to 2,515 in 1995 -- a drop of 42 percent. [Will try to get time series. Chart might be interesting.]

  -- About **25 percent of all adults currently smoke.**

  -- **Shares** are generally **even higher for older adolescents**: 30.4 percent of 10th graders, 34.0 percent of 12th graders report that they have smoked in the past 30 days, according to the Michigan survey. Smoking is much more highly concentrated among white than black teens (38.1 vs. 14.2 percent for 12th graders).

- **Consumers spent** $47.2 billion on tobacco products in 1995, or 1.0 percent of all consumer expenditures.

- **93 percent of the money was spent on cigarettes**. U.S. consumption was divided as follows:

  -- 487 billion cigarettes
  -- 2.5 billion cigars and cigarillos
  -- 14.2 million pounds of pipe and roll-your-own tobacco
  -- 63.3 million pounds of chewing tobacco
  -- 60 million pounds of snuff

- The **1995 consumer expenditure survey** shows that the average household spent $269 that year on tobacco products and smoking supplies, with **households in the lowest income quintiles spending more of their budget on tobacco.**

| Tobacco Expenditures by Income Quintile in 1995 | | | | | |
|---|---|---|---|---|---|
| | Lowest 20% | Second 20% | Third 20% | Fourth 20% | Highest 20% |
| Tobacco | $204 | $242 | $327 | $307 | $278 |
| Share of total expenditures | 1.4% | 1.1% | 1.1% | 0.8% | 0.4% |

## *Employment and Wages*

- **Tobacco manufacturing's contribution to payroll employment is minuscule.** In 1996, 41,000 workers were employed in the tobacco manufacturing industry (which includes processing of tobacco, as well as production of cigarettes, cigars, etc.), or only 0.03 percent of the 119.5 million workers on nonfarm payrolls. More than 100,000 workers (0.23 percent of nonfarm employment) had been employed in the industry in the early 1950's.

  -- [Employment in major states to be added]

- **Production workers in the tobacco industry earned $19.44 an hour** last year, 52 percent more than the average worker in manufacturing. Tobacco industry wages have climbed steadily from less than 75 percent of the average factory wage in the early 1950's. Few other industries can boast comparable wages (coal mining, steel, petroleum and coal product manufacturing also have earnings that top $19 an hour).

| Average Hourly Earnings in 1996 | |
|---|---|
| Private nonfarm | $11.81 |
| Manufacturing | 12.77 |
| Tobacco | 19.44 |

- Of course, **agricultural jobs** are also provided in the cultivation of tobacco, which tends to be exceptionally labor-intensive, requiring 250 work hours per acre harvested compared to 3 hours for wheat. In 1995, 124,270 farms raised tobacco, harvesting 674,300 acres. A rough estimate would suggest that some 80,000 full-time equivalent jobs might be tied to raising tobacco.

## *Prices*

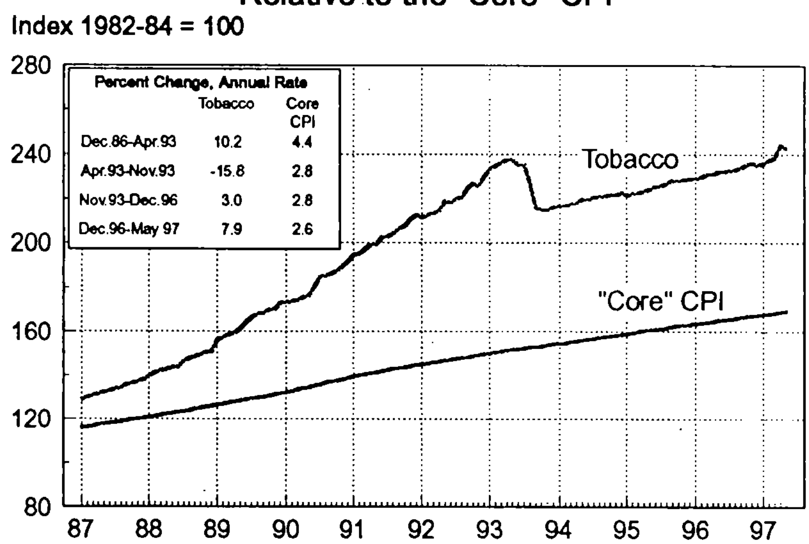
- **Tobacco products have a weight of only 1.6 percent in the CPI.** Thus, it would take a change of 6.25 percent in tobacco prices to move the CPI by 0.1 percent.

- **Over the past decade, tobacco prices have risen at a 6.3 percent annual rate, compared to 3.7 percent for "core" consumer prices** (excluding food and energy). Faster growth was mainly the result of a sharp uptrend prior to 1993. (See chart below.)

  – **In 1993, there was a steep downward adjustment in prices** ...[am getting clarification on the reason], after which tobacco prices grew at about the same pace as the core.

  – **This year, tobacco prices have sped up again**, increasing at nearly an 8 percent annual rate through May.

CONSUMER TOBACCO PRICES
Relative to the "Core" CPI




## *Industry Composition*

- **The market is dominated by Philip Morris**, which accounts for half of cigarette sales in the United States. (See table on the next page [need to find out from Jeremy Bulow just what these sales numbers represent].)

| The Cigarette Market in 1996 | | |
|---|---|---|
| | Sales (Mil.$[?]) | Market Share (%) |
| Philip Morris | 230.8 | 47.8 |
| RJR Nabisco | 119.1 | 24.6 |
| BAT | 83.9 | 17.3 |
| Lorillard | 40.4 | 8.4 |
| Liggitt | 9.0 | 1.9 |
| **TOTAL** | **483.2** | **100.0** |

## *Advertising Expenditures*

- **Magazine advertising** for tobacco and related smoking materials accounted for $285 million, or 3.4 percent, of the $8.5 billion spent by all industries in 1994.

Prepared by
Treas./Econ.Policy/K.Hendershot

**Parameters and Assumptions for Tobacco Settlement Calculations**

Per Pack Cost of Cigarettes

| | |
|---|---|
| Retail Price | 1.85 |
| Federal Tax | 0.24 |
| Average State Tax | 0.32 (0.025 to 0.815) |
| Distributors | 0.44 |
| | |
| Wholesale | 0.83 |
| | |
| Marketing | 0.23 |
| Legal | 0.025 |
| Other | 0.25 |
| Profits | 0.33 |

**Cigarettes per pack**: 20

Total **packs of cigarettes sold** in 1996 (U.S.): 24.4 billion
(Not surprisingly, multiplying the number of smokers by the average packs smoked give a lower total of 18.8 million. This is probably due to under reporting and perhaps a few "nonsmokers" who bought a few packs.)

Total large **cigars and cigarillos** sold in 1996 (U.S.): 2.5 billion
(This is the total, I don't know how many per pack.)

Total pounds of **pipe and roll-your-own tobacco** sold in 1996 (U.S.): 14.2 million

Total Number of **Adult Smokers**: about 50.5 million
(based on 1987, 1991 rates)

Total Number of **Underage Smokers**: about 3.1 million (1994 Surgeon General's Report)

**New Underage Smokers**: about 1 million per year (FDA Analysis)
If about 25% of 17 year-olds smoke, about 925,000 smokers turn 18 every year. If the FDA's 1 million number is correct, these smokers who become adults are being more than replenished by new young smokers.

Average number of **Packs Smoked** (Adults): about 1 pack per day (18.2 cigarettes)
Distribution of packs smoked: 36.6% <15, 41.9% 15-24, and 21.5% 25+

Average Number of **Packs Smoked** (Underage): about ½ pack per day (For 1991, "teenage" cigarette consumption is estimated at about 516 million packs. Assuming that there are about 3.1

million teenage smokers -- these are from different studies so they may not really be comparable -- that translates to about ½ pack per day per smoker.)

**Kids per Age Cohort:** About 3.8 million

**Youth Smoking Rates** ("Daily" is used for the Lookback provisions)

| Age | 30-day | **Daily** | ½ pack+/day | # of Daily |
|---|---|---|---|---|
| 8th graders | 21.0 | 10.4 | 4.3 | 395 thousand |
| 10th graders | 30.4 | 18.3 | 9.4 | 695 thousand |
| 12th graders | 34.0 | 22.3 | 13.0 | 847 thousand |

**Adult Smoking Rates**

| | Current | Former | Never |
|---|---|---|---|
| Adults 18+ | 25.7 | 24.1 | 50.2 |
| 18-24 | 22.9 | 7.7 | 69.3 |
| 25-44 | 30.4 | 19.4 | 50.2 |
| 45-64 | 26.9 | 32.9 | 40.2 |
| 65+ | 13.3 | 36.4 | 50.3 |

(Adult population is about 190 million.)

**Adult "Quit" Rates**
(percent of eversmokers who are former smokers)

| | |
|---|---|
| Adults 18+ | 48.5 |
| 18-24 | 25.2 |
| 25-44 | 38.9 |
| 45-64 | 55.1 |
| 65+ | 73.3 |

**Spending on Tobacco by Income Level** (CBO 1990)

| Quintile | 1990 Adj. Post-Tax Income | Average Expenditure | % of After-Tax Income | % of Expenditure |
|---|---|---|---|---|
| 1st | 8,228 | 327 | 4.0 | 1.6 |
| 2nd | 18,101 | 380 | 2.1 | 1.5 |
| 3rd | 27,314 | 426 | 1.6 | 1.4 |
| 4th | 37,581 | 427 | 1.1 | 1.1 |
| 5th | 77,622 | 383 | 0.5 | 0.7 |

**Demand Elasticities:** A consensus estimate for overall demand elasticity is -0.4. The following table from the Surgeon General's report gives elasticities by age (and is consistent with the literature):

| Age Group | Total | Participation | Quantity per Smoker |
|---|---|---|---|
| 12-17 | -1.40 | -1.20 | -0.25 |
| 20-25 | -0.89 | -0.74 | -0.20 |
| 26-35 | -0.47 | -0.44 | -0.04 |
| 36-74 | -0.45 | -0.15 | -0.15 |
| All Adults (20-74) | -0.42 | -0.26 | -0.10 |
| All Ages (12-74) | -0.47 | -0.31 | -0.11 |

**Industrial Organization and prices**: For now we are assuming a 1 to 1 pass through of any "tax" to prices, but a number of people are looking into the validity of this assumption. More to come soon.

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## PROGRAMS / FUNDS IN TOBACCO SETTLEMENT

(Dollars in billions unless otherwise specified)

| YEAR | 1 | 2 | 3 | 4 | 5 | *5 Years* | 6, 7, 8 | 9-25 | *25 Years* |
|---|---|---|---|---|---|---|---|---|---|
| **UP-FRONT COMMITMENT** | **10.0** | - | - | - | - | ***10.0*** | - | - | ***10.0*** |
| **BASE PAYMENTS** | | | | | | | | | |
| Reduce Use | 125 m | 125 m | 125 m | 225 m | 225 m | *825 m* | 225 m | 225 m | *5.325* |
| FDA | 300 m | 300 m | 300 m | 300 m | 300 m | *1.5* | 300 m | 300 m | *7.5* |
| Programs like ASSIST | 75 m | 75 m | 100 m | 125 m | 125 m | *500 m* | 125 m | 125 m | *3.0* |
| Research | 100 m | 100 m | 100 m | 100 m | 100 m | *500 m* | 100 m | 100 m | *2.5* |
| Education | 500 m | 500 m | 500 m | 500 m | 500 m | *2.5* | 500 m | 500 m | *12.5* |
| Cessation Fund | 1.0 | 1.0 | 1.0 | 1.0 | 1.5 | *5.5* | 1.5 | 1.5 | *35.5* |
| Teams' Fund | - | 75 m | 75 m | 75 m | 75 m | *300 m* | 75 m | 75 m | *1.8* |
| Health / Other | 3.9 | 4.825 | 5.8 | 7.675 | 7.175 | *29.375* | 9.675 | 12.175 | *265.375* |
| **Federal Share** | **2.223** | **2.750** | **3.306** | **4.375** | **4.090** | ***16.744*** | **5.515** | **6.940** | ***151.264*** |
| **SUBTOTAL** | **6.0** | **7.0** | **8.0** | **10.0** | **10.0** | ***41.0*** | **12.5** | **15.0** | ***333.5*** |
| **PUBLIC HEALTH TRUST FUND** | **2.5** | **2.5** | **3.5** | **4.0** | **5.0** | ***17.5*** | **2.5** | **-** | ***25.0*** |
| **TOTAL** | **18.5** | **9.5** | **11.5** | **14.0** | **15.0** | ***68.5*** | **15.0** | **15.0** | ***368.5*** |

Note: Annual base payments are adjusted for inflation and sales volume decreases; protected during bankruptcy/ reorganization proceedings; and should be passed through to consumers through price increases to discourage use.

Outline/Progress Report - Industry and Financial Issues

The domestic industry task force is gathering information to describe the likely impact of the settlement on the domestic tobacco industry. How will economic and financial incentives be changed by the settlement and how will the evolution of the industry and other affected sectors be different from what would have happened in the absence of a settlement? The policy framework informing this assessment of the facts assumes the objective of the settlement is to reduce smoking by raising the price of cigarettes and other tobacco products, with special attention paid to reducing youth smoking. An additional objective is to prevent the tobacco industry from profiting unduly from the settlement in order that the "profits" from raising cigarette prices can be diverted to specificed public health and other purposes.

Outline of tasks:

A) Fact Sheet on industry structure and performance

- Domestic
- International

B) Effect of settlement on prices

- Can view this as an excise tax
- How are excise taxes passed through to prices in the tobacco industry?

C) Effect of settlement on smoking

- Incorporate effect on prices and advertising restrictions
  - -- effect overall, and by age group
  - -- cohort projections

D) Impact on the industry

- Effects on prices and labor demand
- Two methods
  - -- primary analysis (back of the envelope calculations), based on FDA research
  - -- summary of market analysis, including stock price response
- Overall, and company-by-company

E) Spillover Effects

- Rough magnitudes of effects on other sectors, from FDA research
- USDA is computing specific effects on farmers

F) Health Effects

- FDA and CDC are computing mortality by group and cohort

G) Government revenue effects

- Treasury's Tax Policy group is computing revenue effects of settlement
  - -- how much is collected through this implicit excise tax
  - -- corporate tax receipt effects, accounting for deductibility
  - -- excise tax spillovers
- Estimate incidence of this implicit excise tax increase
- Compare properties to traditional excise tax change

H) Government spending effects

- Treasury's Economic Policy group is computing effects on
  - -- Social Security/SSI/DI
  - -- Medicare
  - -- Medicaid
- Effects on PBGC through bankruptcies of smaller tobacco firms - DoL
- Effects on other government spending - OMB

I) Incentive Effects

- Industry
  - -- product substitution
  - -- youth smoking incentives through lookback provisions
    - - is the penalty set at an appropriate level?
- Consumers
  - -- product substitution
- Government/Legal system
  - -- legal incentives through structure of punitive damage pools
  - -- distribution of initial $10 billion across parties

# TOBACCO SETTLEMENT MEETING
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MEMORANDUM

TO: BRUCE REED, ELENA KAGAN

FROM: TOM FREEDMAN, MARY L. SMITH

RE: ECONOMIC FOCUS OF TOBACCO INDUSTRY

DATE: JUNE 30, 1997

WHITE HOUSE WORKING GROUPS

1. REGULATORY: FDA, advertising, labeling, and environment.

2. PROGRAM AND BUDGET ISSUES: how to spend the money.

3. LEGAL ISSUES: liability, antitrust.

4. INDUSTRY PERFORMANCE AND ACCOUNTABILITY:
   A) OVERALL ECONOMIC ANALYSIS OF THE TOBACCO INDUSTRY

      - Makeup of tobacco industry and impact of settlement on industry in domestic market and internationally in terms of sales, profits, and projections
      - Advertising
      - Sporting events
      - Vending Machines
      - Impact on retailers generally
      - Farmers

   B) PARTS OF AGREEMENT THAT HAVE DIRECT FINANCIAL IMPLICATIONS
      - targets penalties and incentives (penalties on industry to reduce youth smoking)
      - provisions to keep out new start-ups or becoming foreign entities

   C) INTERNATIONAL PIECE OF TOBACCO CONTROL
      - advertising
      - different conduct overseas
      - general tobacco export promotion

*ANNOTATION OF ECONOMIC IMPACT OF TOBACCO SETTLEMENT*

## INDUSTRY PERFORMANCE AND ACCOUNTABILITY:

## A) OVERALL ECONOMIC ANALYSIS OF THE TOBACCO INDUSTRY

- **Makeup of tobacco industry and impact of settlement on industry in domestic market and internationally in terms of sales, profits, and projections**

### U.S. REVENUES AND CONSUMER SPENDING

- 25.5% of American adults smoke; 1996 consumer spending on tobacco products totaled $46.6 billion; and federal, state, and local excise taxes collected on cigarettes totaled $13.1 billion; world-wide cigarette sales in 1996 amounted to $295.8 billion. (WSJ, 6-23-97)

- Cigarette sales in this country are a $45 billion a year business. The cigarette makers--Philip Morris, R.J. Reynolds, Brown & Williamson, Lorillard, Liggett, and American Tobacco--collect $20 billion in U.S. sales. Taxes account for another $14 billion. The other $11 billion is split by retailers, wholesalers, and farmers. From their $20 billion in sales, the companies make a profit of about $8.4 billion. If the deal goes through, this profit could fall to about $6.7 billion, according to the securities firm Sanford C. Bernstein-- $925 million in lower sales and $800 million in interest on the payments. (Chicago Tribune, 6-22-97)

### JOBS

- The Tobacco Institute's Industry Profile estimates that tobacco was a $65 billion industry that supported at least 662,402 jobs in 1994, the last year for which figures are available. (Washington Times, 6-16-97)

### MARKET SHARE

- Phillip Morris has 50% of US cigarette market; RJR Nabisco has 25%; Brown & Williamson has 15% (N.T. Times 6-25-97)

## OVERSEAS MARKET SHARE

- The tobacco industry might be helped by growing markets overseas. Philip Morris' market share in Central Europe and Eastern Europe grew from 22% in 1995 to 28% in 1996. Salomen Brothers estimates it will grow to 32% this year. (Baltimore Sun, 6-21-97)

## UP-FRONT PAYMENT UNDER THE SETTLEMENT

- Philip Morris will provide the majority of the initial $10 billion payment (payment is based on stock market value) --Philip Morris will pay $6.5 billion; RJR Nabisco will pay $600 million (reflects RJR Nabisco's weaker financial position); Brown & Williamson (B.A.T.) will pay $1.7 billion; Lorillard (Loews) $720 million; and U.S. Tobacco (UST) $324 million (N.Y. Times 6-25-97)

## PRICE INCREASES, FUTURE PROFITS AND STOCK VALUE

- The Value Line Investment Survey forecasts 1997 tobacco industry profits to be $13 billion and expects the long-term net profit growth rate to be 11 percent a year, excluding any impact from the negotiations. (NY Times, 6-26-97)

- Gary C. Black, and analyst with the securities firm Sanford C. Bernstein & Co., predicts that with an agreement, Philip Morris shares could rise to about $60 from about $45 and RJR shares could rise to $48 from about $34. Black believes that marketing expenses are going to drop and there will be no bankruptcy worry. Others disagree. The settlement will require tobacco companies to pay about $15 billion a year, a third of their annual U.S. sales of about $45 billion. Jack Maxwell, a tobacco industry analyst for Wheat First Butcher Singer, believes that the companies will have to borrow a lot of money. Art Cecil, a Baltimore-based analyst for T. Rowe Price, believe that if the price goes up 10%, there generally will be a 4% reduction in consumption. Sanford C. Bernstein estimates an 11% drop in per-pack sales. The settlement of outstanding legal claims would cut industry profits from $8.4 billion to $6.7 billion. (Baltimore Sun, 6-21-97)

- Pay-out averages $14.7 billion a year, more than double the industry's operating profits of $7.2 billion from domestic tobacco sales last year. Tobacco companies plan to offset the cost of the deal by increasing cigarette prices in the US by about 50 cents a pack, so the settlement will have the same effect as a big tax increase. The deal does nothing to impinge on the growth side of their business - their booming overseas sales, particularly in emerging markets. (Financial Times, 6-23-97)

- If the settlement passes Congress, the companies could lose $1.5 billion or so in profits next year, partly caused by lower sales and partly by interest on loans the companies will need to pay for the settlement. But the companies are still expected to make $6.7 billion in profits next year, deal or no deal. (Chicago Tribune, 6-22-97)

**EXPECTED PRICE INCREASE AND IMPACT ON CONSUMPTION**

- Cigarettes might go up 75 cents a pack. Some research shows that every 10% of price increase drives 12% of teen smokers to quit. (USA Today, 6-25-97)

- Poll shows that if settlement increases the cost of cigarettes by 75 cents a pack, 57% said that it would be somewhat likely to cause them to quit. 43% say the price increase would not impact their habit. (USA Today, 6-25-97)

- The 50-cents-a-pack price increase, more than any other aspect of the settlement, may affect people's propensity to smoke. Other countries have found that big price increases reduce demand for cigarettes, particularly among youngsters. Mr. Gary Black, an analyst with Sanford C. Bernstein, has estimated that the price increase could cut consumer purchases by 11%. (Financial Times, 6-23-97)

- John Maxwell, a tobacco analyst at Wheat First Butcher Singer in Richmond, VA, estimates that a 10% price increase usually cuts consumption about 2 to 3%, so a 75-cent increase could reduce smoking by about 20 to 30 percent. Manufacturers could turn to cheaper foreign tobacco, or push generic brands. These generic brands held 41% of the market in 1993, but have since slipped to only 27%. (Chicago Tribune, 6-22-97)

- Studies at the University of Chicago and elsewhere suggest volume sales could fall by as much as 8% for each 10% increase in prices. (Bergen Record, 6-21-97)

- The settlement could add 75 cents to $1 to the price of an average pack of cigarettes. Tax hikes being debated in Congress and in 16 states could raise the average price even more, from $1.85 to $3 or more. Marc I. Cohen, a tobacco analyst at Goldman Sachs & Co., estimates that if there is a 75-cent to $1 retail increase, it will cost the average carton-a-week smoker about $400 to $500 more a year. (Chicago Tribune, 6-22-97)

- Even with the expected price increases, international experience shows that most smokers will not quit. Cigarette prices in Europe already are more than $3 per pack; the average price in Norway is $7. Smoking is still very prevalent in Norway. (Chicago Tribune, 6-22-97)

**DEAL/PENALTY**

- $2 billion cap for reduction in youth smoking comes to 8 cents per pack of cigarettes sold annually, 3 cents of that is tax deductible, so the penalty is really 5 cents a pack (USA Today 6-25-97)

- The agreement provides for a financial penalty of up to $2 billion a year against the tobacco industry if it fails to cut under-age smoking by 60% over the next 10 years -seemingly, a form of guarantee that the deal will work. But the target looks so unrealistic as to suggest that tobacco manufacturers consider an extra $2 billion a year a price worth paying for the legal immunity they will gain. (Financial Times, 6-23-97)

**DEAL/JOBS**

- For tobacco industry workers, John Maxwell, a tobacco industry analyst at Wheat First Butcher Singer in Richmond, VA, says there will possibly be layoffs. (Chicago Tribune, 6-22-97)

**BANS ON ADVERTISING AND IMPACT ON CONSUMPTION**

- Canada imposed a ban on cigarette advertising in 1989. Since then, the percentage of Canadians who smoke has gone up from 30 to 31%. In Finland, teenage smoking has gone up from 22 to 24% since a partial advertising ban in 1978. (Chicago Tribune, 6-22-97)

- **Advertising**

  - Advertisers and ad agencies will not feel much of a pinch from the settlement because they have been shifting their business away from the tobacco companies for years. Billboard owners get about 10% of their total revenue from cigarette advertising. For magazines, it is less than 3%. And cigarette advertising has been banned from television for 26 years. (Chicago Tribune, 6-22-97)

  - According to John Fithian, counsel to the Washington-based Freedom to Advertise Coalition, even if Congress gives the advertising portion of the settlement the force of law, the advertisers can live with it because it will directly affect less than 1% of the industry's total revenues. (Chicago Tribune, 6-22-97)

- **Sporting events**
- **Vending Machines**
- **Impact on retailers generally**

  - Retailers will feel an impact from 3 directions: (1) the public may buy less; (2) the companies may try to shave their markets; and (3) smokers may switch to cheaper brands. Lindsay Hutter, from the National Association of Convenience Stores, says that cigarettes account for 26% of sales in members' stores and will put her members in a much more competitive squeeze. (Chicago Tribune, 6-22-97)

  - Convenience store owners take in $17.3 billion a year, 26% of their sales, by selling one out of every two cigarettes consumers smoke. Lindsay Hutter, of the Alexandria, VA-based National Association of Convenience Stores, even warns of a growing black market in tax-free tobacco, like the one that emerged after Canada raised taxes in the early 1990s. (Bergen Record, 6-21-97)

- **Farmers**

**FEDERAL SUBSIDIES**

- Federal government's subsidies for tobacco farming are relatively small. Direct subsidies ended in the 1980s. Now the subsidies amount to a quota system in which the government licenses the right to grow tobacco and has a federal program to insure farmers against crop losses. The Department of Agriculture has budgeted $145 million for the insurance in the coming fiscal year; in years with no significant losses, it contributes little or nothing to the insurance pool. (The Guardian, 6-24-97; NT Times, 6-23-97)

- Huge export market is helping to make up for drastic declines in domestic consumption, according to Blake Brown, an agricultural economist at North Carolina State University. About 40% of flue-cured tobacco, the kind produced in North Carolina, is exported. However, the farmers are earning less than in the 1970s, as is North Carolina as a whole. Tobacco was 46% of North Carolina's farm income in 1964, but was only 15% in 1994. (The Guardian, 6-24-97; NY Times, 6-23-97)

**STATE STATISTICS**

- Tobacco is a major crop in the Carolinas, Kentucky, Virginia, and other Southern states. But any ripple effect from the settlement would be felt most strongly in North Carolina, which produces 52% of all domestically grown tobacco. This is home base for much of the $45 billion-a-year tobacco industry. Both Philip Morris and RJ Reynolds, which together account for almost three-fourths of the cigarettes sold in the US, are based in North Carolina. There are about 17,000 tobacco farmers in North Carolina. Mark Vitner, a regional economist at First Union Corp. in North Carolina, said that two decades ago, the tobacco industry represented 20% of North Carolina's economy. Today tobacco accounts for only about 6.5% of the state's economy, or about $12 billion annually. (LA Times, 6-23-97)

- Kentucky and North Carolina are the largest tobacco-producing states. Last year North Carolina's crop sold for $871 million, which resulted in much tax dollars for the federal government. Blake Brown, an agricultural economist who tracks tobacco at North Carolina State University, says farm sales of tobacco generate 15 to 20% of the state revenue and tobacco accounts for about $12 billion of state receipts. Most of the tobacco grows in the North Carolina's eastern and piedmont regions. The crop accounts for one in 11 jobs in the state. This year the tobacco-growing quota is the

largest it has been in 15 years. During the last three years, cigarette production has been breaking record levels. Brown says that cigarette production is on the rise and tobacco is on the rebound and attributes this increase to the European and Japanese markets. (Washington Times, 6-16-97)

- In Virginia, tobacco is the largest cash crop, bringing in $186 million for more than 8,000 farm families in 47 counties in 1996. Even though the state's 2 ½ cents-a-pack tax is the lowest in the nation, it generated $17 million in 1995. 29 cities and 2 counties added $33 million in 1995 in local cigarette taxes. A big part of tobacco's hold on Virginia is the $4,000 an acre that farmers take in for growing tobacco, compared with $136 an acre for wheat and not much more for other crops. Thousands of Mexicans harvest the tobacco fields --the pay is about $5.80 an hour; transportation to and from Mexico is provided, so is housing and health care. Foreign sales have kept the demand for Virginia tobacco high. This year there is an 11.5 % increase in the amount of tobacco that farmers can grow in the states. (Virginian-Pilot, 6-8-97)

- In 1950, North Carolina had 150,764 tobacco farmers; now there are 17,625. The crop back then accounted for 60% of farm income; now it accounts for 20%. While most farmers have diversified to other crops, they say they cannot afford to give up tobacco altogether because it remains the most profitable. (LA Times, 6-23-97)

- In Richmond, Philip Morris, which produces 600 million cigarettes per day, is the city's largest private employer, with 8,000 workers and a yearly payroll of $456 million. The company's suppliers account for another 17,000 jobs in the Richmond area. (Washington Times, 6-25-97)

- In Virginia, in 47 counties, 8,400 farms grow tobacco. Last year's crop brought farmers $186 million. 4% of Virginians earn their living from tobacco, directly or indirectly. (Washington Times, 6-25-97)

## B) PARTS OF AGREEMENT THAT HAVE DIRECT FINANCIAL IMPLICATIONS

- **targets penalties and incentives (penalties on industry to reduce youth smoking)**
- **provisions to keep out new start-ups or becoming foreign entities**

## C) INTERNATIONAL PIECE OF TOBACCO CONTROL

- **advertising**
- **different conduct overseas**
- **general tobacco export promotion**

  - The tobacco industry might be helped by growing markets overseas. Philip Morris' market share in Central Europe and Eastern Europe grew from 22% in 1995 to 28% in 1996. Salomen Brothers estimates it will grow to 32% this year. (Baltimore Sun, 6-21-97)

  - Foreign-grown tobacco has been improving in quality because of technological advancements. It is far cheaper than American tobacco, in part because of price supports and an American quota system that limits production in an attempt to keep demand high. Brazil, Argentina, Zimbabwe, and Malawi are now fierce competitors. (LA Times, 6-23-97)

USA Today 6-23-97
BUSINESS SECTION

# Tobacco's deep roots in the economy

The tobacco industry contributes substantially to the U.S. economy. How much was added to the 1994 economy by people whose income came directly from a tobacco company, farm, supplier (makers of boxes, cellophane and other goods and services needed for tobacco products), or advertising agency that works on tobacco accounts.

**Tobacco is grown on more than 124,000 farms in 23 states and Puerto Rico. Top 10 tobacco-producing states in 1995, by cash receipts:**

(In millions)

| | |
|---|---|
| North Carolina | $871 |
| Kentucky | $615 |
| South Carolina | $187 |
| Tennessee | $178 |
| Virginia | $147 |
| Georgia | $133 |
| Florida | $31 |
| Ohio | $28 |
| Indiana | $25 |
| Pennsylvania | $22 |

- Contribution to gross domestic product: **$44.7 billion**
- Jobs: **662,402**
- Federal/state/local taxes: **$20.6 billion**

By Vidal Medina, Reuters

**In the field:** Workers harvest tobacco at a Maryland farm. In 1996, about 674,300 acres of tobacco were harvested in the USA — 1.32 billion pounds — down nearly 16% from 1994.

**The USA's two biggest tobacco companies draw much of their tobacco revenue outside the USA**

**1996 tobacco revenues**

| | Philip Morris | RJR Nabisco |
|---|---|---|
| Domestic | $12.5 billion | $4.6 billion |
| International | $24.1 billion | $3.6 billion |

**Tobacco companies are among Corporate America's leading advertisers**

**Tobacco advertising, excluding promotional expenses (in millions)**

| | |
|---|---|
| 1994 | $450 |
| 1995 | $499 |
| 1996 | $490 |
| 1997[1] | $90 |

1 – January to March

**Where tobacco ad dollars go:**

(In millions)

| | |
|---|---|
| Magazines | $316.5 |
| Event sponsorship | $2.0 |
| Outdoor | $157.6 |
| Cable TV networks | $0.8 |
| Newspapers | $10.0 |
| Sunday magazines | $5.3 |

**The average price for a pack of cigarettes in the USA is $1.85. Average price by state, and how much of that cost is taxes:**

| | Price | Tax |
|---|---|---|
| Washington | $2.65 | 0.825 |
| Massachusetts | $2.45 | 0.770 |
| Hawaii | $2.43 | 0.600 |
| Michigan | $2.34 | 0.750 |
| Dist. Columbia | $2.30 | 0.650 |
| New York | $2.23 | 0.560 |
| Arizona | $2.22 | 0.580 |
| Minnesota | $2.17 | 0.480 |
| Rhode Island | $2.17 | 0.610 |
| Alaska | $2.14 | 0.290 |
| Connecticut | $2.09 | 0.500 |
| Vermont | $2.02 | 0.440 |
| Wisconsin | $2.01 | 0.440 |
| California | $2.00 | 0.370 |
| Illinois[1] | $1.99 | 0.440 |
| Nevada | $1.99 | 0.350 |
| Oregon | $1.98 | 0.680 |
| New Jersey | $1.95 | 0.400 |
| North Dakota | $1.94 | 0.440 |
| Maryland | $1.91 | 0.360 |
| Maine | $1.90 | 0.370 |
| Texas | $1.90 | 0.410 |
| Iowa | $1.89 | 0.360 |
| Utah | $1.86 | 0.265 |
| Nebraska | $1.85 | 0.340 |
| Idaho | $1.84 | 0.280 |
| Florida | $1.83 | 0.339 |
| South Dakota | $1.82 | 0.330 |
| Arkansas | $1.81 | 0.310 |
| New Hampshire | $1.77 | 0.250 |
| Pennsylvania | $1.77 | 0.310 |
| New Mexico | $1.76 | 0.210 |
| Colorado | $1.74 | 0.200 |
| Delaware | $1.72 | 0.240 |
| Oklahoma | $1.72 | 0.230 |
| Kansas[1] | $1.71 | 0.240 |
| Mississippi | $1.69 | 0.180 |
| Alabama[1] | $1.67 | 0.165 |
| Louisiana | $1.67 | 0.200 |
| Ohio | $1.67 | 0.240 |
| Wyoming | $1.64 | 0.120 |
| Montana | $1.65 | 0.180 |
| Missouri[1] | $1.63 | 0.170 |
| Tennessee[1,2] | $1.61 | 0.130 |
| West Virginia | $1.61 | 0.170 |
| Virginia[1] | $1.60 | 0.025 |
| Georgia | $1.59 | 0.120 |
| Indiana | $1.56 | 0.155 |
| South Carolina | $1.54 | 0.070 |
| North Carolina | $1.52 | 0.050 |
| Kentucky[2] | $1.46 | 0.030 |

1 – Counties and cities may impose an additional tax
2 – Additional distribution fees charged

Sources: American Economic Group; Competitive Media Reporting and Publishers Information Bureau; The Tobacco Institute
USA TODAY research by Mary Cadden

By Marcy E. Mullins, USA TODAY

# When teachers should be expelled from class

## New hope for getting rid of the bad apples

BY PAUL GLASTRIS

Margaret Irvin was a fundamentally incompetent teacher, according to her superiors at the Palm Beach County, Fla., school district. She couldn't keep order in her kindergarten classroom. Nor did she prepare lesson plans or teach anything at all for weeks at a time. But she couldn't be easily fired, either, thanks to statutory job protections known collectively as tenure. Although her poor performance was first spotted by evaluators in 1993, Irvin was allowed to stay in the classroom an additional year and a half while she underwent (and failed) an "improvement plan." She then appealed her dismissal (unsuccessfully) to a hearing officer. Irvin will continue to appeal her case in state court or in arbitration, according to her union-provided lawyer. Her argument: that she suffers from "attention-deficit disorder" and that her superiors were insufficiently supportive.

Cases like this have inspired politicians, including President Clinton, to call for legal changes to make it easier to fire teachers deemed incompetent. Last year, Republican Govs. George Voinovich of Ohio and Pete Wilson of California fought—and lost—battles with their legislatures to weaken tenure procedures. In each case, teachers' unions and their mostly Democratic allies have resisted sweeping reform. But in the next few weeks, Florida Gov. Lawton Chiles is expected to approve legislation that is a real step forward. And while the bill is far less ambitious than when it was originally introduced, the Florida experience and other recent developments indicate that real reform is more possible than it has been in years.

**Demoralizing.** The effect of even a few bad teachers in a school can be profound. Students who have just one bad teacher have lower test scores two years later than do comparable students with solid teachers, according to a study by researchers at the University of Tennessee–Knoxville. Bad teachers demoralize good teachers. "It causes significant resentment among teachers who are working hard and shows those who aren't that there's no consequence to low performance," notes Kathy Christie of the Education Commission of the States. Bad teachers also tend to end up teaching the kids who need help most: poor, low-performing students whose parents "aren't squeaky wheels and won't complain," says Christie.

For tenure opponents, Florida provided a great opportunity. This winter, the Legislature, controlled by antitenure Republicans, introduced legislation that would allow school boards to fire teachers at the end of their contracts without explanation—essentially giving boards the same "fire at will" powers most private-sector employers have. But the teachers' unions persuaded key moderate Republicans to abandon that sweeping approach. The final bill leaves untouched the tangle of dismissal procedures that make firing a bad teacher so complex and costly (the average cost in Florida is $60,000) that few school districts even try. Last year, only .05 percent of Florida teachers involuntarily lost their jobs; in the Florida economy as a whole, 7.9 percent of employees did.

But the Florida story has a hopeful subplot. The new bill reduces from two years to 90 days the time teachers have to improve their performance before they can be fired, the shortest period in the tion. Tellingly, that change was supported by Florida's biggest teachers' union, an affiliate of the American Federation of Teachers. And month, the directors of the National Education Association endo a stepped-up role for teachers in policing their own ranks.

While unions have become a bit less resistant to reform, even s e of tenure's harshest critics concede that there is a kernel of truth to union fears that without e form of tenure, teachers would be subject to capricious firings. A smarter approach, say many school reformers, is to concentrate first on making teacher evaluations tougher and fairer. Current evaluation systems often do little more t check to see whether a teacher's blackboard is neat. In Kentucky, though, careful evaluations of teachers and whole schools (plus a heightened threat of dismissal for poorly performing teachers and administrators) have turned many of the state's worst schools around. If the evaluation process is thorough and fair enough, even the most intransigent unions will have trouble defending bad teachers. ■

*With Thomas Toch*

ILLUSTRATION BY ELIZABETH LADA FOR USN&WR

MEMORANDUM

TO: BRUCE REED, ELENA KAGAN

FROM: TOM FREEDMAN, MARY L. SMITH

RE: ECONOMIC FOCUS OF TOBACCO INDUSTRY

DATE: JUNE 30, 1997

WHITE HOUSE WORKING GROUPS

1. REGULATORY: FDA, advertising, labeling, and environment.

2. PROGRAM AND BUDGET ISSUES: how to spend the money.

3. LEGAL ISSUES: liability, antitrust.

4. INDUSTRY PERFORMANCE AND ACCOUNTABILITY:
   A) OVERALL ECONOMIC ANALYSIS OF THE TOBACCO INDUSTRY
      - Makeup of tobacco industry and impact of settlement on industry in domestic market and internationally in terms of sales, profits, and projections
      - Advertising
      - Sporting events
      - Vending Machines
      - Impact on retailers generally
      - Farmers
   B) PARTS OF AGREEMENT THAT HAVE DIRECT FINANCIAL IMPLICATIONS
      - targets penalties and incentives (penalties on industry to reduce youth smoking)
      - provisions to keep out new start-ups or becoming foreign entities
   C) INTERNATIONAL PIECE OF TOBACCO CONTROL
      - advertising
      - different conduct overseas
      - general tobacco export promotion

*<u>ANNOTATION OF ECONOMIC IMPACT OF TOBACCO SETTLEMENT</u>*

**INDUSTRY PERFORMANCE AND ACCOUNTABILITY:**

**A) OVERALL ECONOMIC ANALYSIS OF THE TOBACCO INDUSTRY**

- **Makeup of tobacco industry and impact of settlement on industry in domestic market and internationally in terms of sales, profits, and projections**

**U.S. REVENUES AND CONSUMER SPENDING**

- 25.5% of American adults smoke; 1996 consumer spending on tobacco products totaled $46.6 billion; and federal, state, and local excise taxes collected on cigarettes totaled $13.1 billion; world-wide cigarette sales in 1996 amounted to $295.8 billion. (<u>WSJ, 6-23-97</u>)

- Cigarette sales in this country are a $45 billion a year business. The cigarette makers--Philip Morris, R.J. Reynolds, Brown & Williamson, Lorillard, Liggett, and American Tobacco--collect $20 billion in U.S. sales. Taxes account for another $14 billion. The other $11 billion is split by retailers, wholesalers, and farmers. From their $20 billion in sales, the companies make a profit of about $8.4 billion. If the deal goes through, this profit could fall to about $6.7 billion, according to the securities firm Sanford C. Bernstein-- $925 million in lower sales and $800 million in interest on the payments. (<u>Chicago Tribune, 6-22-97</u>)

**JOBS**

- The Tobacco Institute's Industry Profile estimates that tobacco was a $65 billion industry that supported at least 662,402 jobs in 1994, the last year for which figures are available. (<u>Washington Times, 6-16-97</u>)

**MARKET SHARE**

- Phillip Morris has 50% of US cigarette market; RJR Nabisco has 25%; Brown & Williamson has 15% (<u>N.T. Times 6-25-97</u>)

**OVERSEAS MARKET SHARE**

- The tobacco industry might be helped by growing markets overseas. Philip Morris' market share in Central Europe and Eastern Europe grew from 22% in 1995 to 28% in 1996. Salomen Brothers estimates it will grow to 32% this year. (Baltimore Sun, 6-21-97)

**UP-FRONT PAYMENT UNDER THE SETTLEMENT**

- Philip Morris will provide the majority of the initial $10 billion payment (payment is based on stock market value) --Philip Morris will pay $6.5 billion; RJR Nabisco will pay $600 million (reflects RJR Nabisco's weaker financial position); Brown & Williamson (B.A.T.) will pay $1.7 billion; Lorillard (Loews) $720 million; and U.S. Tobacco (UST) $324 million (N.Y. Times 6-25-97)

**PRICE INCREASES, FUTURE PROFITS AND STOCK VALUE**

- The Value Line Investment Survey forecasts 1997 tobacco industry profits to be $13 billion and expects the long-term net profit growth rate to be 11 percent a year, excluding any impact from the negotiations. (NY Times, 6-26-97)

- Gary C. Black, and analyst with the securities firm Sanford C. Bernstein & Co., predicts that with an agreement, Philip Morris shares could rise to about $60 from about $45 and RJR shares could rise to $48 from about $34. Black believes that marketing expenses are going to drop and there will be no bankruptcy worry. Others disagree. The settlement will require tobacco companies to pay about $15 billion a year, a third of their annual U.S. sales of about $45 billion. Jack Maxwell, a tobacco industry analyst for Wheat First Butcher Singer, believes that the companies will have to borrow a lot of money. Art Cecil, a Baltimore-based analyst for T. Rowe Price, believe that if the price goes up 10%, there generally will be a 4% reduction in consumption. Sanford C. Bernstein estimates an 11% drop in per-pack sales. The settlement of outstanding legal claims would cut industry profits from $8.4 billion to $6.7 billion. (Baltimore Sun, 6-21-97)

- Pay-out averages $14.7 billion a year, more than double the industry's operating profits of $7.2 billion from domestic tobacco sales last year. Tobacco companies plan to offset the cost of the deal by increasing cigarette prices in the US by about 50 cents a pack, so the settlement will have the same effect as a big tax increase. The deal does nothing to impinge on the growth side of their business - their booming overseas sales, particularly in emerging markets. (Financial Times, 6-23-97)

- If the settlement passes Congress, the companies could lose $1.5 billion or so in profits next year, partly caused by lower sales and partly by interest on loans the companies will need to pay for the settlement. But the companies are still expected to make $6.7 billion in profits next year, deal or no deal. (Chicago Tribune, 6-22-97)

**EXPECTED PRICE INCREASE AND IMPACT ON CONSUMPTION**

- Cigarettes might go up 75 cents a pack. Some research shows that every 10% of price increase drives 12% of teen smokers to quit. (USA Today, 6-25-97)

- Poll shows that if settlement increases the cost of cigarettes by 75 cents a pack, 57% said that it would be somewhat likely to cause them to quit. 43% say the price increase would not impact their habit. (USA Today, 6-25-97)

- The 50-cents-a-pack price increase, more than any other aspect of the settlement, may affect people's propensity to smoke. Other countries have found that big price increases reduce demand for cigarettes, particularly among youngsters. Mr. Gary Black, an analyst with Sanford C. Bernstein, has estimated that the price increase could cut consumer purchases by 11%. (Financial Times, 6-23-97)

- John Maxwell, a tobacco analyst at Wheat First Butcher Singer in Richmond, VA, estimates that a 10% price increase usually cuts consumption about 2 to 3%, so a 75-cent increase could reduce smoking by about 20 to 30 percent. Manufacturers could turn to cheaper foreign tobacco, or push generic brands. These generic brands held 41% of the market in 1993, but have since slipped to only 27%. (Chicago Tribune, 6-22-97)

- Studies at the University of Chicago and elsewhere suggest volume sales could fall by as much as 8% for each 10% increase in prices. (Bergen Record, 6-21-97)

- The settlement could add 75 cents to $1 to the price of an average pack of cigarettes. Tax hikes being debated in Congress and in 16 states could raise the average price even more, from $1.85 to $3 or more. Marc I. Cohen, a tobacco analyst at Goldman Sachs & Co., estimates that if there is a 75-cent to $1 retail increase, it will cost the average carton-a-week smoker about $400 to $500 more a year. (Chicago Tribune, 6-22-97)

- Even with the expected price increases, international experience shows that most smokers will not quit. Cigarette prices in Europe already are more than $3 per pack; the average price in Norway is $7. Smoking is still very prevalent in Norway. (Chicago Tribune, 6-22-97)

**DEAL/PENALTY**

- $2 billion cap for reduction in youth smoking comes to 8 cents per pack of cigarettes sold annually, 3 cents of that is tax deductible, so the penalty is really 5 cents a pack (USA Today 6-25-97)

- The agreement provides for a financial penalty of up to $2 billion a year against the tobacco industry if it fails to cut under-age smoking by 60% over the next 10 years -seemingly, a form of guarantee that the deal will work. But the target looks so unrealistic as to suggest that tobacco manufacturers consider an extra $2 billion a year a price worth paying for the legal immunity they will gain. (Financial Times, 6-23-97)

**DEAL/JOBS**

- For tobacco industry workers, John Maxwell, a tobacco industry analyst at Wheat First Butcher Singer in Richmond, VA, says there will possibly be layoffs. (Chicago Tribune, 6-22-97)

**BANS ON ADVERTISING AND IMPACT ON CONSUMPTION**

- Canada imposed a ban on cigarette advertising in 1989. Since then, the percentage of Canadians who smoke has gone up from 30 to 31%. In Finland, teenage smoking has gone up from 22 to 24% since a partial advertising ban in 1978. (Chicago Tribune, 6-22-97)

- **Advertising**

    - Advertisers and ad agencies will not feel much of a pinch from the settlement because they have been shifting their business away from the tobacco companies for years. Billboard owners get about 10% of their total revenue from cigarette advertising. For magazines, it is less than 3%. And cigarette advertising has been banned from television for 26 years. (Chicago Tribune, 6-22-97)

    - According to John Fithian, counsel to the Washington-based Freedom to Advertise Coalition, even if Congress gives the advertising portion of the settlement the force of law, the advertisers can live with it because it will directly affect less than 1% of the industry's total revenues. (Chicago Tribune, 6-22-97)

- **Sporting events**
- **Vending Machines**
- **Impact on retailers generally**

    - Retailers will feel an impact from 3 directions: (1) the public may buy less; (2) the companies may try to shave their markets; and (3) smokers may switch to cheaper brands. Lindsay Hutter, from the National Association of Convenience Stores, says that cigarettes account for 26% of sales in members' stores and will put her members in a much more competitive squeeze. (Chicago Tribune, 6-22-97)

    - Convenience store owners take in $17.3 billion a year, 26% of their sales, by selling one out of every two cigarettes consumers smoke. Lindsay Hutter, of the Alexandria, VA-based National Association of Convenience Stores, even warns of a growing black market in tax-free tobacco, like the one that emerged after Canada raised taxes in the early 1990s. (Bergen Record, 6-21-97)

- **Farmers**

**FEDERAL SUBSIDIES**

- Federal government's subsidies for tobacco farming are relatively small. Direct subsidies ended in the 1980s. Now the subsidies amount to a quota system in which the government licenses the right to grow tobacco and has a federal program to insure farmers against crop losses. The Department of Agriculture has budgeted $145 million for the insurance in the coming fiscal year; in years with no significant losses, it contributes little or nothing to the insurance pool. (The Guardian, 6-24-97; NT Times, 6-23-97)

- Huge export market is helping to make up for drastic declines in domestic consumption, according to Blake Brown, an agricultural economist at North Carolina State University. About 40% of flue-cured tobacco, the kind produced in North Carolina, is exported. However, the farmers are earning less than in the 1970s, as is North Carolina as a whole. Tobacco was 46% of North Carolina's farm income in 1964, but was only 15% in 1994. (The Guardian, 6-24-97; NY Times, 6-23-97)

**STATE STATISTICS**

- Tobacco is a major crop in the Carolinas, Kentucky, Virginia, and other Southern states. But any ripple effect from the settlement would be felt most strongly in North Carolina, which produces 52% of all domestically grown tobacco. This is home base for much of the $45 billion-a-year tobacco industry. Both Philip Morris and RJ Reynolds, which together account for almost three-fourths of the cigarettes sold in the US, are based in North Carolina. There are about 17,000 tobacco farmers in North Carolina. Mark Vitner, a regional economist at First Union Corp. in North Carolina, said that two decades ago, the tobacco industry represented 20% of North Carolina's economy. Today tobacco accounts for only about 6.5% of the state's economy, or about $12 billion annually. (LA Times, 6-23-97)

- Kentucky and North Carolina are the largest tobacco-producing states. Last year North Carolina's crop sold for $871 million, which resulted in much tax dollars for the federal government. Blake Brown, an agricultural economist who tracks tobacco at North Carolina State University, says farm sales of tobacco generate 15 to 20% of the state revenue and tobacco accounts for about $12 billion of state receipts. Most of the tobacco grows in the North Carolina's eastern and piedmont regions. The crop accounts for one in 11 jobs in the state. This year the tobacco-growing quota is the

largest it has been in 15 years. During the last three years, cigarette production has been breaking record levels. Brown says that cigarette production is on the rise and tobacco is on the rebound and attributes this increase to the European and Japanese markets. (Washington Times, 6-16-97)

- In Virginia, tobacco is the largest cash crop, bringing in $186 million for more than 8,000 farm families in 47 counties in 1996. Even though the state's 2 ½ cents-a-pack tax is the lowest in the nation, it generated $17 million in 1995. 29 cities and 2 counties added $33 million in 1995 in local cigarette taxes. A big part of tobacco's hold on Virginia is the $4,000 an acre that farmers take in for growing tobacco, compared with $136 an acre for wheat and not much more for other crops. Thousands of Mexicans harvest the tobacco fields --the pay is about $5.80 an hour; transportation to and from Mexico is provided, so is housing and health care. Foreign sales have kept the demand for Virginia tobacco high. This year there is an 11.5 % increase in the amount of tobacco that farmers can grow in the states. (Virginian-Pilot, 6-8-97)

- In 1950, North Carolina had 150,764 tobacco farmers; now there are 17,625. The crop back then accounted for 60% of farm income; now it accounts for 20%. While most farmers have diversified to other crops, they say they cannot afford to give up tobacco altogether because it remains the most profitable. (LA Times, 6-23-97)

- In Richmond, Philip Morris, which produces 600 million cigarettes per day, is the city's largest private employer, with 8,000 workers and a yearly payroll of $456 million. The company's suppliers account for another 17,000 jobs in the Richmond area. (Washington Times, 6-25-97)

- In Virginia, in 47 counties, 8,400 farms grow tobacco. Last year's crop brought farmers $186 million. 4% of Virginians earn their living from tobacco, directly or indirectly. (Washington Times, 6-25-97)

## B) PARTS OF AGREEMENT THAT HAVE DIRECT FINANCIAL IMPLICATIONS

- **targets penalties and incentives (penalties on industry to reduce youth smoking)**
- **provisions to keep out new start-ups or becoming foreign entities**

## C) INTERNATIONAL PIECE OF TOBACCO CONTROL

- **advertising**
- **different conduct overseas**
- **general tobacco export promotion**

  - The tobacco industry might be helped by growing markets overseas. Philip Morris' market share in Central Europe and Eastern Europe grew from 22% in 1995 to 28% in 1996. Salomen Brothers estimates it will grow to 32% this year. (Baltimore Sun, 6-21-97)

  - Foreign-grown tobacco has been improving in quality because of technological advancements. It is far cheaper than American tobacco, in part because of price supports and an American quota system that limits production in an attempt to keep demand high. Brazil, Argentina, Zimbabwe, and Malawi are now fierce competitors. (LA Times, 6-23-97)

USA Today 6-23-97
Business Section

# Tobacco's deep roots in the economy

The tobacco industry contributes substantially to the U.S. economy. How much was added to the 1994 economy by people whose income came directly from a tobacco company, farm, supplier (makers of boxes, cellophane and other goods and services needed for tobacco products), or advertising agency that works on tobacco accounts.

**Tobacco is grown on more than 124,000 farms in 23 states and Puerto Rico. Top 10 tobacco-producing states in 1995, by cash receipts:**

(in millions)

| State | Cash receipts |
|---|---|
| North Carolina | $871 |
| Kentucky | $615 |
| South Carolina | $187 |
| Tennessee | $178 |
| Virginia | $147 |
| Georgia | $133 |
| Florida | $31 |
| Ohio | $28 |
| Indiana | $25 |
| Pennsylvania | $22 |

- Contribution to gross domestic product: $44.7 billion
- Jobs: 662,402
- Federal/state/local taxes: $20.6 billion

By Vidal Medina, Reuters

**In the field:** Workers harvest tobacco at a Maryland farm. In 1996, about 674,300 acres of tobacco were harvested in the USA — 1.32 billion pounds — down nearly 16% from 1994.

**The average price for a pack of cigarettes in the USA is $1.85. Average price by state, and how much of that cost is taxes:**

| | Price | Tax |
|---|---|---|
| Washington | $2.65 | 0.825 |
| Massachusetts | $2.45 | 0.770 |
| Hawaii | $2.43 | 0.600 |
| Michigan | $2.34 | 0.750 |
| Dist. Columbia | $2.30 | 0.650 |
| New York | $2.23 | 0.560 |
| Arizona | $2.22 | 0.580 |
| Minnesota | $2.17 | 0.480 |
| Rhode Island | $2.17 | 0.610 |
| Alaska | $2.14 | 0.290 |
| Connecticut | $2.09 | 0.500 |
| Vermont | $2.02 | 0.440 |
| Wisconsin | $2.01 | 0.440 |
| California | $2.00 | 0.370 |
| Illinois[1] | $1.99 | 0.440 |
| Nevada | $1.99 | 0.350 |
| Oregon | $1.98 | 0.680 |
| New Jersey | $1.95 | 0.400 |
| North Dakota | $1.94 | 0.440 |
| Maryland | $1.91 | 0.360 |
| Maine | $1.90 | 0.370 |
| Texas | $1.90 | 0.410 |
| Iowa | $1.89 | 0.360 |
| Utah | $1.86 | 0.265 |
| Nebraska | $1.85 | 0.340 |
| Idaho | $1.84 | 0.280 |
| Florida | $1.83 | 0.339 |
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| Colorado | $1.74 | 0.200 |
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| Tennessee[1,2] | $1.61 | 0.130 |
| West Virginia | $1.61 | 0.170 |
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| South Carolina | $1.54 | 0.070 |
| North Carolina | $1.52 | 0.050 |
| Kentucky[2] | $1.46 | 0.030 |

1 – Counties and cities may impose an additional tax
2 – Additional distribution fees charged

**The USA's two biggest tobacco companies draw much of their tobacco revenue outside the USA**

**1996 tobacco revenues**

| Philip Morris | |
|---|---|
| Domestic | $12.5 billion |
| International | $24.1 billion |

| RJR Nabisco | |
|---|---|
| Domestic | $4.6 billion |
| International | $3.6 billion |

**Tobacco companies are among Corporate America's leading advertisers**

**Tobacco advertising, excluding promotional expenses (in millions)**

| Year | |
|---|---|
| 1994 | $450 |
| 1995 | $499 |
| 1996 | $490 |
| 1997[1] | $90 |

1 – January to March

**Where tobacco ad dollars go:**

(in millions)

| | |
|---|---|
| Magazines | $316.5 |
| Event sponsorship | $2.0 |
| Outdoor | $157.6 |
| Cable TV networks | $0.8 |
| Newspapers | $10.0 |
| Sunday magazines | $5.3 |

Sources: American Economic Group, Competitive Media Reporting and Publishers Information Bureau, The Tobacco Institute
USA TODAY research by Mary Cadden

By Marcy E. Mullins, USA TO[

MEMORANDUM

TO: BRUCE REED, ELENA KAGAN

FROM: TOM FREEDMAN, MARY L. SMITH

RE: OUTLINE OF TOBACCO RESOLUTION FROM JUNE 20, 1997

DATE: JUNE 30, 1997

PREAMBLE

TITLE I: REFORMATION OF THE TOBACCO INDUSTRY

A. RESTRICTIONS ON MARKETING AND ADVERTISING

B. WARNINGS, LABELING AND PACKAGING

C. RESTRICTIONS ON ACCESS TO TOBACCO PRODUCTS

D. LICENSING OF RETAIL TOBACCO PRODUCT SELLERS

E. REGULATION OF TOBACCO PRODUCT DEVELOPMENT AND MFGING

F. NON-TOBACCO INGREDIENTS

G. COMPLIANCE AND CORPORATE CULTURE

H. EFFECTIVE DATES

TITLE II: "LOOK BACK" PROVISIONS/STATE ENFORCEMENT INCENTIVES

TITLE III: PENALTIES AND ENFORCEMENT; CONSENT DECREES; NON-PARTICIPATING COMPANIES

A. PENALTIES AND ENFORCEMENT

B. CONSENT DECREES

C. NON-PARTICIPATING COMPANIES

APPENDIX V: "LOOK BACK"

APPENDIX VI: STATE ENFORCEMENT INCENTIVES

APPENDIX VII: RESTRICTIONS ON POINT OF SALE ADVERTISING

APPENDIX VIII: PUBLIC DISCLOSURE OF PAST AND FUTURE TOBACCO INDUSTRY DOCUMENTS AND HEALTH RESEARCH

*SECTION BY SECTION ANNOTATIONS*

PREAMBLE

## TITLE I: REFORMATION OF THE TOBACCO INDUSTRY

### A. RESTRICTIONS ON MARKETING AND ADVERTISING

- Canada imposed a ban on cigarette advertising in 1989. Since then, the percentage of Canadians who smoke has gone up from 30 to 31%. In Finland, teenage smoking has gone up from 22 to 24% since a partial advertising ban in 1978. (Chicago Tribune, 6-22-97)

- Experience in other countries shows that even where there are very tough restrictions, or even outright bans, on advertising and marketing, they have had little impact on smoking levels. Youngsters take up smoking because they perceive the habit as "cool," not because advertisements tell them to. (Financial Times, 6-23-97

- Teenagers say that Marlboro Man is not what persuades them to smoke, it is their peers. (USA Today, 6-25-97)

- Dr. Stanton Glantz, a professor of medicine at the University of California at San Francisco and author of "The Tobacco Papers," believes that the proposed deal, by banning representations of the Marlboro Man, still leaves enough loopholes for both the tobacco companies and their advertisers. He believes the restrictions won't make it that much harder to sell cigarettes. Even without the Marlboro Man, lots of Marlboro ads just show mountains or horses, and those aren't banned. (Chicago Tribune, 6-22-97)

### B. WARNINGS, LABELING AND PACKAGING

### C. RESTRICTIONS ON ACCESS TO TOBACCO PRODUCTS

### D. LICENSING OF RETAIL TOBACCO PRODUCT SELLERS

### E. REGULATION OF TOBACCO PRODUCT DEVELOPMENT AND MFGING

- According to the proposed settlement, after 12 years, the FDA can require change in cigarettes. According to C. Everett Koop, settlement imposes 2 difficult barriers and one impossible barrier on FDA to change makeup of cigarettes. The difficult barriers are 1) modification of a tobacco product must be proved by the FDA to cause a significant reduction in risk and 2) such modification must be shown to be technologically feasible, not by the tobacco industry but by the FDA. No other industry is treated this way. The impossible barrier is the requirement that modification of tobacco will not cause a black market or smuggling. There is no way the FDA can prove a negative. There is no way the FDA can undertake to prove that with 50 million smokers. (USA Today 6-25-97)

- Advisory Committee on Tobacco Policy and Public Health: American Medical Association, American Cancer Society, American Lung Association, American Heart Association, American Academy of Pediatrics, American Academy of Family Physicians. Koop and Kessler group call settlement "unacceptable," saying it undermines the Government's ability to regulate nicotine in cigarettes. (NY Times, 6-26-97; Washington Post 6-26-97)

- Essentially nullifies the findings of a federal court this year that the FDA has a statutory right to regulate tobacco. Settlement actually postpones the issue of nicotine control for 12 years. (USA Today, 6-25-97)

### F. NON-TOBACCO INGREDIENTS

### G. COMPLIANCE AND CORPORATE CULTURE

### H. EFFECTIVE DATES

## TITLE II: "LOOK BACK" PROVISIONS/STATE ENFORCEMENT INCENTIVES

- See Appendix V.

## TITLE III: PENALTIES AND ENFORCEMENT; CONSENT DECREES; NON-PARTICIPATING COMPANIES

### A. PENALTIES AND ENFORCEMENT

### B. CONSENT DECREES

### C. NON-PARTICIPATING COMPANIES

**TITLE IV: NATIONWIDE STANDARDS TO MINIMIZE INVOLUNTARY EXPOSURE TO ENVIRONMENTAL TOBACCO SMOKE**

**TITLE V: SCOPE AND EFFECT**

**A. SCOPE OF FDA AUTHORITY**

**B. STATE AUTHORITY**

**TITLE VI: PROGRAMS/FUNDING**

- Cigarettes might go up 75 cents a pack. Some research shows that every 10% of price increase drives 12% of teen smokers to quit. (USA Today, 6-25-97)

- Poll shows that if settlement increases the cost of cigarettes by 75 cents a pack, 57% said that it would be somewhat likely to cause them to quit. 43% say the price increase would not impact their habit. (USA Today, 6-25-97)

- The 50-cents-a-pack price increase, more than any other aspect of the settlement, may affect people's propensity to smoke. Other countries have found that big price increases reduce demand for cigarettes, particularly among youngsters. Gary Black, an analyst with Sanford C. Bernstein, has estimated that the price increase could cut consumer purchases by 11%. (Financial Times, 6-23-97)

- Studies at the University of Chicago and elsewhere suggest volume sales could fall by as much as 8% for each 10% increase in prices. (Bergen Record, 6-21-97)

- If the settlement passes Congress, the companies could lose $1.5 billion or so in profits next year, partly caused by lower sales and partly by interest on loans the companies will need to pay for the settlement. But the companies are still expected to make $6.7 billion in profits next year, deal or no deal. (Chicago Tribune, 6-22-97)

- The tobacco settlement is like Prohibition --black markets will develop. Canada had to rescind the harshly punitive taxes it imposed on cigarettes when widespread trafficking across the border resulted in increased violence, intolerable demands on law enforcement and no declines in smoking. (WSJ, 6-26-97)

### A. UP FRONT COMMITMENT

- Philip Morris will provide the majority of an initial $10 billion (payment is based on stock market value) --Philip Morris will pay $6.5 billion; RJR Nabisco will pay $600 million (reflects RJR Nabisco's weaker financial position); Brown & Williamson (B.A.T.) will pay $1.7 billion; Lorillard (Loews) $720 million; and U.S. Tobacco (UST) $324 million N.Y. Times 6-25-97

### B. BASE ANNUAL PAYMENTS

- Pay-out averages $14.7 billion a year, more than double the industry's operating profits of $7.2 billion from domestic tobacco sales last year. Tobacco companies plan to offset the cost of the deal by increasing cigarette prices in the US by about 50 cents a pack, so the settlement will have the same effect as a big tax increase. The deal does nothing to impinge on the growth side of their business - their booming overseas sales, particularly in emerging markets. (Financial Times, 6-23-97)

### C. APPLICABILITY

### D. TAX TREATMENT

## TITLE VII: PUBLIC HEALTH FUNDS FROM TOBACCO SETTLEMENT AS RECOMMENDED BY THE ATTORNEYS GENERAL FOR CONSIDERATION BY THE PRESIDENT AND THE CONGRESS

- Poll shows that 65% of smokers would be likely to sign up if the government were to provide free programs to help them quit. 33% would take a pass on free programs to help them kick the habit. (USA Today, 6-25-97)

TITLE VIII: CIVIL LIABILITY

A. GENERAL

B. PROVISIONS AS TO CIVIL LIABILITY FOR PAST CONDUCT

- According to Elizabeth M. Whelan, President of the American Council on Science and Health, the settlement would put a yearly cap of $5 billion on damages -- an amount that is a trivial cost of doing business for the industry. The cap will serve as a disincentive for plaintiffs' attorneys. Under the settlement, the industry is afforded even more legal protection than it gained in 1965 when Congress slapped the so-called warning label on cigarette packs, thereby giving cigarette manufacturers a federally backed excuse not to give full disclosure of health risks. Now the industry, having paid tax-deductible damages, will be able to return to business as usual for the next 25 years. Removing the threat of litigation will bring to a halt many efforts to discourage smoking and curb the outrageous behavior of an industry. Her suggestion is to let the tobacco industry have its day in court. (WSJ, 6-26-97)

C. PROVISIONS AS TO CIVIL LIABILITY FOR FUTURE CONDUCT

TITLE IX: BOARD APPROVAL

APPENDICES

APPENDIX I: WARNINGS IN ADVERTISEMENTS

APPENDIX II: RETAIL TOBACCO PRODUCT SELLER PENALTIES

APPENDIX III: APPLICATION TO INDIAN TRIBES

APPENDIX IV: INDUSTRY ASSOCIATIONS

APPENDIX V: "LOOK BACK" youth smoking

- Koop and Kessler group say the proposed penalties on the nation's cigarette makers if they failed to reduce smoking levels among young people were far too small to have an impact. (NY Times, 6-26-97)

- $2 Billion cap for reduction in youth smoking comes to 8 cents per pack of cigarettes sold annually, 3 cents of that is tax deductible, so the penalty is really 5 cents a pack (USA Today 6-25-97)

- The agreement provides for a financial penalty of up to $2 billion a year against the tobacco industry if it fails to cut under-age smoking by 60% over the next 10 years - seemingly, a form of guarantee that the deal will work. But the target looks so unrealistic as to suggest that tobacco manufacturers consider an extra $2 billion a year a price worth paying for the legal immunity they will gain. (Financial Times, 6-23-97)

## APPENDIX VI: STATE ENFORCEMENT INCENTIVES

## APPENDIX VII: RESTRICTIONS ON POINT OF SALE ADVERTISING

## APPENDIX VIII: PUBLIC DISCLOSURE OF PAST AND FUTURE TOBACCO INDUSTRY DOCUMENTS AND HEALTH RESEARCH

*POLL RESULTS*

**USA TODAY 6-25-97**

| | YES | NO |
|---|---|---|
| In the long run, do you think the settlement would: | | |
| Lead to a significant reduction in smoking among adults | 29% | 50% |
| Lead to a significant reduction in smoking among teenagers | 33% | 45% |

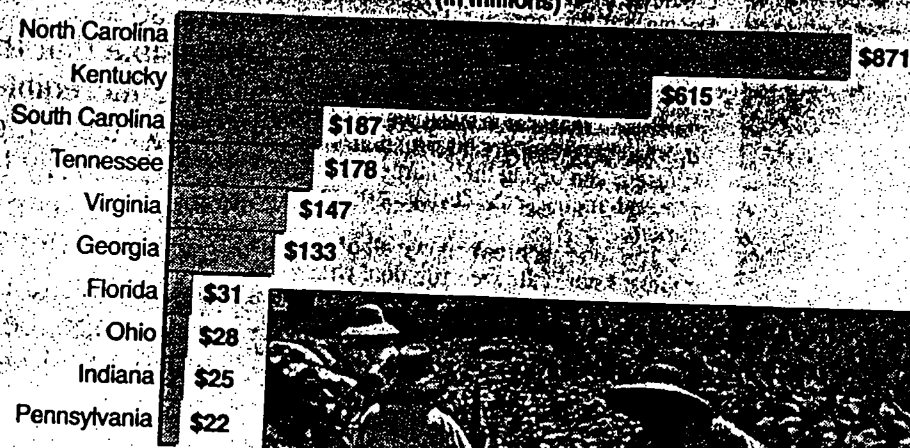
| | APPROVE | DISAPPROVE |
|---|---|---|
| Generally favor or oppose the proposed settlement | 40% | 25% |
| Government should gradually ban the use of nicotine over a period of years until it is completely illegal | 42% | 52% |
| A ban on cigarette vending machines | 67% | 31% |
| A ban on outdoor advertising of cigarettes | 60% | 36% |
| A requirement that tobacco companies contribute money to provide health insurance to children who do not have insurance | 63% | 33% |
| A ban on tobacco companies sponsoring sports events or other live events | 48% | 48% |
| Limits on the ability of people who have smoking-related illnesses to sue the tobacco companies | 48% | 47% |

USA Today 6-23-97
Business section

# Tobacco's deep roots in the economy

The tobacco industry contributes substantially to the U.S. economy. How much was added to the 1994 economy by people whose income came directly from a tobacco company, farm, supplier (makers of boxes, cellophane and other goods and services needed for tobacco products), or advertising agency that works on tobacco accounts.

**Tobacco is grown on more than 124,000 farms in 23 states and Puerto Rico. Top 10 tobacco-producing states in 1995, by cash receipts:**

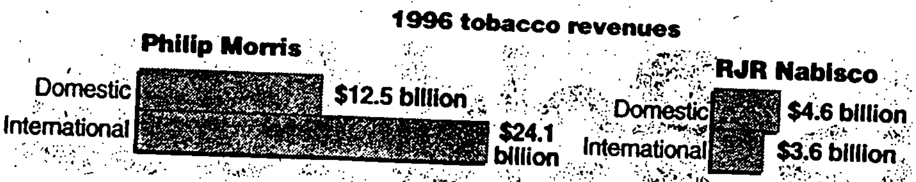



- Contribution to gross domestic product: $44.7 billion
- Jobs: 662,402
- Federal/state/local taxes: $20.6 billion

By Vidal Medina, Reuters

**In the field:** Workers harvest tobacco at a Maryland farm. In 1996, about 674,300 acres of tobacco were harvested in the USA — 1.32 billion pounds — down nearly 16% from 1994.

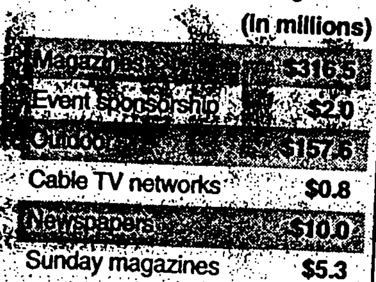
**The USA's two biggest tobacco companies draw much of their tobacco revenue outside the USA**




**Tobacco companies are among Corporate America's leading advertisers**


1 – January to March

**Where tobacco ad dollars go:**




Sources: American Economic Group, Competitive Media Reporting and Publishers Information Bureau, The Tobacco Institute
USA TODAY research by Mary Cadden

**The average price for a pack of cigarettes in the USA is $1.85. Average price by state, and how much of that cost is taxes:**

| | Price | Tax |
|---|---|---|
| Washington | $2.65 | 0.825 |
| Massachusetts | $2.45 | 0.770 |
| Hawaii | $2.43 | 0.600 |
| Michigan | $2.34 | 0.750 |
| Dist. Columbia | $2.30 | 0.650 |
| New York | $2.23 | 0.560 |
| Arizona | $2.22 | 0.580 |
| Minnesota | $2.17 | 0.480 |
| Rhode Island | $2.17 | 0.610 |
| Alaska | $2.14 | 0.290 |
| Connecticut | $2.09 | 0.500 |
| Vermont | $2.02 | 0.440 |
| Wisconsin | $2.01 | 0.440 |
| California | $2.00 | 0.370 |
| Illinois[1] | $1.99 | 0.440 |
| Nevada | $1.99 | 0.350 |
| Oregon | $1.98 | 0.680 |
| New Jersey | $1.95 | 0.400 |
| North Dakota | $1.94 | 0.440 |
| Maryland | $1.91 | 0.360 |
| Maine | $1.90 | 0.370 |
| Texas | $1.90 | 0.410 |
| Iowa | $1.89 | 0.360 |
| Utah | $1.86 | 0.265 |
| Nebraska | $1.85 | 0.340 |
| Idaho | $1.84 | 0.280 |
| Florida | $1.83 | 0.339 |
| South Dakota | $1.82 | 0.330 |
| Arkansas | $1.81 | 0.310 |
| New Hampshire | $1.77 | 0.250 |
| Pennsylvania | $1.77 | 0.310 |
| New Mexico | $1.76 | 0.210 |
| Colorado | $1.74 | 0.200 |
| Delaware | $1.72 | 0.240 |
| Oklahoma | $1.72 | 0.230 |
| Kansas[1] | $1.71 | 0.240 |
| Mississippi | $1.69 | 0.180 |
| Alabama[1] | $1.67 | 0.165 |
| Louisiana | $1.67 | 0.200 |
| Ohio | $1.67 | 0.240 |
| Wyoming | $1.64 | 0.120 |
| Montana | $1.65 | 0.180 |
| Missouri | $1.63 | 0.170 |
| Tennessee[1,2] | $1.61 | 0.130 |
| West Virginia | $1.61 | 0.170 |
| Virginia[1] | $1.60 | 0.025 |
| Georgia | $1.59 | 0.120 |
| Indiana | $1.56 | 0.155 |
| South Carolina | $1.54 | 0.070 |
| North Carolina | $1.52 | 0.050 |
| Kentucky[2] | $1.46 | 0.030 |

1 – Counties and cities may impose an additional tax
2 – Additional distribution fees charged

By Marcy E. Mullins, USA TODAY

MEMORANDUM

TO: BRUCE REED, ELENA KAGAN

FROM: TOM FREEDMAN, MARY L. SMITH

RE: POSSIBLE TOBACCO BILLS

DATE: JUNE 27, 1997

## I. SUMMARY

The following provides a summary of government programs that provide assistance to tobacco farmers and that provide tax deductions for the tobacco industry. A list of bills from the 104th Congress and 105th Congress that could be used to supplement or amend the tobacco proposal is also included. These bills either affect the tobacco industry in economic terms or apply to tobacco farmers.

## II. BACKGROUND ON TOBACCO FARMERS

- Today the subsidies for tobacco farmers are relatively small. Direct subsidies ended in the 1980s. Currently, the subsidies amount to a quota system in which the government licenses the right to grow tobacco and has a federal program to insure farmers against crop losses. The Department of Agriculture has budgeted $145 million for the insurance in the coming fiscal year. In years with no significant losses, the Department of Agriculture contributes little or nothing to the insurance pool.

- North Carolina produces 52% of all domestically grown tobacco. There are 17,625 tobacco farmers in North Carolina. However, tobacco accounts for only 6.5% of North Carolina's economy, or about $12 billion annually.

- Federal, state, and local excise taxes collected on cigarettes totaled $13.1 billion.

## III. SOME GOVERNMENT PROGRAMS INVOLVING TOBACCO

1. **Tobacco Price-Support Program**. This is a program that controls both how much tobacco farmers can sell and what price they get for it. In 1995, then Rep. Dick Durbin, in proposing a failed amendment to the Agriculture Department funding bill to eliminate this program, calculated that farmers who own tobacco quotas are allowed to gross $4,000 to $5,000 per acre, compared with corn farmers who gross one-tenth of that amount. In 1995, under the program, the Agriculture Department paid $41.5 million a year for administrative costs for such things as setting the quota, for losses associated with federal crop insurance for tobacco, and for extension services. Opponents argued that if the

tobacco-price support program were eliminated, the government could end up losing $1 billion on the existing surplus.

2. **Tobacco insurance**. The Federal government provides insurance, reinsurance, and noninsured crop disaster assistance for tobacco.

3. **Favorable tax deductions for tobacco advertising.** The Internal Revenue Code of 1986 allows the tobacco industry to take deductions for its advertising costs.

## IV. BILLS

### 104th Congress

1. **S. 598; Sponsored by Senator Bill Bradley**: Establishes in the Treasury a Tobacco Conversion Trust Fund. Funds from increased taxes on tobacco will be made available to:
   (1) assist farmers in converting from tobacco to other crops and improve their access to markets for other crops; and
   (2) provide grants and loans, including assistance to convert from tobacco production, to communities and persons involved in tobacco growing and tobacco product manufacture who are adversely affected by the tax increase.

   **Last status: referred to Senate Finance Committee.**

   Copy attached.

2. **H.R. 2962; Sponsored by Rep. Paul McHale (D-PA).** Bill to amend the IRS Code to disallow deductions for advertising expenses for tobacco products.

   **Last status: referred to House Ways and Means Committee.**

### 105th Congress

1. **H.R. 1323; Sponsored by Rep. McHale; 34 co-sponsors**. A bill that amends the IRS Code to disallow deductions for advertising expenses for tobacco products.

   **Last status: referred to committee.**

2. **H.R. 1438, S. 643 (Senator Durbin).** A bill to prohibit the Federal Government from providing insurance, reinsurance, or noninsured crop disaster assistance for tobacco.

   **Last status: referred to committee.**

3. **H.R. 1826.** A bill to increase deficit-reduction assessments for participants in the Federal price support program for tobacco and to extend the period during which such assessments will be collected.

   **Last status: referred to committee.**

4. **S.826; Sponsored by Senators Lautenberg, Durbin, and Kerry.** A bill to amend the Public Health Service Act to protect the public from health hazards caused by exposure to environmental tobacco smoke. This bill basically create standards for smoke-free public places (which is also covered in the proposed resolution reached by the state attorney generals). Copy attached.

   **Last status: referred to committee.**

1ST DOCUMENT of Level 1 printed in FULL format.



Bill Tracking Report

104th Congress
1st Session

U. S. Senate

S 598

1995 Bill Tracking S. 598; 104 Bill Tracking S. 598

TOBACCO CONSUMPTION REDUCTION AND HEALTH IMPROVEMENT ACT OF 1995

<=1> Retrieve full text version

DATE-INTRO: March 22, 1995

LAST-ACTION-DATE: March 22, 1995

STATUS: Referred to committee

SPONSOR: Senator Bill Bradley D-NJ

TOTAL-COSPONSORS: 1 Cosponsors: 1 Democrats / 0 Republicans

SYNOPSIS: A bill to amend the Internal Revenue Code of 1986 to increase the excise taxes on tobacco products, and to use a portion of the resulting revenues to fund a trust fund for tobacco diversification, and for other purposes.

ACTIONS: Committee Referrals:
03/22/95 Senate Finance Committee

Legislative Chronology:

1st Session Activity:

03/22/95 141 Cong Rec S 4365 Referred to the Senate Finance Committee
03/22/95 141 Cong Rec S 4381 Remarks by Sen. Bradley NJ

BILL-DIGEST: (from the CONGRESSIONAL RESEARCH SERVICE)

Short title as introduced :

Tobacco Consumption Reduction and Health Improvement Act of 1995

Digest :

Tobacco Consumption Reduction and Health Improvement Act of 1995 - Amends the Internal Revenue Code to increase the excise tax on: (1) cigars; (2) cigarettes; (3) cigarette papers and tubes; (4) snuff; and (5) chewing and pipe tobacco. Imposes a tax on the floor stocks of such tobacco products which are removed before January 1, 1996. Makes an exception to the imposition of such tax for floor stocks of such products held on such date at the place intended to be sold at retail. Imposes such tax on such products entered into the United States from foreign trade zones before such date. Imposes a tax on roll-your-own tobacco manufactured in or imported into the United States.

Establishes in the Treasury the Tobacco Conversion Trust Fund, to which the Secretary of the Treasury shall transfer an amount equivalent to three percent of the net increase in revenues attributable to the tax increases imposed by this Act. Makes Fund amounts available for expenditures for providing: (1) assistance to farmers for conversion from tobacco growing (including Government purchase of tobacco allotments) and improving their access to markets for other crops; and (2) grants and loans to communities and persons involved in tobacco growing and tobacco product manufacture to support economic diversification plans.

CRS Index Terms:

Taxation
Agricultural economics
Agricultural
subsidies
Agriculture
Budgets
Business
Cigarettes
Diversification in industry
Drug abuse
Exports
Farm produce
Federal aid to community development
Foreign trade
Free ports and zones
Government lending
Government trust funds
Grants-in-aid
Health policy
Imports
Marketing of farm produce
Medical care
Smokeless tobacco
Tax credits
Tax rates
Tobacco industry
Tobacco tax
Trade

CO-SPONSORS: Original Cosponsors:

Lautenberg D-NJ

1ST DOCUMENT of Level 1 printed in FULL format.

FULL TEXT OF BILLS

104TH CONGRESS; 1ST SESSION
IN THE SENATE OF THE UNITED STATES
AS INTRODUCED IN THE SENATE

S. 598

1995 S. 598; 104 S. 598

SYNOPSIS:
A BILL To amend the Internal Revenue Code of 1986 to increase the excise taxes on tobacco products, and to use a portion of the resulting revenues to fund a trust fund for tobacco diversification, and for other purposes.

DATE OF INTRODUCTION: MARCH 22, 1995

DATE OF VERSION: MARCH 24, 1995 -- VERSION: 1

SPONSOR(S):
Mr. BRADLEY (for himself and Mr. LAUTENBERG) introduced the following bill; which was read twice and referred to the Committee on Finance

TEXT:
* Be it enacted by the Senate and House of Representatives of the United*
*States of America in Congress assembled, *
SECTION 1. SHORT TITLE.
This Act may be cited as the "Tobacco Consumption Reduction and Health Improvement Act of 1995".
SEC. 2. INCREASE IN TAXES ON TOBACCO PRODUCTS.
(a) IN GENERAL.-
(1) CIGARS.-Subsection (a) of section 5701 of the Internal Revenue Code of 1986 (relating to rate of tax on cigars) is amended-
(A) by striking "$1.125 cents per thousand (93.75 cents per thousand on cigars removed during 1991 and 1992)" in paragraph (1) and inserting "$5.8125 per thousand"; and
(B) by striking paragraph (2) and inserting the following new paragraph:
"(2) LARGE CIGARS.-ON CIGARS WEIGHING MORE THAN 3 POUNDS PER THOUSAND, A TAX EQUAL TO 65.875 PERCENT OF THE PRICE FOR WHICH SOLD BUT NOT MORE THAN $155 PER THOUSAND."
(2) CIGARETTES.-Subsection (b) of section 5701 of such Code (relating to rate of tax on cigarettes) is amended-
(A) by striking "$12 per thousand ($10 per thousand on cigarettes removed during 1991 and 1992)" in paragraph (1) and inserting "$62 per thousand"; and
(B) by striking "$25.20 per thousand ($21 per thousand on cigarettes removed during 1991 and 1992)" in paragraph (2) and inserting "$130.20 per thousand".
(3) CIGARETTE PAPERS.-SUBSECTION (C) OF SECTION 5701 OF SUCH CODE (RELATING TO RATE OF TAX ON CIGARETTE PAPERS) IS AMENDED BY STRIKING "0.75 CENT (0.625 CENT ON CIGARETTE PAPERS REMOVED DURING 1991 OR 1992)" AND INSERTING "3.875 CENTS".
(4) CIGARETTE TUBES.-SUBSECTION (D) OF SECTION 5701 OF SUCH CODE

(RELATING TO RATE OF TAX ON CIGARETTE TUBES) IS AMENDED BY STRIKING "1.5 CENTS (1.25 CENTS ON CIGARETTE TUBES REMOVED DURING 1991 OR 1992)" AND INSERTING "7.75 CENTS".

(5) SNUFF.-Paragraph (1) of section 5701(e) of such Code (relating to rate of tax on smokeless tobacco) is amended by striking "36 cents (30 cents on snuff removed during 1991 or 1992)" and inserting "$1.86".

(6) CHEWING TOBACCO.-Paragraph (2) of section 5701(e) of such Code is amended by striking "12 cents (10 cents on chewing tobacco removed during 1991 or 1992)" and inserting "62 cents".

(7) PIPE TOBACCO.-Subsection (f) of section 5701 of such Code (relating to rate of tax on pipe tobacco) is amended by striking "67.5 cents (56.25 cents on chewing tobacco removed during 1991 or 1992)" and inserting "$3.4875".

(8) EFFECTIVE DATE.-The amendments made by this subsection shall apply with respect to cigars, cigarettes, cigarette paper, cigarette tubes, snuff, chewing tobacco, and pipe tobacco removed after December 31, 1995.

(b) IMPOSITION OF EXCISE TAX ON MANUFACTURE OR IMPORTATION OF ROLL-YOUR-OWN TOBACCO.-

(1) IN GENERAL.-SECTION 5701 OF THE INTERNAL REVENUE CODE OF 1986 (RELATING TO RATE OF TAX) IS AMENDED BY REDESIGNATING SUBSECTION (G) AS SUBSECTION (H) AND BY INSERTING AFTER SUBSECTION (F) THE FOLLOWING NEW SUBSECTION:

"(G) ROLL-YOUR-OWN TOBACCO.-ON ROLL-YOUR-OWN TOBACCO, MANUFACTURED IN OR IMPORTED INTO THE UNITED STATES, THERE SHALL BE IMPOSED A TAX OF $1.86 PER POUND (AND A PROPORTIONATE TAX AT THE LIKE RATE ON ALL FRACTIONAL PARTS OF A POUND)."

(2) ROLL-YOUR-OWN TOBACCO.-SECTION 5702 OF SUCH CODE (RELATING TO DEFINITIONS) IS AMENDED BY ADDING AT THE END THE FOLLOWING NEW SUBSECTION:

"(P) ROLL-YOUR-OWN TOBACCO.-THE TERM 'ROLL-YOUR-OWN TOBACCO' MEANS ANY TOBACCO WHICH, BECAUSE OF ITS APPEARANCE, TYPE, PACKAGING, OR LABELING, IS SUITABLE FOR USE AND LIKELY TO BE OFFERED TO, OR PURCHASED BY, CONSUMERS AS TOBACCO FOR MAKING CIGARETTES."

(3) TECHNICAL AMENDMENTS.-

(A) SUBSECTION (C) OF SECTION 5702 OF SUCH CODE IS AMENDED BY STRIKING "AND PIPE TOBACCO" AND INSERTING "PIPE TOBACCO, AND ROLL-YOUR-OWN TOBACCO".

(B) SUBSECTION (D) OF SECTION 5702 OF SUCH CODE IS AMENDED-

(I) IN THE MATERIAL PRECEDING PARAGRAPH (1), BY STRIKING "OR PIPE TOBACCO" AND INSERTING "PIPE TOBACCO, OR ROLL-YOUR-OWN TOBACCO", AND

(II) BY STRIKING PARAGRAPH (1) AND INSERTING THE FOLLOWING NEW PARAGRAPH:

"(1) A PERSON WHO PRODUCES CIGARS, CIGARETTES, SMOKELESS TOBACCO, PIPE TOBACCO, OR ROLL-YOUR-OWN TOBACCO SOLELY FOR THE PERSON'S OWN PERSONAL CONSUMPTION OR USE, AND".

(C) THE CHAPTER HEADING FOR CHAPTER 52 OF SUCH CODE IS AMENDED TO READ AS FOLLOWS:

"CHAPTER 52-TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES".

(D) The table of chapters for subtitle E of such Code is amended by striking the item relating to chapter 52 and inserting the following new item:

"CHAPTER 52. Tobacco products and cigarette papers and tubes."

(4) EFFECTIVE DATE.-

(A) IN GENERAL.-THE AMENDMENTS MADE BY THIS SUBSECTION SHALL APPLY TO ROLL-YOUR-OWN TOBACCO REMOVED (AS DEFINED IN SECTION 5702(P) OF THE INTERNAL REVENUE CODE OF 1986, AS ADDED BY THIS SUBSECTION) AFTER DECEMBER 31, 1995.

(B) TRANSITIONAL RULE.-ANY PERSON WHO-

(I) ON THE DATE OF THE ENACTMENT OF THIS ACT IS ENGAGED IN BUSINESS AS A MANUFACTURER OF ROLL-YOUR-OWN TOBACCO OR AS AN IMPORTER OF TOBACCO PRODUCTS OR CIGARETTE PAPERS AND TUBES, AND

(II) BEFORE JANUARY 1, 1996, SUBMITS AN APPLICATION UNDER SUBCHAPTER B OF CHAPTER 52 OF SUCH CODE TO ENGAGE IN SUCH BUSINESS,

MAY, NOTWITHSTANDING SUCH SUBCHAPTER B, CONTINUE TO ENGAGE IN SUCH BUSINESS PENDING FINAL ACTION ON SUCH APPLICATION. PENDING SUCH FINAL ACTION, ALL PROVISIONS OF SUCH CHAPTER 52 SHALL APPLY TO SUCH APPLICANT IN THE SAME MANNER AND TO THE SAME EXTENT AS IF SUCH APPLICANT WERE A HOLDER OF A PERMIT UNDER SUCH CHAPTER 52 TO ENGAGE IN SUCH BUSINESS.

(C) FLOOR STOCKS.-

(1) IMPOSITION OF TAX.-On cigars, cigarettes, cigarette paper, cigarette tubes, snuff, chewing tobacco, and pipe tobacco manufactured in or imported into the United States which is removed before January 1, 1996, and held on such date for sale by any person, there shall be imposed the following taxes:

(A) SMALL CIGARS.-On cigars, weighing not more than 3 pounds per thousand, $4.6875 per thousand.

(B) LARGE CIGARS.-On cigars, weighing more than 3 pounds per thousand, a tax equal to 53.125 percent of the price for which sold, but not more than $125 per thousand.

(C) SMALL CIGARETTES.-On cigarettes, weighing not more than 3 pounds per thousand, $50 per thousand.

(D) LARGE CIGARETTES.-On cigarettes, weighing more than 3 pounds per thousand, $105 per thousand; except that, if more than 6 1/2 inches in length, they shall be taxable at the rate prescribed for cigarettes weighing not more than 3 pounds per thousand, counting each 2 3/4 inches, or fraction thereof, of the length of each as one cigarette..

(E) CIGARETTE PAPERS.-ON CIGARETTE PAPERS, 3.125 CENTS FOR EACH 50 PAPERS OR FRACTIONAL PART THEREOF; EXCEPT THAT, IF CIGARETTE PAPERS MEASURE MORE THAN 6 1/2 INCHES IN LENGTH, THEY SHALL BE TAXABLE AT THE RATE PRESCRIBED, COUNTING EACH 2 3/4 INCHES, OR FRACTION THEREOF, OF THE LENGTH OF EACH AS ONE CIGARETTE PAPER.

(F) CIGARETTE TUBES.-ON CIGARETTE TUBES, 6.25 CENTS FOR EACH 50 TUBES OR FRACTIONAL PART THEREOF; EXCEPT THAT, IF CIGARETTE TUBES MEASURE MORE THAN 6 1/2 INCHES IN LENGTH, THEY SHALL BE TAXABLE AT THE RATE PRESCRIBED, COUNTING EACH 2 3/4 INCHES, OR FRACTION THEREOF, OF THE LENGTH OF EACH AS ONE CIGARETTE TUBE.

(G) SNUFF.-On snuff, $1.50 per pound and a proportionate tax at the like rate on all fractional parts of a pound.

(H) CHEWING TOBACCO.-On chewing tobacco, 50 cents per pound and a proportionate tax at the like rate on all fractional parts of a pound.

(I) PIPE TOBACCO.-On pipe tobacco, $2.8125 per pound and a proportionate tax at the like rate on all fractional parts of a pound.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.-

(A) LIABILITY FOR TAX.-A person holding cigars, cigarettes, cigarette paper, cigarette tubes, snuff, chewing tobacco, and pipe tobacco on January 1, 1996, to which any tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.-The tax imposed by paragraph (1) shall be treated as a tax imposed under section 5701 of the Internal Revenue Code of 1986 and shall be due and payable on February 15, 1996, in the same manner as the tax imposed under such section is payable with respect to cigars, cigarettes, cigarette paper, cigarette tubes, snuff, chewing tobacco, and pipe tobacco removed on January 1, 1996.

(3) CIGARS, CIGARETTES, CIGARETTE PAPER, CIGARETTE TUBES, SNUFF, CHEWING TOBACCO, AND PIPE TOBACCO.-For purposes of this subsection, the terms "cigar", "cigarette", "cigarette paper", "cigarette tubes", "snuff", "chewing tobacco", and "pipe tobacco" shall have the meaning given to such terms by subsections (a), (b), (e), and (g), paragraphs (2) and (3) of subsection (n), and subsection (o) of section 5702 of the Internal Revenue Code of 1986, respectively.

(4) EXCEPTION FOR RETAIL STOCKS.-The taxes imposed by paragraph (1) shall not apply to cigars, cigarettes, cigarette paper, cigarette tubes, snuff, chewing tobacco, and pipe tobacco in retail stocks held on January 1, 1996, at the place where intended to be sold at retail.

(5) FOREIGN TRADE ZONES.-Notwithstanding the Act of June 18, 1934 (19 U.S.C. 81a et seq.) or any other provision of law-

(A) cigars, cigarettes, cigarette paper, cigarette tubes, snuff, chewing tobacco, and pipe tobacco-

(i) on which taxes imposed by Federal law are determined, or customs duties are liquidated, by a customs officer pursuant to a request made under the first proviso of section 3(a) of the Act of June 18, 1934 (19 U.S.C. 81c(a)) before January 1, 1996, and

(ii) which are entered into the customs territory of the United States on or after January 1, 1996, from a foreign trade zone, and

(B) cigars, cigarettes, cigarette paper, cigarette tubes, snuff, chewing tobacco, and pipe tobacco which-

(i) are placed under the supervision of a customs officer pursuant to the provisions of the second proviso of section 3(a) of the Act of June 18, 1934 (19 U.S.C. 81c(a)) before January 1, 1996, and

(ii) are entered into the customs territory of the United States on or after January 1, 1996, from a foreign trade zone,

shall be subject to the tax imposed by paragraph (1) and such cigars, cigarettes, cigarette paper, cigarette tubes, snuff, chewing tobacco, and pipe tobacco shall, for purposes of paragraph (1), be treated as being held on January 1, 1996, for sale.

(d) ESTABLISHMENT OF TRUST FUND.-

(1) IN GENERAL.-SUBCHAPTER A OF CHAPTER 98 OF THE INTERNAL REVENUE CODE OF 1986 (RELATING TO TRUST FUND CODE) IS AMENDED BY ADDING AT THE END THE FOLLOWING NEW SECTION:

"SEC. 9512. TOBACCO CONVERSION TRUST FUND.

"(a) CREATION OF TRUST FUND.-THERE IS ESTABLISHED IN THE TREASURY OF THE UNITED STATES A TRUST FUND TO BE KNOWN AS THE 'TOBACCO CONVERSION TRUST FUND' (HEREAFTER REFERRED TO IN THIS SECTION AS THE 'TRUST FUND'), CONSISTING OF SUCH AMOUNTS AS MAY BE APPROPRIATED OR CREDITED TO THE TRUST FUND AS PROVIDED IN THIS SECTION OR SECTION 9602(B).

"(B) TRANSFERS TO TRUST FUND.-THE SECRETARY SHALL TRANSFER TO THE TRUST FUND AN AMOUNT EQUIVALENT TO 3 PERCENT OF THE NET INCREASE IN REVENUES RECEIVED IN THE TREASURY ATTRIBUTABLE TO THE AMENDMENTS MADE TO SECTION 5701 BY SUBSECTIONS (A) AND (B) OF SECTION 2 AND THE PROVISIONS CONTAINED IN SECTION 2(C) OF THE TOBACCO CONSUMPTION REDUCTION AND HEALTH IMPROVEMENT ACT OF 1995, AS ESTIMATED BY THE SECRETARY.

"(C) DISTRIBUTION OF AMOUNTS IN TRUST FUND.-AMOUNTS IN THE TRUST FUND SHALL BE AVAILABLE TO THE SECRETARY OF AGRICULTURE, AS PROVIDED BY APPROPRIATION ACTS, FOR MAKING EXPENDITURES FOR PURPOSES OF-

"(1) PROVIDING ASSISTANCE TO FARMERS IN CONVERTING FROM TOBACCO TO OTHER CROPS AND IMPROVING THE ACCESS OF SUCH FARMERS TO MARKETS FOR OTHER CROPS, AND

"(2) PROVIDING GRANTS OR LOANS TO COMMUNITIES, AND PERSONS INVOLVED IN THE PRODUCTION OR MANUFACTURE OF TOBACCO OR TOBACCO PRODUCTS, TO SUPPORT ECONOMIC DIVERSIFICATION PLANS THAT PROVIDE ECONOMIC ALTERNATIVES TO TOBACCO TO SUCH COMMUNITIES AND PERSONS.

THE ASSISTANCE REFERRED TO IN PARAGRAPH (1) MAY INCLUDE GOVERNMENT PURCHASE OF TOBACCO ALLOTMENTS FOR PURPOSES OF RETIRING SUCH ALLOTMENTS FROM ALLOTMENT HOLDERS AND FARMERS WHO CHOOSE TO TERMINATE THEIR INVOLVEMENT IN TOBACCO PRODUCTION."

(2) CLERICAL AMENDMENT.-The table of sections for such subchapter A is amended by adding at the end the following new item:

"Sec. 9512. Tobacco Conversion Trust Fund."

LOAD-DATE: March 27, 1995

1ST DOCUMENT of Level 1 printed in FULL format.

FULL TEXT OF BILLS

105TH CONGRESS; 1ST SESSION
IN THE SENATE OF THE UNITED STATES
AS INTRODUCED IN THE SENATE

S. 826

1997 S. 826; 105 S. 826

<=1> Retrieve Bill Tracking Report

SYNOPSIS:
A BILL To amend the Public Health Service Act to protect the public from health hazards caused by exposure to environmental tobacco smoke, and for other purposes.

DATE OF INTRODUCTION: JUNE 3, 1997

DATE OF VERSION: JUNE 5, 1997 -- VERSION: 1

SPONSOR(S):
Mr. LAUTENBERG (FOR HIMSELF, MR. DURBIN, and Mr. KERRY of Massachusetts) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

TEXT:
* Be it enacted by the Senate and House of Representatives of the United* *States of America in Congress assembled, *

SECTION 1. SHORT TITLE.

This Act may be cited as the "Smoke-Free Environment Act of 1997".

SEC. 2. SMOKE-FREE ENVIRONMENT POLICY.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by adding at the end the following:

"TITLE XXVIII-SMOKE-FREE ENVIRONMENTS

"SEC. 2801. SMOKE-FREE ENVIRONMENT POLICY.

"(a) POLICY REQUIRED.-IN ORDER TO PROTECT CHILDREN AND ADULTS FROM CANCER, RESPIRATORY DISEASE, HEART DISEASE, AND OTHER ADVERSE HEALTH EFFECTS FROM BREATHING ENVIRONMENTAL TOBACCO SMOKE, THE RESPONSIBLE ENTITY FOR EACH PUBLIC FACILITY SHALL ADOPT AND IMPLEMENT AT SUCH FACILITY A SMOKE-FREE ENVIRONMENT POLICY WHICH MEETS THE REQUIREMENTS OF SUBSECTION (B).

"(B) ELEMENTS OF POLICY.-EACH SMOKE-FREE ENVIRONMENT POLICY FOR A PUBLIC FACILITY SHALL-

"(1) PROHIBIT THE SMOKING OF CIGARETTES, CIGARS, AND PIPES, AND ANY OTHER COMBUSTION OF TOBACCO, WITHIN THE FACILITY AND ON FACILITY PROPERTY WITHIN THE IMMEDIATE VICINITY OF THE ENTRANCE TO THE FACILITY; AND

"(2) POST A CLEAR AND PROMINENT NOTICE OF THE SMOKING PROHIBITION IN APPROPRIATE AND VISIBLE LOCATIONS AT THE PUBLIC FACILITY.

THE POLICY MAY PROVIDE AN EXCEPTION TO THE PROHIBITION SPECIFIED IN PARAGRAPH (1) FOR ONE OR MORE SPECIALLY DESIGNATED SMOKING AREAS WITHIN A PUBLIC FACILITY IF SUCH AREA OR AREAS MEET THE REQUIREMENTS OF SUBSECTION (C).

"(C) SPECIALLY DESIGNATED SMOKING AREAS.-A SPECIALLY DESIGNATED SMOKING AREA MEETS THE REQUIREMENTS OF THIS SUBSECTION IF IT SATISFIES EACH OF THE FOLLOWING CONDITIONS:

"(1) THE AREA IS VENTILATED IN ACCORDANCE WITH SPECIFICATIONS PROMULGATED BY THE ADMINISTRATOR THAT ENSURE THAT AIR FROM THE AREA IS DIRECTLY EXHAUSTED TO THE OUTSIDE AND DOES NOT RECIRCULATE OR DRIFT TO OTHER AREAS WITHIN THE PUBLIC FACILITY.

"(2) NONSMOKING INDIVIDUALS DO NOT HAVE TO ENTER THE AREA FOR ANY PURPOSE.

"(3) CHILDREN UNDER THE AGE OF 15 ARE PROHIBITED FROM ENTERING THE AREA.

"SEC. 2802. CITIZEN ACTIONS.

"(a) IN GENERAL.-AN ACTION MAY BE BROUGHT TO ENFORCE THE REQUIREMENTS OF THIS TITLE BY ANY AGGRIEVED PERSON, ANY STATE OR LOCAL GOVERNMENT AGENCY, OR THE ADMINISTRATOR.

"(B) VENUE.-ANY ACTION TO ENFORCE THIS TITLE MAY BE BROUGHT IN ANY UNITED STATES DISTRICT COURT FOR THE DISTRICT IN WHICH THE DEFENDANT RESIDES OR IS DOING BUSINESS TO ENJOIN ANY VIOLATION OF THIS TITLE OR TO IMPOSE A CIVIL PENALTY FOR ANY SUCH VIOLATION IN THE AMOUNT OF NOT MORE THAN $5,000 PER DAY OF VIOLATION. THE DISTRICT COURTS SHALL HAVE JURISDICTION, WITHOUT REGARD TO THE AMOUNT IN CONTROVERSY OR THE CITIZENSHIP OF THE PARTIES, TO ENFORCE THIS TITLE AND TO IMPOSE CIVIL PENALTIES UNDER THIS TITLE.

"(C) NOTICE.-AN AGGRIEVED PERSON SHALL GIVE ANY ALLEGED VIOLATOR NOTICE OF AT LEAST 60 DAYS PRIOR TO COMMENCING AN ACTION UNDER THIS SECTION. NO ACTION MAY BE COMMENCED BY AN AGGRIEVED PERSON UNDER THIS SECTION IF SUCH ALLEGED VIOLATOR COMPLIES WITH THE REQUIREMENTS OF THIS TITLE WITHIN SUCH 60-DAY PERIOD AND THEREAFTER.

"(D) COSTS.-THE COURT, IN ISSUING ANY FINAL ORDER IN ANY ACTION BROUGHT PURSUANT TO THIS SECTION, MAY AWARD COSTS OF LITIGATION (INCLUDING REASONABLE ATTORNEY AND EXPERT WITNESS FEES) TO ANY PREVAILING PARTY, WHENEVER THE COURT DETERMINES SUCH AWARD IS APPROPRIATE.

"(E) PENALTIES.-THE COURT IN ANY ACTION UNDER THIS SECTION TO APPLY CIVIL PENALTIES SHALL HAVE DISCRETION TO ORDER THAT SUCH CIVIL PENALTIES BE USED FOR PROJECTS THAT FURTHER THE POLICIES OF THIS TITLE. THE COURT SHALL OBTAIN THE VIEW OF THE ADMINISTRATOR IN EXERCISING SUCH DISCRETION AND SELECTING ANY SUCH PROJECTS.

"(F) DAMAGES.-NO DAMAGES OF ANY KIND, WHETHER COMPENSATORY OR PUNITIVE, SHALL BE AWARDED IN ACTIONS BROUGHT PURSUANT TO THIS TITLE.

"(G) ISOLATED INCIDENTS.-VIOLATIONS OF THE PROHIBITION SPECIFIED IN SECTION 2801(B)(1) BY AN INDIVIDUAL WITHIN A PUBLIC FACILITY OR ON FACILITY PROPERTY SHALL NOT BE CONSIDERED VIOLATIONS OF THIS TITLE ON THE PART OF THE RESPONSIBLE ENTITY IF SUCH VIOLATIONS-

"(1) ARE ISOLATED INCIDENTS THAT ARE NOT PART OF A PATTERN OF VIOLATIONS OF SUCH PROHIBITION; AND

"(2) ARE NOT AUTHORIZED BY THE RESPONSIBLE ENTITY.

"SEC. 2803. PREEMPTION.

"Nothing in this title shall preempt or otherwise affect any other Federal, State or local law which provides protection from health hazards from environmental tobacco smoke.

"SEC. 2804. REGULATIONS.

"The Administrator is authorized to promulgate such regulations as the Administrator deems necessary to carry out this title.

"SEC. 2805. EFFECTIVE DATE.

"The requirements of this title shall take effect on the date that is 1 year after the date of the enactment of the Smoke-Free Environment Act of 1997.

"SEC. 2806. DEFINITIONS.

"In this title:

"(1) ADMINISTRATOR.-THE TERM 'ADMINISTRATOR' MEANS THE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY.

"(2) PUBLIC FACILITY.-THE TERM 'PUBLIC FACILITY' MEANS ANY BUILDING REGULARLY ENTERED BY 10 OR MORE INDIVIDUALS AT LEAST ONE DAY PER WEEK, INCLUDING ANY SUCH BUILDING OWNED BY OR LEASED TO A FEDERAL, STATE, OR LOCAL GOVERNMENT ENTITY. SUCH TERM SHALL NOT INCLUDE ANY BUILDING OR PORTION THEREOF REGULARLY USED FOR RESIDENTIAL PURPOSES.

"(3) RESPONSIBLE ENTITY.-THE TERM 'RESPONSIBLE ENTITY' MEANS, WITH RESPECT TO ANY PUBLIC FACILITY, THE OWNER OF SUCH FACILITY, EXCEPT THAT IN THE CASE OF ANY SUCH FACILITY OR PORTION THEREOF WHICH IS LEASED, SUCH TERM MEANS THE LESSEE.".

SEC. 3. PROHIBITIONS AGAINST SMOKING ON SCHEDULED FLIGHTS.

(a) IN GENERAL.-Section 41706 of title 49, United States Code, is amended to read as follows:

"41706. Prohibitions against smoking on scheduled flights

"(a) SMOKING PROHIBITION IN INTRASTATE AND INTERSTATE AIR TRANSPORTATION.-An individual may not smoke in an aircraft on a scheduled airline flight segment in interstate air transportation or intrastate air transportation.

"(b) SMOKING PROHIBITION IN FOREIGN AIR TRANSPORTATION.-The Secretary of Transportation shall require all air carriers and foreign air carriers to prohibit, on and after the 120th day following the date of the enactment of the Smoke-Free Environment Act of 1997, smoking in any aircraft on a scheduled airline flight segment within the United States or between a place in the United States and a place outside the United States.

"(c) LIMITATION ON APPLICABILITY.-With respect to an aircraft operated by a foreign air carrier, the smoking prohibitions contained in subsections (a) and (b) shall apply only to the passenger cabin and lavatory of the aircraft.

"(d) REGULATIONS.-The Secretary shall prescribe regulations necessary to carry out this section.".

(b) EFFECTIVE DATE.-The amendment made by subsection (a) shall take effect on the 60th day following the date of the enactment of this Act.

LOAD-DATE: June 6, 1997

# MEMORANDUM

**TO:** BRUCE REED, ELENA KAGAN

**FROM:** TOM FREEDMAN, MARY L. SMITH

**RE:** POSSIBLE TOBACCO BILLS

**DATE:** JUNE 30, 1997

## I. SUMMARY

The following provides a summary of government programs that provide assistance to tobacco farmers and that provide tax deductions for the tobacco industry. A list of bills from the 104th Congress and 105th Congress that could be used to supplement or amend the tobacco proposal is also included. These bills either affect the tobacco industry in economic terms or apply to tobacco farmers.

## II. BACKGROUND ON TOBACCO FARMERS

- Today the subsidies for tobacco farmers are relatively small. Direct subsidies ended in the 1980s. Currently, the subsidies amount to a quota system in which the government licenses the right to grow tobacco and has a federal program to insure farmers against crop losses. The Department of Agriculture has budgeted $145 million for the insurance in the coming fiscal year. In years with no significant losses, the Department of Agriculture contributes little or nothing to the insurance pool.

- North Carolina produces 52% of all domestically grown tobacco. There are 17,625 tobacco farmers in North Carolina. However, tobacco accounts for only 6.5% of North Carolina's economy, or about $12 billion annually.

- Federal, state, and local excise taxes collected on cigarettes totaled $13.1 billion.

## III. SOME GOVERNMENT PROGRAMS INVOLVING TOBACCO

1. **Tobacco Price-Support Program**. This is a program that controls both how much tobacco farmers can sell and what price they get for it. In 1995, then Rep. Dick Durbin, in proposing a failed amendment to the Agriculture Department funding bill to eliminate this program, calculated that farmers who own tobacco quotas are allowed to gross $4,000 to $5,000 per acre, compared with corn farmers who gross one-tenth of that amount. In 1995, under the program, the Agriculture Department paid $41.5 million a year for administrative costs for such things as setting the quota, for losses associated with federal crop insurance for tobacco, and for extension services. Opponents argued that if the

tobacco-price support program were eliminated, the government could end up losing $1 billion on the existing surplus.

2. **Tobacco insurance**. The Federal government provides insurance, reinsurance, and noninsured crop disaster assistance for tobacco.

3. **Favorable tax deductions for tobacco advertising.** The Internal Revenue Code of 1986 allows the tobacco industry to take deductions for its advertising costs.

## IV. BILLS

### 104th Congress

1. **S. 598; Sponsored by Senator Bill Bradley**: Establishes in the Treasury a Tobacco Conversion Trust Fund. Funds from increased taxes on tobacco will be made available to:
   (1) assist farmers in converting from tobacco to other crops and improve their access to markets for other crops; and
   (2) provide grants and loans, including assistance to convert from tobacco production, to communities and persons involved in tobacco growing and tobacco product manufacture who are adversely affected by the tax increase.

   **Last status: referred to Senate Finance Committee.**

   Copy attached.

2. **H.R. 2962; Sponsored by Rep. Paul McHale (D-PA).** Bill to amend the IRS Code to disallow deductions for advertising expenses for tobacco products.

   **Last status: referred to House Ways and Means Committee.**

### 105th Congress

1. **H.R. 1323; Sponsored by Rep. McHale (D-PA); 34 co-sponsors**. A bill that amends the IRS Code to disallow deductions for advertising expenses for tobacco products.

   **Last status: referred to committee.**

2. **H.R. 1438 --Rep. Diana DeGette (D-CO), S. 643 - Senator Durbin (D-IL).** A bill to prohibit the Federal Government from providing insurance, reinsurance, or noninsured crop disaster assistance for tobacco.

**Last status: referred to committee.**

3. **H.R. 1826 - Sponsored by Rep. Elizaebeth Furse (D-OR).** A bill to increase deficit-reduction assessments for participants in the Federal price support program for tobacco and to extend the period during which such assessments will be collected.

   **Last status: referred to committee.**

4. **S.826; Sponsored by Senators Lautenberg (D-NJ), Durbin (D-IL), and Kerry (D-MA).** A bill to amend the Public Health Service Act to protect the public from health hazards caused by exposure to environmental tobacco smoke. This bill basically creates standards for smoke-free public places (which is also covered in the proposed resolution reached by the state attorney generals). Copy attached.

   **Last status: referred to committee.**

1ST DOCUMENT of Level 1 printed in FULL format.



Bill Tracking Report

104th Congress
1st Session

U. S. Senate

S 598

1995 Bill Tracking S. 598; 104 Bill Tracking S. 598

TOBACCO CONSUMPTION REDUCTION AND HEALTH IMPROVEMENT ACT OF 1995

<=1> Retrieve full text version

DATE-INTRO: March 22, 1995

LAST-ACTION-DATE: March 22, 1995

STATUS: Referred to committee

SPONSOR: Senator Bill Bradley D-NJ

TOTAL-COSPONSORS: 1 Cosponsors: 1 Democrats / 0 Republicans

SYNOPSIS: A bill to amend the Internal Revenue Code of 1986 to increase the excise taxes on tobacco products, and to use a portion of the resulting revenues to fund a trust fund for tobacco diversification, and for other purposes.

ACTIONS: Committee Referrals:
03/22/95 Senate Finance Committee

Legislative Chronology:

1st Session Activity:

03/22/95 141 Cong Rec S 4365 Referred to the Senate Finance Committee
03/22/95 141 Cong Rec S 4381 Remarks by Sen. Bradley NJ

BILL-DIGEST: (from the CONGRESSIONAL RESEARCH SERVICE)

Short title as introduced :

Tobacco Consumption Reduction and Health Improvement Act of 1995

Digest :

Tobacco Consumption Reduction and Health Improvement Act of 1995 - Amends the Internal Revenue Code to increase the excise tax on: (1) cigars; (2) cigarettes; (3) cigarette papers and tubes; (4) snuff; and (5) chewing and pipe tobacco. Imposes a tax on the floor stocks of such tobacco products which are removed before January 1, 1996. Makes an exception to the imposition of such tax for floor stocks of such products held on such date at the place intended to be sold at retail. Imposes such tax on such products entered into the United States from foreign trade zones before such date. Imposes a tax on roll-your-own tobacco manufactured in or imported into the United States.

Establishes in the Treasury the Tobacco Conversion Trust Fund, to which the Secretary of the Treasury shall transfer an amount equivalent to three percent of the net increase in revenues attributable to the tax increases imposed by this Act. Makes Fund amounts available for expenditures for providing: (1) assistance to farmers for conversion from tobacco growing (including Government purchase of tobacco allotments) and improving their access to markets for other crops; and (2) grants and loans to communities and persons involved in tobacco growing and tobacco product manufacture to support economic diversification plans.

CRS Index Terms:

Taxation
Agricultural economics
Agricultural
subsidies
Agriculture
Budgets
Business
Cigarettes
Diversification in industry
Drug abuse
Exports
Farm produce
Federal aid to community development
Foreign trade
Free ports and zones
Government lending
Government trust funds
Grants-in-aid
Health policy
Imports
Marketing of farm produce
Medical care
Smokeless tobacco
Tax credits
Tax rates
Tobacco industry
Tobacco tax
Trade

CO-SPONSORS: Original Cosponsors:

Lautenberg D-NJ

1ST DOCUMENT of Level 1 printed in FULL format.

FULL TEXT OF BILLS

104TH CONGRESS; 1ST SESSION
IN THE SENATE OF THE UNITED STATES
AS INTRODUCED IN THE SENATE

S. 598

1995 S. 598; 104 S. 598

SYNOPSIS:
A BILL To amend the Internal Revenue Code of 1986 to increase the excise taxes on tobacco products, and to use a portion of the resulting revenues to fund a trust fund for tobacco diversification, and for other purposes.

DATE OF INTRODUCTION: MARCH 22, 1995

DATE OF VERSION: MARCH 24, 1995 -- VERSION: 1

SPONSOR(S):
Mr. BRADLEY (for himself and Mr. LAUTENBERG) introduced the following bill; which was read twice and referred to the Committee on Finance

TEXT:
* Be it enacted by the Senate and House of Representatives of the United*
*States of America in Congress assembled, *
SECTION 1. SHORT TITLE.
This Act may be cited as the "Tobacco Consumption Reduction and Health Improvement Act of 1995".
SEC. 2. INCREASE IN TAXES ON TOBACCO PRODUCTS.
(a) IN GENERAL.-
(1) CIGARS.-Subsection (a) of section 5701 of the Internal Revenue Code of 1986 (relating to rate of tax on cigars) is amended-
(A) by striking "$1.125 cents per thousand (93.75 cents per thousand on cigars removed during 1991 and 1992)" in paragraph (1) and inserting "$5.8125 per thousand"; and
(B) by striking paragraph (2) and inserting the following new paragraph:
"(2) LARGE CIGARS.-ON CIGARS WEIGHING MORE THAN 3 POUNDS PER THOUSAND, A TAX EQUAL TO 65.875 PERCENT OF THE PRICE FOR WHICH SOLD BUT NOT MORE THAN $155 PER THOUSAND."
(2) CIGARETTES.-Subsection (b) of section 5701 of such Code (relating to rate of tax on cigarettes) is amended-
(A) by striking "$12 per thousand ($10 per thousand on cigarettes removed during 1991 and 1992)" in paragraph (1) and inserting "$62 per thousand"; and
(B) by striking "$25.20 per thousand ($21 per thousand on cigarettes removed during 1991 and 1992)" in paragraph (2) and inserting "$130.20 per thousand".
(3) CIGARETTE PAPERS.-SUBSECTION (C) OF SECTION 5701 OF SUCH CODE (RELATING TO RATE OF TAX ON CIGARETTE PAPERS) IS AMENDED BY STRIKING "0.75 CENT (0.625 CENT ON CIGARETTE PAPERS REMOVED DURING 1991 OR 1992)" AND INSERTING "3.875 CENTS".
(4) CIGARETTE TUBES.-SUBSECTION (D) OF SECTION 5701 OF SUCH CODE

(RELATING TO RATE OF TAX ON CIGARETTE TUBES) IS AMENDED BY STRIKING "1.5 CENTS (1.25 CENTS ON CIGARETTE TUBES REMOVED DURING 1991 OR 1992)" AND INSERTING "7.75 CENTS".

(5) SNUFF.-Paragraph (1) of section 5701(e) of such Code (relating to rate of tax on smokeless tobacco) is amended by striking "36 cents (30 cents on snuff removed during 1991 or 1992)" and inserting "$1.86".

(6) CHEWING TOBACCO.-Paragraph (2) of section 5701(e) of such Code is amended by striking "12 cents (10 cents on chewing tobacco removed during 1991 or 1992)" and inserting "62 cents".

(7) PIPE TOBACCO.-Subsection (f) of section 5701 of such Code (relating to rate of tax on pipe tobacco) is amended by striking "67.5 cents (56.25 cents on chewing tobacco removed during 1991 or 1992)" and inserting "$3.4875".

(8) EFFECTIVE DATE.-The amendments made by this subsection shall apply with respect to cigars, cigarettes, cigarette paper, cigarette tubes, snuff, chewing tobacco, and pipe tobacco removed after December 31, 1995.

(b) IMPOSITION OF EXCISE TAX ON MANUFACTURE OR IMPORTATION OF ROLL-YOUR-OWN TOBACCO.-

(1) IN GENERAL.-SECTION 5701 OF THE INTERNAL REVENUE CODE OF 1986 (RELATING TO RATE OF TAX) IS AMENDED BY REDESIGNATING SUBSECTION (G) AS SUBSECTION (H) AND BY INSERTING AFTER SUBSECTION (F) THE FOLLOWING NEW SUBSECTION:

"(G) ROLL-YOUR-OWN TOBACCO.-ON ROLL-YOUR-OWN TOBACCO, MANUFACTURED IN OR IMPORTED INTO THE UNITED STATES, THERE SHALL BE IMPOSED A TAX OF $1.86 PER POUND (AND A PROPORTIONATE TAX AT THE LIKE RATE ON ALL FRACTIONAL PARTS OF A POUND)."

(2) ROLL-YOUR-OWN TOBACCO.-SECTION 5702 OF SUCH CODE (RELATING TO DEFINITIONS) IS AMENDED BY ADDING AT THE END THE FOLLOWING NEW SUBSECTION:

"(P) ROLL-YOUR-OWN TOBACCO.-THE TERM 'ROLL-YOUR-OWN TOBACCO' MEANS ANY TOBACCO WHICH, BECAUSE OF ITS APPEARANCE, TYPE, PACKAGING, OR LABELING, IS SUITABLE FOR USE AND LIKELY TO BE OFFERED TO, OR PURCHASED BY, CONSUMERS AS TOBACCO FOR MAKING CIGARETTES."

(3) TECHNICAL AMENDMENTS.-

(A) SUBSECTION (C) OF SECTION 5702 OF SUCH CODE IS AMENDED BY STRIKING "AND PIPE TOBACCO" AND INSERTING "PIPE TOBACCO, AND ROLL-YOUR-OWN TOBACCO".

(B) SUBSECTION (D) OF SECTION 5702 OF SUCH CODE IS AMENDED-

(I) IN THE MATERIAL PRECEDING PARAGRAPH (1), BY STRIKING "OR PIPE TOBACCO" AND INSERTING "PIPE TOBACCO, OR ROLL-YOUR-OWN TOBACCO", AND

(II) BY STRIKING PARAGRAPH (1) AND INSERTING THE FOLLOWING NEW PARAGRAPH:

"(1) A PERSON WHO PRODUCES CIGARS, CIGARETTES, SMOKELESS TOBACCO, PIPE TOBACCO, OR ROLL-YOUR-OWN TOBACCO SOLELY FOR THE PERSON'S OWN PERSONAL CONSUMPTION OR USE, AND".

(C) THE CHAPTER HEADING FOR CHAPTER 52 OF SUCH CODE IS AMENDED TO READ AS FOLLOWS:

"CHAPTER 52-TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES".

(D) The table of chapters for subtitle E of such Code is amended by striking the item relating to chapter 52 and inserting the following new item:

"CHAPTER 52. Tobacco products and cigarette papers and tubes."

(4) EFFECTIVE DATE.-

(A) IN GENERAL.-THE AMENDMENTS MADE BY THIS SUBSECTION SHALL APPLY TO ROLL-YOUR-OWN TOBACCO REMOVED (AS DEFINED IN SECTION 5702(P) OF THE INTERNAL REVENUE CODE OF 1986, AS ADDED BY THIS SUBSECTION) AFTER DECEMBER 31, 1995.

(B) TRANSITIONAL RULE.-ANY PERSON WHO-

(I) ON THE DATE OF THE ENACTMENT OF THIS ACT IS ENGAGED IN BUSINESS AS A MANUFACTURER OF ROLL-YOUR-OWN TOBACCO OR AS AN IMPORTER OF TOBACCO PRODUCTS OR CIGARETTE PAPERS AND TUBES, AND

(II) BEFORE JANUARY 1, 1996, SUBMITS AN APPLICATION UNDER SUBCHAPTER B OF CHAPTER 52 OF SUCH CODE TO ENGAGE IN SUCH BUSINESS,

MAY, NOTWITHSTANDING SUCH SUBCHAPTER B, CONTINUE TO ENGAGE IN SUCH BUSINESS PENDING FINAL ACTION ON SUCH APPLICATION. PENDING SUCH FINAL ACTION, ALL PROVISIONS OF SUCH CHAPTER 52 SHALL APPLY TO SUCH APPLICANT IN THE SAME MANNER AND TO THE SAME EXTENT AS IF SUCH APPLICANT WERE A HOLDER OF A PERMIT UNDER SUCH CHAPTER 52 TO ENGAGE IN SUCH BUSINESS.

(C) FLOOR STOCKS.-

(1) IMPOSITION OF TAX.-On cigars, cigarettes, cigarette paper, cigarette tubes, snuff, chewing tobacco, and pipe tobacco manufactured in or imported into the United States which is removed before January 1, 1996, and held on such date for sale by any person, there shall be imposed the following taxes:

(A) SMALL CIGARS.-On cigars, weighing not more than 3 pounds per thousand, $4.6875 per thousand.

(B) LARGE CIGARS.-On cigars, weighing more than 3 pounds per thousand, a tax equal to 53.125 percent of the price for which sold, but not more than $125 per thousand.

(C) SMALL CIGARETTES.-On cigarettes, weighing not more than 3 pounds per thousand, $50 per thousand.

(D) LARGE CIGARETTES.-On cigarettes, weighing more than 3 pounds per thousand, $105 per thousand; except that, if more than 6 1/2 inches in length, they shall be taxable at the rate prescribed for cigarettes weighing not more than 3 pounds per thousand, counting each 2 3/4 inches, or fraction thereof, of the length of each as one cigarette.

(E) CIGARETTE PAPERS.-ON CIGARETTE PAPERS, 3.125 CENTS FOR EACH 50 PAPERS OR FRACTIONAL PART THEREOF; EXCEPT THAT, IF CIGARETTE PAPERS MEASURE MORE THAN 6 1/2 INCHES IN LENGTH, THEY SHALL BE TAXABLE AT THE RATE PRESCRIBED, COUNTING EACH 2 3/4 INCHES, OR FRACTION THEREOF, OF THE LENGTH OF EACH AS ONE CIGARETTE PAPER.

(F) CIGARETTE TUBES.-ON CIGARETTE TUBES, 6.25 CENTS FOR EACH 50 TUBES OR FRACTIONAL PART THEREOF; EXCEPT THAT, IF CIGARETTE TUBES MEASURE MORE THAN 6 1/2 INCHES IN LENGTH, THEY SHALL BE TAXABLE AT THE RATE PRESCRIBED, COUNTING EACH 2 3/4 INCHES, OR FRACTION THEREOF, OF THE LENGTH OF EACH AS ONE CIGARETTE TUBE.

(G) SNUFF.-On snuff, $1.50 per pound and a proportionate tax at the like rate on all fractional parts of a pound.

(H) CHEWING TOBACCO.-On chewing tobacco, 50 cents per pound and a proportionate tax at the like rate on all fractional parts of a pound.

(I) PIPE TOBACCO.-On pipe tobacco, $2.8125 per pound and a proportionate tax at the like rate on all fractional parts of a pound.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.-

(A) LIABILITY FOR TAX.-A person holding cigars, cigarettes, cigarette paper, cigarette tubes, snuff, chewing tobacco, and pipe tobacco on January 1, 1996, to which any tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.-The tax imposed by paragraph (1) shall be treated as a tax imposed under section 5701 of the Internal Revenue Code of 1986 and shall be due and payable on February 15, 1996, in the same manner as the tax imposed under such section is payable with respect to cigars, cigarettes, cigarette paper, cigarette tubes, snuff, chewing tobacco, and pipe tobacco removed on January 1, 1996.

(3) CIGARS, CIGARETTES, CIGARETTE PAPER, CIGARETTE TUBES, SNUFF, CHEWING TOBACCO, AND PIPE TOBACCO.-For purposes of this subsection, the terms "cigar", "cigarette", "cigarette paper", "cigarette tubes", "snuff", "chewing tobacco", and "pipe tobacco" shall have the meaning given to such terms by subsections (a), (b), (e), and (g), paragraphs (2) and (3) of subsection (n), and subsection (o) of section 5702 of the Internal Revenue Code of 1986, respectively.

(4) EXCEPTION FOR RETAIL STOCKS.-The taxes imposed by paragraph (1) shall not apply to cigars, cigarettes, cigarette paper, cigarette tubes, snuff, chewing tobacco, and pipe tobacco in retail stocks held on January 1, 1996, at the place where intended to be sold at retail.

(5) FOREIGN TRADE ZONES.-Notwithstanding the Act of June 18, 1934 (19 U.S.C. 81a et seq.) or any other provision of law-

(A) cigars, cigarettes, cigarette paper, cigarette tubes, snuff, chewing tobacco, and pipe tobacco-

(i) on which taxes imposed by Federal law are determined, or customs duties are liquidated, by a customs officer pursuant to a request made under the first proviso of section 3(a) of the Act of June 18, 1934 (19 U.S.C. 81c(a)) before January 1, 1996, and

(ii) which are entered into the customs territory of the United States on or after January 1, 1996, from a foreign trade zone, and

(B) cigars, cigarettes, cigarette paper, cigarette tubes, snuff, chewing tobacco, and pipe tobacco which-

(i) are placed under the supervision of a customs officer pursuant to the provisions of the second proviso of section 3(a) of the Act of June 18, 1934 (19 U.S.C. 81c(a)) before January 1, 1996, and

(ii) are entered into the customs territory of the United States on or after January 1, 1996, from a foreign trade zone,

shall be subject to the tax imposed by paragraph (1) and such cigars, cigarettes, cigarette paper, cigarette tubes, snuff, chewing tobacco, and pipe tobacco shall, for purposes of paragraph (1), be treated as being held on January 1, 1996, for sale.

(d) ESTABLISHMENT OF TRUST FUND.-

(1) IN GENERAL.-SUBCHAPTER A OF CHAPTER 98 OF THE INTERNAL REVENUE CODE OF 1986 (RELATING TO TRUST FUND CODE) IS AMENDED BY ADDING AT THE END THE FOLLOWING NEW SECTION:

"SEC. 9512. TOBACCO CONVERSION TRUST FUND.

"(a) CREATION OF TRUST FUND.-THERE IS ESTABLISHED IN THE TREASURY OF THE UNITED STATES A TRUST FUND TO BE KNOWN AS THE 'TOBACCO CONVERSION TRUST FUND' (HEREAFTER REFERRED TO IN THIS SECTION AS THE 'TRUST FUND'), CONSISTING OF SUCH AMOUNTS AS MAY BE APPROPRIATED OR CREDITED TO THE TRUST FUND AS PROVIDED IN THIS SECTION OR SECTION 9602(B).

"(B) TRANSFERS TO TRUST FUND.-THE SECRETARY SHALL TRANSFER TO THE TRUST FUND AN AMOUNT EQUIVALENT TO 3 PERCENT OF THE NET INCREASE IN REVENUES RECEIVED IN THE TREASURY ATTRIBUTABLE TO THE AMENDMENTS MADE TO SECTION 5701 BY SUBSECTIONS (A) AND (B) OF SECTION 2 AND THE PROVISIONS CONTAINED IN SECTION 2(C) OF THE TOBACCO CONSUMPTION REDUCTION AND HEALTH IMPROVEMENT ACT OF 1995, AS ESTIMATED BY THE SECRETARY.

"(C) DISTRIBUTION OF AMOUNTS IN TRUST FUND.-AMOUNTS IN THE TRUST FUND SHALL BE AVAILABLE TO THE SECRETARY OF AGRICULTURE, AS PROVIDED BY APPROPRIATION ACTS, FOR MAKING EXPENDITURES FOR PURPOSES OF-

"(1) PROVIDING ASSISTANCE TO FARMERS IN CONVERTING FROM TOBACCO TO OTHER CROPS AND IMPROVING THE ACCESS OF SUCH FARMERS TO MARKETS FOR OTHER CROPS, AND

"(2) PROVIDING GRANTS OR LOANS TO COMMUNITIES, AND PERSONS INVOLVED IN THE PRODUCTION OR MANUFACTURE OF TOBACCO OR TOBACCO PRODUCTS, TO SUPPORT ECONOMIC DIVERSIFICATION PLANS THAT PROVIDE ECONOMIC ALTERNATIVES TO TOBACCO TO SUCH COMMUNITIES AND PERSONS.

THE ASSISTANCE REFERRED TO IN PARAGRAPH (1) MAY INCLUDE GOVERNMENT PURCHASE OF TOBACCO ALLOTMENTS FOR PURPOSES OF RETIRING SUCH ALLOTMENTS FROM ALLOTMENT HOLDERS AND FARMERS WHO CHOOSE TO TERMINATE THEIR INVOLVEMENT IN TOBACCO PRODUCTION."

(2) CLERICAL AMENDMENT.-The table of sections for such subchapter A is amended by adding at the end the following new item:

"Sec. 9512. Tobacco Conversion Trust Fund."

LOAD-DATE: March 27, 1995

FULL TEXT OF BILLS

105TH CONGRESS; 1ST SESSION
IN THE SENATE OF THE UNITED STATES
AS INTRODUCED IN THE SENATE

S. 826

1997 S. 826; 105 S. 826

<=1> Retrieve Bill Tracking Report

SYNOPSIS:
A BILL To amend the Public Health Service Act to protect the public from health hazards caused by exposure to environmental tobacco smoke, and for other purposes.

DATE OF INTRODUCTION: JUNE 3, 1997

DATE OF VERSION: JUNE 5, 1997 -- VERSION: 1

SPONSOR(S):
Mr. LAUTENBERG (FOR HIMSELF, MR. DURBIN, and Mr. KERRY of Massachusetts) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

TEXT:
* Be it enacted by the Senate and House of Representatives of the United*
*States of America in Congress assembled, *

SECTION 1. SHORT TITLE.

This Act may be cited as the "Smoke-Free Environment Act of 1997".

SEC. 2. SMOKE-FREE ENVIRONMENT POLICY.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by adding at the end the following:

"TITLE XXVIII-SMOKE-FREE ENVIRONMENTS

"SEC. 2801. SMOKE-FREE ENVIRONMENT POLICY.

"(a) POLICY REQUIRED.-IN ORDER TO PROTECT CHILDREN AND ADULTS FROM CANCER, RESPIRATORY DISEASE, HEART DISEASE, AND OTHER ADVERSE HEALTH EFFECTS FROM BREATHING ENVIRONMENTAL TOBACCO SMOKE, THE RESPONSIBLE ENTITY FOR EACH PUBLIC FACILITY SHALL ADOPT AND IMPLEMENT AT SUCH FACILITY A SMOKE-FREE ENVIRONMENT POLICY WHICH MEETS THE REQUIREMENTS OF SUBSECTION (B).

"(B) ELEMENTS OF POLICY.-EACH SMOKE-FREE ENVIRONMENT POLICY FOR A PUBLIC FACILITY SHALL-

"(1) PROHIBIT THE SMOKING OF CIGARETTES, CIGARS, AND PIPES, AND ANY OTHER COMBUSTION OF TOBACCO, WITHIN THE FACILITY AND ON FACILITY PROPERTY WITHIN THE IMMEDIATE VICINITY OF THE ENTRANCE TO THE FACILITY; AND

"(2) POST A CLEAR AND PROMINENT NOTICE OF THE SMOKING PROHIBITION IN APPROPRIATE AND VISIBLE LOCATIONS AT THE PUBLIC FACILITY.

THE POLICY MAY PROVIDE AN EXCEPTION TO THE PROHIBITION SPECIFIED IN PARAGRAPH (1) FOR ONE OR MORE SPECIALLY DESIGNATED SMOKING AREAS WITHIN A PUBLIC FACILITY IF SUCH AREA OR AREAS MEET THE REQUIREMENTS OF SUBSECTION (C).

"(C) SPECIALLY DESIGNATED SMOKING AREAS.-A SPECIALLY DESIGNATED SMOKING AREA MEETS THE REQUIREMENTS OF THIS SUBSECTION IF IT SATISFIES EACH OF THE FOLLOWING CONDITIONS:

"(1) THE AREA IS VENTILATED IN ACCORDANCE WITH SPECIFICATIONS PROMULGATED BY THE ADMINISTRATOR THAT ENSURE THAT AIR FROM THE AREA IS DIRECTLY EXHAUSTED TO THE OUTSIDE AND DOES NOT RECIRCULATE OR DRIFT TO OTHER AREAS WITHIN THE PUBLIC FACILITY.

"(2) NONSMOKING INDIVIDUALS DO NOT HAVE TO ENTER THE AREA FOR ANY PURPOSE.

"(3) CHILDREN UNDER THE AGE OF 15 ARE PROHIBITED FROM ENTERING THE AREA.

"SEC. 2802. CITIZEN ACTIONS.

"(a) IN GENERAL.-AN ACTION MAY BE BROUGHT TO ENFORCE THE REQUIREMENTS OF THIS TITLE BY ANY AGGRIEVED PERSON, ANY STATE OR LOCAL GOVERNMENT AGENCY, OR THE ADMINISTRATOR.

"(B) VENUE.-ANY ACTION TO ENFORCE THIS TITLE MAY BE BROUGHT IN ANY UNITED STATES DISTRICT COURT FOR THE DISTRICT IN WHICH THE DEFENDANT RESIDES OR IS DOING BUSINESS TO ENJOIN ANY VIOLATION OF THIS TITLE OR TO IMPOSE A CIVIL PENALTY FOR ANY SUCH VIOLATION IN THE AMOUNT OF NOT MORE THAN $5,000 PER DAY OF VIOLATION. THE DISTRICT COURTS SHALL HAVE JURISDICTION, WITHOUT REGARD TO THE AMOUNT IN CONTROVERSY OR THE CITIZENSHIP OF THE PARTIES, TO ENFORCE THIS TITLE AND TO IMPOSE CIVIL PENALTIES UNDER THIS TITLE.

"(C) NOTICE.-AN AGGRIEVED PERSON SHALL GIVE ANY ALLEGED VIOLATOR NOTICE OF AT LEAST 60 DAYS PRIOR TO COMMENCING AN ACTION UNDER THIS SECTION. NO ACTION MAY BE COMMENCED BY AN AGGRIEVED PERSON UNDER THIS SECTION IF SUCH ALLEGED VIOLATOR COMPLIES WITH THE REQUIREMENTS OF THIS TITLE WITHIN SUCH 60-DAY PERIOD AND THEREAFTER.

"(D) COSTS.-THE COURT, IN ISSUING ANY FINAL ORDER IN ANY ACTION BROUGHT PURSUANT TO THIS SECTION, MAY AWARD COSTS OF LITIGATION (INCLUDING REASONABLE ATTORNEY AND EXPERT WITNESS FEES) TO ANY PREVAILING PARTY, WHENEVER THE COURT DETERMINES SUCH AWARD IS APPROPRIATE.

"(E) PENALTIES.-THE COURT IN ANY ACTION UNDER THIS SECTION TO APPLY CIVIL PENALTIES SHALL HAVE DISCRETION TO ORDER THAT SUCH CIVIL PENALTIES BE USED FOR PROJECTS THAT FURTHER THE POLICIES OF THIS TITLE. THE COURT SHALL OBTAIN THE VIEW OF THE ADMINISTRATOR IN EXERCISING SUCH DISCRETION AND SELECTING ANY SUCH PROJECTS.

"(F) DAMAGES.-NO DAMAGES OF ANY KIND, WHETHER COMPENSATORY OR PUNITIVE, SHALL BE AWARDED IN ACTIONS BROUGHT PURSUANT TO THIS TITLE.

"(G) ISOLATED INCIDENTS.-VIOLATIONS OF THE PROHIBITION SPECIFIED IN SECTION 2801(B)(1) BY AN INDIVIDUAL WITHIN A PUBLIC FACILITY OR ON FACILITY PROPERTY SHALL NOT BE CONSIDERED VIOLATIONS OF THIS TITLE ON THE PART OF THE RESPONSIBLE ENTITY IF SUCH VIOLATIONS-

"(1) ARE ISOLATED INCIDENTS THAT ARE NOT PART OF A PATTERN OF VIOLATIONS OF SUCH PROHIBITION; AND

"(2) ARE NOT AUTHORIZED BY THE RESPONSIBLE ENTITY.

"SEC. 2803. PREEMPTION.

"Nothing in this title shall preempt or otherwise affect any other Federal, State or local law which provides protection from health hazards from environmental tobacco smoke.

"SEC. 2804. REGULATIONS.

"The Administrator is authorized to promulgate such regulations as the Administrator deems necessary to carry out this title.

"SEC. 2805. EFFECTIVE DATE.

"The requirements of this title shall take effect on the date that is 1 year after the date of the enactment of the Smoke-Free Environment Act of 1997.

"SEC. 2806. DEFINITIONS.

"In this title:

"(1) ADMINISTRATOR.-THE TERM 'ADMINISTRATOR' MEANS THE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY.

"(2) PUBLIC FACILITY.-THE TERM 'PUBLIC FACILITY' MEANS ANY BUILDING REGULARLY ENTERED BY 10 OR MORE INDIVIDUALS AT LEAST ONE DAY PER WEEK, INCLUDING ANY SUCH BUILDING OWNED BY OR LEASED TO A FEDERAL, STATE, OR LOCAL GOVERNMENT ENTITY. SUCH TERM SHALL NOT INCLUDE ANY BUILDING OR PORTION THEREOF REGULARLY USED FOR RESIDENTIAL PURPOSES.

"(3) RESPONSIBLE ENTITY.-THE TERM 'RESPONSIBLE ENTITY' MEANS, WITH RESPECT TO ANY PUBLIC FACILITY, THE OWNER OF SUCH FACILITY, EXCEPT THAT IN THE CASE OF ANY SUCH FACILITY OR PORTION THEREOF WHICH IS LEASED, SUCH TERM MEANS THE LESSEE.".

SEC. 3. PROHIBITIONS AGAINST SMOKING ON SCHEDULED FLIGHTS.

(a) IN GENERAL.-Section 41706 of title 49, United States Code, is amended to read as follows:

"41706. Prohibitions against smoking on scheduled flights

"(a) SMOKING PROHIBITION IN INTRASTATE AND INTERSTATE AIR TRANSPORTATION.-An individual may not smoke in an aircraft on a scheduled airline flight segment in interstate air transportation or intrastate air transportation.

"(b) SMOKING PROHIBITION IN FOREIGN AIR TRANSPORTATION.-The Secretary of Transportation shall require all air carriers and foreign air carriers to prohibit, on and after the 120th day following the date of the enactment of the Smoke-Free Environment Act of 1997, smoking in any aircraft on a scheduled airline flight segment within the United States or between a place in the United States and a place outside the United States.

"(c) LIMITATION ON APPLICABILITY.-With respect to an aircraft operated by a foreign air carrier, the smoking prohibitions contained in subsections (a) and (b) shall apply only to the passenger cabin and lavatory of the aircraft.

"(d) REGULATIONS.-The Secretary shall prescribe regulations necessary to carry out this section.".

(b) EFFECTIVE DATE.-The amendment made by subsection (a) shall take effect on the 60th day following the date of the enactment of this Act.

LOAD-DATE: June 6, 1997

# OUTLINE FOR TOBACCO BRIEFING

## I. Should the $1.50 increase be only from the settlement or other factors?

-- President said "up to $1.50."

-- Should be real settlement costs.

-- Industry estimates show non-settlement costs could easily eat up all but .62 of the 1.50 increase. Inflation is particularly important.

## II. What are the effects of different levels of price increase on consumption? How does it effect industry profitability?

-- Starting at about $1 where teen smoking has diminished by 30%, rates drop by 5-6% every 25 cents up to $2.00. At $3 there is a 66% decrease.

-- Legislatively reduced prices lead (minus decrease ads and legal costs) to 10-17% lower profits.

-- FTC analysis shows that industry would increase prices above settlement costs. A 200% pass through of settlement costs to prices leads to a present value of after tax profits increases by about 78%.

-- Liability protection would lead to rising stock prices alone.

-- Tobacco farmers would suffer lower value quotas as cigarette prices rise.

-- Wholesalers/retailers suffer from reduced demand, possible penalties, loss of point of sale advertising.

-- Local/state excise taxes will diminish depending on the size of the excise tax.

## III. Does the rate that prices increase make a difference?

-- This analysis didn't assume a sudden increase would have a different effect from an incremental one.

-- Arguably a sudden increase could have a shock effect, alternatively people may be better at adjusting their behavior over time.

-- Also sharp increases may lead to smuggling problems.

**IV. Three possible approaches: (a) companies pay per pack into fund; (b) an excise tax, (c) public health user fee per pack, please discuss.**

A. Antitrust exemption so that the tobacco companies can pay per pack increases into settlement fund is not warranted.

--even without an antitrust exemption, the cigarette manufacturers will raise prices to the amount of the settlement or greater than the settlement.

--FTC report concluded that there was insufficient justification for an antitrust exemption even unrelated to price such as achieving the goal of reducing youth smoking or as an exchange with the tobacco companies for the possibility that the settlements restrictions may be ruled unconstitutional.

B. A volume-adjusted penalty, excise tax, or per pack charge are effectively identical from a consumer point of view.

C. The current net stream of government revenue as envisioned by the settlement is substantially smaller than the face value contained in the settlement, and will decline over time.

--If objective is to fund public health programs, the payment should rise over time in line with the needs of the programs. By analogy, other entitlement programs have experienced rates of growth far in excess of inflation rates.

**V. How big a price increase is necessary to achieve the youth smoking targets?**

-- Price increases due to inflation alone will not help meet youth targets.

-- About $1.45 in fifth year to achieve 30% reduction; about $2.40 in seventh year to achieve 50% reduction; and about $3.00 per pack in tenth year to achieve 60% reduction (These estimates do not include any effect from non-price aspects such as access and advertising restrictions).

-- Comprehensive and <u>strongly enforced</u> restrictions on youth access to cigarettes could have significant effects on reducing underage use of cigarettes; might need incentives for communities to make compliance efforts; perhaps 20 to 40% reductions if strong enforcement of access restrictions.

-- Advertising restrictions are less clear on reducing youth smoking --the conclusions of several studies on advertising restrictions varies.

**VI. How big a price increase to offset costs of smoking-related illnesses to the Federal government?**

A. Medicare: costs of smoking-related illnesses are unclear because lower costs of healthier population are offset by increased life expectancies associated with reduced rates of smoking.

B. Medicaid, Veterans benefits, and FEHBP: costs unclear for the same reasons as for Medicare.

C. TRICARE for active-duty military (formerly known as CHAMPUS): more direct cost savings because this program serves a population under the age of 65.

**VII. What are implications of $1.50 price increase for cigarette consumption, smoking rates, industry profitability, farmers, retailers, and wholesalers for different combinations of penalties and price increases?**

-- President called for increase of up to $1.50 per pack.

-- Penalties will lead the industry to deter youth smoking (if it is able to do so) through non-price mechanisms if penalties are larger than the profits earned from youth smoking.

-- Tension between fighting smoking and having stable funding stream.

-- Administrative problems with relying solely on penalties as a means of raising settlement revenues. Issues re: reliability of youth smoking rates contained in surveys.

**VIII. Ways to structure look-back penalties for missing youth smoking targets.**

-- A mix of industry-wide and company-specific penalties would provide the best incentives; industry-wide penalties would promote efforts by all companies to reduce underage smoking; company-specific penalties would eliminate incentive for company to keep selling to youth and only pay part of penalty.

-- Substantial economic justification for de minimus exception assuming there is a "hard-core" group of youths that companies have no control over, regardless of the companies' actions.

-- One-time payment in year after target missed based on number of packs sold in previous year provides a known revenue vs. Per-pack taxes in year after target missed provides unknown revenue because level of sales is unknown when tax rate is instituted.

-- Difficulty in assessing different taxes on different brands.

-- Non-linear penalties provide the greatest incentives --i.e., penalties should increase as non-compliance rises.

# MEMORANDUM

**TO:** TOM FREEDMAN, MARY SMITH

**FROM:** JULIE MIKUTA

**RE:** TOBACCO MONEY

**DATE:** JUNE 26, 1997

## SUMMARY

This memo summarizes the bills that have been introduced recently in Congress, two studies of political contributions made by the tobacco industry, and a study of corporate tax breaks.

## CONGRESSIONAL ACTIVITY

These are some of the tobacco-related bills that have been introduced recently. All the these bills are in the accompanying folder, and can be accessed on the Web at: http://thomas.loc.gov

| Bill Number | Sponsor | Date | Description |
|---|---|---|---|
| S.804; similar to H.R.1455, 4/6/95, Rep Stark | Sen Bradley | 5/15/95 | to amend the Tax Code of 1986 to increase the excise taxes on tobacco products, and to use a portion of the resulting revenues to fund a Tobacco Conversion Trust Fund; H.R.1455 also includes an additional tax on packs of cigarettes containing fewer than 20 cigarettes. |
| H.R.3954 similar to S1123, 8/4/95, Sen Bingaman | Rep Fox | 8/2/96 | to restrict the access of youth to tobacco products by: prohibiting the use of vending machines to sell tobacco products; declaring tobacco an unmailable product; prohibiting the distribution of tobacco products to areas where youth have access; requiring retailers and their employees to sign an annual certification of a knowledge of the minimum age and to conduct all tobacco sales face-to-face; and other similar strategies |
| H.R.636 | Rep Kildee | 1/23/95 | to amend the Fair Labor Standards Act of 1938 to eliminate the partial overtime exemption for employees that produce green and cigar leaf tobacco |

| | | | |
|---|---|---|---|
| S.828 | Sen Durbin | 6/23/97 | to provide for the reduction in the number of children who use tobacco products; includes an annual survey by the Sec of HHS to determine the number of children who used each manufacturer's product. |
| S.643 | Sen Durbin | 4/24/97 | to prohibit the Federal Government from providing insurance, reinsurance or noninsured crop disaster assistance for tobacco |
| H.R.1323; similar to S.596-3/22/95-Sen Harkin | Rep McHale | 4/15/97 | to amend the Tax Code to disallow deductions for advertising expenses for tobacco products |
| S.992 | Sen Bingaman | 5/19/93 | to amend the U.S. Code to end taxpayer subsidy of tobacco products sold in military stores |
| H.R.4698 | Rep English | 6/30/94 | to terminate price support and marketing quotas for tobacco, and to establish a trust fund to support anti-drugs and anti-tobacco use activities |
| H.R.3026 | Rep Schroeder | 9/8/93 | to amend the Tax Code to increase the excise taxes on smokeless tobacco to an amount equivalent to the tax on cigarettes, and to use the revenues to fund a trust fund for programs that reduce the use of smokeless tobacco |
| H.J.R367 | Rep Stark | 5/18/94 | to provide a Congressional Medal to the citizen who made public certain documents concerning tobacco company knowledge that tobacco products are addictive and health-threatening |
| H.R.1482 | Rep Inglis | 3/25/93 | to amend the Agricultural Act of 1949 to eliminate the tobacco price support program |

## POLITICAL CONTRIBUTIONS

Two studies released in 1996-- by the Common Cause and the U.S. Public Interest Research Group (PIRG)-- track tobacco industry contributions to Members of Congress and to the political parties in 1995 and over a 10-year period. A report on the studies is published on the Web at: www.execpc.com/~jlohman/timoney.html, which is under the Wisconsin Campaign Reform home page. These are some of the findings.

1. Tobacco interests gave a record, off-election year total of $4.1 million in soft and PAC contributions in 1995, which is 20% more than they gave during election year 1994.

2. Tobacco contributions to the 156 Member of Congress who signed a letter objecting to an FDA proposal to reduce tobacco use among children totaled $3.4 million during the past decade.
3. The U.S. PIRG study found that Members of the House of Representatives who voted against an amendment to eliminate tobacco subsidies received large contributions from the tobacco industry.
4. The studies list the top takers of tobacco money, from both tobacco and non-tobacco states, and in the House and Senate.

**"HIDDEN ENTITLEMENTS"**

The Citizens for Tax Justice [(202) 626-3780] published a study titled, "The Hidden Entitlements" in 1996, which explored the "largest current and proposed corporate tax breaks". Although there is no specific mention of tobacco companies in the study, they may enjoy these tax breaks. Data for the study came from corporate annual reports. These are the tax breaks mentioned:

1. accelerated depreciation of equipment;
2. capital gains tax breaks;
3. industry-specific tax subsidies; and
4. transfer pricing schemes of multinational corporations that shift profits (on paper) out of US.

Attached is the "tax breaks for multinational corporations" section of the study. Along with it is another report by the CTJ, "Tax Subsidies Reward Corporate Downsizers", which again does not specifically use tobacco companies as an example.