tobacco farmers

Hatch-Feinstein

To Bruce & Elena + return

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UNITED STATES
SENATOR JOHN BREAUX

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UNITED STATES SENATE
WASHINGTON, D.C. 20510
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DRAFT 2

Hatch-Feinstein

Total Cost: The total cost of the correction substitute, which has been drafted to obviate any constitutional concerns raised by the Commerce Committee bill, is $428.5 billion over the first 25 years ($60 billion more than the settlement proposed on 6/20/97.) Revenues are derived from fixed payments made by the tobacco industry according to a table in the substitute. Additional amounts could be made available from a strong look-back provision. The agreement will be executed through a binding and enforceable contract between the manufacturers, the States, the Federal government, and the *Castano* litigants.

Spending Allocation: Of the total amount, $204 billion is provided directly to the states through a population-based formula. Forty percent of that amount will be available to the states for any purpose the state deems appropriate. Sixty percent will be made available to States in the form of a block grant. States may receive funding under the block grant for tobacco-related expenses associated with the following programs: WIC; Maternal and Child Health; Children's health (SCHIP); Head Start; School lunch; Indian Health Service programs; Community and Migrant Health Centers;
Family planning; HIV health care services; State-initiated smoking cessation programs; Child care; State-initiated public education campaigns; State-initiated programs for event sponsorship; and State-initiated elementary and secondary education reforms necessary to foster a tobacco-free learning environment.

Public Health: A $95 billion (over 25 years) National Institutes of Health Trust Fund for Health Research is established which reflects the settlement of punitive damages for past reprehensible behavior of the tobacco industry. In addition, the Secretary of Health and Human Services will implement a National Anti-Tobacco Product Consumption and Product Cessation Program which includes substantial public education. This program will receive $92 billion over a 25 year period, subject to any required adjustments for inflation, sales volume adjustments and look-back penalties. *The bill will recognize the unique cultural and linguistic differences among minorities in America. Any anti-tobacco funding program for cessation, research, prevention, education and counter-advertising shall be culturally sensitive to ensure reduction of demand for tobacco products among minority youth.* Full authority will be provided to the Food and Drug Administration to regulate tobacco products; this is drafted as a separate chapter to the FD&C Act. Congressional oversight is envisioned for the regulation of nicotine.

Liability Provisions: All Federal, state and local suits, including class actions, are settled; *provided however, members of the class shall have the right to pursue their injury claims.* All individual suits will be preserved and allowed to proceed, except for those seeking addiction or dependency treatment only. Individual suits are allowed for harm relating to use of tobacco products, including compensatory damages and pain and suffering. There is a cap on the payout for successful litigants of up to $1 million per year until the award is paid in total. Punitive damages for past conduct are settled in the bill in exchange for $95 billion to be deposited in a fund for biomedical research. Punitive damages for future conduct are allowed, but not for any claims relating to addiction or dependence. At the court's choice, individual case consolidations are allowed. Total industry liability is capped at $5.5 billion a year.

County Provision: States will be required to provide payments to counties or localities which have filed a suit against the tobacco companies as of June 20, 1997. This includes San Francisco, Los Angeles, Cook County, Erie County and New York City.

Look-Back Provision: Sets out reasonable national goals for youth smoking reduction. For cigarettes, measured from the baseline year, the goals will be a 30% reduction in use in 2003 and 2004; a 50% decrease in 2005, 2006, and 2007, and a 60% reduction thereafter. Separate goals are set for smokeless tobacco. If the Secretary of HHS determines that these goals have not been met in any year following year 5, she is authorized to impose a surcharge on manufacturers. If the goals continue not to be met after ten years, the surcharge payments will be increased even further. There is an annual cap on surcharge payments. At the total discretion of the Secretary, the look back may be abated all or in part.

Document Depository: A National Tobacco Document Depository is established as a resource for litigants; this will disclose previously nonpublic or confidential documents by tobacco manufacturers. The Depository is based on voluntary agreement of the tobacco companies.

Attorneys' Fees: *An arbitration panel will be appointed by the Trust Fund trustees, the participating manufacturers, State Attorneys General who were signatories to the June 20, 1997 memorandum of understanding, and private attorneys who are signatories to the June 20, 1997 memorandum of understanding.* The arbitration panel will make awards based on enumerated criteria subject to an annual amount equal to a 5% cap of industry payments (attorneys' fees, however, will be paid by manufacturers outside of this bill.)

Agricultural Transition: The bill provides assistance to transition farmers away from tobacco by adding certain provisions from the LEAF bill (Ford) to the Lugar bill. The bill will terminate the existing tobacco quota program, but will require the purchase back of these quota rights for $8 per pound for quota owners ($4 per pound for lessees). In addition, $1.4 billion will be paid to states over 7 years in a block grant and $1.44 billion will be available over 25 years for farm families in Farmer Opportunity Grants and $500 million over 25 years in Worker Transition Payments for displaced workers.

Environmental Provision: Standards to reduce involuntary exposure to tobacco smoke are included, based on the 6/20/97 agreement. The bill precludes preemption of any other Federal, State or local law in this area.

Anti-Smuggling: A title is included specifically to address concerns that any price increases in tobacco products will lead to increased contraband. This provision provides new criminal penalties for trafficking in contraband tobacco products, new labeling requirements and other requirements for tracking of tobacco products in interstate commerce, and a substantial enhancement of Federal, State and local law enforcement resources devoted to tobacco smuggling.

JOINT COMMITTEE ON TAXATION
May 14, 1998
JCX-38-98

ESTIMATED REVENUE EFFECTS OF AN AMENDMENT TO S. 1415, AS AGREED TO BY THE SENATE COMMITTEE ON FINANCE ON MAY 14, 1998

Fiscal Years 1998 - 2007

[Billions of Dollars]

Provision	Effective	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	1998-02	2003-07
1. Increase cigarette excise taxes ($0.50 in 1999, $1.00 in 2000, and $1.50 in 2001 and thereafter) with proportional increases in other tobacco products; index all tobacco excise taxes to CPI beginning 1/1/02	1/1/99	---	6.0	11.3	15.1	15.6	15.7	16.1	16.7	17.3	18.0	48.0	83.8
2. New non-deductible penalty excise tax for failure to meet underage smoking reduction goals (no abatement relief) [1]	tyba 12/31/02	---	---	---	---	---	---	0.1	0.1	2.0	1.3	---	3.5
3. Require that health plans provide coverage for a minimum hospital stay for mastectomies and lymph node dissection for the treatment of breast cancer and coverage for reconstructive surgery following mastectomies:													
a. Federal outlays [2]	1/1/99	---	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	-0.1
b. Tax receipts	1/1/99	---	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	-0.1
c. Net budget effect	---	---	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	-0.1	-0.1
NET TOTAL		---	6.0	11.3	15.1	15.6	15.7	16.2	16.8	19.3	19.3	47.9	87.2
Estimated Excise Tax Rate Increase Per Pack [4]		---	$0.50	$1.00	$1.50	$1.55	$1.61	$1.66	$1.72	$1.78	$1.84		

Joint Committee on Taxation

NOTE: Details may not add to totals due to rounding.

Legend for "Effective" column: tyba = taxable years beginning after

[1] Estimate is presented net of reduced excise tax receipts that result from passing the penalty excise tax payments through in tobacco prices.
[2] Negative numbers indicate Federal outlays will increase. Estimate provided by the Congressional Budget Office.
[3] Loss of less than $50 million.
[4] Presented on a calendar year basis and without regard to look-back assessments.

Bob. farmers - Mattu Fenske -

FAX COVER SHEET

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COMMENTS:

HATCH-FEINSTEIN TOBACCO BILL

The Hatch-Feinstein Bill, entitled the Tobacco Transition Act, would provide market transition assistance to tobacco quota owners, tobacco producers and communities that are dependent on tobacco production, and terminate the Federal tobacco program effective for the 1999 crop year. Under the Hatch-Feinstein proposal:

- Quota owners would receive $8 per pound in 7 equal annual payments beginning in 1999.

- Producer transition compensation to quota lessees would be equal to $4.00 per pound in 7 equal installments, beginning in 1999. Transition payments would be based on a farmer's average production during any 3 years of the 1993 through 1997 base period. 3.2

4.5
3

- Mandatory end to the tobacco production adjustment and price support program after the 1998 crop.

- Assistance to affected rural communities in economic development grants (including farm activities, off-farm activities, farmer educational grants, and assistance to tobacco warehouse owners) .

- Disposal of tobacco loan stocks and the repayment of all tobacco price support loans would be required within 1 year. (If loan stocks are required to be disposed of within 1 year, losses over and above funds in the no-net-cost tobacco accounts could amount to between $400 and $500 million. See section 831(f) of the Bill.)

COMPARISON OF VARIOUS BILL COSTS

ISSUE	HATCH-FEINSTEIN	LUGAR
Quota owners - buyout payments	$13.9 billion over 7 years or about $2.0 billion per year.	$12.8 billion over 3 years or about $4.3 billion per year.
Producers - transition payments	$3.2 billion paid over 7 years or about $500 million per year.	$3.2 billion paid over 7 years or about $500 million per year.
Various Community and Educational Grants	$1.4 billion (1.44) - opp. grants.	$1.0 billion.
Totals	$18.5 billion	~~$17.0~~ billion

60 yrs

18

- assessment
quota
lost
- vs. earmarks

13.9
3.2
1.4
19.5

17.1 - 7 15.9
14.5 - 755 13.2
19.25

17.1
1.4

Funding - The bill provides for the Secretary of Agriculture to transfer funds as needed from the Tobacco Transition Account within the Treasury of the United States to cover amounts authorized by this Bill. In addition, the Bill provides that the Secretary may use the funds, facilities and authorities of the Commodity Credit Corporation to carry out this title and the amendments made by this title. Given these authorities, we feel funds would be sufficient to cover expenditures for the "farmer provisions" of this Bill.

s:\director\fo_draft\hatch.wpd