Tob. futures
hatch-feinstein

Hatch-Feinstein Substitute Bill

Cessation and Research

States receiving funds must conduct anti-tobacco programs consistent with smoking cessation guidelines issued by the Agency for Health Care Policy and Research.

State anti-tobacco and cessation programs must be approved by the Attorney General, Secretary of Treasury and Secretary of HHS.

Separate Title of Act includes detailed provisions to restrict minors' access to tobacco products and reduce underage smoking.

National anti-tobacco product consumption and tobacco product cessation program to be established and implemented by Secretary of HHS.

These programs are to be provided in part by state and community action funded by block grants and in part by direct action by HHS through the Agency for Health Care Policy and research.

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Settles as to participating manufacturers all state actions, including political subdivisions, parens patriae actions, punitive damages for past conduct and addiction/dependency claims reserving the right of individuals to pursue individual claims not based on addiction/dependency claims.

Precludes future class actions.

Requires payment by participating manufacturers of $398.3+ billion ($303,337,500,000 as compensatory damages and $95 billion as punitive damages), plus a $10 billion initial payment.

Does not settle liability for future conduct including punitive damages.

Limits payment of tobacco related judgments to $5.5 billion per year; however, payment of any judgments by participating manufacturers shall entitle them to a credit of 80% of such payment against future payments under the Act. Any excess is paid the following year.

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Establishes a 3 member arbitration panel to award attorneys fees and expenses relating to litigation affected by, or legal services that resulted in whole or in part in the Act.

One member appointed by participating tobacco manufacturer, one by private attorneys and Attorneys General who were signatories to the Memorandum of Understanding of June 30, 1997 ("Settlement") and one appointed jointly by participating tobacco manufactures and the aforementioned private attorneys and Attorneys General.

Fees are to be subject to criteria including time and labor, skill required, novelty and difficulty of the issues, preclusion of other work, amount involved and results obtained, undesirability of action and experience and reputation of attorneys involved, which have been approved on numerous occasions in similar situations for the setting of attorneys' fees by the United States Supreme Court, the United States Courts of Appeals, and other courts.

Fees and expenses are to be paid by participating manufacturers outside of any monies payable under the Act.

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Provides for full FDA authority over tobacco products, including the authority to promulgate regulations resulting in a general prohibition of cigarettes or smokeless tobacco, or the reduction of nicotine yields of a tobacco product to zero, subject to Congressional approval.

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Payments are increased by the greater of 3% or the CPI. (Section 102 C)

From year one forward, payments may increase based on total volume, but may only decrease based on reductions in adult volumes, such decrease to be adjusted by 25% of any increase in profits.

Approximately one-half of funds paid shall be paid into a state account and one-half into a federal account, less amounts available for tobacco transition, Native Americans and asbestos-related injuries.

Funds allocated as follows (Section 101):

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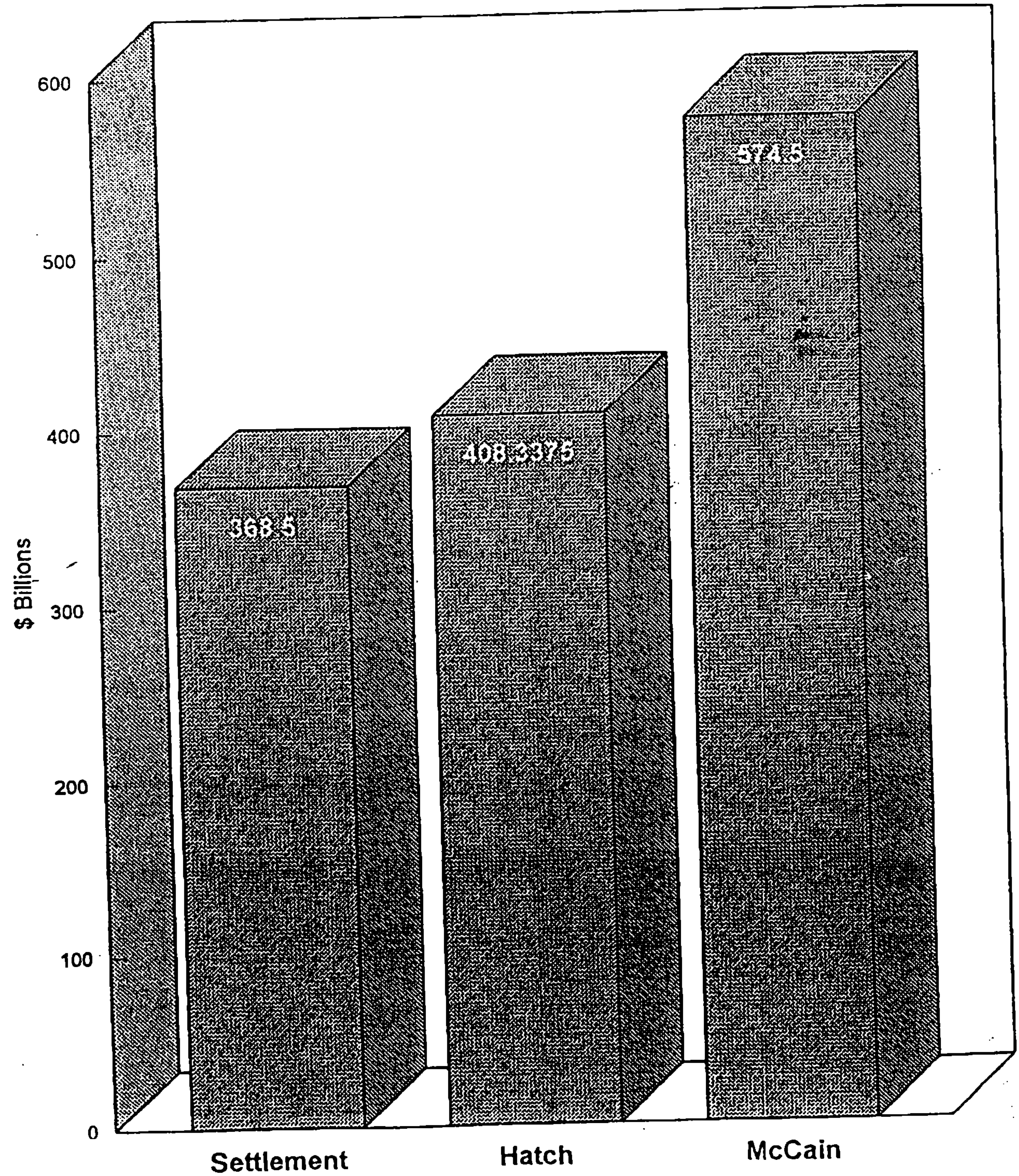
INDUSTRY BASE PAYMENTS

Constant Business-Expense Dollars, No Volume Reductions



Floor Amendments do not change Industry base payments
Chart 1

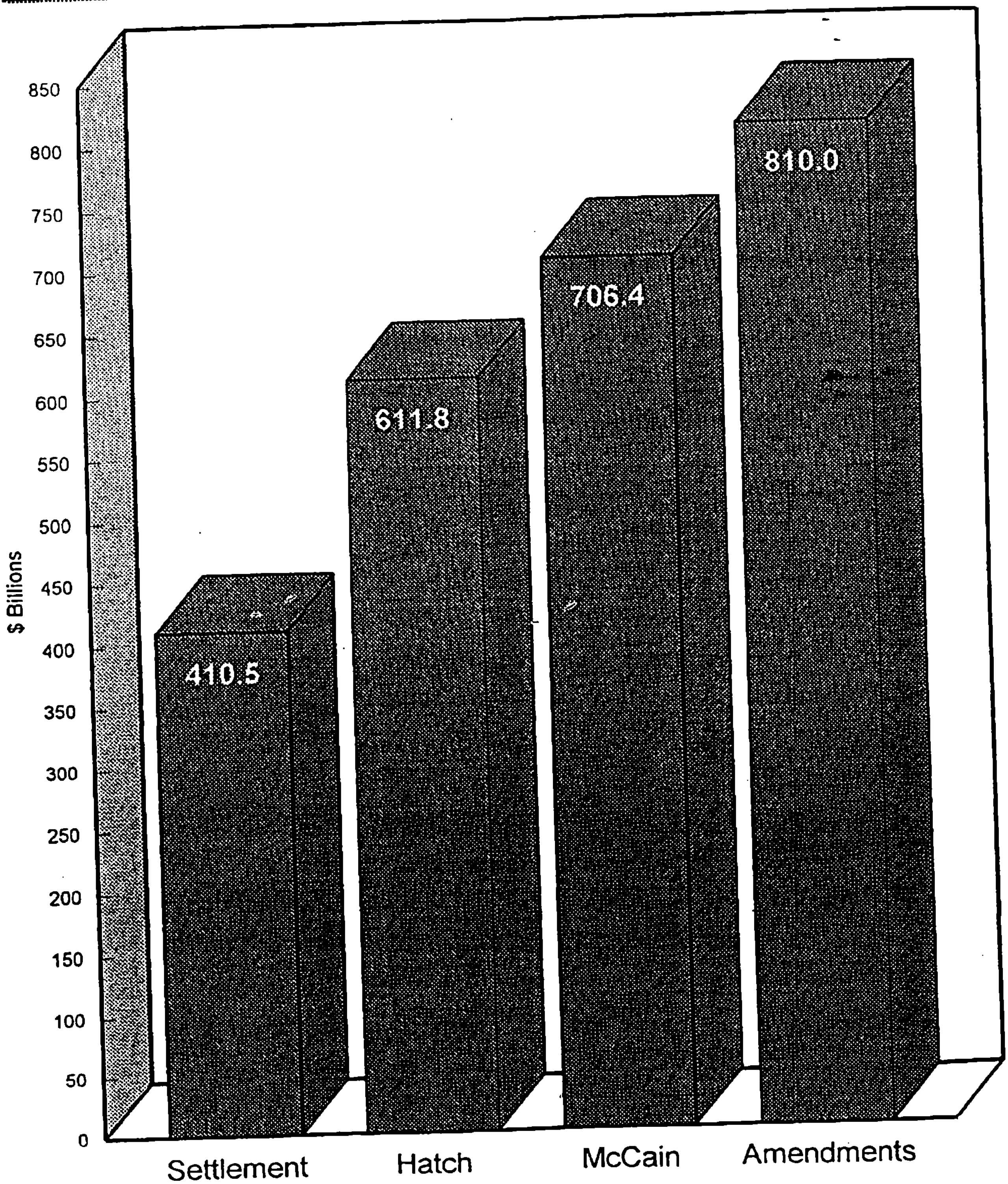
INDUSTRY BASE PAYMENTS ($ billions)

A	B	C	D
Year	Settlement	McCain	Hatch
1998	10	10	10
1999	8.5	14.4	9.7925
2000	9.5	15.4	12.9925
2001	11.5	17.7	16.0925
2002	14	21.4	14.4925
2003	15	23.6	15.4925
2004	15	23.6	16.5
2005	15	23.6	16.5
2006	15	23.6	16.5
2007	15	23.6	16.5
2008	15	23.6	16.5
2009	15	23.6	16.4575
2010	15	23.6	16.4575
2011	15	23.6	16.4575
2012	15	23.6	16.4575
2013	15	23.6	16.4575
2014	15	23.6	16.465
2015	15	23.6	16.465
2016	15	23.6	16.465
2017	15	23.6	16.465
2018	15	23.6	16.465
2019	15	23.6	16.4725
2020	15	23.6	16.4725
2021	15	23.6	16.4725
2022	15	23.6	16.4725
2023	15	23.6	16.4725
	368.5	574.5	408.3375

Spreadsheet 1

BASE PAYMENTS + LOOK-BACK PENALTIES

Constant Business-Expense Dollars. No Volume Reductions



S1415 Look-Back Penalties are Not Tax Deductible
Chart 2

BASE PAYMENTS + LOOK-BACK PENALTIES ($ billions)

	A	B	C	D	E	F	G	H	I	J	K	L
	June 20 Agreement			McCain			With Floor Amendments			Hatch Feinstein		
Year	Base Payment	Look-Back	Total	Base Payment	Look-Back (Tax Adjusted)	Total	Base Payment	Look-Back (Tax Adjusted)	Total	Base Payment	Look-Back (Tax Adjusted)	Total
1998	10.0		10.0	10.0		10.0	10.0		10.0	10		10.0
1999	8.5		8.5	14.4		14.4	14.4		14.4	9.7925		9.8
2000	9.5		9.5	15.4		15.4	15.4		15.4	12.9925		13.0
2001	11.5		11.5	17.7	3.6	21.3	17.7	8.6	26.3	16.0925		16.1
2002	14.0		14.0	21.4	3.6	25.0	21.4	8.6	30.0	14.4925		14.5
2003	15.0	2.0	17.0	23.6	5.9	29.5	23.6	10.4	34.0	15.4925	5.5	21.0
2004	15.0	2.0	17.0	23.6	5.9	29.5	23.6	10.4	34.0	16.5	5.5	22.0
2005	15.0	2.0	17.0	23.6	5.9	29.5	23.6	10.4	34.0	16.5	5.5	22.0
2006	15.0	2.0	17.0	23.6	5.9	29.5	23.6	10.4	34.0	16.5	5.5	22.0
2007	15.0	2.0	17.0	23.6	5.9	29.5	23.6	10.4	34.0	16.5	5.5	22.0
2008	15.0	2.0	17.0	23.6	5.9	29.5	23.6	10.4	34.0	16.5	11.0	27.5
2009	15.0	2.0	17.0	23.6	5.9	29.5	23.6	10.4	34.0	16.4575	11.0	27.5
2010	15.0	2.0	17.0	23.6	5.9	29.5	23.6	10.4	34.0	16.4575	11.0	27.5
2011	15.0	2.0	17.0	23.6	5.9	29.5	23.6	10.4	34.0	16.4575	11.0	27.5
2012	15.0	2.0	17.0	23.6	5.9	29.5	23.6	10.4	34.0	16.4575	11.0	27.5
2013	15.0	2.0	17.0	23.6	5.9	29.5	23.6	10.4	34.0	16.4575	11.0	27.5
2014	15.0	2.0	17.0	23.6	5.9	29.5	23.6	10.4	34.0	16.465	11.0	27.5
2015	15.0	2.0	17.0	23.6	5.9	29.5	23.6	10.4	34.0	16.465	11.0	27.5
2016	15.0	2.0	17.0	23.6	5.9	29.5	23.6	10.4	34.0	16.465	11.0	27.5
2017	15.0	2.0	17.0	23.6	5.9	29.5	23.6	10.4	34.0	16.465	11.0	27.5
2018	15.0	2.0	17.0	23.6	5.9	29.5	23.6	10.4	34.0	16.465	11.0	27.5
2019	15.0	2.0	17.0	23.6	5.9	29.5	23.6	10.4	34.0	16.4725	11.0	27.5
2020	15.0	2.0	17.0	23.6	5.9	29.5	23.6	10.4	34.0	16.4725	11.0	27.5
2021	15.0	2.0	17.0	23.6	5.9	29.5	23.6	10.4	34.0	16.4725	11.0	27.5
2022	15.0	2.0	17.0	23.6	5.9	29.5	23.6	10.4	34.0	16.4725	11.0	27.5
2023	15.0	2.0	17.0	23.6	5.9	29.5	23.6	10.4	34.0	16.4725	11.0	27.5
	368.5	42.0	410.5	574.5	131.9	706.4	574.5	235.5	810.0	408.3	203.5	611.8

Spreadsheet 2

BASE PAYMENTS + LOOK-BACK + JUDGMENTS

Constant Business-Expense Dollars. No Volume Reductions

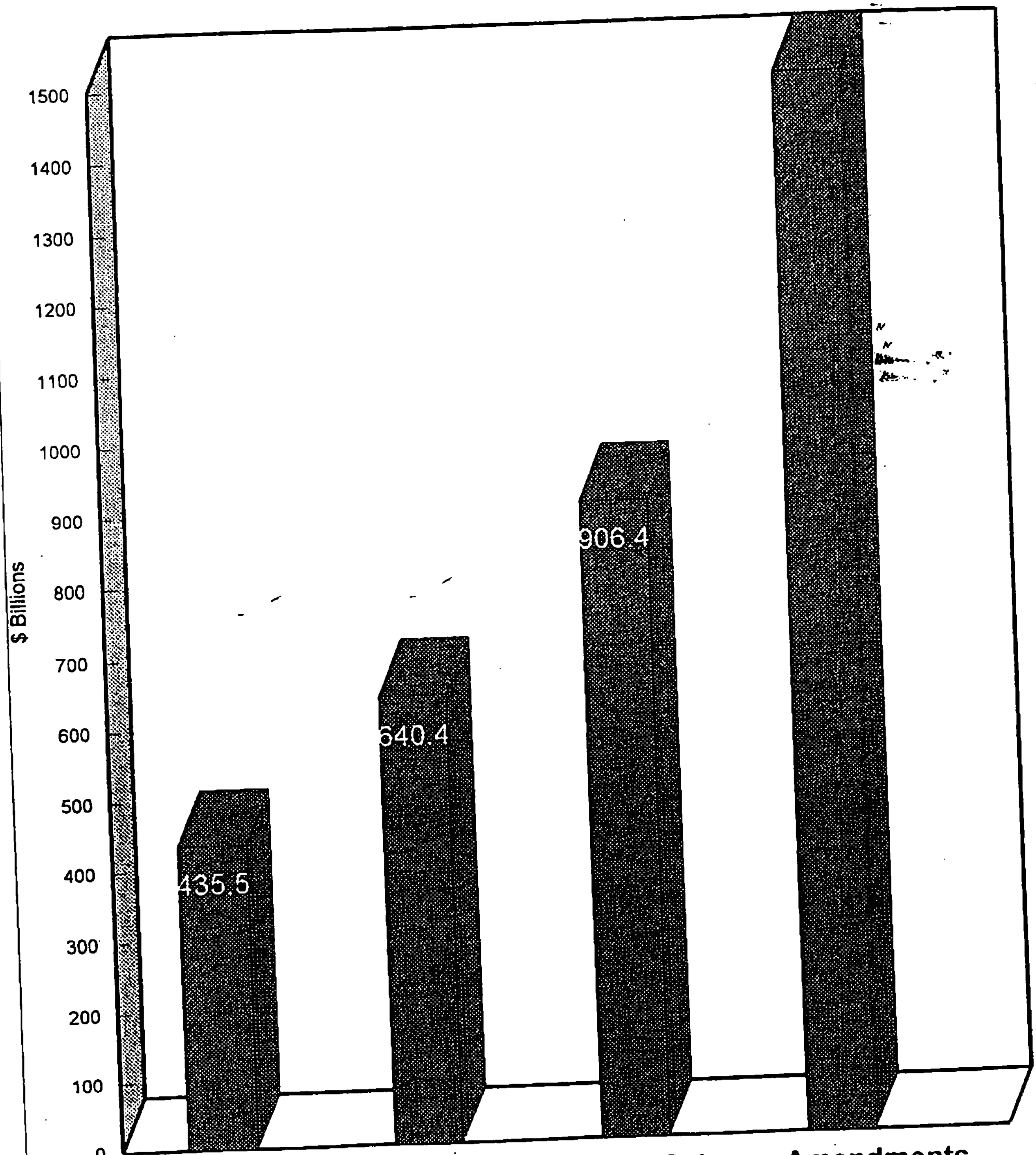


Chart 3

BASE PAYMENTS + LOOK-BACK + JUDGMENTS ($ billions)

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
	June 20 Agreement				Manager's Amendment				With Floor Amendments				Hatch Feinstein			
Year	Base Payment	Look-Back	Additional Tort Payments	Total	Base Payment	Look-Back (Tax Adjusted)	Additional Tort Payments	Total	Base Payment	Look-Back (Tax Adjusted)	Additional Tort Payments	Total	Base Payment	Look-Back (Tax Adjusted)	Additional Tort Payments	Total
1998	10.0			10.0	10.0			10.0	10.0		27.0	37.0	10		1.1	11.1
1999	8.5		1.0	9.5	14.4		8.0	22.4	14.4		27.0	41.4	9.7925		1.1	10.9
2000	9.5		1.0	10.5	15.4		8.0	23.4	15.4		27.0	42.4	12.9925		1.1	14.1
2001	11.5		1.0	12.5	17.7	3.6	8.0	29.3	17.7	8.6	27.0	53.3	16.0925		1.1	17.2
2002	14.0		1.0	15.0	21.4	3.6	8.0	33.0	21.4	8.6	27.0	57.0	14.4925		1.1	15.6
2003	15.0	2.0	1.0	18.0	23.6	5.9	8.0	37.5	23.6	10.4	27.0	61.0	15.4925	5.5	1.1	22.1
2004	15.0	2.0	1.0	18.0	23.6	5.9	8.0	37.5	23.6	10.4	27.0	61.0	16.5	5.5	1.1	23.1
2005	15.0	2.0	1.0	18.0	23.6	5.9	8.0	37.5	23.6	10.4	27.0	61.0	16.5	5.5	1.1	23.1
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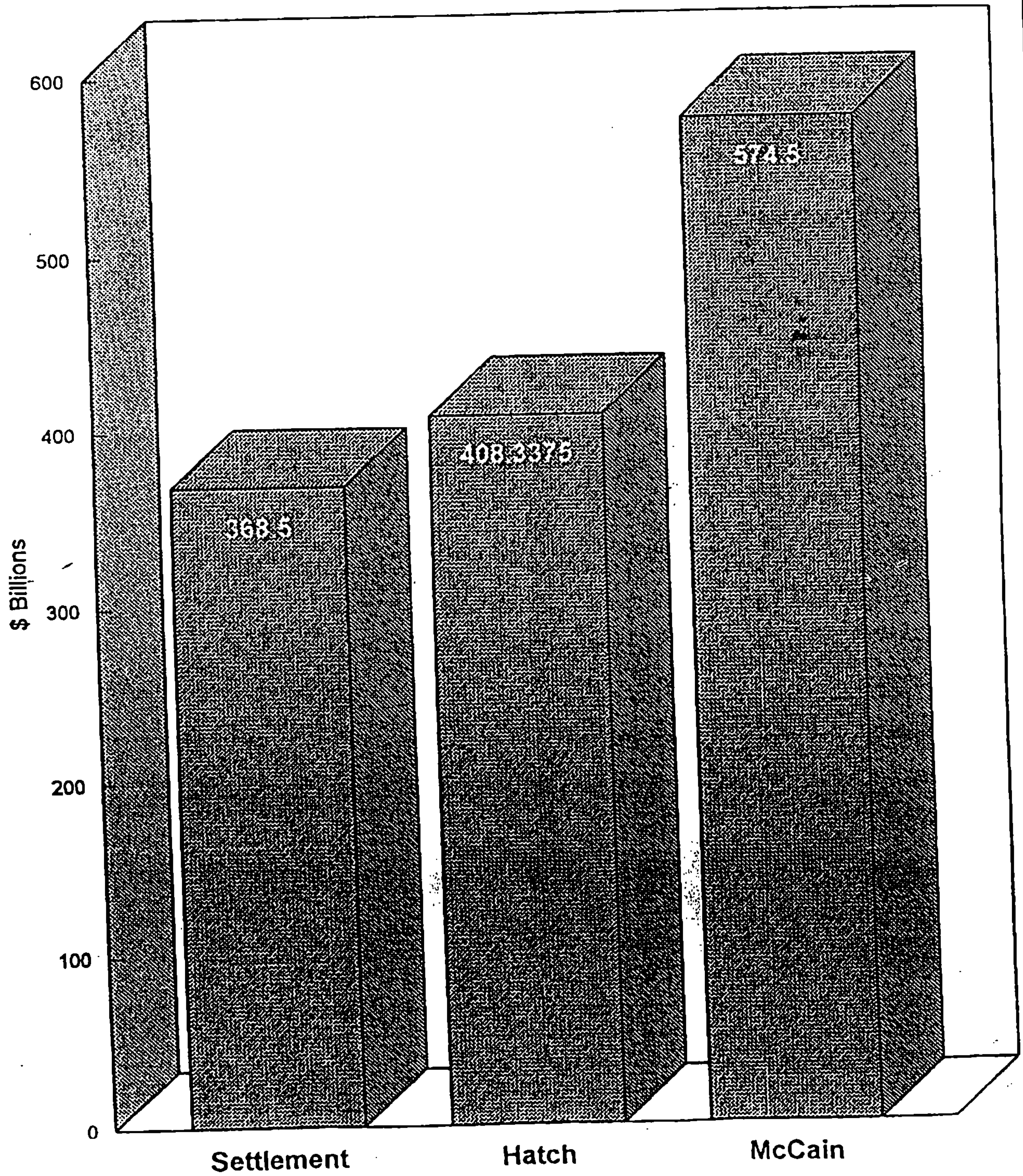


Floor Amendments do not change Industry base payments
Chart 1

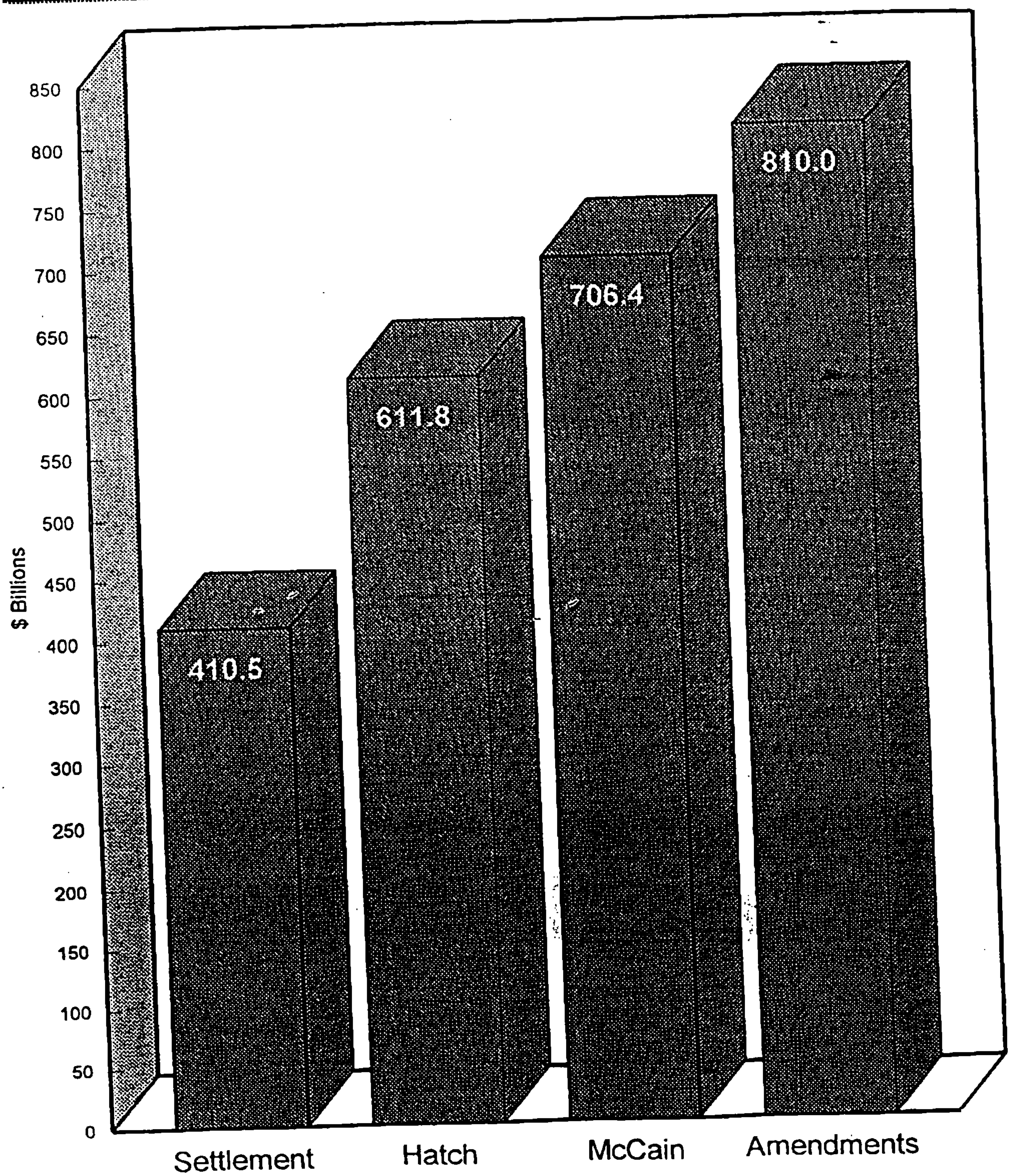
INDUSTRY BASE PAYMENTS ($ billions)

A	B	C	D
Year	Settlement	McCain	Hatch
1998	10	10	10
1999	8.5	14.4	9.7925
2000	9.5	15.4	12.9925
2001	11.5	17.7	16.0925
2002	14	21.4	14.4925
2003	15	23.6	15.4925
2004	15	23.6	16.5
2005	15	23.6	16.5
2006	15	23.6	16.5
2007	15	23.6	16.5
2008	15	23.6	16.5
2009	15	23.6	16.4575
2010	15	23.6	16.4575
2011	15	23.6	16.4575
2012	15	23.6	16.4575
2013	15	23.6	16.4575
2014	15	23.6	16.465
2015	15	23.6	16.465
2016	15	23.6	16.465
2017	15	23.6	16.465
2018	15	23.6	16.465
2019	15	23.6	16.4725
2020	15	23.6	16.4725
2021	15	23.6	16.4725
2022	15	23.6	16.4725
2023	15	23.6	16.4725
	368.5	574.5	408.3375

Spreadsheet 1

BASE PAYMENTS + LOOK-BACK PENALTIES

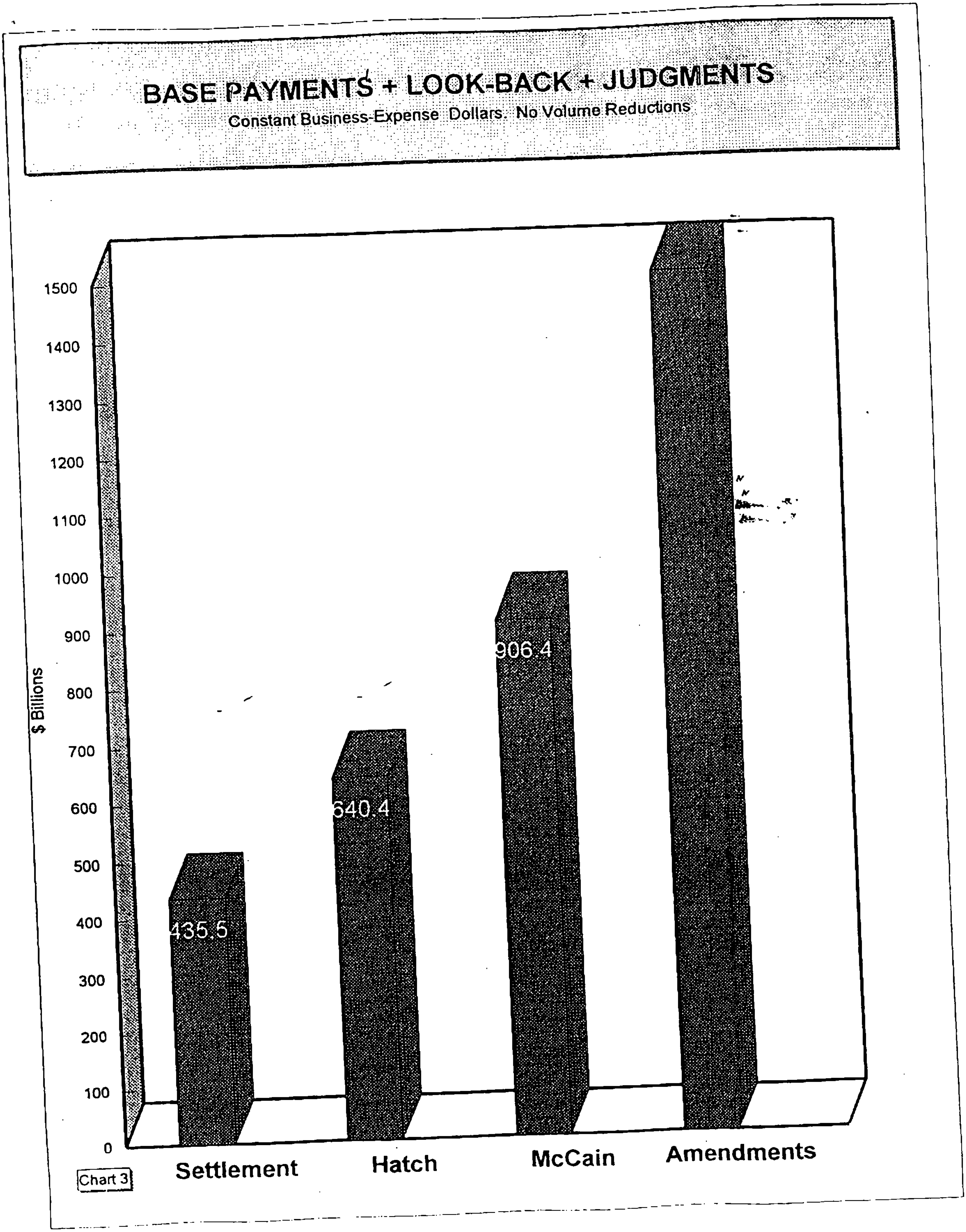
Constant Business-Expense Dollars. No Volume Reductions



S1415 Look-Back Penalties are Not Tax Deductible
Chart 2

BASE PAYMENTS + LOOK-BACK PENALTIES ($ billions)

	A	B	C	D	E	F	G	H	I	J	K	L
	June 20 Agreement			McCain			With Floor Amendments			Hatch Feinstein		
Year	Base Payment	Look-Back	Total	Base Payment	Look-Back (Tax Adjusted)	Total	Base Payment	Look-Back (Tax Adjusted)	Total	Base Payment	Look-Back (Tax Adjusted)	Total
1998	10.0		10.0	10.0		10.0	10.0		10.0	10		10.0
1999	8.5		8.5	14.4		14.4	14.4		14.4	9.7925		9.8
2000	9.5		9.5	15.4		15.4	15.4		15.4	12.9925		13.0
2001	11.5		11.5	17.7	3.6	21.3	17.7	8.6	26.3	16.0925		16.1
2002	14.0		14.0	21.4	3.6	25.0	21.4	8.6	30.0	14.4925		14.5
2003	15.0	2.0	17.0	23.6	5.9	29.5	23.6	10.4	34.0	15.4925	5.5	21.0
2004	15.0	2.0	17.0	23.6	5.9	29.5	23.6	10.4	34.0	16.5	5.5	22.0
2005	15.0	2.0	17.0	23.6	5.9	29.5	23.6	10.4	34.0	16.5	5.5	22.0
2006	15.0	2.0	17.0	23.6	5.9	29.5	23.6	10.4	34.0	16.5	5.5	22.0
2007	15.0	2.0	17.0	23.6	5.9	29.5	23.6	10.4	34.0	16.5	5.5	22.0
2008	15.0	2.0	17.0	23.6	5.9	29.5	23.6	10.4	34.0	16.5	11.0	27.5
2009	15.0	2.0	17.0	23.6	5.9	29.5	23.6	10.4	34.0	16.4575	11.0	27.5
2010	15.0	2.0	17.0	23.6	5.9	29.5	23.6	10.4	34.0	16.4575	11.0	27.5
2011	15.0	2.0	17.0	23.6	5.9	29.5	23.6	10.4	34.0	16.4575	11.0	27.5
2012	15.0	2.0	17.0	23.6	5.9	29.5	23.6	10.4	34.0	16.4575	11.0	27.5
2013	15.0	2.0	17.0	23.6	5.9	29.5	23.6	10.4	34.0	16.4575	11.0	27.5
2014	15.0	2.0	17.0	23.6	5.9	29.5	23.6	10.4	34.0	16.465	11.0	27.5
2015	15.0	2.0	17.0	23.6	5.9	29.5	23.6	10.4	34.0	16.465	11.0	27.5
2016	15.0	2.0	17.0	23.6	5.9	29.5	23.6	10.4	34.0	16.465	11.0	27.5
2017	15.0	2.0	17.0	23.6	5.9	29.5	23.6	10.4	34.0	16.465	11.0	27.5
2018	15.0	2.0	17.0	23.6	5.9	29.5	23.6	10.4	34.0	16.465	11.0	27.5
2019	15.0	2.0	17.0	23.6	5.9	29.5	23.6	10.4	34.0	16.4725	11.0	27.5
2020	15.0	2.0	17.0	23.6	5.9	29.5	23.6	10.4	34.0	16.4725	11.0	27.5
2021	15.0	2.0	17.0	23.6	5.9	29.5	23.6	10.4	34.0	16.4725	11.0	27.5
2022	15.0	2.0	17.0	23.6	5.9	29.5	23.6	10.4	34.0	16.4725	11.0	27.5
2023	15.0	2.0	17.0	23.6	5.9	29.5	23.6	10.4	34.0	16.4725	11.0	27.5
	368.5	42.0	410.5	574.5	131.9	706.4	574.5	235.5	810.0	408.3	203.5	611.8


BASE PAYMENTS + LOOK-BACK + JUDGMENTS
Constant Business-Expense Dollars, No Volume Reductions
$ Billions
0
100
200
300
400
500
600
700
800
900
1000
1100
1200
1300
1400
1500
435.5
640.4
906.4
Settlement
Hatch
McCain
Amendments
Chart 3

BASE PAYMENTS + LOOK-BACK + JUDGMENTS ($ billions)

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
	June 20 Agreement				Manager's Amendment				With Floor Amendments				Hatch Feinstein			
Year	Base Payment	Look-Back	Additional Tort Payments	Total	Base Payment	Look-Back (Tax Adjusted)	Additional Tort Payments	Total	Base Payment	Look-Back (Tax Adjusted)	Additional Tort Payments	Total	Base Payment	Look-Back (Tax Adjusted)	Additional Tort Payments	Total
1998	10.0			10.0	10.0			10.0	10.0		27.0	37.0	10		1.1	11.1
1999	8.5		1.0	9.5	14.4		8.0	22.4	14.4		27.0	41.4	9.7925		1.1	10.9
2000	9.5		1.0	10.5	15.4		8.0	23.4	15.4		27.0	42.4	12.9925		1.1	14.1
2001	11.5		1.0	12.5	17.7	3.6	8.0	29.3	17.7	8.6	27.0	53.3	16.0925		1.1	17.2
2002	14.0		1.0	15.0	21.4	3.6	8.0	33.0	21.4	8.6	27.0	57.0	14.4925		1.1	15.6
2003	15.0	2.0	1.0	18.0	23.6	5.9	8.0	37.5	23.6	10.4	27.0	61.0	15.4925	5.5	1.1	22.1
2004	15.0	2.0	1.0	18.0	23.6	5.9	8.0	37.5	23.6	10.4	27.0	61.0	16.5	5.5	1.1	23.1
2005	15.0	2.0	1.0	18.0	23.6	5.9	8.0	37.5	23.6	10.4	27.0	61.0	16.5	5.5	1.1	23.1
2006	15.0	2.0	1.0	18.0	23.6	5.9	8.0	37.5	23.6	10.4	27.0	61.0	16.5	5.5	1.1	23.1
2007	15.0	2.0	1.0	18.0	23.6	5.9	8.0	37.5	23.6	10.4	27.0	61.0	16.5	5.5	1.1	23.1
2008	15.0	2.0	1.0	18.0	23.6	5.9	8.0	37.5	23.6	10.4	27.0	61.0	16.5	11.0	1.1	28.6
2009	15.0	2.0	1.0	18.0	23.6	5.9	8.0	37.5	23.6	10.4	27.0	61.0	16.4575	11.0	1.1	28.6
2010	15.0	2.0	1.0	18.0	23.6	5.9	8.0	37.5	23.6	10.4	27.0	61.0	16.4575	11.0	1.1	28.6
2011	15.0	2.0	1.0	18.0	23.6	5.9	8.0	37.5	23.6	10.4	27.0	61.0	16.4575	11.0	1.1	28.6
2012	15.0	2.0	1.0	18.0	23.6	5.9	8.0	37.5	23.6	10.4	27.0	61.0	16.4575	11.0	1.1	28.6
2013	15.0	2.0	1.0	18.0	23.6	5.9	8.0	37.5	23.6	10.4	27.0	61.0	16.4575	11.0	1.1	28.6
2014	15.0	2.0	1.0	18.0	23.6	5.9	8.0	37.5	23.6	10.4	27.0	61.0	16.465	11.0	1.1	28.6
2015	15.0	2.0	1.0	18.0	23.6	5.9	8.0	37.5	23.6	10.4	27.0	61.0	16.465	11.0	1.1	28.6
2016	15.0	2.0	1.0	18.0	23.6	5.9	8.0	37.5	23.6	10.4	27.0	61.0	16.465	11.0	1.1	28.6
2017	15.0	2.0	1.0	18.0	23.6	5.9	8.0	37.5	23.6	10.4	27.0	61.0	16.465	11.0	1.1	28.6
2018	15.0	2.0	1.0	18.0	23.6	5.9	8.0	37.5	23.6	10.4	27.0	61.0	16.465	11.0	1.1	28.6
2019	15.0	2.0	1.0	18.0	23.6	5.9	8.0	37.5	23.6	10.4	27.0	61.0	16.4725	11.0	1.1	28.6
2020	15.0	2.0	1.0	18.0	23.6	5.9	8.0	37.5	23.6	10.4	27.0	61.0	16.4725	11.0	1.1	28.6
2021	15.0	2.0	1.0	18.0	23.6	5.9	8.0	37.5	23.6	10.4	27.0	61.0	16.4725	11.0	1.1	28.6
2022	15.0	2.0	1.0	18.0	23.6	5.9	8.0	37.5	23.6	10.4	27.0	61.0	16.4725	11.0	1.1	28.6
2023	15.0	2.0	1.0	18.0	23.6	5.9	8.0	37.5	23.6	10.4	27.0	61.0	16.4725	11.0	1.1	28.6
	368.5	42.0	25.0	435.5	574.5	131.9	200.0	906.4	574.5	235.5	702.0	1512.0	408.3	203.5	28.6	640.4