THE WHITE HOUSE

WASHINGTON

BRUCE/ELENA/CYNTHIA:

ATTACHED PLEASE FIND A SUMMARY OF MY SUGGESTED CHANGES TO COVERDELL, WITH PROPOSED AMENDMENTS AND OTHER LANGUAGE ATTACHED. IT MAY SERVE AS NO MORE THAN A TEMPORARY "CHEAT-SHEET," BUT I HOPE IT HELPS UNTIL WE HAVE A BETTER SENSE OF HOW THINGS WILL SHAKE OUT.

Joel

SUGGESTED CHANGES TO COVERDELL AMENDMENT

DROP/AMEND "POISON PILLS"

The Coverdell amendment includes three major "poison pills" that need to be dropped or substantially amended. These include:

(1) Customs anti-labor provisions that undermine collective bargaining (page 13, line 21 through page 17, line 10). The FOP, NTEU and FLEOA strongly oppose these provisions, and the Administration opposed them in the House version of the Drug-Free Borders Act. We should continue to push to have them dropped.

(2) Public and private school vouchers for students who are victims of violent and drug-related crimes (page 21, line 3 through page 26, line 8). The Administration has threatened to veto similar language in the past, and this provision is unacceptable to most Democrats and key moderate Republicans. Two alternatives to consider here for a substitute amendment include a $50 million authorization for the Administration's Drug and Violence Prevention Coordinators program (see attached) -- or language to make drug and violence prevention programs eligible for the education portion of Tobacco Fund (see attached). Education has already shared the Coordinators language with Kennedy. Biden is unsure if the moderate R's will actually want to open the Tobacco Trust fund to drug education and prevention.

(3) Needles ban-plus (page 42, line 8 through 16). This language should either be deleted or amended to to apply only to the next fiscal year. Another option, which I understand Biden is contemplating, is to authorize another study.

CONSIDER PROPOSING FUNDS FOR COMBINED DRUG/TOBACCO ENFORCEMENT

As you know, the Coverdell amendment proposes increasing drug interdiction and enforcement funds for Customs, DOD, Coast Guard, Border Patrol, FBI, and DEA by about $2 billion per year. No funds are included for state and local law enforcement. An alternative to Coverdell's approach could be to guarantee funds to the key federal law enforcement agencies that are charged with both tobacco and drug enforcement -- as well as to their counterparts in state and local law enforcement. Attached is an amendment that would authorize: (1) $200 million per year for state and local law enforcement to increase their drug and tobacco enforcement efforts; and (2) $100 million per year for ATF and Customs to crack down on tobacco smuggling and drug trafficking. The state and local funds would come off the top of the Tobacco Trust Fund, as with Veterans' program, and the ATF/Customs funds would be guaranteed from the enforcement portion of the public health fund.

Ultimately, this may not work: Biden wants to dedicate 25% of Coverdell's federal drug enforcement funds to state and local law enforcement; Leahy prefers his own amendment for anti-smuggling grants to state and local law enforcement; and the moderate R's may not want to spend real money on drug enforcement, period. But if we need an to have a law enforcement alternative in the mix -- one that addresses all of our issues -- I believe the attached alternative works.

DROP ALL REFERENCES IN COVERDELL TO THE TOBACCO TRUST FUND.

For the most part, the anti-drug initiatives in Coverdell are funded from the public health account of the Tobacco Trust Fund. These references need to be dropped or changed to authorizations "from general revenues." As I mentioned, I understand that Biden and Daschle are both working from this premise. References to the fund, which are not otherwise proposed to be deleted, are found on:

- Page 2, lines 8-9, 15-16, and 23;
- Page 19, lines 22-24;
- Page 27, line 2;
- Page 28, line 22-23;
- Page 35, line 8-9;
- Page 40, lines 22-24;
- Page 43, lines 1-2 and 8-9;
- Pages 67, lines 13-14; and
- Page 79, lines 7-26; and
- Page 80, lines 1-15.

AMEND SECTION ON NATIONAL DRUG CONTROL STRATEGY

Although Coverdell's language here is not too offensive, an alternative amendment should include a clean reauhorization of ONDCP that extends the current statute past the year 2000. ONDCP will probably want to push for the Administration's reauthorization proposal to be included here (see attached), or at least for the current Biden-Hatch compromise (see attached side-by-side analysis). Biden's folks think that both of these, however, may be too controversial and prefer a simple extension.

MISCELLANEOUS OTHER ISSUES

After informally checking with the agencies, there are a series of other issues that are worth mentioning in brief. Section by section, they are:

(1) Drug Free-Borders. The Administration generally supports the portrunning (Page 3, line 7 through Page 5, line 10) and "failure to heave to" (page 5 line 15 through page 11,

line 10) provisions, but prefers the language included in sec 2101 of our recently proposed International Crime Bill (see attached).

(2) Border Patrol. The Administration opposes the provisions requiring the Border Patrol to pursue certain suspects and making drug interdiction one of the Border Patrol's primary missions (page 13, lines 1-20). These should be struck if possible.

(3) Victims and Witness Assistance for Teachers/Students. This provision allows victimized teachers and students, who are already eligible for assistance under the Victims' Fund, to be eligible for the same assistance under the Tobacco Trust Fund. If we are planning to drop the Tobacco Trust Fund reference here, however, this provision becomes meaningless and should be dropped in a substitute.

(4) Money Laundering. Although Coverdell dropped this language before introduction, the Administration supports it. It is essentially identical to the money laundering provisions in our proposed International Crime Bill.

ATTACHMENTS:

- Draft tobacco/drug enforcement amendment
- Draft amendment on drug/violence coordinators
- Draft amendment on opening up tobacco/education funds to drug prevention
- Administration proposal to reauthorize ONDCP
- Side-by-side of ONDCP reauthorization proposals
- Section 2101 of International Crime Control Act

SUBTITLE I -- DISRUPTING THE FLOW OF ILLEGAL DRUGS AND TOBACCO

CHAPTER I -- INCREASED RESOURCES FOR STATE AND LOCAL LAW ENFORCEMENT

SEC. _____ In General. -- Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 USC 371 et seq.) is amended --

(1) by inserting after Part Z the following new part AA:

"PART AA DRUG AND TOBACCO ENFORCEMENT

"SEC. ____ Authority to Make Drug Enforcement and Tobacco Anti-Smuggling Grants.

(a) Grant Authorization. -- The Attorney General after consultation with the Secretary of the Treasury, may make grants to units of state and local government, law enforcement agencies, Indian tribal governments, and multi-jurisdictional or regional consortia thereof to assist law enforcement and establish cooperative efforts to implement the drug and tobacco enforcement provisions of this Act and related provisions of federal, state and local law.

(b) IN GENERAL. -- Grants under subsection (a) may be used to support projects, programs, and activities to --

(A) hire additional personnel and pay overtime costs;

(B) procure equipment, training, technical assistance or information systems; or

(C) fund operations and initiatives including but not limited to --

(1) multi jurisdictional task forces and strike teams that integrate Federal, State, and local law enforcement agencies and prosecutors for the purposes of combating illegal trafficking in drugs and tobacco products;

(2) utilize additional state and local law enforcement officers to disrupt illicit commerce in black market tobacco products and illegal drugs;

(3) target the domestic sources of controlled and illegal substances, such as precursor chemicals, diverted pharmaceuticals, clandestine laboratories, and cannabis cultivations;

(4) conduct financial investigative programs that target the identification of money laundering operations and the seizure of assets obtained through illegal drug trafficking and tobacco smuggling;

(5) strengthen enforcement and prosecution efforts targeted at criminal gangs engaged in drug trafficking and tobacco smuggling;

(6) demonstrate innovative approaches to enforcement, prosecution, and adjudication of drug offenses and other serious crimes;

(7) provide enhanced state and local law enforcement training related federal efforts to combat illegal tobacco products.

(c) Funding. -- There is authorized to be appropriated under the Trust Fund established under section 401(b) not less than $200,000,000 for each of the fiscal years 1999 through 2003 for the purposes of subsection (b) to the extent and only in the amounts provided in advance in appropriations Acts, to remain available until expended.

CHAPTER 2 -- INCREASED RESOURCES FOR FEDERAL LAW ENFORCEMENT

SEC. _____. INCREASED RESOURCES FOR FEDERAL LAW ENFORCEMENT

(a) BUREAU OF ALCOHOL, TOBACCO AND FIREARMS -- In addition to other amounts appropriated for the Bureau of Alcohol, Tobacco and Firearms for a fiscal year, there is authorized to be appropriated from the Trust Fund under section 451(b)(2)(D) $75,000,000 for each of fiscal years 1999 through 2003 for anti-smuggling and drug enforcement activities.

(b) CUSTOMS -- In addition to other amounts appropriated for United States Customs Service for a fiscal year, there is authorized to be appropriated from section 451(b)(2)(D) $25,000,000 for each of fiscal years 1999 through 2003 for anti-smuggling and drug enforcement activities.

(c) MINIMUM FUNDING -- In section 451 (b)(2)(D) --

(1) strike clause (iii) and insert the following:

"(iii) Anti-smuggling and Drug Enforcement activities under Title 11, Subtitle D, in addition to any other amounts made available under section 1139, and under 21 U.S.C. 801 et seq., 21 U.S.C. 951 et seq. and 46 U.S.C. App. 1901 et seq..

"(I) The Bureau of Alcohol, Tobacco and Firearms shall receive not less than 10% of the funds provide in subparagraph (D) in each of fiscal years 1999 through 2003 for the costs incurred by the Bureau for drug and tobacco enforcement.

"(II) The United States Customs Service shall receive not less than 5% of the funds provided in subparagraph (D) in each of fiscal years 1999 through 2003 for the costs incurred by the Customs Service for drug and tobacco enforcement.

Sec.__. Section 4121 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7131) is amended by adding at the end thereof the following new subsection:

"(c) **Drug and Violence Prevention Program Coordinators**. (1) From funds made available to carry out this subpart under section 40004(2) for fiscal year 1999, the Secretary shall reserve an amount, not to exceed $50 million, to make grants in accordance with this section to fund drug and violence prevention program coordinators in those middle schools and secondary schools with the most severe drug and violence problems. Such coordinators shall be responsible for--

"(A) developing, conducting, and analyzing assessments for their schools' drug and violence problems;

"(B) identifying promising, research-based drug and violence prevention strategies and programs to address those problems;

"(C) assisting teachers, coaches, counselors, and other school officials in adopting and implementing those programs and strategies;

"(D) working with the community to ensure that the needs of students are linked with available community resources;

"(E) assisting in the development and implementation of evaluation strategies;

"(F) identifying alternative funding sources for drug and violence prevention initiatives; and

"(G) providing feedback to State educational agencies on programs and activities that have proven successful in reducing drug use and violent behavior among school-aged youth.

"(2) The Secretary may use funds reserved under this subsection to support intensive training and professional development activities for the coordinators and to evaluate grants made under this subsection."

SEC. _____. DRUG EDUCATION AND PREVENTION PROGRAMS

(a) In section 451 (b)(2)(C) --

(1) by striking at the end of clause (iii) “and”,

(2) by striking the period after clause (iv),

(3) by inserting a semi colon and “and” at the end of clause (iv), and

(4) by inserting the following:

“(v) drug prevention and education programs as authorized by the Safe and Drug-Free Schools Program under title IV, part A, subpart 2, of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6601 et seq.)

ADMINISTRATION BILL TO REAUTHORIZE ONDCP

~~**A BILL**~~

~~To reauthorize the Office of National Drug Control Policy, and for other purposes.~~

~~*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 "Office of National Drug Control Policy Reauthorization Act of 1997".~~

SEC. 2. REAUTHORIZATION OF OFFICE OF NATIONAL DRUG CONTROL POLICY.

(a) DEFINITIONS- -Section 1010 of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1507) is amended by redesignation as Section 1001a (21 USC 1500):

(1) by adding the section designation and the section

heading and inserting the following Section 1001(a):

"SEC. 1001a. DEFINITIONS";

(1) by redesignating paragraphs (5) through (8) as paragraphs (7) through (10), respectively;

(2) by redesignating paragraphs (2) through (4) as paragraphs (3) through (5), respectively;

(3) by striking paragraph (1) and inserting the following:

"(1) the term 'Office' means the Office of National Drug Control Policy;"

"(2) the term 'drug' has the same meaning as the term "controlled substance" has in section 102(6) of the Controlled Substances Act (21 USC 802(6));

(4) in paragraph (3), as redesignated, by inserting "including activities to reduce the underage use of tobacco or alcoholic beverages;" after "demand reduction,";

(5) in paragraph (4), as redesignated

(A) by striking "enforcement" after "any";

(B) by striking "supply" and inserting "availability" after "reduce the";

(C) in subparagraph (B) striking "enforcement" after "drug";

(6) in paragraph (5), as redesignated

(A) by striking "demand for" and inserting "use of" before "drugs";

(B) by inserting "drug abuse" after "including";

(C) in subparagraph (A), by striking "drug abuse";

(D) in subparagraph (D), by striking "and" at the end;

(E) by adding at the end the following;

"(F) drug-free workplace programs; and"

(F) by adding at the end the following:

"(G) drug testing;";

(7) by inserting after paragraph (5), as redesignated, the following:

"(6) the term 'intergovernmental relations' means domestic activities conducted by a National Drug Control Program agency that are intended to reduce the availability and use of drugs, including –

"(A) coordination and facilitation of Federal, state, and local law enforcement drug control efforts;

"(B) promotion of coordination and cooperation among the drug supply reduction and demand reduction agencies of the various states, territories, and units of local government; and

"(C) such other cooperative governmental activities which promote a comprehensive approach to drug control at the national, state, territory, and local levels.

(8) in paragraph (10), as redesignated, by

(i) inserting "and 'Strategy'" after "National Drug Control Strategy";

(ii) striking "a" and inserting "the" after "means";

(b) ESTABLISHMENT OF OFFICE OF NATIONAL DRUG CONTROL POLICY.– Section 1002 of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1501) is amended –

(1) by striking subsection (a) and inserting the following:

"(a) Establishment of Office. There is established in the Executive Office of the President the "Office of National Drug Control Policy" that –

"(1) develops national drug control policy;

"(2) coordinates and oversees its implementation;

"(3) assesses and certifies the adequacy of national drug control programs and budgets; and

"(4) evaluates their effectiveness.

(2) by striking subsection (b) and inserting the following:

"(b) Director and Deputy Directors.–

"(1) There shall be at the head of the Office of National Drug Control Policy a Director of National Drug Control Policy.";

"(2) There shall be in the Office of National Drug Control Policy a Deputy Director of National Drug Control Policy, who shall assist the Director in carrying out the responsibilities of the Director under this Act.";

"(3) There shall be in the Office of National Drug Control Policy a –

(A) Deputy Director for International Drug Policy, who shall be responsible for the activities described in Section 1001a(4)(A-C);

(B) Deputy Director for Demand Reduction Policy, who shall be responsible for the activities described in Section 1001a(5); and

(C) Deputy Director for Intergovernmental Relations, who shall be responsible for the activities described in Section 1001a(4)(D) and (6).";

(3) by striking subsection (c) and redesignating subsection (d) as subsection (c);

(4) by adding at the end the following:

"(d) OFFICE OF NATIONAL DRUG CONTROL POLICY GIFT FUND. There is established in the Treasury a fund for the receipt of gifts, both real and personal, for the purpose of aiding or facilitating the work of the Office under Section 1003(c). The Office is authorized to accept, hold, administer, and, solely to encourage funding for conferences, solicit contributions to the fund. Amounts deposited in the fund are authorized to be appropriated, to remain available until expended for authorized purposes at the discretion of the Director. The Director is required to establish written rules setting forth the criteria to be used in determining whether the solicitation and acceptance of real and personal gifts (pursuant to Section 1002(d) of the National Narcotics Leadership Act of 1988 (21 USC 1501(d)) would reflect unfavorably upon the ability of the Office of National Drug Control Policy or any employee to carry out its responsibilities or official duties in a fair and objective manner, or would compromise the integrity, or the appearance of the integrity, of its programs or of any official involved in those programs.

(c) APPOINTMENT AND DUTIES OF DIRECTOR AND DEPUTY DIRECTORS.–Section 1003 of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1502) is amended–

(1) by striking the section designation and the section heading and inserting the following:

"SEC. 1003. APPOINTMENT AND DUTIES OF DIRECTOR AND DEPUTY DIRECTORS.";

(2) in subsection (a)–

(A) in paragraph (1)–

(i) by inserting "the Deputy Director," after "The Director"; and

(ii) by inserting "Policy" after "Demand Reduction";

(iii) by striking "Deputy Director for Supply Reduction" and inserting "Deputy Director for International Drug Policy";

(iv) by striking "Associate Deputy Director for National Drug Control Policy" and inserting "Deputy Director for Intergovernmental Relations";

(B) by redesignating paragraphs (3) and (4) as paragraphs (5) and (6) and redesignating paragraph (2) as paragraph (4);

(C) by inserting after paragraph (1) the following:

"(2) The Deputy Director shall--

"(A) carry out the duties and powers prescribed by the Director; and

"(B) serve as the Director in the absence of the Director or during any period in which the office of the Director is vacant."

"(3) In the absence of the Deputy Director, or if the office of the Deputy Director is vacant, the Director shall designate such other officer of the Office to serve as the Director if the Director is absent or unable to serve.";

(D) in paragraph (4), as redesignated--

(i) by inserting "the Deputy Director," after "The Director";

(ii) by inserting "Policy" after "Demand Reduction";

(iii) by striking "Deputy Director for Supply Reduction" and inserting "Deputy Director for International Drug Policy";

(iv) by striking "Associate Deputy Director for National Drug Control Policy" and inserting "Deputy Director for Intergovernmental Relations";

(iii) by striking "Director, a Deputy"

and inserting “Director or a Deputy Director”; and

(iv) by striking “, or Associate Director”; and

(E) in paragraph (6) as redesignated:

(i) section 5313 of title 5, United States Code, is amended by adding at the end “Deputy Director of National Drug Control Policy”;

(ii) section 5314 of title 5, United States Code, is amended --

(a) by adding “Policy” after “Deputy Director for Demand Reduction”;

(b) by striking “Supply Reduction” and inserting “International Drug Policy” after “Deputy Director for”; and

(c) by adding “Deputy Director for Intergovernmental Relations, Office of National Drug Control Policy”, after Administrator, Office of Information and Regulatory Affairs”;

(iii) section 5315 of title 5, United States Code, is amended by deleting the following: “Associate Director for National Drug Control Policy”; and

(F) by adding at the end the following:

“(7) PROHIBITION ON POLITICAL CAMPAIGNING.–

“A Federal officer in the Office of National Drug Control

Policy who is appointed by the President, by and with the advice and consent of the Senate, may not participate in Federal election campaign activities, except that such official is not prohibited by this subsection from making contributions to individual candidates."

(3) in subsection (b)--

(A) in paragraph (1), by inserting "goals" in front of objectives";

(B) by striking paragraph (2) and inserting the following: "(2) promulgate the National Drug Control Strategy and annual Strategy Report in accordance with Section 1005;"

(C) in paragraph (3) by adding "goals," after "policies,";

(D) in paragraph (4)(B) by inserting "goals" after "the policies";

(E) in paragraph (5), by inserting "the formulation and implementation of National Drug Control Policy and"; after "respect to"; and

(F) in paragraph (8)--

(i) by striking "second following fiscal year" and inserting "next budget year scheduled for formulation under the Budget and Accounting Act of 1921, as amended, and each of the 4 subsequent fiscal years,"; and

(ii) by striking "annual"; and

(4) in subsection (c)--

(A) in paragraph (1) --

(i) by striking "transmit" and inserting "submit" after "shall";

(ii) by striking "and" and inserting "prior to submission" after "President";

(B) by striking paragraph (2) and inserting the following:

"(2) RESPONSIBILITIES OF NATIONAL DRUG CONTROL PROGRAM AGENCIES.--

"(A) Each Federal Government program manager, agency head, and department head with responsibilities under the National Drug Control Strategy shall transmit the drug control budget request of the agency or department to the Director at the same time as such request is submitted to their superiors (and before submission to the Office of Management and Budget) in the preparation of the budget of the President submitted to Congress under section 1105(a) of title 31, United States Code."; and

(C) by adding at the end the following:

"(B) The Director shall request the head of a department or agency to include in the department's or agency's budget submission to the Office of Management and Budget funding requests for specific initiatives that are consistent with the President's priorities for the National

Drug Control Strategy and certifications made pursuant to paragraph (3), and the head of the department or agency shall comply with such a request."; and

(D) by adding at the end the following:

"(C) The head of each National Drug Control Program agency shall ensure timely development and submission to the Director of drug control budget requests transmitted pursuant to subsection (c)(2), in such format as may be designated by the Director with the concurrence of the Director of the Office of Management and Budget."

(E) in paragraph (3)–

(i) by striking "(3) The Director" and inserting the following:

"(3) CERTIFICATION.–The Director shall–";

(ii) in subparagraph (B), by striking "and" after "adequate";

(iii) in subparagraph (C), by inserting "; and" following "(B)";

(F) in paragraph (4), by striking "(4)" and redesignating it as "(D)" and striking "the Director shall";

(G) by striking paragraphs (5), (7), and (8), and redesignating paragraph (6) as paragraph (4); and

(H) in paragraph (4), as redesignated –

(i) by inserting "Reprogramming and Transfer"

Transfer Requests" after "(4)";

(ii) by adding at the end the following:

"(C) The Director shall annually submit to Congress a report describing the approval of any reprogramming or transfer of appropriated funds pursuant to this section.";

(5) in subsection (d)--

(A) in paragraph (1) --

(i) by striking "up to 75 and" after "of";

(ii) by striking "additional" after "such"; and

(B) in paragraph (5)--

(i) by striking "accept and use" and inserting "accept, use, and solicit";

(ii) by inserting " and gifts" after "property"; and

(iii) by inserting ", and the private sector, as authorized in section 1002(d)" before the semicolon;

(C) in paragraph (7)--

(i) in subparagraph (A), by striking "and" at the end; and

(ii) in subparagraph (B), by adding "and" at the end; and

(iii) by adding at the end the following:

"(C) commission special studies and reports by a

National Drug Control Program agency, with the concurrence of the head of the affected agency";

(D) by striking paragraph (8) and replacing it with:

"(8) except to the extent that the Director's authority under this paragraph is limited in an annual appropriations Act, and with the concurrence of the head of the affected agency and upon advance notice to the Committees of Appropriations of each House of Congress, transfer funds appropriated to a National Drug Control Program agency program, activity, or function designated by the Director pursuant to subsection (c) to a different National Drug Control Program agency program, activity, or function designated by the Director pursuant to subsection (c) in an amount that does not exceed 2 percent of the amount appropriated to either program, activity, or function;"

(E) by striking paragraph (9) and inserting the following:

"(9) issue to the head of a National Drug Control Program agency a funds control notice described in subsection (f) to ensure compliance with the National Drug Control Program; and"

"(10) participate in the drug certification process pursuant to section 490 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291j).";

(6) in subsection (e) -

(A) in paragraph (1) –

(i) by inserting "Evaluations" after "(1)";

(ii) by inserting "Compensation" after "(2)";

(iii) by indenting subparagraphs (A), (B), (C), and (D) below and to the right; and

(7) by striking the second subsection designated as subsection (f).

(d) COORDINATION WITH EXECUTIVE BRANCH DEPARTMENTS AND AGENCIES

–Section 1004 of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1503) is amended–

(1) by striking the section designation and the section heading and inserting the following:

"SEC. 1004 COORDINATION WITH EXECUTIVE BRANCH DEPARTMENTS AND AGENCIES IN SUPPLY REDUCTION, DEMAND REDUCTION, AND INTERGOVERNMENTAL RELATIONS";

(2) in subsection (a)(1) –

(A) by inserting "cooperate with and" before "provide" ; and

(B) by inserting "and the annual report to Congress." after "control.";

(e) DEVELOPMENT AND SUBMISSION OF NATIONAL DRUG CONTROL STRATEGY.–

Section 1005 of the National Narcotics Leadership Act of 1988

(21 U.S.C. 1504) is amended to read as follows:

"SEC. 1005. DEVELOPMENT, SUBMISSION, IMPLEMENTATION, AND ASSESSMENT OF NATIONAL DRUG CONTROL STRATEGY.

"(a) TIMING, CONTENT, AND PROCESS FOR DEVELOPMENT AND SUBMISSION OF THE NATIONAL DRUG CONTROL STRATEGY.–

"(1) Not later than February 1, 1997, the President shall submit to the Congress a National Drug Control Strategy, which shall set forth a comprehensive 10-year plan for reducing drug abuse and its consequences in the United States by limiting the availability of and reducing the demand for illegal drugs. Any part of such strategy that involves information properly classified under criteria established by an Executive order shall be presented to Congress separately from the rest of the strategy.";

"(2) The National Drug Control Strategy submitted under paragraph (1) shall include–

"(A) comprehensive, research-based, long-range goals for reducing drug abuse and the consequences of drug abuse in the United States;

"(B) measurable objectives to accomplish long-term goals;

"(C) 5-year projections for program and budget priorities; and

"(D) a review of State, local, and private sector drug control activities to ensure that the United States pursues well-coordinated and effective drug control at all levels of government.

"(3) CONSULTATIONS.--

"(A) In developing and effectively implementing the National Drug Control Strategy, the Director shall consult with--

"(i) the heads of the National Drug Control Program agencies;

"(ii) Congress;

"(iii) State and local officials;

"(iv) private citizens and organizations with experience and expertise in demand reduction; and

"(v) private citizens and organizations with experience and expertise in supply reduction;

"(B) The National Drug Control Strategy and each annual Strategy Report shall indicate the persons consulted under this paragraph.

"(b) ANNUAL STRATEGY REPORT.-- Not later than February 1, 1998, and on February 1 of each year thereafter, the President shall submit to Congress an annual report on the progress in implementing the Strategy under subsection (a), which shall include--

"(1) an assessment of the Federal effectiveness in achieving the Strategy goals and objectives using the performance measurement system described in subsection (c);

"(2) any modifications of the Strategy;

"(3) an assessment of how the budget proposal submitted under section 1003(c) (21 USC 1502 (c)) is intended to implement the strategy and whether the funding levels contained in such proposal are sufficient to implement such strategy;

"(4) an assessment of current drug use and availability, impact of drug use, and treatment availability. This assessment will include --

"(A) estimates of drug prevalence and frequency of use as measured by national, State, and local surveys of illicit drug use and by other special studies of--

"(i) casual and chronic drug use;

"(ii) high-risk populations, including school dropouts, the homeless and transient, arrestees, parolees, probationers, and juvenile delinquents; and

"(iii) drug use in the workplace and the productivity lost by such use;

"(B) an assessment of the reduction of drug availability against an ascertained baseline, as measured by--

"(i) the quantities of cocaine, heroin, marijuana, methamphetamine, and other drugs available for consumption in the United States;

"(ii) the amount of marijuana, cocaine, and heroin entering the United States;

"(iii) the number of hectares of marijuana, poppy, and coca cultivated and destroyed;

"(iv) the number of metric tons of marijuana, heroin, and cocaine seized;

"(v) the number of cocaine and methamphetamine processing laboratories destroyed;

"(vi) changes in the price and purity of heroin and cocaine;

"(vii) the amount and type of controlled substances diverted from legitimate retail and wholesale sources; and

"(viii) the effectiveness of Federal technology programs at improving drug detection capabilities in interdiction, and at United States ports of entry;

"(C) an assessment of the reduction of the consequences of drug use and availability, which shall include estimation of—

"(i) burdens drug users placed on hospital emergency departments in the United States, such as the quantity of drug-related services provided;

"(ii) the annual national health care costs of drug use, including costs associated with people becoming infected with the human immunodeficiency virus and other infectious diseases as a result of drug use;

"(iii) the extent of drug-related crime and criminal activity; and

"(iv) the contribution of drugs to the underground economy, as measured by the retail value of drugs sold in the United States;

"(D) a determination of the status of drug treatment in the United States, by assessing--

"(i) public and private treatment capacity within each State, including information on the treatment capacity available in relation to the capacity actually used;

"(ii) the extent, within each State, to which treatment is available;

"(iii) the number of drug users the Director estimates could benefit from treatment; and

"(iv) the specific factors that restrict the availability of treatment services to those seeking it and proposed administrative or legislative remedies to make treatment available to those individuals;

"(E) a review of the research agenda of the Counter-Drug Technology Assessment Center to reduce the availability and abuse of drugs;

"(5) an assessment of private sector initiatives and cooperative efforts between the Federal Government and State and local governments for drug control.

"(c) Performance Measurement System. The Director shall include with the annual Strategy Report a description of the national drug control performance measurement system, designed in consultation with affected National Drug Control Program agencies, that--

"(1) develops performance objectives, measures, and targets for each National Drug Control Strategy goal and objective;

"(2) revises performance objectives, targets, and measures to conform with National Drug Control Program Agency budgets;

"(3) identifies major programs and activities of the National Drug Control Program Agencies that support the goals and objectives of the National Drug Control Strategy;

"(4) evaluates implementation of major program activities supporting the National Drug Control Strategy developed under section 1005 (21 USC 1504(a));

"(5) monitors consistency between the drug-related goals and objectives of the National Drug Control Program agencies and ensures that drug control agency goals and budgets support and are fully consistent with the National Drug Control Strategy;

"(6) coordinates the development and implementation of national drug control data collection and reporting systems to support policy formulation and performance measurement, including--

"(A) an assessment of the quality of current drug use measurement instruments and techniques to measure supply reduction and demand reduction activities;

"(B) an assessment of the adequacy of the coverage of existing national drug use measurement instruments and techniques to measure the casual drug user population and groups that are at risk for drug use; and

"(C) an assessment of the actions the Director shall take to correct any deficiencies and limitations identified pursuant to subparagraphs (b)(4)(A) and (B);

(f) HIGH INTENSITY DRUG TRAFFICKING AREAS PROGRAM----The National Narcotics Leadership Act of 1988 is amended by inserting after section 1005 the following:

"SEC 1005A HIGH INTENSITY DRUG TRAFFICKING AREAS PROGRAM.

"(a) There is established in the Office a program to be known as the High Intensity Drug Trafficking Areas Program.

"(b) The Director, upon consultation with the Attorney General, the Secretary of the Treasury, the Secretary of Health and Human Services, heads of the National Drug Control Program agencies, and the Governors of each State, may designate any specified area of the United States as a high intensity drug trafficking area. After making such a designation and in order to provide Federal assistance to the area so designated, the Director may --

"(1) obligate such sums as appropriated for the High Intensity Drug Trafficking Area Program;

"(2) direct the temporary reassignment of Federal personnel to such area, subject to the approval of the Secretary of the department or head of the agency that employs such personnel;

"(3) take any other action authorized under section 1003 to provide increased Federal assistance to such areas;

"(4) coordinate actions under this paragraph with State and local officials; and

"(5) in consultation with affected National Drug Control Policy agencies, promulgate such regulations for the effective implementation of the High Intensity Drug Trafficking Areas Program.

"(c) When considering the designation of an area under this section as a high intensity drug trafficking area, the Director shall consider, in addition to such other criteria as the Director considers to be appropriate, the extent to which--

"(1) the area is a center of illegal drug production, manufacturing, importation, or distribution;

"(2) State and local law enforcement agencies have committed resources to respond to the drug trafficking problem in the area, thereby indicating a determination to respond aggressively to the problem;

"(3) State and local demand reduction agencies have committed resources to respond to drug abuse in the area, thereby indicating a determination to respond to the problem;

"(4) drug-related activities in the area are having a harmful impact in other areas of the country; and

"(5) a significant increase in allocation of Federal resources is necessary to respond adequately to drug-related activities in the area;"

(g) COUNTER-DRUG TECHNOLOGY ASSESSMENT CENTER—Section 1008 of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1505) is amended to read as follows:

"SEC. 1008 COUNTER-DRUG TECHNOLOGY ASSESSMENT CENTER.

"(a) ESTABLISHMENT. –There is established within the Office the Counter-Drug Technology Assessment Center (in this section referred to as the 'Center'). The Center shall operate under the authority of the Director of National Drug Control Policy and shall serve as the central counter-drug technology research and development organization of the United States Government.

"(b) DIRECTOR OF TECHNOLOGY.–There shall be at the head of the Center the Director of Technology, who shall be appointed by the Director of National Drug Control Policy from among individuals qualified and distinguished in the area of science, medicine, engineering, or technology.

"(c) ADDITIONAL RESPONSIBILITIES OF THE DIREC-

TOR OF NATIONAL DRUG CONTROL POLICY.–

"(1) The Director, acting through the Director of Technology shall–

"(A) identify and define the short-, medium-, and long-term scientific and technological needs of Federal, State, and local drug supply reduction agencies, including-

"(i) advanced surveillance, tracking, and radar imaging;

"(ii) electronic support measures;

"(iii) communications;

"(iv) data fusion, advanced computer systems, and artificial intelligence; and

"(v) chemical, biological, radiological (including neutron, electron, and graviton), and other means of detection;

"(B) identify demand reduction basic and applied research needs and initiatives, in consultation with affected National Drug Control Program agencies, including–

"(i) improving treatment through neuroscientific advances;

"(ii) improving the transfer of biomedical research to the clinical setting, and

"(iii) developing new advances in drug

abuse prevention programming;

"(iv) in consultation with the National Institute on Drug Abuse, and through interagency agreements or grants, examine addiction and rehabilitation research and the application of technology to expanding the effectiveness or availability of drug treatment;

"(C) make a priority ranking of such needs identified in subparagraphs (A) and (B) according to fiscal and technological feasibility, as part of a National Counter-Drug Enforcement Research and Development Program;

"(D) oversee and coordinate counter-drug technology initiatives with related activities of other Federal civilian and military departments;

"(E) provide support to the development and implementation of the national drug control performance measurement system; and

"(F) pursuant to the authority of the Director of National Drug Control Policy under section 1003 (21 USC 1502), submit requests to Congress for the reprogramming or transfer of funds appropriated for counter-drug technology research and development.

"(2) The authority granted to the Director under this section shall not extend to the award of contracts, management of individual projects, or other operational activities.

"(d) ASSISTANCE AND SUPPORT TO OFFICE OF NATIONAL DRUG CONTROL POLICY.--The Department of Defense and the Department of Health and Human Services shall, to the fullest extent possible, render assistance and support to the Office and its Director, in the conduct of counter-drug technology assessment."

(h) TERMINATION OF OFFICE OF NATIONAL DRUG CONTROL POLICY.--Section 1009 of the National Narcotics Leadership Act of 1988 (42 U.S.C. 1506) is amended to read as follows:

"SEC 1009 TERMINATION OF OFFICE OF NATIONAL DRUG CONTROL POLICY.

"Effective on September 30, 2009, this subtitle and the amendments made by this subtitle are repealed."

(i) AUTHORIZATION OF APPROPRIATIONS. Section 1011 of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1508) is amended to read as follows:

"SEC. 1011 AUTHORIZATION OF APPROPRIATIONS

"There are authorized to be appropriated to carry out this subtitle, to remain available until expended, such sums as may be necessary for each of the fiscal years 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, and 2009."

(j) ESTABLISHMENT OF SPECIAL FORFEITURE FUND. Section 6073 of the Asset Forfeiture Amendments Act of 1988 (42 U.S.C. 1509) is amended--

(1) in subsection (b),

(A) by striking "section 524(c)(9)" and inserting "section 524(c)(8)";

(B) by striking "section 9307(g)" and inserting "section 9703(g)";

(2) in subsection (e), by striking "strategy" and inserting "Strategy".

Current Law	Administration's Bill	House Bill	Senate Bill
I. Basic Issues			
STRATEGY			
Annual Strategy	Ten Year Strategy; Performance measurement system	Statutory numerical targets; requires that ONDCP develop policies, objectives, goals, priorities and performance measures including targets for reduction in drug use to 3% and in drug supply to 80% by 2001. Plan including request for funds and resources due March 1, 1998.	Ten Year Strategy; Performance measurement system
BUDGET			
Three Year	Five Year	Five Year	Five Year
DEPUTY DIRECTORS			
Dep. Dir. ONDCP No Deputy Director in statue	Creates PAS position with specified duties.	Creates PAS position with no distinct duties specified for Director.	Creates PAS position; specifies role of Deputy to carry out duties prescribed by Director and to serve in Director's absence.

Current Law	Administration's Bill	House Bill	Senate Bill
Dep. Dir. ODR No specific qualifications	No specific qualifications	No specific qualifications	Requires President to consider the Demand Reduction Deputy nominee's educational background as well as experience in substance abuse education treatment and prevention.
Dep. Dir. OSR PAS position	Dep. Dir. International/Drug Policy PAS position	essentially same as current law	essentially same as current law
Dep. Dir. State/Local Affairs Assoc. Dir. Bureau State and Local Affairs/PAS position	Deputy Director Intergovernmental Affairs/PAS position	Deputy Director - State and Local Affairs/PAS position	Deputy Director - State and Local Affairs/PAS position
Dep. Dir. Intelligence Not included	Not included	Deputy Director - Intelligence/PAS position	Not included
AUTHORIZATION			
3 year (9/30/97)	12 year (9/30/09)	2 year (9/30/99)	4 year (9/30/01)
PERFORMANCE MEASUREMENT/ OBJECTIVES			
2 year objectives	Deletes reference to 2 year objectives; requires measurable objectives to accomplish long-range goals	Retains current law	Retains current law

Current Law	Administration's Bill	House Bill	Senate Bill
DEFINITIONS			
Definitions in Section 1507 - placement near end of Act.	Moves definitions to beginning of Act. Clarifies definition of "drug control" to explicitly include activities to reduce underage use of tobacco or alcohol. Adds drug-free workplace and drug-testing programs to definition of demand reduction.	Current law except redefines "National Drug Control Program agency" to mean agency responsible for implementing any aspect of strategy. (eliminates reference to designation by Director and Agency Head or President)	Same as Administration's bill, except does not use term intergovernmental affairs.
Reporting Requirements	Annual reporting with performance measures	Semi-annual reporting by agencies to ONDCP evaluating progress of the agency with respect to 6 goals of 1997 strategy and Congress.	Annual reporting with performance measures
Transfer authority Transfer 2% to National Drug Control Program agency account w/advance approval of appropriations committees	Technical corrections to 2% transfer authority to facilitate ability to use authority (w/advance notice)	Technical corrections and increase to 5% (with advance approval of appropriations and authorizing committees).	Technical corrections to 2% transfer authority to facilitate ability to use authority (with advance notice to appropriations committees)
II. New Authorities			
NDIC/EPIC Not in current law	Not included in bill/same as current law	Director can recommend projects to NDIC	Director can recommend projects to NDIC and EPIC

Current Law	Administration's Bill	House Bill	Senate Bill
DIRECTOR AS REPRESENTATIVE/ SPOKESPERSON ON DRUG POLICY			
Director appears before committees in Senate and House to represent drug policies of executive branch	Same as current law	Director represents President before Congress on all issues of Office of National Drug Control Policy; Director primary spokesperson of the President (Constitutional Concerns)	Director represents President before Congress on all issues of the Office of National Drug Control Policy; primary spokesperson of Administration on Drug Issues (Constitutional Concerns)
ILLEGAL DRUG CULTIVATION			
Not in current law	Not in bill	Requires Dept. of Agriculture to Report on Illegal Drug Cultivation	Requires Dept. of Agriculture to Report on Illegal Drug Cultivation
CREATION OF STATUTORY COUNCIL ON COUNTER - NARCOTICS WITH DIRECTOR AS EXEC. DIRECTOR.			
Not in current law	Not included in bill	Drug Council with Director as Exec. Director	Drug Council with Director as Exec. director. Specifies, in detail, membership, meetings, functions, administration and Director's duties.
REQUIRING AGENCIES TO PROVIDE ADDITIONAL INFORMATION REQUESTED BY DIRECTOR			
Not in current law	Not included in bill	Included in bill	Included in bill

Current Law	Administration's Bill	House Bill	Senate Bill
III. Miscellaneous Issues			
Use of HIDTA Funds for Treatment			
No restrictions	No restrictions	Prohibits use of HIDTA Funds for Treatment	No restrictions
GIFT FUND			
Authority to accept and use donations of property from Federal, State, and local government agencies (supplemented by appropriations language)	Makes explicit authority to accept, hold, and administer gifts, and solely to encourage funding for conferences; solicit donations establishes fund in Treasury for gift funds to be available until expended.	Same as current law	Authority to accept hold and administer gifts of real and personal property; establishes gift fund available until expended; no limitation on source of gifts.
SPECIAL STUDIES			
Not explicitly in current law	Adds authority to commission special studies and reports by National Drug Control Program Agency, with concurrence of agency head.	Does not include authority to commission studies; prohibits use of federal drug control funds for study or contract relating to the legalization of Schedule I Drug.	Includes authority to commission special studies; same as Administration's Bill.

2/18/98

Current Law	Administration's Bill	House Bill	Senate Bill
HIDTA			
	Adds specific reference to consultation with Treasury and HHS in HIDTA designations	Requires ONDCP to file an annual report with Congress on effectiveness of, and need for designation of HIDTAs	Adds specific reference to consultation with Treasury in HIDTA designation.
C-TAC			
Center as control counter-drug enforcement Technology research and development headed by Chief Scientist. Chief scientist must be distinguished in science, engineering or technology.	Counter-drug technology center headed by Director of Technology. Adds medicine to eligible disciplines for Chief Scientist. Adds reference to performance measurement system. Mandates identification of demand reduction basic and applied research needs and initiatives.	No changes to current law.	Same as Administration's Bill.

Current Law	Administration's Bill	House Bill	Senate Bill
PARENTS ADVISORY COUNCIL ON YOUTH DRUG ABUSE			
			Establishes Parent Advisory Council appointed by President, Majority and Minority Leaders of Senate and Speaker and Minority Leader of House. Council advises the President and Members of Cabinet. Chairperson selected from Council.
REPORT ON ALLIANCE AGAINST NARCOTICS TRAFFICKING IN WESTERN HEMISPHERE			
			Sixty days after enactment, President shall submit to Congress a report on the prospect of forming a multilateral alliance to address problems relating to international drug trafficking in the Western Hemisphere.

"554. Violence while eluding inspection or during violation of arrival, reporting, entry or clearance requirements".

(c) Section 111 of title 18, United States Code, is amended by redesignating subsection (b) as subsection (c), and inserting a new subsection (b) as follows:

"(b) Reckless Endangerment.-- Whoever knowingly disregards or disobeys the lawful authority or command of any officer or employee of the United States charged with enforcing the immigration, customs or other laws of the United States along any border of the United States while engaged in or on account of the performance of official duties, and thereby endangers the safety of any person or property, shall be fined under this title or imprisoned for not more than six months, or both.".

Subtitle B -- Strengthening Maritime Law Enforcement Along U.S. Borders

Section 2201. Sanctions for failure to heave to, obstructing a lawful boarding, and providing false information.

(a) IN GENERAL.--Chapter 109 of title 18, United States Code, is amended by adding, at the end, new section 2237 to read as follows:

"2237. Sanctions for failure to heave to; sanctions for obstruction of boarding and providing false information

"(a)(1) It shall be unlawful for the master, operator, or person in charge of a vessel of the United States or a vessel subject to the jurisdiction of the United States, to fail to obey an order to heave to that vessel on being ordered to do so by an authorized Federal law enforcement officer.

"(2) It shall be unlawful for any person on board a vessel of the United States or a vessel subject to the jurisdiction of the United States knowingly or willfully to --

"(A) fail to comply with an order of an authorized Federal law enforcement officer in connection with the boarding of the vessel;

"(B) impede or obstruct a boarding or arrest, or other law enforcement action authorized by any Federal law; or

"(C) provide false information to a Federal law enforcement officer during a boarding of a vessel regarding the vessel's destination, origin, ownership, registration, nationality, cargo, or crew.

"(b) This section does not limit in any way the preexisting authority of a customs officer under section 581 of the Tariff Act of 1930 or any other provision of law enforced or administered by the Customs Service, or the preexisting authority of any Federal law enforcement officer under any law of the United States to order a vessel to heave to.

"(c) A foreign nation may consent or waive objection to the enforcement of United States law by the United States under this section by international agreement or, on a case by case basis, by radio, telephone, or similar oral or electronic means. Consent or waiver may be proven by certification of the Secretary of State or the Secretary's designee.

"(d) For purposes of this section--

"(1) A 'vessel of the United States', and a 'vessel subject to the jurisdiction of the United States' have the meaning set forth for these terms in the Maritime Drug Law Enforcement Act (46 App. U.S.C. 1903);

"(2) the term 'heave to' means to cause a vessel to slow or come to a stop to facilitate a law enforcement boarding by adjusting the course and speed of the vessel to account for the weather conditions and sea state; and

"(3) the term 'Federal law enforcement officer' has the meaning set forth in section 115 of this title.

"(e) Any person who intentionally violates the provisions of this section shall be subject to imprisoned for not more than five years, fined as provided in this title, or both.

"(f) A vessel that is used in violation of this section may be seized and forfeited. The laws relating to the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws, the disposition of such property or the proceeds from the sale thereof, the remission or mitigation of such forfeitures, and the compromise of claims, shall apply to seizures and forfeitures undertaken, or alleged to have been undertaken, under any of the provisions of this section; except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or other persons as may be authorized or designated for that purpose. A vessel that is used in violation of this section is also liable in rem for any fine or civil penalty imposed under this section.".

(b) CLERICAL AMENDMENT.--The analysis at the beginning of chapter 109, title 18, United States Code, is amended by inserting the following new item after the item for section 2236:

"2237. Sanctions for failure to heave to; sanctions for obstruction of boarding or providing false information.".

Section 2202. Civil penalties to support maritime law enforcement.

(a) IN GENERAL. -- Chapter 17 of title 14, United States Code, is amended by adding at the end the following new section:

"675. Civil penalty for failure to comply with a lawful boarding, obstruction of boarding, or providing false information

"(a) The master, operator, or person in charge of a vessel, who fails to comply with an order of a Coast Guard commissioned officer, warrant officer, or petty officer relating to the boarding of a vessel issued according to any applicable, United States Code 111, 113), no statute provides penalties, criminal or civil, for non-forcible acts of obstruction during a Coast Guard boarding. Such penalties are needed as a deterrent to prevent confrontational situations from escalating from non-physical obstructions of boardings to physical assaults on Coast Guard boarding officers.

Sanctions are also required as a means to compel persons on board vessels to provide truthful information regarding the vessel's destination, origin, ownership, registration, nationality, cargo, or crew. False information concerning a vessel's nationality or registration can delay the determination as to whether the United States has jurisdiction over a vessel, or hinder attempts to obtain consent from a foreign country for the United States to exercise jurisdiction. This offers drug smugglers the opportunity to jettison contraband and destroy evidence. Truthful information concerning the vessel's destination, origin, ownership, cargo, or crew facilitates the ability of the boarding team to determine whether the vessel may be engaged in drug smuggling. This information is also important for the successful prosecution of drug smuggling cases.

Sections 2201-03 of this title address these gaps in current United States drug interdiction law by increasing the authority of federal law enforcement officers over the movement of vessels. Criminal penalties are provided by Section 2201 for failure to obey the order of a federal law enforcement officer to heave to a vessel. These same sanctions are imposed against persons on board vessels who fail to comply with an order in connection with the boarding of a vessel, impede or obstruct a boarding, or provide certain false information during a boarding. These provisions are bolstered by section 2201, which provides civil penalties for failure to support maritime law enforcement, and by section 2203, which clarifies the authority of Customs officers in foreign countries.

Section 2201. Sanctions for failure to heave to, obstructing a lawful boarding, and providing false information.

This section makes several changes to enhance enforcement of federal law involving vessels. Subsection (a)(1) provides that it shall be unlawful for the master, operator, or person in charge of a vessel of the United States, or a vessel subject to the jurisdiction of the United States, to fail to obey an order to heave to that vessel on being ordered to do so by an authorized federal law enforcement officer. Paragraph (2) provides that it shall be unlawful for any person on board a vessel of the United

States, or a vessel subject to the jurisdiction of the United States, to: (1) fail to comply with an order of an authorized federal law enforcement officer in connection with the boarding of the vessel; (2) impede or obstruct a boarding or arrest, or other law enforcement action authorized by any federal law; or (3) provide false information to a federal law enforcement officer during a boarding of a vessel regarding the vessel's destination, origin, ownership, registration, nationality, cargo, or crew. Nothing in this section is a limitation on 18 United States Code 1001, which makes it a crime to give a false statement to a government agent.

Subsection (b) provides that this section does not limit in any way the preexisting authority of a customs officer under section 581 of the Tariff Act of 1930 or any other provision of law enforced or administered by the Customs Service, or the preexisting authority of any federal law enforcement officer under any law of the United States to order a vessel to heave to. This section is necessary to establish that this statute in no way limits the potential actions of federal law enforcement officers that exist under other statutes.

Subsection (c) specifies that a foreign nation may consent or waive objection to the enforcement of United States law by the United States under this section in an international agreement, or, on a case-by-case basis, by radio, telephone, or similar oral or electronic means. Consent or waiver may be proven by certification of the Secretary of State or the Secretary's designee.

Subsection (d) defines the terms used in this section, including "vessel of the United States;" "vessel subject to the jurisdiction of the United States;" to "heave to;" and "Federal law enforcement officer."

Subsection (e) sets forth penalties for violation of this section. Any person who intentionally violates the provisions of this section shall be subject to: (1) imprisonment for not more than five years; and (2) a fine as provided in this title.

Subsection (f) authorizes the seizure and forfeiture of a vessel that is used in violation of this section. Existing customs laws and duties shall apply to such seizures and forfeitures. This subsection further provides that any vessel that is used in violation of this section is also liable in rem for any fine or civil penalty imposed under this section. This provision gives added force to the prohibitions contained in the section, and provides additional incentives to would-be portrunners to comply with the law.

Section 2202. Civil penalties to support maritime law enforcement.

This section amends chapter 17 of title 14, United States Code, by adding a new section 675. Subsection (a) authorizes the Secretary of Transportation to impose a civil penalty of not more than $15,000 upon the master, operator or person in charge of a vessel, who fails to comply with an order of a Coast Guard commissioned officer, warrant officer, or petty officer relating to the boarding of a vessel issued under the authority of section 2237 of title 18, United States Code. The Secretary is authorized to impose a civil penalty of not more than $25,000 for intentional violations. This order is to be communicated according to any applicable, internationally recognized standards, or in any other manner reasonably calculated to be received and understood. Subsection (b) provides that any vessel used in violation of this subtitle is also liable in rem.

Section 2203. Customs orders.

Section 1205 adds a new subsection (i) to section 581 of the Tariff Act of 1930 (19 United States Code 1581) that defines "authorized place" as that term is used in section 581. Authorized place is defined as the following: with respect to a vessel or vehicle, a location in a foreign country at which United States customs officers are permitted to conduct inspections, examinations, or searches. This amendment clarifies the law enforcement authority of customs officers in foreign countries.

Subtitle C -- Smuggling of Contraband and Other Illegal Products

Section 2301. Smuggling contraband and other goods from the United States.

Under existing law, there is no general criminal statute covering illegal exports. Congress long ago created such a statute for importation activity conducted contrary to law, 18 United States Code § 545, and this amendment is intended to create a parallel provision for exportation activity conducted contrary to law.

The amendment is needed because, although there are currently many provisions of federal law that prohibit or restrict the

6TH ITEM of Level 1 printed in FULL format.

accepted by ~~voice~~ vote

TO: GRACE
FR: ROSE
3 pgs

CONGRESSIONAL RECORD -- SENATE

Tuesday, June 2, 1998

105th Congress, 2nd Session

Cong Rec S 5575

REFERENCE: ,No.

TITLE: AMENDMENTS SUBMITTED - NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT -

TEXT:

McCAIN (AND OTHERS) AMENDMENT NO. 2446

Mr. McCAIN (for himself, Mr. Kerry, Mr. Bond, Mr. Campbell, Mr. Rockefeller, Mr. Specter, Mr. Bingaman, Mr. Daschle, Mr. Wellstone, Mr. Leahy, Mr. Coverdell, Ms. Collins, Mrs. Murray, Mr. Biden, Ms. Mikulski, Mr. Hutchinson, and Mr. Sessions) proposed an amendment to the bill (S. 1415) to reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes; as follows:

On page 403, beginning with line 3, strike through line 19 on page 407, and insert the following:

SEC. 1301. VETERANS' ADMINISTRATION TOBACCO-RELATED HEALTHCARE AND COMPENSATION PROGRAMS.

LANGUAGE TO TAKE VETERANS' $ OFF TOP OF TOBACCO FUND

(a) In General.--The Secretary of the Veterans' Administration shall use amounts under subsection (b) to carry out tobacco-related healthcare activities under chapter 17 of title 38, United States Code, and to provide other appropriate assistance for tobacco-related veterans' health care illnesses and disability under such title.

(b) Fundings.--From amounts in the trust fund established under section 40b not less than $600,000,000 per year are to be used to carry out Veterans' Administration tobacco-related healthcare activities under subsection (a) to the extent and only in the amounts provided in advance in appropriations Acts, to remain available until expended.

(c) Public Health Service Act Amendments.--Section 1981C of the Public Health Service Act (as added by section 261 of this Act) is amended--

(1) by inserting "veterans,'' after "uninsured individuals,'' in subsection (a)(1)(D); and

(2) by inserting "veterans,'' in subsection (b)(1)(h) after "low-income,''.

Leahy Third Revised Law Enforcement Funding

June 5, 1998

The floor for the law enforcement band within the Public Health Account will be increased from 17.5% to 21.5%. This will produce an extra $100 million per year. The new numbers will be allocated as set forth below.

Year	Total	FDA%	FDA $	State LE Grants	Treasury	Other
1	800m	25%	200m	($500m)	10% $80m	$20m
2	600m	30%	180m	40% ($240m)	10% $60m	$120m
3	700m	40%	280m	40% ($280m)	10% $70m	$70m
4	700m	40%	280m	40% ($280m)	10% $70m	$70m
5	700m	40%	280m	40% ($280m)	10% $70m	$70m
Total	$3.5b		1.22b	$1.58b	$350m	$350m

These are **minimum** amounts for each year, and may be spent over 3 years.

Amounts for FDA and Treasury will be stated in percentages for each year. Amounts for state and local law enforcement grants will be stated in dollar terms the first year, and in percentage terms for the remaining years.

This provides an extra $100 million for FDA in the first year, and $20 million less in the out years than originally requested. Because the funds can be spent over 3 years, the result is a real increase of $20 million above what the McCain bill provides for FDA over 5 years. Treasury will receive $350 million over the 5 years, or the amount requested rounded upwards.

No minimum amount has been specified in the McCain bill for the state licensing grants. These would fall into the "other" funds and be strictly subject to appropriations. The "other" funds available significantly exceed the $200 million over 5 years intended for state licensing, so there remains significant flexibility in funding for all purposes.

	LE 20%	Other
Yr 1	250 mi	20+250 = 270
Yr 2	120	120+120 = 240
Yr 3	140	70 + 140 = 210
Yr 4	140	70 + 140 = 210
Yr 5	140	70+140 = 210
Total	790 mi	1.14 bi

Leahy Fourth Revised Law Enforcement Funding
June 8, 1998

The floor for the law enforcement band within the Public Health Account will be increased from 17.5% to 21.5%. This will produce an extra $100 million per year. The new numbers will be allocated as set forth below.

Year	Total	FDA %	FDA $	State LE Grants	Unreserved
1	$800m	25%	$200m	$300m	$300m
2	$600m	30%	$180m	$100m	$320m
3	$700m	40%	$280m	$100m	$320m
4	$700m	40%	$280m	$100m	$320m
5	$700m	40%	$280m	$100m	$320m
Total	$3.5b		$1.22b	$700m	$1.58b

These are **minimum** amounts for each year, and may be spent over 3 years.

Minimum amounts for FDA will be stated in percentages for each year. Minimum amounts for state and local law enforcement grants will be stated in dollar terms each year. The grants will be administered by the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of HHS.

This provides an extra $100 million for FDA in the first year, and $20 million less in the out years than originally requested. Because the funds can be spent over 3 years, the result is a real increase of $20 million above what the McCain bill provides for FDA over 5 years.

No minimum amount has been specified in the McCain bill for the federal anti-smuggling activity or for state licensing grants. These would fall into the unreserved funds and would be subject to appropriations, just as in the McCain bill. The unreserved funds available exceed the amounts available for these purposes under the McCain bill after the first year.

CD - LEAHY

Revised Leahy amdt attached. First line of amdt eliminates FDA floor.

Jeanne

U.S. DEPARTMENT OF THE T
OFFICE OF THE GENERAL
1500 PENNSYLVANIA AVEN
ROOM 3000
WASHINGTON, D.C. 2(

OFFICE NUMBERS: 202/622-0287 (GENERAL CO
202/622-0283 (DEPUTY GEN

FACSIMILE: 202/622-2882

DATE: 6-1-98 **PAGES TO FOLLOW:** 9

TO: Jose Cerda

FAX#: 456-7028

PHONE: ______

FROM: Neal Wolin, Deputy General Counsel

COMMENTS: 4 purposes For formular

RESPONSE REQUESTED: YES ____ NO ____

AMENDMENT NO. ____ Calendar No. ____

Purpose: To modify provisions relating to anti-smuggling.

IN THE SENATE OF THE UNITED STATES—105th Cong., 2d Sess.

S. 1415

To reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes.

Referred to the Committee on ____________ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENTS intended to be proposed by Mr. LEAHY

Viz:

In section 451(b)(2)(D)—

(1) in clause (i), by striking subclauses (I) and (II); and

(2) by inserting after clause (iii), the following:

"(iv) Grants, to be administered by the Attorney General in consultation with the Secretary of the Treasury and the Secretary of Health and Human Services, to States for State and local law enforcement of anti-smuggling provisions of this Act.".

In section 1137(b), insert after "fined" the following: "in an amount up to 3 times the dollar amount of the taxes avoided or attempted to be avoided through the action that constitutes such a violation, fined".

In section 1138(e)—

(1) in paragraph (2), by striking "and" at the end;

(2) in paragraph (3), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(4) in subsection (a), by inserting after 'fined' the following: 'in an amount up to 3 times the dollar amount of the taxes avoided or attempted to be avoided through the action that constitutes such a violation, fined'.".

After section 1140, insert the following new section:

SEC. 1141. SENTENCING FOR ILLEGAL TRAFFICKING IN TOBACCO PRODUCTS.

(a) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall review and amend its guidelines and its policy statements, if appropriate, for all unlawful acts of trafficking in tobacco products. The Commission shall submit to Congress explanations therefore and any additional policy recommendations for combating tobacco offenses.

(b) IN GENERAL.—In carrying out this section, the United States Sentencing Commission shall—

(1) ensure that the sentencing guidelines and policy statements for offenders convicted of offenses described in subsection (a), and any recommendations submitted under such subsection, reflect the strong public policy against such offenses, recognize the health risks of tobacco products and the special risks to minors of tobacco addiction, reflect the pivotal potential role of tobacco manufacturers in large-scale smuggling schemes, and carry sufficient penalties to deter and punish any involvement by tobacco product manufacturers and others, including—

(A) trafficking in contraband tobacco products;

(B) failure to pay any tax on or mark any tobacco product, or participation in the repackaging of marked tobacco products;

(C) shipment of tobacco products outside the United States for unauthorized reshipment into the United States; and

(D) the use of force or violence in the course of trafficking in tobacco products;

(2) consider amending the sentencing guidelines and policy statements to provide enhanced sentences for any defendant, who, in the course of an offense described in subsection (a)—

(A) encourages, or acts in willful ignorance of encouragement of, sales of tobacco products to any person under age 18;

(B) is or acts in cooperation with an officer or managing or supervising official of any tobacco manufacturer;

(C) is an official of any government or recruits or makes any bribe or other illegal payment to any official of any government, including any tribal government or any foreign government;

(D) uses sophisticated means to impede discovery of the existence or extent of the offense;

(E) is a corporation engaged in manufacture of tobacco products;

(F) uses a firearm or other dangerous weapon; or

(G) recruits or cooperates with or acts in willful ignorance of the activities of a person who is known to have a significant prior criminal record;

(3) amend the sentencing guidelines to provide a separate and enhanced schedule of fines for tobacco offenses;

(4) assure reasonable consistency with other relevant directives and with other guidelines;

(5) avoid duplicative punishment for substantially the same offense or offender characteristic;

(6) account for any aggravating or mitigating circumstances that might justify exceptions;

(7) ensure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code; and

(8) take any other action the Commission considers necessary to carry out this section.

United States Senate

COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510-6275

Facsimile Cover Sheet

Please deliver the following pages to MARTI THOMAS

From: JOHN TANNER

Number of pages including cover: 6

COMMENTS:

Number to be reached 622-0534

THE DOCUMENT TRANSMITTED IS CONFIDENTIAL AND INTENDED FOR RECEIPT BY THE ABOVE NAMED INDIVIDUAL ONLY. PLEASE CALL (202) 224-7703 IMMEDIATELY IF YOU HAVE ANY QUESTIONS.

tobacco product manufacturer, importer, distributor, or retailer at the same time.

"(c) TELEVISION AND RADIO ADVERTISING.—It is unlawful to advertise smokeless tobacco on any medium of electronic communications subject to the jurisdiction of the Federal Communications Commission.".

SEC. 304. AUTHORITY TO REVISE SMOKELESS TOBACCO PRODUCT WARNING LABEL STATEMENTS.

Section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402), as amended by section 303 of this title, is further amended by adding at the end the following:

"(d) AUTHORITY TO REVISE WARNING LABEL STATEMENTS.—The Secretary may, by a rulemaking conducted under section 553 of title 5, United States Code, adjust the format, type size, and text of any of the warning label statements required by subsection (a) of this section, or establish the format, type size, and text of any other disclosures required under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), if the Secretary finds that such a change would promote greater public understanding of the risks associated with the use of smokeless tobacco products.".

SEC. 305. TAR, NICOTINE, AND OTHER SMOKE CONSTITUENT DISCLOSURE TO THE PUBLIC.

Section 4(a) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333 (a)), as amended by section 301 of this title, is further amended by adding at the end the following:

"(4)(A) The Secretary shall, by a rulemaking conducted under section 553 of title 5, United States Code, determine (in the Secretary's sole discretion) whether cigarette and other tobacco product manufacturers shall be required to include in the area of each cigarette advertisement specified by subsection (b) of this section, or on the package label, or both, the tar and nicotine yields of the advertised or packaged brand. Any such disclosure shall be in accordance with the methodology established under such regulations, shall conform to the type size requirements of subsection (b) of this section, and shall appear within the area specified in subsection (b) of this section.

"(B) Any differences between the requirements established by the Secretary under subparagraph (A) and tar and nicotine yield reporting requirements established by the Federal Trade Commission shall be resolved by a memorandum of understanding between the Secretary and the Federal Trade Commission.

"(C) In addition to the disclosures required by subparagraph (A) of this paragraph, the Secretary may, under a rulemaking conducted under section 553 of title 5, United States Code, prescribe disclosure requirements regarding the level of any cigarette or other tobacco product smoke constituent. Any such disclosure may be required if the Secretary determines that disclosure would be of benefit to the public health, or otherwise would increase consumer awareness of the health consequences of the use of tobacco products, except that no such prescribed disclosure shall be required on the face of any cigarette package or advertisement. Nothing in this section shall prohibit the Secretary from requiring such prescribed disclosure through a cigarette or other tobacco product package or advertisement insert, or by any other means under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).".

Subtitle B—Testing and Reporting of Tobacco Product Smoke Constituents

SEC. 311. REGULATION REQUIREMENT.

(a) TESTING, REPORTING, AND DISCLOSURE.—Not later than 24 months after the date of enactment of this Act, the Secretary, through the Commissioner of the Food and Drug Administration, shall promulgate regulations under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) that meet the requirements of subsection (b) of this section.

(b) CONTENTS OF RULES.—The rules promulgated under subsection (a) of this section shall require the testing, reporting, and disclosure of tobacco product smoke constituents and ingredients that the Secretary determines should be disclosed to the public in order to protect the public health. Such constituents shall include tar, nicotine, carbon monoxide, and such other smoke constituents or ingredients as the Secretary may determine to be appropriate. The rule may require that tobacco product manufacturers, packagers, or importers make such disclosures relating to tar and nicotine through labels or advertising, and make such disclosures regarding other smoke constituents or ingredients as the Secretary determines are necessary to protect the public health.

(c) AUTHORITY.—The Food and Drug Administration shall have authority to conduct or to require the testing, reporting, or disclosure of tobacco product smoke constituents.

TITLE IV—NATIONAL TOBACCO TRUST FUND

SEC. 401. ESTABLISHMENT OF TRUST FUND.

(a) CREATION.—There is established in the Treasury of the United States a trust fund to be known as the "National Tobacco Trust Fund", consisting of such amounts as may be appropriated or credited to the trust fund.

(b) TRANSFERS TO NATIONAL TOBACCO TRUST FUND.—There shall be credited to the trust fund the net revenues resulting from the following amounts:

(1) Amounts paid under section 402.

(2) Amounts equal to the fines or penalties paid under section 402, 403, or 405, including interest thereon.

(3) Amounts equal to penalties paid under section 202, including interest thereon.

(c) NET REVENUES.—For purposes of subsection (b), the term "net revenues" means the amount estimated by the Secretary of the Treasury based on the excess of—

(1) the amounts received in the Treasury under subsection (b), over

(2) the decrease in the taxes imposed by chapter 1 and chapter 52 of the Internal Revenue Code of 1986, and other offsets, resulting from the amounts received under subsection (b).

(d) EXPENDITURES FROM THE TRUST FUND.—Amounts in the Trust Fund shall be available in each fiscal year, as provided in appropriation Acts. The authority to allocate net revenues as provided in this title and to obligate any amounts so allocated is contingent upon actual receipt of net revenues.

(e) BUDGETARY TREATMENT.—The amount of net receipts in excess of that amount which is required to offset the direct spending in this Act under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902) shall be available exclusively to offset the appropriations required to fund the authorizations of appropriations in this Act (including the amendments made by this Act), and the amount of such appropriations shall not be included in the estimates required under section 251 of that Act (2 U.S.C. 901).

(f) ADMINISTRATIVE PROVISIONS.—Section 9602 of the Internal Revenue Code of 1986 shall apply to the trust fund to the same extent as if it were established by subchapter A of chapter 98 of such Code, except that, for purposes of section 9602(b)(3), any interest or proceeds shall be covered into the Treasury as miscellaneous receipts.

SEC. 402. PAYMENTS BY INDUSTRY.

(a) INITIAL PAYMENT.—

(1) CERTAIN TOBACCO PRODUCT MANUFACTURERS.—The following participating tobacco product manufacturers, subject to the provisions of title XIV, shall deposit into the National Tobacco Trust Fund an aggregate payment of $10,000,000,000, apportioned as follows:

(A) Phillip Morris Incorporated—65.8 percent.

(B) Brown and Williamson Tobacco Corporation—17.3 percent.

(C) Lorillard Tobacco Company—7.1 percent.

(D) R.J. Reynolds Tobacco Company—6.6 percent.

(E) United States Tobacco Company—3.2 percent.

(2) NO CONTRIBUTION FROM OTHER TOBACCO PRODUCT MANUFACTURERS.—No other tobacco product manufacturer shall be required to contribute to the payment required by this subsection.

(3) PAYMENT DATE; INTEREST.—Each tobacco product manufacturer required to make a payment under paragraph (1) of this subsection shall make such payment within 30 days after the date of compliance with this Act and shall owe interest on such payment at the prime rate plus 10 percent per annum, as published in the Wall Street Journal on the latest publication date on or before the date of enactment of this Act, for payments made after the required payment date.

(b) ANNUAL PAYMENTS.—Each calendar year beginning after the required payment date under subsection (a)(3) the tobacco product manufacturers shall make total payments into the Fund for each calendar year in the following applicable base amounts, subject to adjustment as provided in section 403:

(1) year 1—$14,400,000,000.

(2) year 2—$15,400,000,000.

(3) year 3—$17,700,000,000.

(4) year 4—$21,400,000,000.

(5) year 5—$23,600,000,000.

(6) year 6 and thereafter—the adjusted applicable base amount under section 403.

(c) PAYMENT SCHEDULE; RECONCILIATION.—

(1) ESTIMATED PAYMENTS.—Deposits toward the annual payment liability for each calendar year under subsection (d)(2) shall be made in 3 equal installments due on March 1st, on June 1st, and on August 1st of each year. Each installment shall be equal to one-third of the estimated annual payment liability for that calendar year. Deposits of installments paid after the due date shall accrue interest at the prime rate plus 10 percent per annum, as published in the Wall Street Journal on the latest publication date on or before the payment date.

(2) RECONCILIATION.—If the liability for a calendar year under subsection (d)(2) exceeds the deposits made during that calendar year, the manufacturer shall pay the unpaid liability on March 1st of the succeeding calendar year, along with the first deposit for that succeeding year. If the deposits during a calendar year exceed the liability for the calendar year under subsection (d)(2), the manufacturer shall subtract the amount of the excess deposits from its deposit on March 1st of the succeeding calendar year.

(d) APPORTIONMENT OF ANNUAL PAYMENT.—

(1) IN GENERAL.—Each tobacco product manufacturer is liable for its share of the applicable base amount payment due each year under subsection (b). The annual payment is the obligation and responsibility of only those tobacco product manufacturers and their affiliates that directly sell tobacco

Bellew/Kollin

(4) USE OF FUNDS.—A State may use amounts received under this subsection as the State determines appropriate, consistent with the other provisions of this Act.

(5) FUNDS NOT AVAILABLE AS MEDICAID REIMBURSEMENT.—Funds in the account shall not be available to the Secretary as reimbursement of Medicaid expenditures or considered as Medicaid overpayments for purposes of recoupment.

(b) PUBLIC HEALTH ALLOCATION ACCOUNT.—

(1) IN GENERAL.— There is established within the trust fund a separate account, to be known as the Public Health Account. Twenty-two percent of the net revenues credited to the trust fund under section 401(b)(1) and all the net revenues credited to the trust fund under section 401(b)(3) shall be allocated to this account.

(2) AUTHORIZATION OF APPROPRIATIONS.—Amounts in the Public Health Account shall be available to the extent and only in the amounts provided in advance in appropriations Acts, to remain available until expended, only for the purposes of:

(A) CESSATION AND OTHER TREATMENTS.—Of the total amounts allocated to this account, not less than 25 percent, but not more than 35 percent are to be used to carry out smoking cessation activities under part D of title XIX of the Public Health Service Act, as added by title II of this Act.

(B) INDIAN HEALTH SERVICE.—Of the total amounts allocated to this account, not less than 3 percent, but not more than 7 percent are to be used to carry out activities under section 453.

(C) EDUCATION AND PREVENTION.—Of the total amounts allocated to this account, not less than 50 percent, but not more than 65 percent are to be used to carry out—

(i) counter-advertising activities under section 1982 of the Public Health Service Act as amended by this Act;

(ii) smoking prevention activities under section 223;

(iii) surveys under section 1991C of the Public Health Service Act, as added by this Act (but, in no fiscal year may the amounts used to carry out such surveys be less than 10 percent of the amounts available under this subsection); and

(iv) international activities under section 1132.

(D) ENFORCEMENT.—Of the total amounts allocated to this account, not less than 17.5 percent nor more than 22.5 percent are to be used to carry out the following:

(i) Food and Drug Administration activities.

(I) The Food and Drug Administration shall receive not less than 15 percent of the funds provided in subparagraph (D) in the first fiscal year beginning after the date of enactment of this Act, 35 percent of such funds in the second year beginning after the date of enactment, and 50 percent of such funds for each fiscal year beginning after the date of enactment, as reimbursements for the costs incurred by the Food and Drug Administration in implementing and enforcing requirements relating to tobacco products.

(II) No expenditures shall be made under subparagraph (D) during any fiscal year in which the annual amount appropriated for the Food and Drug Administration is less than the amount so appropriated for the prior fiscal year.

(ii) State retail licensing activities under section 251.

(iii) Anti-Smuggling activities under section 1141.

(c) HEALTH AND HEALTH-RELATED RESEARCH ALLOCATION ACCOUNT.—

(1) IN GENERAL.— There is established within the trust fund a separate account, to be known as the Health and Health-Related Research Account. Of the net revenues credited to the trust fund under section 401(b)(1), 22 percent shall be allocated to this account.

(2) AUTHORIZATION OF APPROPRIATIONS.—Amounts in the Health and Health-Related Research Account shall be available to the extent and in the amounts provided in advance in appropriations acts, to remain available until expended, only for the following purposes:

(A) $750,000 shall be made vailable in fiscal year 1999 for the study to be conducted under section 1991 of the Public Health Service Act.

(B) National Institutes of Health Research under section 1991D of the Public Health Service Act, as added by this Act. Of the total amounts allocated to this account, not less than 75 percent, but not more than 87 percent shall be used for this purpose.

(C) Centers for Disease Control under section 1991C of the Public Health Service Act, as added by this Act, and Agency for Health Care Policy and Research under section 1991E of the Public Health Service Act, as added by this Act, authorized under sections 2803 of that Act, as so added. Of the total amounts allocated to this account, not less than 12 percent, but not more than 18 percent shall be used for this purpose.

(D) National Science Foundation Research under section 454. Of the total amounts allocated to this account, not less than 1 percent, but not more than 1 percent shall be used for this purpose.

(E) Cancer Clinical Trials under section 455. Of the total amounts allocated to this account, $750,000,000 shall be used for the first 3 fiscal years for this purpose.

(d) FARMERS ASSISTANCE ALLOCATION ACCOUNT.—

(1) IN GENERAL.— There is established within the trust fund a separate account, to be known as the Farmers Assistance Account. Of the net revenues credited to the trust fund under section 401(b)(1) in each fiscal year—

(A) 16 percent shall be allocated to this account for the first 10 years after the date of enactment of this Act; and

(B) 4 percent shall be allocated to this account for each subsequent year until the account has received a total of $28,500,000,000.

(2) APPROPRIATION.—Amounts allocated to this account are hereby appropriated and shall be available until expended for the purposes of section 1012.

(e) MEDICARE PRESERVATION ACCOUNT.—There is established within the trust fund a separate account, to be known as the Medicare Preservation Account. If, in any year, the net amounts credited to the trust fund for payments under section 402(b) are greater than the net revenues originally estimated under section 401(b), the amount of any such excess shall be credited to the Medicare Preservation Account. Beginning in the eleventh year beginning after the date of enactment of this Act, 12 percent of the net revenues credited to the trust fund under seciton 401(b)(1) shall be allocated to this account. Funds credited to this account shall be transferred to the Medicare Hospital Insurance Trust Fund.

SEC. 452. GRANTS TO STATES.

(a) AMOUNTS.—From the amount made available under section 402(a) for each fiscal year, each State shall receive a grant on a quarterly basis according to a formula.

(b) USE OF FUNDS.—

(1) UNRESTRICTED FUNDS.—A State may use funds, not to exceed 50 percent of the amount received under this section in a fiscal year, for any activities determined appropriate by the State.

(2) RESTRICTED FUNDS.—A State shall use not less than 50 percent of the amount received under this section in a fiscal year to carry out additional activities or provide additional services under—

(A) the State program under the maternal and child health services block grant under title V of the Social Security Act (42 U.S.C. 701 et seq.);

(B) funding for child care under section 418 of the Social Security Act, notwithstanding subsection (b)(2) of that section;

(C) federally funded child welfare and abuse programs under title IV-B of the Social Security Act;

(D) programs administered within the State under the authority of the Substance Abuse and Mental Health Services Administration under title XIX, part B of the Public Health Service Act;

(E) Safe and Drug-Free Schools Program under title IV, part A, of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7111 et seq.);

(F) the Department of Education's Dwight D. Eisenhower Professional Development program under title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6601 et seq.); and

(G) The State Children's Health Insurance Program authorised under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.), provided that the amount expended on this program does not exceed 6 percent of the total amount of restricted funds available to the State each fiscal year.

(c) NO SUBSTITUTION OF SPENDING.—Amounts referred to in subsection (b)(2) shall be used to supplement and not supplant other Federal, State, or local funds provided for any of the programs described in subparagraphs (A) through (G) of subsection (b)(2). Restricted funds, except as provided for in subsection (b)(2)(G), shall not be used as State matching funds. Amounts provided to the State under any of the provisions of law referred to in such subparagraph shall not be reduced solely as a result of the availability of funds under this section.

(d) FEDERAL-STATE MATCH RATES.—Current (1998) matching requirements apply to each program listed under subsection (b)(2), except for the program described under subsection (b)(2)(B). For the program described under subsection (b)(2)(B), after an individual State has expended resources sufficient to receive its full Federal amount under section 418(a)(2)(B) of the Social Security Act (subject to the matching requirements in section 418(a)(2)(C) of such Act), the Federal share of expenditures shall be 80 percent.

(e) MAINTENANCE OF EFFORT.—To receive funds under this subsection, States must demonstrate a maintenance of effort. This maintenance of effort is defined as the sum of—

(1) an amount equal to 95 percent of Federal fiscal year 1997 State spending on the programs under subsections (b)(2)(B), (c), and (d); and

(2) an amount equal to the product of the amount described in paragraph (1) and—

(A) for fiscal year 1999, the lower of—

(i) general inflation as measured by the consumer price index for the previous year; or

(ii) the annual growth in the Federal appropriation for the program in the previous fiscal year; and

(B) for subsequent fiscal years, the lower of—

(i) the cumulative general inflation as measured by the consumer price index for the period between 1997 and the previous year; or

(ii) the cumulative growth in the Federal appropriation for the program for the period between fiscal year 1997 and the previous fiscal year.

products in the domestic market to wholesalers, retailers, or consumers, their successors and assigns, and any subsequent fraudulent transferee (but only to the extent of the interest or obligation fraudulently transferred).

(2) DETERMINATION OF AMOUNT OF PAYMENT DUE.—Each tobacco product manufacturer is liable for its share of each installment in proportion to its share of tobacco products sold in the domestic market for the calendar year. One month after the end of the calendar year, the Secretary shall make a final determination of each tobacco product manufacturer's applicable base amount payment obligation.

(3) CALCULATION OF TOBACCO PRODUCT MANUFACTURER'S SHARE OF ANNUAL PAYMENT.—The share of the annual payment apportioned to a tobacco product manufacturer shall be equal to that manufacturer's share of adjusted units, taking into account the manufacturer's total production of such units sold in the domestic market. A tobacco product manufacturer's share of adjusted units shall be determined as follows:

(A) UNITS.—A tobacco product manufacturer's number of units shall be determined by counting each—

(i) pack of 20 cigarettes as 1 adjusted unit;

(ii) 1.2 ounces of moist snuff as 0.75 adjusted unit; and

(iii) 3 ounces of other smokeless tobacco product as 0.35 adjusted units.

(B) DETERMINATION OF ADJUSTED UNITS.—Except as provided in subparagraph (C), a smokeless tobacco product manufacturer's number of adjusted units shall be determined under the following table:

For units	Each unit shall be treated as:
Not exceeding 150 million	70% of a unit
Exceeding 150 million	100% of a unit

(C) ADJUSTED UNITS DETERMINED ON TOTAL DOMESTIC PRODUCTION.—For purposes of determining a manufacturer's number of adjusted units under subparagraph (B), a manufacturer's total production of units, whether intended for domestic consumption or export, shall be taken into account.

(D) SPECIAL RULE FOR LARGE MANUFACTURERS.—If a tobacco product manufacturer has more than 200 million units under subparagraph (A), then that manufacturer's number of adjusted units shall be equal to the total number of units, and not determined under subparagraph (B).

(E) SMOKELESS EQUIVALENCY STUDY.—Not later than January 1, 2003, the Secretary shall submit to the Congress a report detailing the extent to which youths are substituting smokeless tobacco products for cigarettes. If the Secretary determines that significant substitution is occurring, the Secretary shall include in the report recommendations to address substitution, including consideration of modification of the provisions of subparagraph (A).

(e) COMPUTATIONS.—The determinations required by subsection (d) shall be made and certified by the Secretary of Treasury. The parties shall promptly provide the Treasury Department with information sufficient for it to make such determinations.

(f) NONAPPLICATION TO CERTAIN MANUFACTURERS.—

(1) EXEMPTION .—A manufacturer described in paragraph (3) is exempt from the payments required by subsection (b).

(2) LIMITATION.—Paragraph (1) applies only to assessments on cigarettes to the extent that those cigarettes constitute less than 3 percent of all cigarettes manufactured and distributed to consumers in any calendar year.

(3) TOBACCO PRODUCT MANUFACTURERS TO WHICH SUBSECTION APPLIES.—A tobacco product manufacturer is described in this paragraph if it—

(A) resolved tobacco-related civil actions with more than 25 States before January 1, 1998, through written settlement agreements signed by the attorneys general (or the equivalent chief legal officer if there is no office of attorney general) of those States; and

(B) provides to all other States, not later than December 31, 1998, the opportunity to enter into written settlement agreements that—

(i) are substantially similar to the agreements entered into with those 25 States; and

(ii) provide the other States with annual payment terms that are equivalent to the most favorable annual payment terms of its written settlement agreements with those 25 States.

SEC. 403. ADJUSTMENTS.

The applicable base amount under section 402(b) for a given calendar year shall be adjusted as follows in determining the annual payment for that year:

(1) INFLATION ADJUSTMENT.—

(A) IN GENERAL.—Beginning with the sixth calendar year after the date of enactment of this Act, the adjusted applicable base amount under section 402(b)(6) is the amount of the annual payment made for the preceding year increased by the greater of 3 percent or the annual increase in the CPI adjusted (for calendar year 2002 and later years) by the volume adjustment under paragraph (2).

(B) CPI.—For purposes of subparagraph (A), the CPI for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor.

(C) ROUNDING.—If any increase determined under subparagraph (A) is not a multiple of $1,000, the increase shall be rounded to the nearest multiple of $1,000.

(2) VOLUME ADJUSTMENT.—Beginning with calendar year 2002, the applicable base amount (as adjusted for inflation under paragraph (1)) shall be adjusted for changes in volume of domestic sales by multiplying the applicable base amount by the ratio of the actual volume for the calendar year to the base volume. For purposes of this paragraph, the term "base volume" means 80 percent of the number of units of taxable domestic removals and taxed imports of cigarettes in calendar year 1997, as reported to the Secretary of the Treasury. For purposes of this subsection, the term "actual volume" means the number of adjusted unites as defined in section 402(d)(3)(A).

SEC. 404. PAYMENTS TO BE PASSED THROUGH TO CONSUMERS.

Each tobacco product manufacturer shall use its best efforts to adjust the price at which it sells each unit of tobacco products in the domestic market or to an importer for resale in the domestic market by an amount sufficient to pass through to each purchaser on a per-unit basis an equal share of the annual payments to be made by such tobacco product manufacturer under this Act for the year in which the sale occurs.

SEC. 405. TAX TREATMENT OF PAYMENTS.

All payments made under section 402 are ordinary and necessary business expenses for purposes of chapter 1 of the Internal Revenue Code of 1986 for the year in which such payments are made, and no part thereof is either in settlement of an actual or potential liability for a fine or penalty (civil or criminal) or the cost of a tangible or intangible asset or other future benefit.

SEC. 406. ENFORCEMENT FOR NONPAYMENT.

(a) PENALTY.—Any tobacco product manufacturer that fails to make any payment required under section 402 or 404 within 60 days after the date on which such fee is due is liable for a civil penalty computed on the unpaid balance at a rate of prime plus 10 percent per annum, as published in the Wall Street Journal on the latest publication date on or before the payment date, during the period the payment remains unmade.

(b) NONCOMPLIANCE PERIOD.—For purposes of this section, the term "noncompliance period" means, with respect to any failure to make a payment required under section 402 or 404, the period—

(1) beginning on the due date for such payment; and

(2) ending on the date on which such payment is paid in full.

(c) LIMITATIONS.—

(1) IN GENERAL.—No penalty shall be imposed by subsection (a) on any failure to make a payment under section 402 during any period for which it is established to the satisfaction of the Secretary of the Treasury that none of the persons responsible for such failure knew or, exercising reasonable diligence, should have known, that such failure existed.

(2) CORRECTIONS.—No penalty shall be imposed under subsection (a) on any failure to make a payment under section 402 if—

(A) such failure was due to reasonable cause and not to willful neglect; and

(B) such failure is corrected during the 30-day period beginning on the 1st date that any of the persons responsible for such failure knew or, exercising reasonable diligence, should have known, that such failure existed.

(3) WAIVER.—In the case of any failure to make a payment under section 402 that is due to reasonable cause and not to willful neglect, the Secretary of the Treasury may waive all or part of the penalty imposed under subsection (a) to the extent that the Secretary determines that the payment of such penalty would be excessive relative to the failure involved.

Subtitle B—General Spending Provisions

SEC. 451. ALLOCATION ACCOUNTS.

(a) STATE LITIGATION SETTLEMENT ACCOUNT.—

(1) IN GENERAL.—There is established within the Trust Fund a separate account, to be known as the State Litigation Settlement Account. Of the net revenues credited to the Trust Fund under section 401(b)(1) for each fiscal year, 40 percent of the amounts designated for allocation under the settlement payments shall be allocated to this account. Such amounts shall be reduced by the additional estimated Federal expenditures that will be incurred as a result of State expenditures under section 452, which amounts shall be transferred to the miscellaneous receipts of the Treasury. If, after 10 years, the estimated 25-year total amount projected to received in this account will be different than amount than $196,500,000,000, then beginning with the eleventh year the 40 percent share will be adjusted as necessary, to a percentage not in excess of 50 percent and not less than 30 percent, to achieve that 25-year total amount.

(2) APPROPRIATION.—Amounts so calculated are hereby appropriated and available until expended and shall be available to States for grants authorized under this Act.

(3) DISTRIBUTION FORMULA.—The Secretary of the Treasury shall consult with the National Governors Association, the National Association of Attorneys General, and the National Conference of State Legislators on a formula for the distribution of amounts in the State Litigation Settlement Account and report to the Congress within 90 days after the date of enactment of this Act with recommendations for implementing a distribution formula.

Tanya E. Martin
06/05/98 05:53:09 PM

Record Type: Record

To: Michael Cohen/OPD/EOP, Jose Cerda III/OPD/EOP

cc: Leanne A. Shimabukuro/OPD/EOP
Subject: School Safety Vouchers -- Status

Leanne and I spoke with Bill Modelewski (Safe and Drug Free) and Sandra Cook (Ed/leg affiras) about the Drug-Free schools tobacco amendment. Below are my notes on alternatives to the voucher program

1. Reauthorization
Bill M said that the Department did not have anything ready to go on reauthorization of the SDFS program. Last summer, his office completed a report on how the SDFS program should be revamped. When they presented that proposal to Mike Smith, he suggested waiting for the overall elem and secondary ed (IASA) reauthorization. Bill said they were just starting to meet on this and did not believe that the language/ideas from the proposal could be pulled/cleared by the Department today -- or done anytime soon.

2. FY 99 Targeted Funding -- ED and Spector's staff met on transferring $175 million of SDFS funding to a more targeted program that would allow for (1) state level Safe School Centers providing technical assistance, data collection and information on model programs and (2) competitive grants to urban, rural and suburban districts that would develop conprehensive school safety approached. ED went in to the meeting to propose $125 million, Spector's staff wanted to increase it to $175 milllion. ED didn't think they'd have langauge ready on this for 2 weeks.

3. Coordinators/After school
Sandra reported that Daschle/Kennedy are working on a Dem alternative for the voucher portion of the drug-free schools amendment that would replace the voucher provision with (1) $50 million for middle school coordinators and (2) some version of after-school -- either Boxer's or the adminstration's 21st century schools proposal; (3) and possilbe something on child care. Sandra is faxing a copy of the langauge to Leanne.

4. Other provisions of Amendment
I had to drop out for part of this call, but Leanne did go over with Bill M what the Dept's objections were to other provisions in the amendments. Sandra mentioned that Hill Dems were focusing on the voucher provision and hadn't discussed other provisions in the amendment with her.

I am still waiting for one additional call from the Deputy's office at Ed to see if there are any other thought/ideas ED has on this amendment. I'll let you know as soon as I hear anything further.

Jose 5 PAGES

that involves information properly classified under criteria established by an Executive order shall be presented to Congress separately from the rest of the Strategy.

"(3) PROCESS FOR DEVELOPMENT AND SUBMISSION.—

"(A) CONSULTATION.—In developing and effectively implementing the National Drug Control Strategy, the Director—

"(i) shall consult with—

"(I) the heads of the National Drug Control Program agencies;

"(II) Congress;

"(III) State and local officials;

"(IV) private citizens and organizations with experience and expertise in demand reduction; and

"(V) private citizens and organizations with experience and expertise in supply reduction; and

"(ii) may require the National Drug Intelligence Center and the El Paso Intelligence Center to undertake specific tasks or projects to implement the Strategy.

Please No!

Not AS

other local educational agency or to a private elementary school or secondary school, including a religious school.

(b) DEFINITIONS.—For the purpose of subsection (a), the terms "elementary school", "secondary school", "local educational agency", and "State educational agency" have the meanings given such terms in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

Subchapter B—Victim and Witness Assistance Programs for Teachers and Students

SEC. ___82. AMENDMENTS TO VICTIMS OF CRIME ACT OF 1984.

(a) VICTIM COMPENSATION.—Section 1403 of the Victims of Crime Act of 1984 (42 U.S.C. 10602) is amended by adding at the end the following:

"(f) VICTIMS OF SCHOOL VIOLENCE.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, an eligible crime victim compensation program may expend funds appropriated under paragraph (2) to offer compensation to elementary and secondary school students or teachers who are victims of elementary and secondary school violence (as school violence is defined under applicable State

law (?)

OVC is checking

SEC. ___99D. REPORT BY PRESIDENT.

Not later than October 1, 1998, and every April 1 and October 1 thereafter, the President shall prepare and submit to the appropriate committees of Congress a report on the prevalence of the use of any illegal drugs by youth between the ages of 12 and 17.

Subtitle E—Miscellaneous Provisions

SEC. ___99E. LIMITATIONS ON FUNDING.

(b) IN GENERAL.—Notwithstanding section 451(b), amounts in the Public Health Account shall be available to the extent and only in the amounts provided in advance in appropriations Acts, to remain available until expended, only for the purposes of—

(1) carrying out smoking cessation activities under part D of title XIX of the Public Health Service Act, as added by title II of this Act;

(2) carrying out activities under section 453;

(3) carrying out—

(A) counter-advertising activities under section 1982 of the Public Health Service Act as amended by this Act;

(B) smoking prevention activities under section 223;

(C) surveys under section 1991C of the Public Health Service Act, as added by this Act

United States, or an aircraft subject to the jurisdiction of the United States operating outside the United States, to fail to obey an order to land by an authorized Federal law enforcement officer who is enforcing the laws of the United States relating to controlled substances, as that term is defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), or relating to money laundering (sections 1956–57 of this title).

"(B) REGULATIONS.—The Administrator of the Federal Aviation Administration, in consultation with the Commissioner of Customs and the Attorney General, shall prescribe regulations governing the means by, and circumstances under which a Federal law enforcement officer may communicate an order to land to a pilot, operator, or person in charge of an aircraft. Such regulations shall ensure that any such order is clearly communicated in accordance with applicable international standards. Further, such regulations shall establish guidelines based on observed conduct, prior information, or other circumstances for determining

should be OK if only 1978?

SUBTITLE 1 -- DISRUPTING THE FLOW OF ILLEGAL DRUGS AND TOBACCO IN OUR COMMUNITIES

CHAPTER 1 -- INCREASED RESOURCES FOR STATE AND LOCAL LAW ENFORCEMENT

(42 USC 3711 et seq.)

SEC. _____ In General. -- Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended --

(1) by redesignating part ~~W~~ as part ~~X~~

~~(2)~~ by inserting after Part ~~W~~ the following new part:

"PART ~~X~~ V DRUG AND TOBACCO ENFORCEMENT

"SEC. 2201 Authority to Make Drug Enforcement and Tobacco Anti-Smuggling Grants.

(a) Grant Authorization. -- The Attorney General after consultation with the Secretary of the Treasury, may make grants to units of state and local government, law enforcement agencies, Indian tribal governments, and multi-jurisdictional or regional consortia thereof to assist law enforcement and establish cooperative efforts to implement the drug and tobacco enforcement provisions of this Act and related provisions of federal, state and local law.

1) by designating section 2201 as section 2301 and making conforming changes

(b) Amounts. -- There is authorized to be appropriated $200,000,000 for each of the fiscal years 1999 through 2003 from the Trust Fund under section 401 to be used to carry out this section.

switch order

(c) IN GENERAL. -- Grants under subsection (~~b~~ a) may be used to support projects, programs, and activities to --

italicize

(A) hire additional personnel and pay overtime costs;

(B) procure equipment, training, technical assistance or information systems; or

(C) fund operations and initiatives including but not limited to --

(1) multi jurisdictional task forces and strike teams that integrate Federal, State, and local law enforcement agencies and prosecutors for the purposes of combating illegal trafficking in drugs and tobacco products;

(2) utilize additional state and local law enforcement officers to disrupt illicit commerce in black market tobacco products and illegal drugs;

(3) target the domestic sources of controlled and illegal substances, such as precursor chemicals, diverted pharmaceuticals, clandestine laboratories, and cannabis cultivations;

DRAFT

COVERDELL AMENDMENT S. 1415 (Drug Free Neighborhoods Act)
Coverdell, Craig, Inhoff, Abraham, Sessions, Grassley, Faircloth
Provisions of interest to the Department of the Treasury

Subtitle A. Stopping the Flow of Drugs at Our Borders
Chapter 1. Increased Resources for Drug Interdiction

- **Customs authorization: $500m to stop flow of illegal drugs** -- 1999-2003
  As authorization language, the Coverdell amendment does not mandate that Customs hire up the positions; this would be done through the appropriations process only if funding is available. As such, Treasury supports this authorization despite the fact that it is $500 million per fiscal year, 1999 through 2003, which is above the level requested in the President's FY 1999 budget. The Administration request calls for an increase of $5 million for 54 positions for narcotics/money laundering and $54 million for technology.
  Customs needs and could use the additional funding for border interdiction activities as authorized in the amendment. Customs is the lead drug interdiction agency at U.S. ports of entry. The large increases in both personnel and equipment by the Immigration and Naturalization Service (INS) and the Border Patrol over the past several years have impacted the workloads of the Customs Service at the ports. To keep up with the demand and ensure that illegal narcotics and other contraband do not enter the U.S., Customs must have state of the art detection tools and additional personnel to better identify suspect cargo. The threat to air and marine in the Florida, Gulf and Caribbean area must also be addressed. Customs does not have sufficient assets or manpower to respond to the air and marine threat in this environment. These resources will also help Customs more fully participate with other drug enforcement agencies in a comprehensive response to the drug supply problem.

Chapter 2. Drug Free Borders

- **p. 3, Sec. 16. Portrunning as a crime**
  Treasury supports, but prefers the portrunning provision in the Administration's International Crime Control Act (ICCA), sec. 2101. There are two differences: 1) there some discrepancies between the predicate offenses listed in the ICCA and those listed in the Coverdell Amendment; 2) the ICCA makes the reckless operation of a conveyance a crime, while the Coverdell Amendment does not; and 3) the ICCA provision amends 18 USC 111 to criminalize the reckless endangerment of a federal law enforcement officer, but the Coverdell Amendment does not.
- **p. 5, Sec. 17. Entry of goods by means of false statement**-- penalty increase from 2 to 5
  Treasury supports. Identical to subsection within section 2303 of ICCA.

DRAFT

- **p. 5, Sec. 18. Coast Guard provisions for sanctions for failure to heave to, etc.**
  Treasury supports this provision. It is almost identical to a provision in the ICCA, except that the ICCA sec. 2201 only related to boats, while this provision also authorizes law enforcement officers enforcing narcotics or money laundering laws to order landing of aircraft that have crossed the border. The FAA, in consultation with Customs and the Attorney General, is authorized to prescribe regulations to implement this provision.
- **p.12, Sec.20. Increase in number of Border Patrol Agents** -- add 1,500
- **p. 13, Sec.21.Border Patrol pursuit policy** -- must pursue until hand-off to State/local
  Customs does not have comments on this section.
- **p.13, Sec. 22. Border Patrol authorized to interdict narcotics importation**, required to give as much priority attention to narcotics as to unlawful entry.
  Treasury opposes. This provision confuses the responsibilities of government agencies and will result in a duplication of effort. Customs already has the authority to cross-designate Border Patrol officers to conduct searches under Customs authority. This amendment potentially enables Border Patrol officers to conduct Customs searches on their own, without coordination with Customs.
- **p. 13, Sec. 23. Customs rotation** of duty stations, temporary assignment. The bill authorizes the Secretary of the Treasury to transfer 5% of Customs officers to new duty stations each fiscal year for integrity purposes,irrespective of bargaining agreements, executive orders The Secretary is also authorized to temporarily transfer inspectors to duty assignments of up to 90 days for enforcement. Authorizes $25m for each of 2 yrs.
  Treasury opposes. The rotations would not be subject to collective bargaining. Treasury opposes this provision because of the substantial costs, which are estimated at about $60,000 per inspector vs. the benefits that would be derived. It has not been demonstrated that rotation of inspectors would be beneficial.
- **p.15, Sec. 24. Effect of Collective Bargaining Agreements** on Ability of Customs Service to Interdict Contraband. The bill sets a limit of 90 days on any collective bargaining disputes that affect the interdiction of narcotics. If no agreement is reached in 90 days, Customs is authorized to implement its last offer. Either party may then appeal to the Federal Services Impasses Panel for relief.
  Treasury opposes this provision. Resolution of these types of disputes are better left to the collective bargaining process and legislation would interfere with the partnerships that have been developed between labor and management over the past several years. Currently, there is no time limitation on matters in collective bargaining and Customs may not implement changes until review and ruling by the impasses panel.

Subtitle B, Chapter 1. Drug Free Teen Drivers.

DRAF

Chapter 2. Drug Free Schools

- **p.29, authorization for report cards on schools.** Grant programs for schools that *inter alia* have programs reporting on total number of incidents of weapons possession, mailings to parents on weapons possession, police patrols in schools, including canine patrols. Grants conditioned on schools referring to law enforcement authorities any student on school grounds who commits a violent offense resulting in serious bodily injury.

  Treasury not directly affected, as this is Dept. Of Ed. Program authority. However, program of interest to ATF as certifier of canines, and represents a possible basis for increasing number of guns recovered in schools to be traced by ATF, by conditioning grants on referral of firearms to local law enforcement.

Chapter 3. Drug Free Student Loans

Chapter 4. Drug Free Workplaces (non-governmental)

Chapter 5. Drug Free Communities (grassroots drug prevention programs)

Chapter 6. Banning Free Needles for Drug Addicts (federal)

Subtitle C, Defeating the Drug Mafia

Chapter 1. Increased Resources for Law Enf. (FBI, DEA)

Chapter 2. Registration of Convicted Drug Dealers.

Subtitle D. National Drug Control Strategy. Rules on Strategy process, consultation, contents. Calls for 2 yr and 4 yr plans, with performance measures. Submission of annual progress report on strategy implementation, including *inter alia,* effectiveness of interdiction and international programs; price, purity information; p.74 effectiveness of federal technology programs at improving drug detection capabilities in interdiction, and at ports of entry; p.75 drug contribution to underground economy. p. 76-77. ONDCP to design performance measurement system in consultation with affected agencies, submit to Congress October 1998.

The Administration does not support in this form. A Daschle-Biden substitute is anticipated. (Per ONDCP, Michael Lawrence)

Subtitle E. Miscellaneous Provisions.

Section 99e. Limitations on Funding. (Tobacco-related). Adds "education and prevention relating to drugs," to Public Health Account tobacco expenditures, which includes *inter alia,* carrying out anti-Smuggling activities.

The Administration is considering alternative language addressing ATF anti-smuggling authority.

<u>Included in Coverdell print but omitted in version introduced</u>:

Subtitle C, Chapter 2. Money Laundering Prevention. Identical to Administration proposed Money Laundering Act of 1998.

Treasury supports this Administration legislation. However, Customs does have a significant concern regarding one section of this provision that would have the unintended consequence of removing Customs authority to subpoena bank records. This can be corrected by a technical amendment.

UNITED STATES SENATOR • IDAHO

LARRY CRAIG

NEWS RELEASE

For Immediate Release: May 6, 1998
Mike Tracy (208) 342-7985
Michael Frandsen (202) 224-8078

CRAIG CALLS FOR TOUGH, ANTI-DRUG PROVISIONS IN TOBACCO BILL

Says Protecting Teen Health Should Be A National Priority

WASHINGTON, DC -- Idaho Senator Larry Craig today unveiled a tough, sweeping anti-drug plan that he pledged will be included with any tobacco legislation considered this year in the Senate.

The Drug-Free Neighborhood Act contains numerous initiatives designed to stop illegal drugs at our borders, help communities mount effective anti-drug campaigns and create incentives for students, schools and employers to effectively fight the war on drugs.

Craig pointed to troubling statistics showing a sharp rise in the rate of drug use among teenagers in this country. In 1992, approximately 40 percent of all high school seniors had experimented with an illegal drug. By 1997, that number had jumped to more than 54 percent. The most troubling statistic of all, said Craig, is that 14,000 young people die from activities associated with drug use every year in this country.

"They die because of overdose, they die because of gang violence associated with drugs, they die on our street corners in the darkest parts of our cities, and they die because we do not help them," said Craig.

Craig noted that much of the increase in teenage drug use has occurred during the last decade. "The Clinton administration has made the fight against drugs a low priority, and then abandoned ship in mid-storm. No wonder teen drug use is on the rise," said Craig.

Sen. Craig was joined in today's announcement by the chief sponsor of the Drug-Free Neighborhood Act, Sen. Paul Coverdell, Republican Conference Secretary and by Sen. Don Nickles, Assistant Majority Leader.

Return Press Releases

I couldn't find anything else on this.

S. 2027

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

Section 119 of the Internal Revenue Code of 1986 is amended by adding the following new subsection:

(e) In the case of an employee of a hotel or restaurant, gross income shall not include the value of meals furnished to such employee by an employer in a non-discriminatory employee cafeteria located on the business premises of the employer immediately before, immediately after, or during work shifts.

By Mr. ASHCROFT:

S. 2028. A bill to amend the National Narcotics Leadership Act of 1988 to extend the authorization for the Office of National Drug Control Policy until September 30, 2000, to expand the responsibilities and powers of the Director of the Office of National Drug Control Policy, and for other purposes; to the Committee on the Judiciary.

the drug czar responsibility and accountability act of 1998

Mr. ASHCROFT. Mr. President, I am introducing today the Drug Czar Responsibility and Accountability Act. It adds to the responsibilities of the drug czar's office the establishment of Federal policies, goals and performance measures, including specific reduction targets.

Why is such a measure needed? Consider this: Overall illicit drug use among children age 12 to 17 was 5.3 percent when the President took office. In 1996, it was 9 percent. That is an increase of 70 percent since 1993. Now, the President proposes to cut drug use by 20 percent by the year 2002. In other words, 2 years after the President wants to leave office, he hopes to get teen drug use to only 128 percent of where it was when he took office.

I happen to have been a Boy Scout. I think most of us in the Chamber have had some association with scouting. We either hauled kids to the campfires, to the Brownies, or to the Cub Scouts or Boy Scouts. The fundamental principle of scouting is you always leave the campground a little better than you found it.

Here we have a President who, in terms of teen drug use, wants to set as a goal that there will be 128 percent of the drug use that there was when he came into office, and that goal isn't even supposed to be attained until 2 years after he leaves office.

I don't think we will ever achieve greatness in our culture if we don't at least aspire to good things. Our opportunity is to leave the campground better than we found it, not worse than we found it, and certainly not 128 percent worse than we found it. We cannot defer

Congressional Record ? pg S4035

maintenance of the campground until after we are gone.

The tradition of America is to provide to the next generation a broader set of opportunities, a brighter set of horizons than we have ever known before. That should not be forgotten when we talk about curtailing the scourge of drugs on our young people.

Here we have a President who wants to instruct a drug czar to ratchet the drug problem all the way back to 128 percent of what it was when he started and not to get that done until 2 years after he leaves office. I think it is disgraceful.

Mr. President, because of my concern for combating underage drug use, I will also offer an amendment to the tobacco bill when it comes to the Senate floor to make certain the epidemic of underage illegal drug use is addressed in that respect. My amendment will allow States to use tobacco settlement funds for anti-illegal drug and law enforcement purposes, not just teen smoking programs.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2028

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

SECTION 1. SHORT TITLE; AMENDMENT REFERENCES.

(a) Short Title.--This Act may be cited as the "Drug Czar Responsibility and Accountability Act of 1998''.

(b) Amendment References.--Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1501 et seq.).

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Overall drug use among children aged 12 to 17 in 1992 was 5.3 percent. In 1996, it was 9 percent, an increase of 70 percent.

(2) Use of any illicit drug among 8th graders in 1992 was 12.9 percent. In 1997, it was 22.1 percent, an increase of 71

percent.

(3) Use of any illicit drug among 10th graders in 1992 was 20.4 percent. In 1997, it was 38.5 percent, an increase of 91 percent.

(4) Use of any illicit drug among 12th graders in 1992 was 27.1 percent. In 1997, it was 42.4 percent, an increase of 56 percent.

(5) Use of marijuana among 8th graders in 1992 was 3.7 percent. In 1997, it was 10.2 percent, an increase of 176 percent.

(6) Use of marijuana among children aged 12 to 17 in 1992 was 3.4 percent. In 1996, it was 7.1 percent, an increase of 109 percent.

(7) Use of cocaine among children aged 12 to 17 in 1992 was 0.3 percent. In 1996, it was 0.6 percent, an increase of 100 percent.

(8) Marijuana-related medical emergencies in 1992 totaled 23,997. In 1996, there were 50,037 such emergencies, an increase of 108 percent.

(9) Cocaine-related medical emergencies in 1992 totaled 119,843. In 1996, there were 144,180 such emergencies, an increase of 20 percent.

(10) Heroin-related medical emergencies in 1992 totaled 48,003. In 1996, there were 70,463 such emergencies, an increase of 47 percent.

SEC. 3. EXPANSION OF RESPONSIBILITIES OF DIRECTOR.

(a) Expansion of Responsibilities.--Section 1003(b) (21 U.S.C. 1502(b)) is amended--

(1) by striking paragraph (1) and inserting the following: "(1) establish Federal policies, objectives, goals, priorities, and performance measures (including specific annual agency targets expressed in terms of precise percentages) for the National Drug Control Program and for each National Drug Control Program agency, which shall include targets for reducing the levels of overall unlawful drug use, adolescent unlawful drug use, and drug-related emergency room incidents to January 19, 1993 levels;'';

(2) by striking paragraph (3) and inserting the following: "(3) coordinate, oversee, and evaluate the effectiveness of the implementation of the policies, objectives, goals, performance measures, and priorities established under paragraph (1) and the fulfillment of the responsibilities of

the National Drug Control Program agencies under the National Drug Control Strategy;'';

(3) in paragraph (5), by inserting "and nongovernmental entities involved in demand reduction'' after "governments'';

(4) in paragraph (7), by striking "and'' at the end;

(5) in paragraph (8), by striking the period at the end and inserting a semicolon; and

(6) by adding at the end the following:

"(9) require each National Drug Control Program agency to submit to the Director on a semi-annual basis (beginning with the first 6 months of 1999) an evaluation of progress by the agency with respect to drug control program goals using the performance measures referred to in paragraph (1), including progress with respect to--

"(A) success in reducing domestic and foreign sources of illegal drugs;

"(B) success in protecting the borders of the United States (and in particular the Southwestern border of the United States) from penetration by illegal narcotics;

"(C) success in reducing violent crime associated with drug use in the United States;

"(D) success in reducing the negative health and social consequences of drug use in the United States; and

"(E) implementation of drug treatment and prevention programs in the United States and improvements in the adequacy and effectiveness of such programs;

"(10) submit to Congress on a semiannual basis, not later than 60 days after the date of the last day of the applicable 6-month period, a summary of--

"(A) each evaluation received by the Director under paragraph (9); and

"(B) the progress of each National Drug Control Program agency toward the drug control program goals of the agency using the performance measures described in paragraph (1);

"(11) require the National Drug Control Program agencies to submit to the Director not later than February 1 of each year a detailed accounting of all funds expended by the agencies for National Drug Control Program activities during the previous fiscal year, and require such accounting to be authenticated by the Inspector General for each agency prior to submission to the Director;

"(12) submit to Congress not later than April 1 of each year the information submitted to the Director under paragraph (11);

"(13) submit to Congress not later than August 1 of each year a report including--

"(A) the budget guidance provided by the Director to each National Drug Control Program agency for the fiscal year in which the report is submitted and for the other fiscal years within the applicable 5-year budget plan relating to such fiscal year; and

"(B) a summary of the request of each National Drug Control Program agency to the Director under this Act (prior to review of the request by the Office of Management and Budget) for the resources required to achieve the targets of the agency under this Act;

"(14) act as a representative of the President before Congress on all aspects of the National Drug Control Program;

"(15) act as the primary spokesperson of the President on drug issues;

"(16) make recommendations to National Drug Control Program agency heads with respect to implementation of Federal counter-drug programs;

"(17) take such actions as necessary to oppose any attempt to legalize the use of a substance (in any form) that--

"(A) is listed in schedule I of section 202 of the Controlled Substances Act (21 U.S.C. 812); and

"(B) has not been approved for use for medical purposes by the Food and Drug Administration; and

"(18) ensure that drug prevention and drug treatment research and information is effectively disseminated by National Drug Control Program agencies to State and local governments and nongovernmental entities involved in demand reduction by--

"(A) encouraging formal consultation between any such agency that conducts or sponsors research, and any such agency that disseminates information in developing research and information product development agendas;

"(B) encouraging such agencies (as appropriate) to develop and implement dissemination plans that specifically target

State and local governments and nongovernmental entities involved in demand reduction; and

"(C) developing a single interagency clearinghouse for the dissemination of research and information by such agencies to State and local governments and nongovernmental agencies involved in demand reduction.''.

(b) Survey of Drug Use.--

(1) In general.--The University of Michigan shall not be prohibited under any law from conducting the survey of drug use among young people in the United States known as the Monitoring the Future Survey.

(2) Other surveys.--The National Parents' Resource Institute for Drug Education in Atlanta, Georgia, shall not be prohibited under any law from conducting the survey of drug use among young people in the United States known as the National PRIDE Survey.

SEC. 4. EXPANSION OF POWERS OF DIRECTOR.

Section 1003(d) (21 U.S.C. 1502(d)) is amended--

(1) in paragraph (9), by striking the period and inserting a semicolon; and

(2) by adding at the end the following:

"(10) require the heads of National Drug Control Program agencies to provide the Director with statistics, studies, reports, and any other information regarding Federal control of drug abuse;

"(11) require the heads of National Drug Control Program agencies to provide the Director with information regarding any position (before an individual is nominated for such position) that--

"(A) relates to the National Drug Control Program;

"(B) is at or above the level of Deputy Assistant Secretary; and

"(C) involves responsibility for Federal counternarcotics or antidrug programs; and

"(12) make recommendations to the National Drug Intelligence Center on the specific projects that the Director determines will enhance the effectiveness of implementation of the National Drug Control Strategy.''.

SEC. 5. SUBMISSION OF NATIONAL DRUG CONTROL STRATEGY.

(a) In General.--Section 1005(a) (21 U.S.C. 1504(a)) is amended--

(1) in paragraph (2)--
(A) by striking subparagraph (A) and inserting the following:

"(A) include comprehensive, research-based, specific, long-range goals and performance measures (including specific annual targets expressed in terms of precise percentages) for reducing drug abuse and the consequences of drug abuse in the United States;'';

(B) in subparagraph (C), by striking "and'' at the end;
(C) by striking subparagraph (D);
(D) by adding at the end the following:
"(D) include 4-year projections for National Drug Control Program priorities (including budget priorities); and

"(E) review international, Federal, State, local, and private sector drug control activities to ensure that the United States pursues well-coordinated and effective drug control at all levels of government.'';

(2) in paragraph (3)(A), by striking clauses (iv) and (v) and inserting the following:

"(iv) private citizens and organizations with experience and expertise in demand reduction;

"(v) private citizens and organizations with experience and expertise in supply reduction; and

"(vi) appropriate representatives of foreign governments.'';

(3) in paragraph (4)--
(A) in subparagraph (B), by striking clauses (i) through (vi) and inserting the following:

"(i) the quantities of cocaine, heroin, marijuana, methamphetamine, ecstasy, and rohypnol available for consumption in the United States;

"(ii) the amount of cocaine, heroin, marijuana, ecstasy, rohypnol, methamphetamine, and precursor chemicals entering the United States;

"(iii) the number of hectares of marijuana, poppy, and coca cultivated and destroyed domestically and in other countries;

"(iv) the number of metric tons of marijuana, cocaine, heroin, and methamphetamine seized;

"(v) the number of cocaine and methamphetamine processing labs destroyed domestically and in other countries;

"(vi) changes in the price and purity of heroin and cocaine, changes in price of methamphetamine, and changes in tetrahydrocannabinol level of marijuana;'';

(B) in subparagraph (C), by striking "and'' at the end;
(C) in subparagraph (D), by striking the period at the end and inserting "; and''; and

(D) by adding at the end the following:
"(E) assessment of the cultivation of illegal drugs in the United States.''; and

(4) in paragraph (5)--
(A) in the matter preceding subparagraph (A), by striking "February 1, 1995'' and inserting "February 1, 1999'';

(B) in the matter preceding subparagraph (A), by striking "second'';

(C) in subparagraph (C), by striking "and'' at the end;
(D) in subparagraph (D), by striking the period at the end and inserting "; and''; and

(E) by adding at the end the following:
"(E) a description of the National Drug Control Program performance measures described in subsection (a)(2)(A).''.

(b) Goals and Performance Measures for National Drug Control Strategy.--Section 1005(b) (21 U.S.C. 1504(b)) is amended--

(1) in the heading, by striking ", Objectives, and Priorities'' and inserting "and Performance Measures'';

(2) in the matter after the heading, by inserting "(1)'' before "Each National Drug Control Strategy'';

(3) by redesignating paragraphs (1) through (6) as subparagraphs (A) through (F), respectively;

(4) in subparagraph (A) (as redesignated by paragraph (3)), by striking "and priorities'' and inserting "and performance measures'';

(5) in subparagraph (C) (as redesignated by paragraph (3)), by striking "3-year projections'' and inserting "4-year projections''; and

(6) by adding at the end the following:
"(2) In establishing the performance measures required by this subsection, the Director shall--

"(A) establish performance measures and targets expressed in terms of precise percentages for each National Drug

Control Strategy goal and objective;

"(B) revise such performance measures and targets as necessary, and reflect such performance measures and targets in the National Drug Control Program budget submitted to Congress;

"(C) consult with affected National Drug Control Program agencies;

"(D) identify programs and activities of National Drug Control Program agencies that support the goals of the National Drug Control Strategy;

"(E) evaluate in detail the implementation by each National Drug Control Program agency of program activities supporting the National Drug Control Strategy;

"(F) monitor consistency between the drug-related goals of the National Drug Control Program agencies and ensure that drug control agency goals and budgets fully support, and are fully consistent with, the National Drug Control Strategy;

"(G) coordinate the development and implementation of national drug control data collection and reporting systems to support Federal policy formulation and performance measurement;

"(H) ensure that no Federal drug control funds are expended for any study or contract relating to the legalization (for a medical use or any other use) of a substance listed in schedule I of section 202 of the Controlled Substances Act (21 U.S.C. 812); and

"(I) ensure that no Federal funds appropriated for the High Intensity Drug Trafficking Program are expended for the expansion of drug treatment programs.''.

SEC. 6. REPORT ON DESIGNATION OF HIGH INTENSITY DRUG TRAFFICKING AREAS.

Section 1005(c)(3) (21 U.S.C. 1504(c)(3)) is amended to read as follows:

"(3) Annual report.--Not later than March 1 of each year, the Director shall submit to Congress a report--

"(A) on the effectiveness of, and need for, the designation of areas under this subsection as high intensity drug trafficking areas; and

"(B) that includes any recommendations of the Director for legislative action with respect to such designation.''.

SEC. 7. EXTENSION OF AUTHORIZATION OF APPROPRIATIONS.

Section 1011 (21 U.S.C. 1508) is amended by striking "8 succeeding fiscal years'' and inserting "10 succeeding fiscal years''.

SEC. 8. REPORT REQUIRED.

Not later than November 1, 1998, the Director of the Office of National Drug Control Policy shall submit to Congress a report including--

(1) proposed goals, targets, performance measures (as described in section 1003(b)(1) of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1502(b)(1))), and specific initiatives with respect to the National Drug Control Program, including the High Intensity Drug Trafficking Area Program; and

(2) proposals to coordinate the efforts of all National Drug Control Program agencies.

SEC. 9. CONSISTENCY WITH NATIONAL SECURITY ACT OF 1947.

Section 1004 (21 U.S.C. 1503) is amended--

(1) in subsection (a)--

(A) by striking "(1)'';

(B) by striking "(2)(A)'' and inserting "(b) Consistency With National Security Act of 1947.--(1)'';

(C) by striking "(B)'' and inserting "(2)''; and

(D) by striking "subparagraph (A)'' and inserting "paragraph (1)''; and

(2) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively.

LOAD-DATE: 05-04-1998

Bill Summary & Status for the 105th Congress

NEW SEARCH | HOME | HELP | ABOUT STATUS

S.2028
SPONSOR: Sen Ashcroft (introduced 05/01/98)

STATUS: Detailed Legislative Status

Senate Actions

May 1, 98:
Read twice and referred to the Committee on Judiciary.

Fax

Name: Cynthia Dailard
Organization:
Fax:
Phone:
From: Sandra C. Bellew
Date: May 29, 1998
Subject: Tobacco
Pages: 5

Neal wanted us to bring this issue to your attention. John Tanner of Senator Leahy's office forwarded it to us.

United States Senate

WASHINGTON, DC 20510

May 19, 1998

Dear Colleague:

When the Senate considers S. 1415, the National Tobacco Policy and Youth Reduction Act, we will offer an amendment to address the disturbing increase in teen drug use in America.

From 1991-1997, marijuana use among 10th graders increased by 135 percent, while smoking increased by 40 percent. Simply stated, teen marijuana use is growing at 3 times the rate of teen smoking. Both issues are serious and deserve our attention. However, in terms of the number of lives ruined, the public health consequences, and increased crime, especially among juveniles, there is no question what the number one problem is among our young people: drugs.

The Coverdell-Craig-Abraham Drug-Free Neighborhoods Act addresses the alarming increase in drug use among teens. First, it provides the weapons to cut drugs off at the source and at the border. Second, it provides additional resources to combat the drugs that reach our neighborhoods. Third, it creates disincentives for teens to use illegal drugs. All funds authorized under our plan, approximately $3 billion per year, would come from the National Tobacco Trust Fund.

Attached please find a summary of our amendment. Should you have any questions or if you wish to cosponsor this amendment, please call Ziad Ojakli with Sen. Coverdell (4-5868) or Brooke Roberts with Sen. Craig (4-2752).

Sincerely,

Paul D. Coverdell
Paul D. Coverdell
United States Senator

Larry E Craig
Larry Craig
United States Senator

Spencer Abraham
Spencer Abraham
United States Senator

The Coverdell-Craig-Abraham Drug-Free Neighborhoods Act

I. Stop the Flow of Drugs at Our Borders

(1) **INCREASED RESOURCES FOR INTERDICTION:**

- ***U.S. Customs***: doubles the interdiction budget;
- ***Coast Guard***: doubles the interdiction budget;
- ***Department of Defense***: doubles the interdiction budget;

(2) **DRUG-FREE BORDERS ACT**: strengthens civil and criminal penalties for customs violations; provides U.S. Customs greater authority to rotate agents, irrespective of any collective bargaining agreement; doubles the number of border agents by 2003.

II. Protect Our Neighborhoods & Schools From Drugs

(3) **DRUG-FREE TEEN DRIVERS ACT**: provides $10 million per year in grants for states that institute voluntary drug testing for teen drivers license applicants and for states that enact and enforce laws which crack down on drivers who use drugs.

(4) **DRUG-FREE SCHOOLS:** makes it an allowable use of federal funds to provide school choice or compensation for K-12 students who are the victims of school violence, including drug-related crimes; creates incentives for states to provide an annual report card to parents and teachers listing incidents of school violence, weapon possession, or drug activity; makes voluntary random drug testing programs an allowable use of federal funds; provides for parental consent drug testing demonstration projects.

(5) **DRUG-FREE STUDENT LOANS ACT:** restricts loans for students convicted of drug possession (1 year for 1st offenders, 2 years for 2nd offenders, and indefinite for 3rd; restricts loans for students convicted of

drug trafficking (2 years for 1st offenders and indefinitely for 2nd offenders); resumes loan eligibility on an expedited basis for students who satisfactorily complete a drug rehabilitation program that includes drug testing.

-over-

(6) **DRUG-FREE WORKPLACES:** authorizes $10 million per year in SBA demonstration grants for small and medium-sized businesses to implement drug-free workplace programs and provides technical assistance for businesses through SBA.

(7) **DRUG-FREE COMMUNITIES ACT**: authorizes $50 million per year to encourage communities nationwide to establish comprehensive, sustainable and accountable anti-drug coalitions through flexible matching grants. Allows up to $10 million of these funds to be used each year to encourage the formation of parent/youth drug prevention strategies.

(8) **BAN FREE NEEDLES FOR DRUG ADDICTS:** This provision, identical to S. 1959 introduced by Sen. Coverdell (R-GA), would ban taxpayer financing of needle programs.

III. Defeat the Drug Mafia

(9) **INCREASED RESOURCES FOR LAW ENFORCEMENT**

- ***Drug Enforcement Agency***: increases overall budget by 25%;
- ***Federal Bureau of Investigation***: increases drug enforcement budget by 25%;

(10) **MONEY-LAUNDERING PREVENTION ACT:** strengthens the ability of law enforcement to crack down on both international and domestic money launderers; increases criminal penalties; allows federal courts to restrain the U.S. assets of a person arrested abroad for money laundering.

(11) **REGISTRATION OF CONVICTED DRUG DEALERS:** provides $5

million per year in incentive grants to states that require convicted drug dealers who target kids to register with local law enforcement.

IV. *Increase Accountability*

(12) **NATIONAL DRUG CONTROL STRATEGY**: requires development of a 4-year National Drug Control Strategy at the beginning of each President's term in office; requires progress reports on or before February 1 of each year thereafter; requires a report to Congress every 6 months on illegal drug use by teens.

Coverdell-Craig-Abraham Amendment
Cost Estimate

	Current	Increase	FY 99	FY 00	FY 01	FY 02	FY 03	TOTAL
Customs	502 M	+502	1004	1004	1004	1004	1004	5020 M
Coast Guard	401 M	+401	802	802	802	802	802	4010 M
Defense	468 M	+468	936	936	936	936	936	4680 M
Drug Enf. Agency	1500 M	+300	1500	1500	1500	1500	1500	7500 M
FBI Drug Enf.	825 M	+206	1031	1031	1031	1031	1031	5155 M
Drug-Free Borders								
Doubling Customs Agents	502 M	+182	684	684	684	684	684	3420 M
Tech.	NA	+89	89	0	0	0	0	89 M
Other	10 M	+ 55	65	65	65	65	65	325 M
TOTAL	4008 M	2213 M	6111 M	6022 M	6022 M	6022 M	6022 M	30.199 Billion

NEWS

FROM THE COMMITTEE ON WAYS AND MEANS SUBCOMMITTEE ON TRADE

FOR IMMEDIATE RELEASE
May 13, 1998

CONTACT: Ari Fleischer or Trent Duffy
(202) 225-8933

Trade Subcommittee Passes Bill to Boost U.S. Customs Service Drug-Fighting Capability on the Borders

Full Committee Mark-Up is Thursday, May 14, 1998 in Room 1100 LHOB, Beginning at 10:00 a.m.

Bill Would Provide More Inspectors, More Equipment, and More Enforcement Power for Customs Efforts to Stop Narcotics Smuggling
-Increases Funding Over President's Request by $227 Million-

WASHINGTON — As part of House Republicans' commitment to a drug-free America, the Trade Subcommittee of the Committee on Ways and Means yesterday passed legislation which would authorize increases of $227 million more than the President requested for U.S. Customs Service narcotics interdiction efforts. The Full Committee on Ways and Means will mark up the legislation **Thursday, May 14, 1998 in Room 1100 LHOB, beginning at 10:00 a.m.** The bill is expected to be considered by the full House of Representatives as early as next week.

The "Drug Free Border Act of 1998" is a comprehensive proposal which would add 1,705 Customs inspectors and special agents and a host of new drug-screening technologies to assist in the detection of illegal narcotics coming across U.S. borders. Rep. Philip M. Crane (R-IL), Chairman of the Trade Subcommittee of the Committee on Ways and Means which has jurisdiction over the Customs Service, introduced H.R. 3809 on May 7th with Reps. E. Clay Shaw, Jr., (R-FL) and J. Dennis Hastert (R-IL) as original cosponsors.

"I am proud to add another line of defense in our nation's war against drugs by introducing legislation to strengthen drug interdiction efforts by the U. S. Customs Service. Unfortunately, the statistics are grim — drug use, particularly among teenagers and children, is widespread and skyrocketing. A critical prong in Congress' attack on illicit drug use is stopping the flow of narcotics across our nation's borders before they fall into the hands of our children," said Crane.

In 1997, the U.S. Customs Service seized nearly 1 million pounds of illegal drugs, more than all other federal agencies combined. Last year, over 118 million automobiles, 9.3 million trucks, 321,000 railcars and 4.5 million sea containers entered the United States creating an enormous window of opportunity for drug smugglers and a massive drug enforcement dilemma for Customs.

-a one-page summary of the legislation follows-

SUMMARY OF H.R. 3809 "DRUG FREE BORDER ACT OF 1998"

Authorization of Appropriation for Customs Service

- Drug and other enforcement activities: Increase of $227.1 million (31 percent) in FY 99 and $214.1 million (25 percent) in FY 00 over the President's request.
  FY 1999 — $958.8 million
  FY 2000 — $1,069.9 million

  -- Earmarks $89.2 mil. for drug detection equipment at land border ports and sea ports in the Gulf and Florida.

  -- Earmarks $303.7 million over two years for 1,705 new Customs inspectors, special agents, internal affairs officers, etc. along the borders and at major metropolitan drug and money-laundering locations.

  -- Requires Customs to measure effectiveness of additional resources.

- Commercial Operations: Accepts President's budget proposal.
  FY 1999 — $970.8 million
  FY 2000 — $1,000.0 million

- Air Interdiction: Accepts President's budget proposal.
  FY 1999 — $98.5 million
  FY 2000 — $101.4 million

Overtime Pay and Premium Pay

- Corrects Overtime and Premium pay problems such as night time pay at noon, overtime pay for not working, and premium pay while on vacation.

- Removes premium pay from the overtime cap calculation resulting in a potential overtime earnings increase of $6,000.

- Savings are devoted to fund additional drug enforcement related overtime.

Rotation of Customs Officers for Integrity Purposes

- Allows the Secretary of the Treasury to transfer up to 5 percent of the Customs officers to new duty stations each fiscal year for integrity purposes. The Secretary may also transfer Customs officers to temporary duty assignments for up to 90 days for enforcement purposes. This provision is not subject to collective bargaining. Authorizes for Appropriation $25 million to pay for this initiative.

Adverse Impact of Collective Bargaining Agreements on Interdiction Efforts

- Ensure that collective bargaining disputes do not jeopardize essential drug interdiction efforts. If the Customs Commissioner determines any collective bargaining agreement has an adverse impact upon the interdiction of contraband, including narcotics, the parties have 90 days to resolve the problem. If no agreement can be reached, Customs may immediately implement its last offer. Either party may then pursue the impasse to the Federal Service Impasses Panel.

HR 3809 IH

105th CONGRESS

2d Session

H. R. 3809

To authorize appropriations for the United States Customs Service for fiscal years 1999 and 2000, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

May 7, 1998

Mr. CRANE (for himself, Mr. SHAW, and Mr. HASTERT) introduced the following bill; which was referred to the Committee on Ways and Means

---

A BILL

To authorize appropriations for the United States Customs Service for fiscal years 1999 and 2000, and for other purposes.

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 `Drug Free Borders Act of 1998'.

TITLE I--AUTHORIZATION OF APPROPRIATIONS FOR UNITED STATES CUSTOMS SERVICE

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

(a) DRUG ENFORCEMENT AND OTHER NONCOMMERCIAL OPERATIONS- Subparagraphs (A) and (B) of section 301(b)(1) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(A) and (B)) are amended to read as follows:

`(A) $958,787,584 for fiscal year 1999.

`(B) $1,069,928,328 for fiscal year 2000.'.

(b) COMMERCIAL OPERATIONS- Clauses (i) and (ii) of section 301(b)(2)(A) of such Act (19 U.S.C. 2075(b)(2)(A)(i) and (ii)) are amended to read as follows:

`(i) $970,838,000 for fiscal year 1999.

`(ii) $999,963,000 for fiscal year 2000.'.

(c) AIR INTERDICTION- Subparagraphs (A) and (B) of section 301(b)(3) of such Act (19 U.S.C. 2075(b)(3)(A) and (B)) are amended to read as follows:

`(A) $98,488,000 for fiscal year 1999.

`(B) $101,443,000 for fiscal year 2000.'.

(d) SUBMISSION OF OUT-YEAR BUDGET PROJECTIONS- Section 301(a) of such Act (19 U.S.C. 2075(a)) is amended by adding at the end the following:

`(3) By no later than the date on which the President submits to the Congress the budget of the United States Government for a fiscal year, the Commissioner of Customs shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the projected amount of funds for the succeeding fiscal year that will be necessary for the operations of the Customs Service as provided for in subsection (b).'.

SEC. 102. NARCOTICS DETECTION EQUIPMENT FOR THE UNITED STATES-MEXICO BORDER, UNITED STATES-CANADA BORDER, AND FLORIDA AND THE GULF COAST SEAPORTS.

(a) FISCAL YEAR 1999- Of the amounts made available for fiscal year 1999 under section 301(b)(1)(A) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(A)), as amended by section 101(a) of this Act, $89,244,000 shall be available until expended for acquisition and other expenses associated with implementation and deployment of narcotics detection equipment along the United States-Mexico border, the United States-Canada border, and Florida and the Gulf Coast seaports, as follows:

(1) UNITED STATES-MEXICO BORDER- For the United States-Mexico border, the following:

(A) $6,000,000 for 8 Vehicle and Container Inspection Systems (VACIS).

(B) $11,000,000 for 5 mobile truck x-rays with transmission and backscatter imaging.

(C) $12,000,000 for the upgrade of 8 fixed-site truck x-rays from the present energy level of 450,000 electron volts to 1,000,000 electron volts (1-MeV).

(D) $7,200,000 for 8 1-MeV pallet x-rays.

(E) $1,000,000 for 200 portable contraband detectors (busters) to be distributed among ports where the current allocations are inadequate.

(F) $600,000 for 50 contraband detection kits to be distributed among all southwest border ports based on traffic volume.

(G) $500,000 for 25 ultrasonic container inspection units to be distributed among all ports receiving liquid-filled cargo and to ports with a hazardous material inspection facility.

(H) $2,450,000 for 7 automated targeting systems.

(I) $360,000 for 30 rapid tire deflator systems to be distributed to those ports where port runners are a threat.

(J) $480,000 for 20 portable Treasury Enforcement Communications Systems (TECS) terminals to be moved among ports as needed.

(K) $1,000,000 for 20 remote watch surveillance camera systems at ports where there are suspicious activities at loading docks, vehicle queues, secondary inspection lanes, or areas where visual surveillance or observation is obscured.

(L) $1,254,000 for 57 weigh-in-motion sensors to be distributed among the ports with the greatest volume of outbound traffic.

(M) $180,000 for 36 AM traffic information radio stations, with 1 station to be located at each border crossing.

(N) $1,040,000 for 260 inbound vehicle counters to be installed at every inbound vehicle lane.

(O) $950,000 for 38 spotter camera systems to counter the surveillance of customs inspection activities by persons outside the boundaries of ports where such surveillance activities are occurring.

(P) $390,000 for 60 inbound commercial truck transponders to be distributed to all ports of entry.

(Q) $1,600,000 for 40 narcotics vapor and particle detectors to be distributed to each border crossing.

(R) $400,000 for license plate reader automatic targeting software to be installed at each port to target inbound vehicles.

(2) UNITED STATES-CANADA BORDER- For the United States-Canada border, the following:

(A) $3,000,000 for 4 Vehicle and Container Inspection Systems (VACIS).

(B) $8,800,000 for 4 mobile truck x-rays with transmission and backscatter imaging.

(C) $3,600,000 for 4 1-MeV pallet x-rays.

(D) $250,000 for 50 portable contraband detectors (busters) to be distributed among ports where the current allocations are inadequate.

(E) $300,000 for 25 contraband detection kits to be distributed among ports based on traffic volume.

(F) $240,000 for 10 portable Treasury Enforcement Communications Systems (TECS) terminals to be moved among ports as needed.

(G) $400,000 for 10 narcotics vapor and particle detectors to be distributed to each border crossing based on traffic volume.

(3) FLORIDA AND GULF COAST SEAPORTS- For Florida and the Gulf Coast seaports, the following:

(A) $4,500,000 for 6 Vehicle and Container Inspection Systems (VACIS).

(B) $11,800,000 for 5 mobile truck x-rays with transmission and backscatter imaging.

(C) $7,200,000 for 8 1-MeV pallet x-rays.

(D) $250,000 for 50 portable contraband detectors (busters) to be distributed among ports where the current allocations are inadequate.

(E) $300,000 for 25 contraband detection kits to be distributed among ports based on traffic volume.

(b) FISCAL YEAR 2000- Of the amounts made available for fiscal year 2000 under section 301(b)(1)(B) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(B)), as amended by section 101(a) of this Act, $8,924,500 shall be for the maintenance and support of the equipment and training of personnel to maintain and support the equipment described in subsection (a).

(c) ACQUISITION OF TECHNOLOGICALLY SUPERIOR EQUIPMENT; TRANSFER OF FUNDS-

(1) IN GENERAL- The Commissioner of Customs may use amounts made available for fiscal year 1999 under section 301(b)(1)(A) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(A)), as amended by section 101(a) of this Act, for the acquisition of equipment other than the equipment described in subsection (a) if such other equipment--

(A)(i) is technologically superior to the equipment described in subsection (a); and

(ii) will achieve at least the same results at a cost that is the same or less than the equipment described in subsection (a); or

(B) can be obtained at a lower cost than the equipment described in subsection (a).

(2) TRANSFER OF FUNDS- Notwithstanding any other provision of this section, the Commissioner of Customs may reallocate an amount not to exceed 10 percent of--

(A) the amount specified in any of subparagraphs (A) through (R) of subsection (a)(1) for equipment specified in any other of such subparagraphs (A) through (R);

(B) the amount specified in any of subparagraphs (A) through (G) of subsection (a)(2) for equipment specified in any other of such subparagraphs (A) through (G); and

(C) the amount specified in any of subparagraphs (A) through (E) of subsection (a)(3) for equipment specified in any other of such subparagraphs (A) through (E).

SEC. 103. PEAK HOURS AND INVESTIGATIVE RESOURCE ENHANCEMENT FOR THE UNITED STATES-MEXICO AND UNITED STATES-CANADA BORDERS.

Of the amounts made available for fiscal years 1999 and 2000 under subparagraphs (A) and (B) of section 301(b)(1) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(A) and (B)), as amended by section 101(a) of this Act, $112,844,584 for fiscal year 1999 and $180,910,928 for fiscal year 2000 shall be available for the following:

(1) A net increase of 535 inspectors, 120 special agents, and 10 intelligence analysts for the United States-Mexico border and 375 inspectors for the United States-Canada border, in order to open all primary lanes on such borders during peak hours and enhance investigative resources.

(2) A net increase of 285 inspectors and canine enforcement officers to be distributed at large cargo facilities as needed to process and screen cargo (including rail cargo) and reduce commercial waiting times on the United States-Mexico border.

(3) A net increase of 300 special agents, 30 intelligence analysts, and additional resources to be distributed among offices that have jurisdiction over major metropolitan drug or narcotics distribution and transportation centers for intensification of efforts against drug smuggling and money-laundering organizations.

(4) A net increase of 50 positions and additional resources to the Office of Internal Affairs to enhance investigative resources for anticorruption efforts.

(5) The costs incurred as a result of the increase in personnel hired pursuant to this section.

SEC. 104. COMPLIANCE WITH PERFORMANCE PLAN REQUIREMENTS.

As part of the annual performance plan for each of the fiscal years 1999 and 2000 covering each program activity set forth in the budget of the United States Customs Service, as required under section 1115 of title 31, United States Code, the Commissioner of the Customs Service shall establish performance goals, performance indicators, and comply with all other requirements contained in paragraphs (1) through (6) of subsection (a) of such section with respect to each of the activities to be carried out pursuant to sections 102 and 103 of this Act.

TITLE II--OVERTIME AND PREMIUM PAY OF OFFICERS OF THE UNITED STATES CUSTOMS SERVICE; MISCELLANEOUS PROVISIONS

Subtitle A--Overtime Pay and Premium Pay of Officers of the United States Customs Service

SEC. 201. FISCAL YEAR CAP.

Section 5(c)(1) of the Act of February 13, 1911 (19 U.S.C. 267(c)(1)) is amended to read as follows:

`(1) FISCAL YEAR CAP- The aggregate of overtime pay under subsection (a) (including commuting compensation under subsection (a)(2)(B)) that a customs officer may be paid in any fiscal year may not exceed $30,000, except that--

`(A) the Commissioner of Customs or his or her designee may waive this limitation in individual cases in order to prevent excessive costs or to meet emergency requirements of the Customs Service; and

`(B) upon certification by the Commissioner of Customs to the Chairmen of the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate that the Customs Service has in operation a system that provides accurate and reliable data on a daily basis on overtime and premium pay that is being paid to customs officers, the Commissioner is authorized to pay any customs officer for one work assignment that would result in the overtime pay of that officer exceeding the $30,000 limitation imposed by this paragraph, in addition to any overtime pay that may be received pursuant to a waiver under subparagraph (A).'.

SEC. 202. RESTRICTION ON PAYMENT OF OVERTIME PAY.

Section 5(a)(1) of the Act of February 13, 1911 (19 U.S.C. 267(a)(1)), is amended by inserting after the first sentence the following new sentence: `Overtime pay provided under this subsection shall not be paid to any customs officer unless such officer actually performed work during the time corresponding to such overtime pay.'.

SEC. 203. PREMIUM PAY.

(a) RESTRICTION ON PAYMENT OF PREMIUM PAY- Section 5(b)(4) of the Act of February 13, 1911 (19 U.S.C. 267(b)(4)), is amended by adding after the first sentence the following new sentence: `Premium pay provided under this subsection shall not be paid to any customs officer unless such officer actually performed work during the time corresponding to such premium pay.'.

(b) REVISION OF NIGHT WORK DIFFERENTIAL PROVISIONS- Section 5(b)(1) of such Act (19 U.S.C. 267(b)(1)) is amended to read as follows:

`(1) NIGHT WORK DIFFERENTIAL-

`(A) 6 P.M. TO MIDNIGHT- If any hours of regularly scheduled work of a customs officer occur during the hours of 6 p.m. and 12 a.m., the officer is entitled to pay for such hours of work (except for work to which paragraph (2) or (3) applies) at the officer's hourly rate of basic pay plus premium pay amounting to 15 percent of that basic rate.

`(B) MIDNIGHT TO 6 A.M- If any hours of regularly scheduled work of a customs officer occur during the hours of 12 a.m. and 6 a.m., the officer is entitled to pay for such hours of work (except for work to which paragraph (2) or (3) applies) at the officer's hourly rate of basic pay plus premium pay amounting to 20 percent of that basic rate.'.

SEC. 204. USE OF AMOUNTS FOR ADDITIONAL OVERTIME ENFORCEMENT ACTIVITIES OF THE CUSTOMS SERVICE RESULTING FROM SAVINGS FROM PAYMENT OF OVERTIME AND PREMIUM PAY.

Section 5 of the Act of February 13, 1911 (19 U.S.C. 267), is amended--

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

`(e) USE OF AMOUNTS FOR ADDITIONAL OVERTIME ENFORCEMENT ACTIVITIES RESULTING FROM SAVINGS FROM PAYMENT OF OVERTIME AND PREMIUM PAY-

`(1) USE OF AMOUNTS- For fiscal year 1999 and each subsequent fiscal year, the Secretary of the Treasury--

`(A) shall determine under paragraph (2) the amount of savings from the payment of overtime and premium pay to customs officers; and

`(B) shall use an amount from the Customs User Fee Account equal to such amount determined under paragraph (2) for additional overtime enforcement activities of the Customs Service.

`(2) DETERMINATION OF SAVINGS AMOUNT- For each fiscal year, the Secretary shall calculate an amount equal to the difference between--

`(A) the estimated cost for overtime and premium pay that would have been incurred during that fiscal year if this section, as in effect on the day before the date of the enactment of sections 202 and 203 of the Drug Free America Act of 1998, had governed such costs; and

`(B) the actual cost for overtime and premium pay that is incurred during that fiscal year under this section, as amended by sections 202 and 203 of the Drug Free America Act of 1998.'.

SEC. 205. EFFECTIVE DATE.

The subtitle and the amendments made by this subtitle shall apply with respect to pay periods beginning on or after 15 days after the date of the enactment of this Act.

Subtitle B--Miscellaneous Provisions

SEC. 211. ROTATION OF DUTY STATIONS AND TEMPORARY DUTY ASSIGNMENTS OF OFFICERS OF THE UNITED STATES CUSTOMS SERVICE.

Section 5 of the Act of February 13, 1911 (19 U.S.C. 267), as amended by this Act, is further amended--

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following:

`(f) ROTATION OF DUTY STATIONS AND TEMPORARY DUTY ASSIGNMENTS OF CUSTOMS OFFICERS-

`(1) IN GENERAL- Notwithstanding any other provision of law, bargaining agreement, or Executive order, beginning October 1, 1998, in order to ensure the integrity of the United States Customs Service, the Secretary of the Treasury--

`(A) may transfer up to 5 percent of the customs officers employed as of the beginning of each fiscal year to new duty stations in that fiscal year on a permanent basis; and

`(B) may transfer customs officers to temporary duty assignments for not more than 90 days.

`(2) VOLUNTARY AND OTHER TRANSFERS- A transfer of a customs officer to a new duty station or a temporary duty assignment under paragraph (1) is in addition to any voluntary transfer or transfer for other reasons.

`(3) RULE OF CONSTRUCTION- The requirements of this subsection, including any regulations established by the Secretary to carry out this subsection, are not subject to collective bargaining.

`(4) AVAILABILITY OF AMOUNTS- Of the amounts made available for fiscal years 1999 and 2000 under subparagraphs (A) and (B) of section 301(b)(1) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(A) and (B)), $25,000,000 for each such fiscal year shall be available to carry out this subsection.'.

SEC. 212. EFFECT OF COLLECTIVE BARGAINING AGREEMENTS ON ABILITY OF UNITED STATES CUSTOMS SERVICE TO INTERDICT CONTRABAND.

Section 5 of the Act of February 13, 1911 (19 U.S.C. 267), as amended by this Act, is further amended--

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following:

`(g) EFFECT OF COLLECTIVE BARGAINING AGREEMENTS ON ABILITY OF CUSTOMS SERVICE TO INTERDICT CONTRABAND-

`(1) SENSE OF THE CONGRESS- It is the sense of the Congress that collective bargaining agreements should not have any adverse impact on the ability of the United States Customs Service to interdict contraband, including controlled substances.

`(2) PROVISIONS CAUSING ADVERSE IMPACT TO INTERDICT CONTRABAND-

`(A) REQUIREMENT TO MEET- If the Commissioner of the Customs Service determines that any collective bargaining agreement with the recognized bargaining representative of its employees has an adverse impact upon the interdiction of contraband, including controlled substances, the parties shall meet to eliminate the provision causing the adverse impact from the agreement.

`(B) FAILURE TO REACH AGREEMENT- If the parties do not reach agreement within 90 days of the date of the Customs Service determination of adverse impact, the negotiations shall be considered at impasse and the Customs Service may immediately implement its last offer. Such implementation shall not result in an unfair labor practice or, except as may be provided under the following sentence, the imposition of any status quo ante remedy against the Customs Service. Either party may then pursue the impasse to the Federal Service Impasses Panel pursuant to section 7119(c) of title 5, United States Code, for ultimate resolution.

`(C) RULE OF CONSTRUCTION- Nothing in this paragraph shall be construed to limit the authority of the Customs Service to implement immediately any proposed changes without waiting 90 days, if exigent circumstances warrant such immediate implementation, or if an impasse is reached in less than 90 days.'.

END

Senate May Link Tobacco And Antidrug Legislation. Several GOP House sources have recently discussed the possibility of linking drug and tobacco legislation, but the approach had not been mentioned by senators until today. Republican Sens. Paul Coverdell and Larry Craig are this afternoon expected to discuss their plan to propose an antidrug amendment to any tobacco legislation brought to the Senate floor. According to a statement released by Coverdell: "I believe Congress must pass a strong anti-teen smoking bill, but we must also launch an unrelenting assault on rising rates of drug use, particularly among teens." A summary from Coverdell's office said the measure sponsored by Coverdell and Craig "contains a host of proposals designed to stop drugs at the border and better equip communities to mount effective antidrug campaigns. Specifically, the bill includes new and existing legislation to augment interdiction efforts; prevent laundering of drug money; register convicted drug dealers; ban free needles for drug addicts; and create incentives for students, schools and employers."

Jose - can you get this? Thanks - BR

Nickles is expected to join Coverdell and Craig at this afternoon's press conference. In addition, GOP Sen. John Ashcroft today voiced support for the strategy of attaching antidrug provisions to a tobacco bill, saying on CNN: "The true feeling that I have is, we've got a major drug problem in America. And we shouldn't be failing to address the drug problem just because we have a cigarette problem." Ashcroft said McCain's bill has "tremendous immunity from liability for tobacco companies, and with the tremendous tax increase, this bill has very serious problems," adding: "We should be looking very carefully at what we can do to curtail the drug problem, which is a far more serious threat in the culture. And I don't think we can ignore that just because there is a lot of money on the table in the tobacco settlement."

White House Officials Meet With Attorneys General. White House Press Secretary Mike McCurry today announced that top Administration officials are meeting today with a group of state attorneys general, reportedly in an attempt to encourage agreement on the tobacco issue.

o **House May Move Antidrug Legislation Soon.** Members of the GOP antidrug task force assembled by House Speaker Newt Gingrich -- under the leadership of Reps. Dennis Hastert, Rob Portman and Bill McCollum -- held a press event this morning to highlight the package of proposals mentioned several times recently by Gingrich. An aide to Portman said House leaders "have a pretty specific timetable for moving legislation over the next eight weeks or so," and in that time, the antidrug package "will...make some progress." The aide said: "There seems to be a pretty strong commitment on the Republican side of the aisle to making the drug issue a priority." The aide also said that sponsors of the bills included in the package -- Reps. Michael Pappas, Mark Souder, Gerald Solomon and John Mica -- will join Hastert and Portman in efforts to garner support and move the proposals.

o **House Names Conferees To Transportation Legislation; Archer Miffed.** Last night, according to a House GOP leadership source, Speaker Newt Gingrich made a final decision on transportation conferees, and Ways and Means Committee Chairman Bill Archer did not make the cut. Those who did include Reps. Kenny Hulshof and Jim Nussle.

Archer objected today to being left off the conference committee, which he took as a sign that the House will cede to the Senate and extend the ethanol tax subsidy, something which Archer has strongly opposed. In a statement, Archer said that Gingrich's decision to exclude him from the committee is an effort to "stack the deck," and the "sole purpose of this decision is to extend the subsidy for ethanol well beyond its scheduled termination date." Both Hulshof and Nussle are from the Midwest -- the region with the heart of the corn industry, which perenially champions the ethanol credit.

The conference lineup should be warmly received by key Democratic leaders as well, who were expected to have a late-morning press conference calling for an extension of the ethanol credit. Expected to press for the subsidy were Agriculture Secretary Dan Glickman of Kansas, Senate Minority Leader Tom Daschle of South Dakota, and House Minority Leader Dick Gephardt of Missouri. Notwithstanding Archer's efforts to end the break for ethanol, the 1998 and 2000 elections -- which include the early Iowa presidential primary -- make it unlikely Congress would end the subsidy. Archer said, "Politics will triumph over policy."

The Coverdell-Craig-Abraham Drug-Free Neighborhoods Act

I. Stop the Flow of Drugs at Our Borders

(1) INCREASED RESOURCES FOR INTERDICTION:

- ***U.S. Customs***: doubles the interdiction budget;
- ***Coast Guard:*** doubles the interdiction budget;
- ***Department of Defense:*** doubles the interdiction budget;

(2) DRUG-FREE BORDERS ACT: strengthens civil and criminal penalties for customs violations; provides U.S. Customs greater authority to rotate agents, irrespective of any collective bargaining agreement; doubles the number of border agents by 2003.

II. Protect Our Neighborhoods & Schools From Drugs

(3) DRUG-FREE TEEN DRIVERS ACT: provides $10 million per year in grants for states that institute voluntary drug testing for teen drivers license applicants and for states that enact and enforce laws which crack down on drivers who use drugs.

(4) DRUG-FREE SCHOOLS: makes it an allowable use of federal funds to provide school choice or compensation for K-12 students who are the victims of school violence, including drug-related crimes; creates incentives for states to provide an annual report card to parents and teachers listing incidents of school violence, weapon possession, or drug activity; makes voluntary random drug testing programs an allowable use of federal funds; provides for parental consent drug testing demonstration projects.

(5) DRUG-FREE STUDENT LOANS ACT: restricts loans for students convicted of drug possession (1 year for 1st offenders, 2 years for 2nd offenders, and indefinite for 3rd; restricts loans for students convicted of drug trafficking (2 years for 1st offenders and indefinitely for 2nd offenders); resumes loan eligibility on an expedited basis for students who satisfactorily complete a drug rehabilitation program that includes drug testing.

-over-

(6) **DRUG-FREE WORKPLACES:** authorizes $10 million per year in SBA demonstration grants for small and medium-sized businesses to implement drug-free workplace programs and provides technical assistance for businesses through SBA.

(7) **DRUG-FREE COMMUNITIES ACT**: authorizes $50 million per year to encourage communities nationwide to establish comprehensive, sustainable and accountable anti-drug coalitions through flexible matching grants. Allows up to $10 million of these funds to be used each year to encourage the formation of parent/youth drug prevention strategies.

(8) **BAN FREE NEEDLES FOR DRUG ADDICTS:** This provision, identical to S. 1959 introduced by Sen. Coverdell (R-GA), would ban taxpayer financing of needle programs.

III. Defeat the Drug Mafia

(9) **INCREASED RESOURCES FOR LAW ENFORCEMENT**
- ***Drug Enforcement Agency:*** increases overall budget by 25%;
- ***Federal Bureau of Investigation:*** increases drug enforcement budget by 25%;

(10) **MONEY-LAUNDERING PREVENTION ACT:** strengthens the ability of law enforcement to crack down on both international and domestic money launderers; increases criminal penalties; allows federal courts to restrain the U.S. assets of a person arrested abroad for money laundering.

(11) **REGISTRATION OF CONVICTED DRUG DEALERS:** provides $5 million per year in incentive grants to states that require convicted drug dealers who target kids to register with local law enforcement.

IV. ***Increase Accountability***

(12) **NATIONAL DRUG CONTROL STRATEGY**: requires development of a 4-year National Drug Control Strategy at the beginning of each President's term in office; requires progress reports on or before February 1 of each year thereafter; requires a report to Congress every 6 months on illegal drug use by teens.

THE WHITE HOUSE

WASHINGTON

June 1, 1998

MEMORANDUM FOR THE CHIEF OF STAFF

FROM: Bruce Reed
Elena Kagan

SUBJECT: Potential Drug Amendments to Tobacco Legislation

We have learned of three potential anti-drug amendments to the McCain bill, which we describe below. We have seen statutory language on only one of these proposals (Ashcroft). Our information on the other two proposals (Craig-Coverdell and Abraham) comes from press releases and word of mouth, which leave several critical issues unanswered.

Craig-Coverdell Amendment

The Craig-Coverdell amendment is a comprehensive piece of drug legislation, which the authors estimate would cost $3 billion each year. We remain uncertain whether the amendment would merely authorize these expenditures or, alternatively, would actually commit tobacco revenues to this effort. (We also are uncertain of how the authors of the amendment arrived at their cost estimate; our own calculations would suggest a somewhat lower figure.) The amendment, as described in press statements and releases, includes:

- A provision to double the interdiction budget of the Customs Service, Coast Guard, and Department of Defense (we think by 2003);
- A provision to increase the overall budget of the DEA and the drug enforcement budget of the FBI by 25 percent (again, we think by 2003);
- An overlapping provision to double the number of border agents (by 2003), as well as to increase civil and criminal penalties for customs violations;
- A provision to strengthen criminal penalties for money laundering and to allow U.S. courts to freeze the assets of persons arrested abroad for these activities;
- A provision to give incentive grants to states, at a cost of $5 million each year, to keep a registry of convicted drug dealers who target children and to notify communities of any such individuals living in their area;
- A provision to expand funding, to $50 million per year, for the Drug-Free Communities Act, which provides matching grants to communities to establish anti-drug coalitions

(funded in FY 1998 at $10 million);

- A provision to give demonstration grants to small and medium-sized businesses, at a cost of $10 million each year, to implement drug-free workplace programs, including drug testing;

- A provision to give incentive grants to states, at a cost of $10 million each year, to crack down on drivers who use drugs and/or to institute drug testing for teens applying for drivers licenses;

- A provision to allow states to use monies from the Safe and Drug Free Schools Program to conduct "voluntary random drug testing programs" and to offer "compensation and services" to victims of school violence, as well as a provision to give states additional monies for preparing annual report cards on school violence, weapon possession, and drug activity;

- A provision to restrict loan eligibility for college students convicted of drug possession or trafficking, with a mechanism for reinstituting eligibility upon completion of a drug rehabilitation program; and

- A provision to prohibit the federal government from using federal funds "to carry out or support, directly or indirectly," any needle exchange program.

If the Craig-Coverdell amendment actually devotes tobacco revenues to these purposes, its cost would be prohibitive; the estimated pricetag of $3 billion each year would crowd out more than half of the McCain bill's spending for research and public health by 2003, assuming funding for the states and farmers were to remain constant. If the amendment contains nothing more than authorizing language, we should be able to accept almost everything in it (although the interested agencies of course want to see the actual language of the amendment). The single exception that we know of is the provision on needle exchange, which we strongly opposed as stand-alone legislation, but have never threatened to veto.

Abraham Amendment

Senator Abraham may offer an amendment that would allow states to use monies now made available for smoking prevention activities and smoking surveys for drug prevention activities and drug surveys as well. The amount of money this amendment would affect is somewhat uncertain. The bill sets aside 22 percent of revenues -- an expected $13 billion over five years -- for public health activities, of which between 50 and 65 percent must be used for (1) smoking prevention, (2) surveys, (3) counteradvertising, and (4) international activities. The appropriators have discretion to choose a point within the 50-65 percent range and then to allocate these funds among the four listed activities. Our best guess is that the amount of money actually going to smoking prevention and surveys -- and thus also available for drug prevention and surveys under the Abraham amendment -- would be about $5 billion over five years. The public health community would object to giving states the ability to use these funds for drug prevention activities, but we would have a hard time explaining why this optional use is inappropriate.

Ashcroft Amendment

Senator Ashcroft also may offer an amendment enabling states to use some public health funds for anti-drug programs, but his amendment would do so through a peculiar mechanism modeled on the smoking lookback provisions. Under Ashcroft's amendment, the same percentage reduction targets applying to cigarettes (15 percent in years three and four, 30 percent in years five and six, 50 percent in years seven through nine, and 60 percent in year ten) would apply as well to marijuana, cocaine, heroin, and methamphetamine. In each year, the Director of ONDCP would calculate, on a nationwide basis, whether the targets were met. If the targets were missed, the states could use a specified portion of all monies they receive under the act for health purposes (e.g., smoking prevention and education, smoking cessation, licensing activities) for anti-drug activities as well. More specifically, the states could use 15 percent of these monies for anti-drug programs if the applicable target were missed by less than five percent, 30 percent of the monies if the target were missed by between five and ten percent, and 50 percent of the monies if the target were missed by more than ten percent. This amendment would have the perverse effect of giving states more spending flexibility the more they fail to reduce drug use. This oddity, combined with the sheer complexity of the proposal, may make the Ashcroft amendment less attractive than those outlined above.

United States Senate

WASHINGTON, DC 20510

May 19, 1998

Dear Colleague:

When the Senate considers S. 1415, the National Tobacco Policy and Youth Reduction Act, we will offer an amendment to address the disturbing increase in teen drug use in America.

From 1991-1997, marijuana use among 10th graders increased by 135 percent, while smoking increased by 40 percent. Simply stated, teen marijuana use is growing at 3 times the rate of teen smoking. Both issues are serious and deserve our attention. However, in terms of the number of lives ruined, the public health consequences, and increased crime, especially among juveniles, there is no question what the number one problem is among our young people: drugs.

The Coverdell-Craig-Abraham Drug-Free Neighborhoods Act addresses the alarming increase in drug use among teens. First, it provides the weapons to cut drugs off at the source and at the border. Second, it provides additional resources to combat the drugs that reach our neighborhoods. Third, it creates disincentives for teens to use illegal drugs. All funds authorized under our plan, approximately $3 billion per year, would come from the National Tobacco Trust Fund.

Attached please find a summary of our amendment. Should you have any questions or if you wish to cosponsor this amendment, please call Ziad Ojakli with Sen. Coverdell (4-5868) or Brooke Roberts with Sen. Craig (4-2752).

Sincerely,

Paul Coverdell
Paul D. Coverdell
United States Senator

Larry E Craig
Larry Craig
United States Senator

Spencer Abraham
Spencer Abraham
United States Senator

The Coverdell-Craig-Abraham Drug-Free Neighborhoods Act

I. Stop the Flow of Drugs at Our Borders

(1) **INCREASED RESOURCES FOR INTERDICTION:**

- ***U.S. Customs***: doubles the interdiction budget;
- ***Coast Guard***: doubles the interdiction budget;
- ***Department of Defense***: doubles the interdiction budget;

(2) **DRUG-FREE BORDERS ACT**: strengthens civil and criminal penalties for customs violations; provides U.S. Customs greater authority to rotate agents, irrespective of any collective bargaining agreement; doubles the number of border agents by 2003.

II. Protect Our Neighborhoods & Schools From Drugs

(3) **DRUG-FREE TEEN DRIVERS ACT**: provides $10 million per year in grants for states that institute voluntary drug testing for teen drivers license applicants and for states that enact and enforce laws which crack down on drivers who use drugs.

(4) **DRUG-FREE SCHOOLS:** makes it an allowable use of federal funds to provide school choice or compensation for K-12 students who are the victims of school violence, including drug-related crimes; creates incentives for states to provide an annual report card to parents and teachers listing incidents of school violence, weapon possession, or drug activity; makes voluntary random drug testing programs an allowable use of federal funds; provides for parental consent drug testing demonstration projects.

(5) **DRUG-FREE STUDENT LOANS ACT:** restricts loans for students convicted of drug possession (1 year for 1st offenders, 2 years for 2nd offenders, and indefinite for 3rd; restricts loans for students convicted of

drug trafficking (2 years for 1st offenders and indefinitely for 2nd offenders); resumes loan eligibility on an expedited basis for students who satisfactorily complete a drug rehabilitation program that includes drug testing.

-over-

(6) **DRUG-FREE WORKPLACES:** authorizes $10 million per year in SBA demonstration grants for small and medium-sized businesses to implement drug-free workplace programs and provides technical assistance for businesses through SBA.

(7) **DRUG-FREE COMMUNITIES ACT**: authorizes $50 million per year to encourage communities nationwide to establish comprehensive, sustainable and accountable anti-drug coalitions through flexible matching grants. Allows up to $10 million of these funds to be used each year to encourage the formation of parent/youth drug prevention strategies.

(8) **BAN FREE NEEDLES FOR DRUG ADDICTS:** This provision, identical to S. 1959 introduced by Sen. Coverdell (R-GA), would ban taxpayer financing of needle programs.

III. Defeat the Drug Mafia

(9) **INCREASED RESOURCES FOR LAW ENFORCEMENT**

- ***Drug Enforcement Agency***: increases overall budget by 25%;
- ***Federal Bureau of Investigation***: increases drug enforcement budget by 25%;

(10) **MONEY-LAUNDERING PREVENTION ACT:** strengthens the ability of law enforcement to crack down on both international and domestic money launderers; increases criminal penalties; allows federal courts to restrain the U.S. assets of a person arrested abroad for money laundering.

(11) **REGISTRATION OF CONVICTED DRUG DEALERS:** provides $5

million per year in incentive grants to states that require convicted drug dealers who target kids to register with local law enforcement.

IV. *Increase Accountability*

(12) **NATIONAL DRUG CONTROL STRATEGY**: requires development of a 4-year National Drug Control Strategy at the beginning of each President's term in office; requires progress reports on or before February 1 of each year thereafter; requires a report to Congress every 6 months on illegal drug use by teens.

Coverdell-Craig-Abraham Amendment
Cost Estimate

	Current	Increase	FY 99	FY 00	FY 01	FY 02	FY 03	TOTAL
Customs	502 M	+502	1004	1004	1004	1004	1004	5020 M
Coast Guard	401 M	+401	802	802	802	802	802	4010 M
Defense	468 M	+468	936	936	936	936	936	4680 M
Drug Enf. Agency	1500 M	+300	1500	1500	1500	1500	1500	7500 M
FBI Drug Enf.	825 M	+206	1031	1031	1031	1031	1031	5155 M
Drug-Free Borders								
Doubling Customs Agents	502 M	+182	684	684	684	684	684	3420 M
Tech.	NA	+89	89	0	0	0	0	89 M
Other	10 M	+ 55	65	65	65	65	65	325 M
TOTAL	4008 M	2213 M	6111 M	6022 M	6022 M	6022 M	6022 M	30.199 Billion

The Coverdell-Craig Drug-Free Neighborhoods Act

I. *Stop the Flow of Drugs at Our Borders*

(1) **INCREASED RESOURCES FOR INTERDICTION:**
- ***U.S. Customs***: doubles the interdiction budget;
- ***Coast Guard:*** doubles the interdiction budget;
- ***Department of Defense:*** doubles the interdiction budget;

(2) **DRUG-FREE BORDERS ACT**: strengthens civil and criminal penalties for customs violations and doubles the number of border agents by 2003.

II. *Protect Our Neighborhoods & Schools From Drugs*

(3) **DRUG-FREE TEEN DRIVERS ACT**: provides $10 million per year in grants to states that institute voluntary drug testing for teen drivers license applicants or enact and enforce laws which crack down on drivers who use drugs.

(4) **DRUG-FREE SCHOOLS**: makes it an allowable use of federal funds to provide compensation and services to K-12 students who are the victims of school violence, including drug-related crimes; creates incentives for states to provide an annual report card to parents and teachers listing incidents of school violence, weapon possession, or drug activity; makes voluntary random drug testing programs an allowable use of federal funds.

(5) **DRUG-FREE STUDENT LOANS ACT**: restricts loans for students convicted of drug possession (1 year for 1st offenders, 2 years for 2nd offenders, and indefinite for 3rd; restricts loans for students convicted of drug trafficking (2 years for 1st offenders and indefinitely for 2nd offenders); resumes loan eligibility on an expedited basis for students who satisfactorily complete a drug rehabilitation program that includes drug testing.

(6) **DRUG-FREE WORKPLACES:** authorizes $10 million per year in SBA demonstration grants for small and medium-sized businesses to implement drug-free workplace programs and provides technical assistance for businesses through SBA.

(7) **DRUG-FREE COMMUNITIES ACT:** authorizes $50 million per year to encourage communities nationwide to establish comprehensive, sustainable and accountable anti-drug coalitions through flexible matching grants. Allows up to $10 million of these funds to be used each year to encourage the formation of parent/youth drug prevention strategies.

(8) **BAN FREE NEEDLES FOR DRUG ADDICTS:** This provision, identical to S. 1959 introduced by Sen. Coverdell (R-GA), would ban taxpayer financing of needle programs.

III. Defeat the Drug Mafia

(9) **INCREASED RESOURCES FOR LAW ENFORCEMENT**
- ***Drug Enforcement Agency:*** increases overall budget by 25%;
- ***Federal Bureau of Investigation:*** increases drug enforcement budget by 25%;

(10) **MONEY-LAUNDERING PREVENTION ACT:** strengthens the ability of law enforcement to crack down on both international and domestic money launderers; strengthens criminal penalties; allows federal courts to restrain the U.S. assets of a person arrested abroad for money laundering.

(11) **REGISTRATION OF CONVICTED DRUG DEALERS:** provides $5 million per year in incentive grants to states that require convicted drug dealers who target kids to register with local law enforcement.

Jose, one quick point: Other than the DEA number (which is scored 100% drug money), the other numbers are merely the drug-related portion of larger accounts. There is no "interdiction budget" for Coast Guard, Customs, etc. The table below represents merely the "drug-related" portion of a total, larger account. A much larger plus-up would be required to the total, larger account to achieve the increases in drug interdiction. For example, if you buy a Coast Guard Cutter, more than half of the time would be dedicated for non-drug missions; therefore, we would need an increase of approximately $1.00 for the Coast Guard to achieve +$0.50 of drug-related fund. We kept it simple and gathered data on the drug-related purpose only because I know you need this quickly.

TOTALS REPRESENT DRUG-RELATED PORTION ONLY.

ITEM	FY 98	DFNA* Plus-Up	DFNA Total
U.S. Customs: doubles the interdiction budget	$502M	+$502M	$1,004M
Coast Guard: doubles the interdiction budget	$401M	+$401M	$802M
DOD: doubles the interdiction budget			
(DOD estimate)	$461M	+$461M	$922M
(ONDCP estimate)	$468M	+$468M	$936M
Drug-Free Borders: doubles number of border agents (Customs) by 2003	$502M	+$182M	$684M

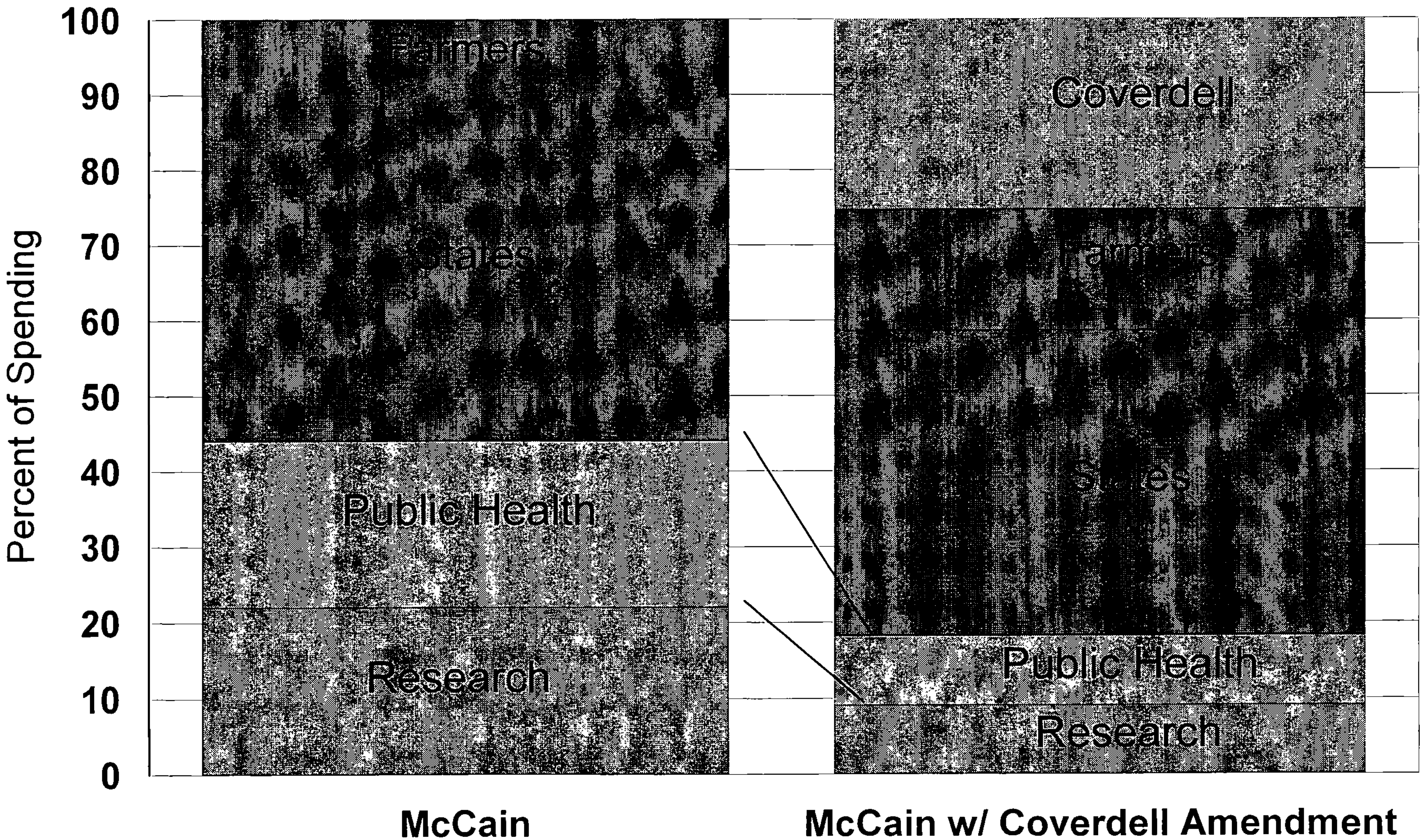
(This Act would increase Customs staffing by a total of 1,745 positions. It would increase the number of front line Customs law enforcement personnel (including inspectors, agents, canine officers, and intelligence analysts by approximately 17% and not 200%.)

DEA: increases overall budget by 25%	$1,200M	+$300M	$1,500M
FBI: increases drug enforcement budget by 25%	$825M	+$206M	$1,031M

* Drug-Free Neighborhoods Act

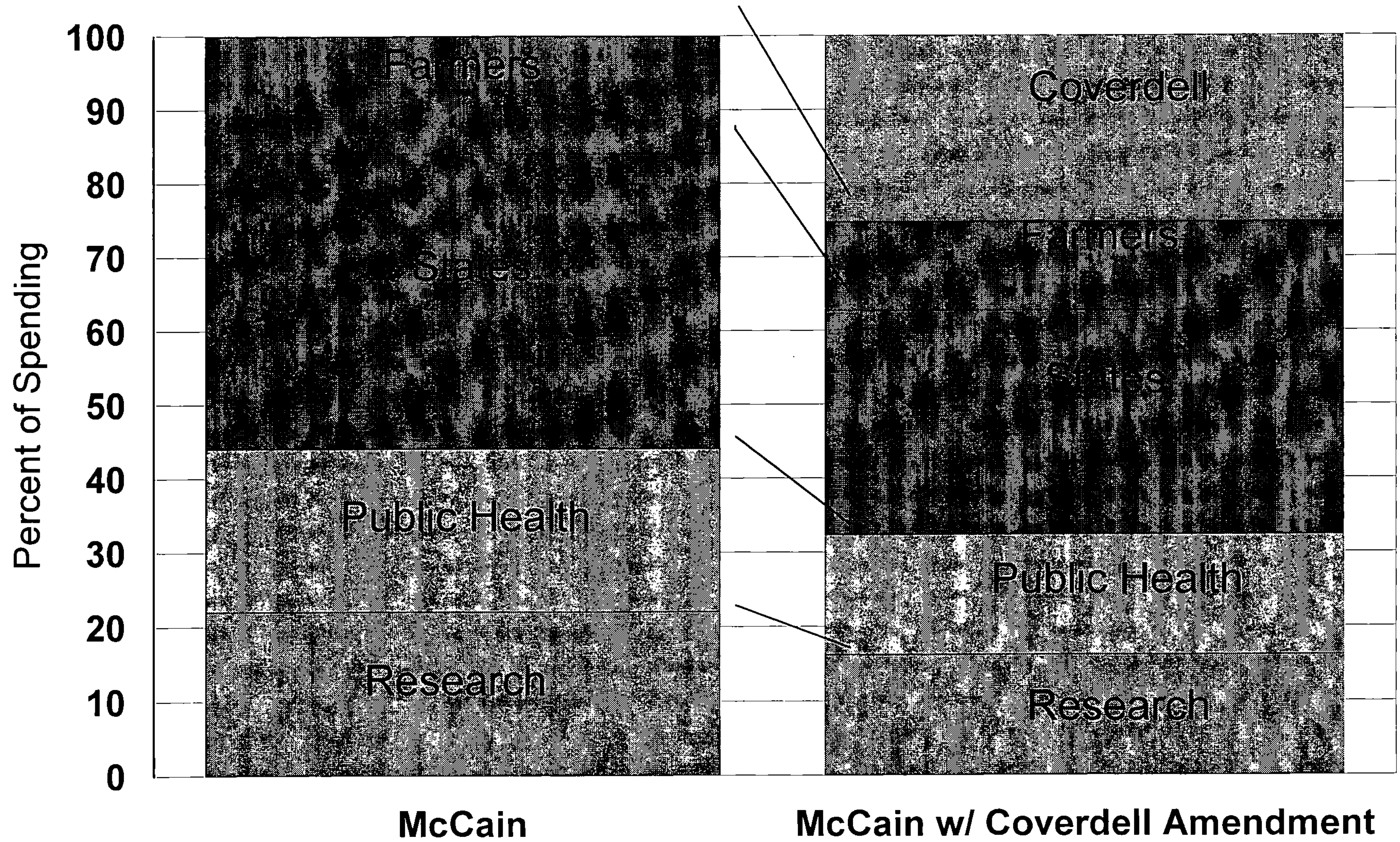
Coverdell Amendment Cuts Public Health and Research Funding by 58 Percent

(Assumes Protection of States and Farmers)



Numbers based on Manager's Amendment, excluding Lugar and Veterans

Coverdell Amendment Cuts Funding for Other Tobacco Uses by 25 Percent



Numbers based on Manager's Amendment, excluding Lugar and Veterans

→ Close hold

McCain

Possible Uses of Tobacco Legislation Receipts

(In Billions of Nominal Dollars– FY99-03 Unless Noted)

		Budget	Compromise		Proposed Manager's Amendment								Allocation within Accounts			
					Year 1	Year 2	Year 3	Year 4	Year 5	Manager's Amendment						
RECEIPTS			$	%	FY99	FY00	FY01	FY02	FY03	FY99-03	FY99-08	FY99-23	Min. %	$ 5 Yrs	Max. %	$ 5 Yrs
Gross Payments		95														
Net Receipts 1/		66	62	100%	15.4	11.0	12.5	12.8	13.8	65.5	142.7	460.4				
Initial Payment, net (Excluded from formula)			7													
USES																
Health & Health-Related Research		21.1	13.5	22%	3.4	2.4	2.8	2.8	3.0	14.4	31.4	101.3				
NIH		17.0			2.6	1.7	2.0	2.3	2.5	11.1			*75%*	*10.8*	*80%*	*11.5*
NSF Biomedical/Basic Research		2.9			0.1	0.1	0.1	0.1	0.1	0.4			*1%*	*0.1*	*5%*	*0.7*
Clinical Cancer Trials		0.8			0.2	0.3	0.3			0.8			*9%*	*0.8*	*9%*	*0.8*
CDC/AHCPR		0.4			0.5	0.4	0.4	0.4	0.5	2.2			*12%*	*1.7*	*18%*	*2.6*
													93%	*13.5*	*108%*	*15.6*
Public Health		9.5	13.5	22%	3.4	2.4	2.8	2.8	3.0 #	14.4	31.4	101.3				
Cessation		5.3			1.0	0.7	0.8	0.8	0.9	4.3			*25%*	*3.6*	*35%*	*5.0*
Indian Health Service		0.1			0.2	0.1	0.1	0.1	0.2	0.7			*3%*	*0.4*	*7%*	*1.0*
Prevention & Education (Prev., Advertising, Surveys)		3.0			1.9	1.4	1.6	1.6	1.7	8.3			*50%*	*7.2*	*65%*	*9.4*
State Prevention		0.4								2.7			30%	2.2	35%	3.3
Counter-Advertising		2.4								2.7			30%	2.2	35%	3.3
International		0.3			0.2	0.2	0.2	0.2	0.2	1.1			10%	0.7	15%	1.4
Surveys *(Minimum Allocation)*					*0.2*	*0.2*	*0.2*	*0.2*	*0.2*	*0.8*			10%	0.7	12%	1.1
													80%	5.8	97%	9.1
Licensing & Enforcement (FDA, Licensing, Anti-Smuggling)		1.2			0.7	0.5	0.6	0.6	0.6	2.9			*17.5%*	*2.5*	*22.5%*	*3.2*
FDA *(Minimum within Sub-account)*		*1.2*			*0.1*	*0.2*	*0.3*	*0.3*	*0.3*	*1.2 (non-add)*			*96%*	*13.8*	*130%*	*18.7*
State Funds, Direct		26.4	25.0	40%	6.2	4.4	5.0	5.1	5.5	26.2	57.1	184.1				
Unrestricted	*41%*	10.7		*50%*	3.1	2.2	2.5	2.6	2.8	13.1						
Specified	*59%*	15.7		*50%*	3.1	2.2	2.5	2.6	2.8	13.1						
					2.5	4.2	6.2	8.3	10.5							
Farmers & Farm Communities	28.5	0.5	10.0	16%	2.5	1.8	2.0	2.0	2.2	10.5	22.8	28.5				
Compensation		3.0		4%	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0				
Other Research (Climate Change, NASA, etc)		5.1		2.3%	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0				
Other/Medicare 2/		0.0	7.0	0%	0.0	0.0	0.0	0.0	0.0	0.0	0.0	45.1				
TOTAL USES		66	69	111%	15.4	11.0	12.5	12.8	13.8	65.5	142.7	460.4				
FUNDS REMAINING (DEFICIT)		0.0	0.0		0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0				

Jose Cerda III 06/02/98 01:25:32 PM

Record Type: Record

To: Cynthia A. Rice/OPD/EOP

cc:

Subject: Re: Leahy Amendment

CR:

Can you follow-up w/Leahy's folks and Neal W. on this? I didn't get a sense from Treasury that they were too concerned about dropping the FDA floor...we should make sure they're clear on where we are...jc3

---------------------- Forwarded by Jose Cerda III/OPD/EOP on 06/02/98 01:25 PM ---------------------------

Bruce N. Reed
06/02/98 01:13:38 PM

Record Type: Record

To: Jose Cerda III/OPD/EOP

cc: Elena Kagan/OPD/EOP, Cynthia A. Rice/OPD/EOP, Cynthia Dailard/OPD/EOP, Leanne A. Shimabukuro/OPD/EOP

Subject: Re: Leahy Amendment

Yes, getting rid of FDA's floor is a dealbreaker for us supporting Leahy. We should tell them not to do that.

FILE NO. 087 02/03 '98 15:10 ID:

Newt Gingrich
Sixth District
Georgia

(202) 225-0600

Jose / Tom —
We need a
respons

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

February 3, 1998

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

Coverdell-Craig-Abraham Amendment
Cost Estimates

Interdication Increases
-- Doubling the overall budget -- $3,230,600 to $3,610,400
-- FY 98 enacted -- $1,615,300
-- FY 99 requested -- $1,805,200
-- only drug-related

-- Doubling of DOD interdiction -- $936,772 to $1,052,572
-- FY 98 enacted -- $468,386
-- FY 99 requested -- $526,286
-- only interdiction part of DOD drug budget

-- Doubling Coast Guard -- $801,302 to $871,138
-- FY 98 enacted -- $400,651
-- FY 99 requested -- $436,569

-- Doubling Customs -- $1,003,522 to $1,116,416
-- FY 98 enacted -- $501,761
-- FY 99 requested -- $558,208

-- 25% increase in DEA -- $1,500,000 to $1,568,750
-- FY 98 enacted -- $1,200,000
-- FY 99 requested -- $1,255,000

-- 25% increase in FBI drug enforcement -- $3,721,250 to $3,893,375
-- FY 98 enacted -- $2,977,000
-- FY 99 requested -- $3,114,700

Drug-Free Borders Act --
-- increases Administration request by $227 million (31%) in FY 99
-- increases Administration request by $214 million (25%) in FY 00
-- FY 99 overall -- $958,787,584
-- FY 00 overall -- $1,069,928,328
-- earmarks $89,244,000 for drug detection
-- earmarks $303,700 over 2 years for 1,705 more Customs inspectors, agents, etc.
-- accepts Administration's request for commercial operations/air interdiction
-- about the same as doubling custom's drug enforcement budget

DRUG-FREE NEIGHORBORHOODS
($$ in millions)

Agency	FY 99	FY 00	FY 01	FY 02	FY 03	FY 99-03 Total	Comments
Customs	500	500	500	500	500	2,500	Authorizes use of TF/401 funds to monitor border POEs to stop the flow of illegal drugs into the U.S.
Coast Guard	400	400	400	400	400	2,000	Authorizes use of TF/401 funds to expand activities to stop the flow of illegal drugs into the U.S.
DOD	470	470	470	470	470	2,350	Authorizes use of TF/401 funds for increased activities to stop the flow of illegal drugs into the U.S.
INS/BP	54	162	162	162	162	702	Increases border patrol agent positions by not less than 1,500 per year (above preceeding year), to achieve 15,000 positions by FY 2003.
NHTSA	10	10	10	10	10	50	Authorizes use of TF/401 funds for a demonstration program to proivde voluntary drug testing for teens and first time drivers license applicants.
Educ. "A"	0	0	0	0	0	0	Any student covered under Title I or any other Federal education program ($14B in qualifying programs) is eligible for vouchers to attend another school if the student becomes a victim of criminal violence.
Educ. "B"	10-25	10-25	10-25	10-25	10-25	50-125	Authorizes use of TF/401 funds for such sums as necessary to compensate teachers and students who are victims of violence.
Educ. "C"	10-25	10-25	10-25	10-25	10-25	50-125	Authorizes use of TF/401 funds for such sums as necessary for a grant program for school drug/safety reporting and voluntary drug testing.
Subtotal, range	20-50	20-50	20-50	20-50	20-50	100-250	
Educ. "D"	10	10	10	10	10	50	Authorizes use of TF/401 funds for drug testing students with parental consent.
Labor	10	10	10	10	10	50	Authorizes use of TF/401 funds for a Drug-Free Workplace demonstration program. (Amendment text is missing language setting forth applicable FYs. All other provisions are FY 99-03 so table assumes same).
ONDCP	30	20	10	6.5	50	77	Authorizes for Drug-Free Communities Program.
DEA	300	300	300	300	300	1,500	Authorizes use of TF/401 funds for additional activities to disrupt and dismantle drug trafficking organizations.
FBI	200	200	200	200	200	1,000	Authorizes use of TF/401 funds to enhance investigative and intelligence gathering capabilities relating to illegal drugs.
DOJ	5	5	5	5	5	25	Authorizes use of TF-401 funds for Registration of Convicted Drug Dealers.

Subtotal, Known	1,989	2,087	2,077	2,074	2,117	10,304
Subtotal, Range	20-50	20-50	20-50	20-50	20-50	100-250
Total, with Range	2,009-2,039	2,107-2,137	2,097-2,127	2,094-2,124	2,137-2,167	10,404-10,554

* Financing for items in this amendment is structured to compete for (and displace some) funds for the tobacco prevention, enforcement, and cessation activities in Sec. 451 (b), which is the McCain bill's Health Allocation Account.

DRAFT-KPC

1

Summary of Senator Kennedy's Proposed After School Legislation "America After School Act"

Promoting Safe After School Activities [$7.25 billion over 5 years]

Title I: Child Care and Development Services

• Expand the Child Care Development Block grant (CCDBG) (grants) to increase the availability and affordability of quality before and after school care, and summer and weekend activities for school age children to promote good health and academic achievement and to help avoid high risk behavior. Programs must demonstrate inclusion of disabled children;

– grants to schools, community-based organizations, child care, youth, and community centers, or partnerships in low-income

-- *costs: $5 billion over 5 years*

Title II: The 21st Century Community Learning Center Program

• Expand The 21st Century Community Learning Center program by:

• Increasing the supply of before and after-school programs in a cost-effective manner by using public schools and their existing resources, such as computers, libraries, and gymnasiums, through a one-to-one matching provision that can be met by using in kind or cash resources;

• Streamlining the application process and strengthening fiscal accountability mechanisms by including the local education agency in the application process, but keeping the responsibility for running the program at the school level.

-- *costs: $1 billion over 5 years*

Title III: Crime Prevention Program

• Direct half of the $500 million new juvenile justice funds to after school prevention programs, instead of just enforcement programs.

•Grants would be offered on a matching basis to public and private agencies that conduct after-school prevention programs in high crime neighborhoods and areas with significant numbers of at-risk youth.

• Grantees must coordinate with State or local juvenile crime control programs.

--*costs: $1.25 billion over 5 years*

SEC.__. Section 4121 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7131) is amended by adding at the end thereof the following new subsection:

"(c) **Drug and Violence Prevention Program Coordinators**. (1) From funds made available to carry out this subpart under section 4004(2) for fiscal year 1999, the Secretary shall reserve an amount, not to exceed $50 million, to make grants in accordance with this section to fund drug and violence prevention program coordinators in those middle schools and secondary schools with the most severe drug and violence problems. Such coordinators shall be responsible for--

"(A) developing, conducting, and analyzing assessments of their schools' drug and violence problems;

"(B) identifying promising, research-based drug and violence prevention strategies and programs to address those problems;

"(C) assisting teachers, coaches, counselors, and other school officials in adopting and implementing those programs and strategies;

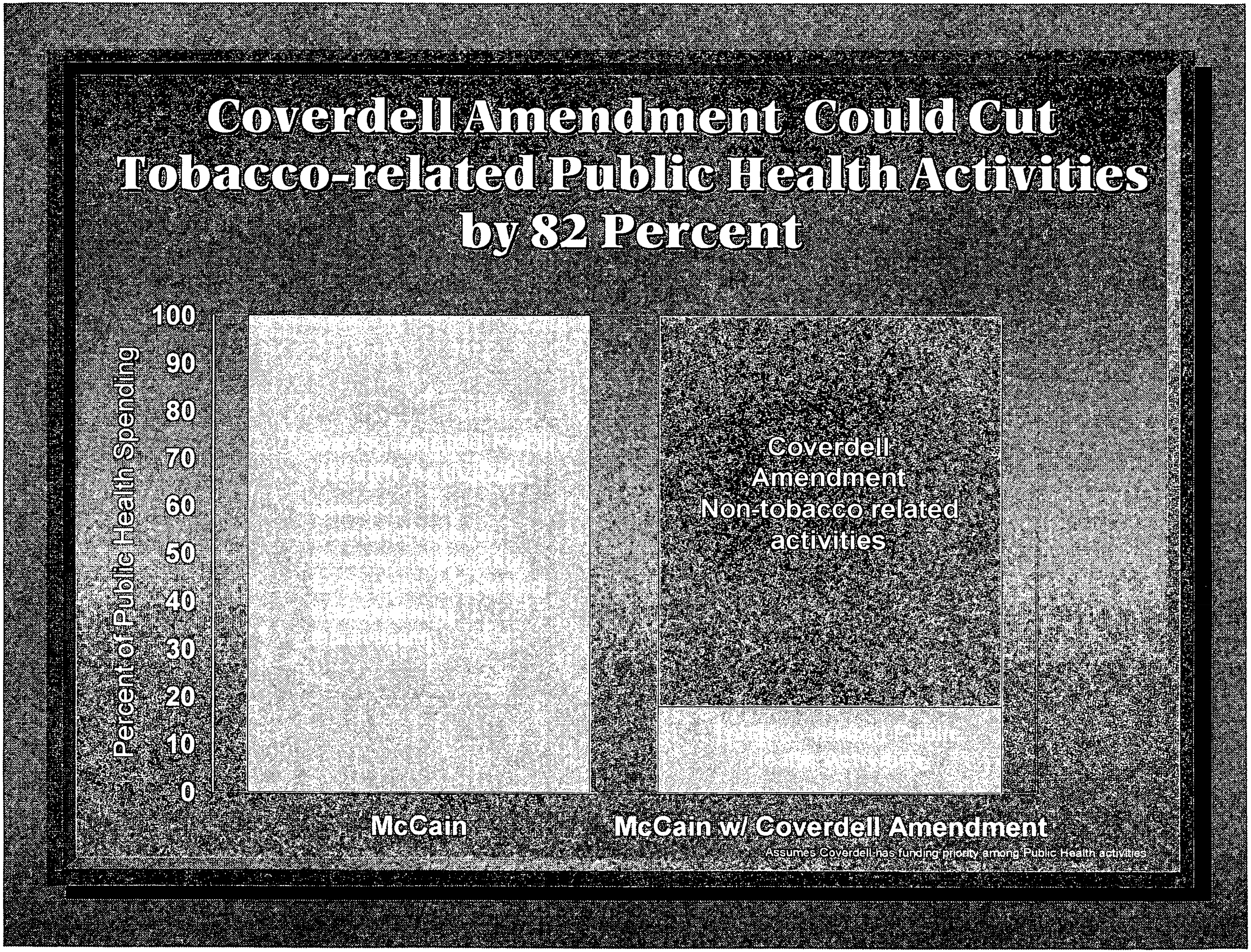
"(D) working with the community to ensure that the needs of students are linked with available community resources;

"(E) assisting in the development and implementation of evaluation strategies;

"(F) identifying alternative funding sources for drug and violence prevention initiatives; and

"(G) providing feedback to State educational agencies on programs and activities that have proven successful in reducing drug use and violent behavior among school-aged youth.

"(2) The Secretary may use funds reserved under this subsection to support intensive training and professional development activities for the coordinators and to evaluate grants made under this subsection.".


Coverdell Amendment Could Cut
Tobacco-related Public Health Activities
by 82 Percent
Percent of Public Health Spending
100
90
80
70
60
50
40
30
20
10
0
Coverdell
Amendment
Non-tobacco related
activities
McCain
McCain w/ Coverdell Amendment
Assumes Coverdell has funding priority among Public Health activities

U.S. DEPARTMENT OF THE TREASURY
OFFICE OF THE GENERAL COUNSEL
1500 PENNSYLVANIA AVENUE, N.W.
ROOM 3000
WASHINGTON, D.C. 20220

OFFICE NUMBERS: 202/622-0287 (GENERAL COUNSEL)
202/622-0283 (DEPUTY GENERAL COUNSEL)

FACSIMILE: 202/622-2882

DATE: 6-1-98 **PAGES TO FOLLOW:** 9

TO: Jose Cerda

FAX#: 456-2028

PHONE:

FROM: Neal Wolin, Deputy General Counsel

COMMENTS: 4 PURPOSES For Formula

RESPONSE REQUESTED: YES ____ NO ____

AMENDMENT NO. ____ Calendar No. ____

Purpose: To modify provisions relating to anti-smuggling.

IN THE SENATE OF THE UNITED STATES—105th Cong., 2d Sess.

S. 1415

To reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes.

Referred to the Committee on ____________________ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENTS intended to be proposed by Mr. LEAHY

Viz:

In section 451(b)(2)(D)—

(1) in clause (i), by striking subclauses (I) and (II); and

(2) by inserting after clause (iii), the following:

"(iv) Grants, to be administered by the Attorney General in consultation with the Secretary of the Treasury and the Secretary of Health and Human Services, to States for State and local law enforcement of anti-smuggling provisions of this Act.".

In section 1137(b), insert after "fined" the following: "in an amount up to 3 times the dollar amount of the taxes avoided or attempted to be avoided through the action that constitutes such a violation, fined".

In section 1138(e)—

(1) in paragraph (2), by striking "and" at the end;

(2) in paragraph (3), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(4) in subsection (a), by inserting after 'fined' the following: 'in an amount up to 3 times the dollar amount of the taxes avoided or attempted to be avoided through the action that constitutes such a violation, fined'.".

After section 1140, insert the following new section:

SEC. 1141. SENTENCING FOR ILLEGAL TRAFFICKING IN TOBACCO PRODUCTS.

(a) Directive to the United States Sentencing Commission.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall review and amend its guidelines and its policy statements, if appropriate, for all unlawful acts of trafficking in tobacco products. The Commission shall submit to Congress explanations therefore and any additional policy recommendations for combating tobacco offenses.

(b) IN GENERAL.—In carrying out this section, the United States Sentencing Commission shall—

(1) ensure that the sentencing guidelines and policy statements for offenders convicted of offenses described in subsection (a), and any recommendations submitted under such subsection, reflect the strong public policy against such offenses, recognize the health risks of tobacco products and the special risks to minors of tobacco addiction, reflect the pivotal potential role of tobacco manufacturers in large-scale smuggling schemes, and carry sufficient penalties to deter and punish any involvement by tobacco product manufacturers and others, including—

(A) trafficking in contraband tobacco products;

(B) failure to pay any tax on or mark any tobacco product, or participation in the repackaging of marked tobacco products;

(C) shipment of tobacco products outside the United States for unauthorized reshipment into the United States; and

(D) the use of force or violence in the course of trafficking in tobacco products;

(2) consider amending the sentencing guidelines and policy statements to provide enhanced sentences for any defendant, who, in the course of an offense described in subsection (a)—

(A) encourages, or acts in willful ignorance of encouragement of, sales of tobacco products to any person under age 18;

(B) is or acts in cooperation with an officer or managing or supervising official of any tobacco manufacturer;

(C) is an official of any government or recruits or makes any bribe or other illegal payment to any official of any government, including any tribal government or any foreign government;

(D) uses sophisticated means to impede discovery of the existence or extent of the offense;

(E) is a corporation engaged in manufacture of tobacco products;

(F) uses a firearm or other dangerous weapon; or

(G) recruits or cooperates with or acts in willful ignorance of the activities of a person who is known to have a significant prior criminal record;

(3) amend the sentencing guidelines to provide a separate and enhanced schedule of fines for tobacco offenses;

(4) assure reasonable consistency with other relevant directives and with other guidelines;

(5) avoid duplicative punishment for substantially the same offense or offender characteristic;

(6) account for any aggravating or mitigating circumstances that might justify exceptions;

(7) ensure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code; and

(8) take any other action the Commission considers necessary to carry out this section.

United States Senate
COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510-6275

Facsimile Cover Sheet

Please deliver the following pages to MARTI THOMAS

From: JOHN TANNER

Number of pages including cover: 6

COMMENTS:

Number to be reached 622-0534

THE DOCUMENT TRANSMITTED IS CONFIDENTIAL AND INTENDED FOR RECEIPT BY THE ABOVE NAMED INDIVIDUAL ONLY. PLEASE CALL (202) 224-7703 IMMEDIATELY IF YOU HAVE ANY QUESTIONS.

Bellow/Petith

tobacco product manufacturer, importer, distributor, or retailer at the same time.

"(c) TELEVISION AND RADIO ADVERTISING.—It is unlawful to advertise smokeless tobacco on any medium of electronic communication subject to the jurisdiction of the Federal Communications Commission.".

SEC. 304. AUTHORITY TO REVISE SMOKELESS TOBACCO PRODUCT WARNING LABEL STATEMENTS.

Section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402), as amended by section 303 of this title, is further amended by adding at the end the following:

"(d) AUTHORITY TO REVISE WARNING LABEL STATEMENTS.—The Secretary may, by a rulemaking conducted under section 553 of title 5, United States Code, adjust the format, type size, and text of any of the warning label statements required by subsection (a) of this section, or establish the format, type size, and text of any other disclosures required under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), if the Secretary finds that such a change would promote greater public understanding of the risks associated with the use of smokeless tobacco products.".

SEC. 305. TAR, NICOTINE, AND OTHER SMOKE CONSTITUENT DISCLOSURE TO THE PUBLIC.

Section 4(a) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333 (a)), as amended by section 301 of this title, is further amended by adding at the end the following:

"(4)(A) The Secretary shall, by a rulemaking conducted under section 553 of title 5, United States Code, determine (in the Secretary's sole discretion) whether cigarette and other tobacco product manufacturers shall be required to include in the area of each cigarette advertisement specified by subsection (b) of this section, or on the package label, or both, the tar and nicotine yields of the advertised or packaged brand. Any such disclosure shall be in accordance with the methodology established under such regulations, shall conform to the type size requirements of subsection (b) of this section, and shall appear within the area specified in subsection (b) of this section.

"(B) Any differences between the requirements established by the Secretary under subparagraph (A) and tar and nicotine yield reporting requirements established by the Federal Trade Commission shall be resolved by a memorandum of understanding between the Secretary and the Federal Trade Commission.

"(C) In addition to the disclosures required by subparagraph (A) of this paragraph, the Secretary may, under a rulemaking conducted under section 553 of title 5, United States Code, prescribe disclosure requirements regarding the level of any cigarette or other tobacco product smoke constituent. Any such disclosure may be required if the Secretary determines that disclosure would be of benefit to the public health, or otherwise would increase consumer awareness of the health consequences of the use of tobacco products, except that no such prescribed disclosure shall be required on the face of any cigarette package or advertisement. Nothing in this section shall prohibit the Secretary from requiring such prescribed disclosure through a cigarette or other tobacco product package or advertisement insert, or by any other means under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).".

Subtitle B—Testing and Reporting of Tobacco Product Smoke Constituents

SEC. 311. REGULATION REQUIREMENT.

(a) TESTING, REPORTING, AND DISCLOSURE.—Not later than 24 months after the date of enactment of this Act, the Secretary, through the Commissioner of the Food and Drug Administration, shall promulgate regulations under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) that meet the requirements of subsection (b) of this section.

(b) CONTENTS OF RULES.—The rules promulgated under subsection (a) of this section shall require the testing, reporting, and disclosure of tobacco product smoke constituents and ingredients that the Secretary determines should be disclosed to the public in order to protect the public health. Such constituents shall include tar, nicotine, carbon monoxide, and such other smoke constituents or ingredients as the Secretary may determine to be appropriate. The rule may require that tobacco product manufacturers, packagers, or importers make such disclosures relating to tar and nicotine through labels or advertising, and make such disclosures regarding other smoke constituents or ingredients as the Secretary determines are necessary to protect the public health.

(c) AUTHORITY.—The Food and Drug Administration shall have authority to conduct or to require the testing, reporting, or disclosure of tobacco product smoke constituents.

TITLE IV—NATIONAL TOBACCO TRUST FUND

SEC. 401. ESTABLISHMENT OF TRUST FUND.

(a) CREATION.—There is established in the Treasury of the United States a trust fund to be known as the "National Tobacco Trust Fund", consisting of such amounts as may be appropriated or credited to the trust fund.

(b) TRANSFERS TO NATIONAL TOBACCO TRUST FUND.—There shall be credited to the trust fund the net revenues resulting from the following amounts:

(1) Amounts paid under section 402.

(2) Amounts equal to the fines or penalties paid under section 402, 403, or 405, including interest thereon.

(3) Amounts equal to penalties paid under section 202, including interest thereon.

(c) NET REVENUES.—For purposes of subsection (b), the term "net revenues" means the amount estimated by the Secretary of the Treasury based on the excess of—

(1) the amounts received in the Treasury under subsection (b), over

(2) the decrease in the taxes imposed by chapter 1 and chapter 52 of the Internal Revenue Code of 1986, and other offsets, resulting from the amounts received under subsection (b).

(d) EXPENDITURES FROM THE TRUST FUND.—Amounts in the Trust Fund shall be available in each fiscal year, as provided in appropriation Acts. The authority to allocate net revenues as provided in this title and to obligate any amounts so allocated is contingent upon actual receipt of net revenues.

(e) BUDGETARY TREATMENT.—The amount of net receipts in excess of that amount which is required to offset the direct spending in this Act under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902) shall be available exclusively to offset the appropriations required to fund the authorizations of appropriations in this Act (including the amendments made by this Act), and the amount of such appropriations shall not be included in the estimates required under section 251 of that Act (2 U.S.C. 901).

(f) ADMINISTRATIVE PROVISIONS.—Section 9602 of the Internal Revenue Code of 1986 shall apply to the trust fund to the same extent as if it were established by subchapter A of chapter 98 of such Code, except that, for purposes of section 9602(b)(3), any interest or proceeds shall be covered into the Treasury as miscellaneous receipts.

SEC. 402. PAYMENTS BY INDUSTRY.

(a) INITIAL PAYMENT.—

(1) CERTAIN TOBACCO PRODUCT MANUFACTURERS.—The following participating tobacco product manufacturers, subject to the provisions of title XIV, shall deposit into the National Tobacco Trust Fund an aggregate payment of $10,000,000,000, apportioned as follows:

(A) Phillip Morris Incorporated—65.8 percent.

(B) Brown and Williamson Tobacco Corporation—17.3 percent.

(C) Lorillard Tobacco Company—7.1 percent.

(D) R.J. Reynolds Tobacco Company—6.6 percent.

(E) United States Tobacco Company—3.2 percent.

(2) NO CONTRIBUTION FROM OTHER TOBACCO PRODUCT MANUFACTURERS.—No other tobacco product manufacturer shall be required to contribute to the payment required by this subsection.

(3) PAYMENT DATE; INTEREST.—Each tobacco product manufacturer required to make a payment under paragraph (1) of this subsection shall make such payment within 30 days after the date of compliance with this Act and shall owe interest on such payment at the prime rate plus 10 percent per annum, as published in the Wall Street Journal on the latest publication date on or before the date of enactment of this Act, for payments made after the required payment date.

(b) ANNUAL PAYMENTS.—Each calendar year beginning after the required payment date under subsection (a)(3) the tobacco product manufacturers shall make total payments into the Fund for each calendar year in the following applicable base amounts, subject to adjustment as provided in section 403:

(1) year 1—$14,400,000,000.

(2) year 2—$15,400,000,000.

(3) year 3—$17,700,000,000.

(4) year 4—$21,400,000,000.

(5) year 5—$23,600,000,000.

(6) year 6 and thereafter—the adjusted applicable base amount under section 403.

(c) PAYMENT SCHEDULE; RECONCILIATION.—

(1) ESTIMATED PAYMENTS.—Deposits toward the annual payment liability for each calendar year under subsection (d)(2) shall be made in 3 equal installments due on March 1st, on June 1st, and on August 1st of each year. Each installment shall be equal to one-third of the estimated annual payment liability for that calendar year. Deposits of installments paid after the due date shall accrue interest at the prime rate plus 10 percent per annum, as published in the Wall Street Journal on the latest publication date on or before the payment date.

(2) RECONCILIATION.—If the liability for a calendar year under subsection (d)(2) exceeds the deposits made during that calendar year, the manufacturer shall pay the unpaid liability on March 1st of the succeeding calendar year, along with the first deposit for that succeeding year. If the deposits during a calendar year exceed the liability for the calendar year under subsection (d)(2), the manufacturer shall subtract the amount of the excess deposits from its deposit on March 1st of the succeeding calendar year.

(d) APPORTIONMENT OF ANNUAL PAYMENT.—

(1) IN GENERAL.—Each tobacco product manufacturer is liable for its share of the applicable base amount payment due each year under subsection (b). The annual payment is the obligation and responsibility of only those tobacco product manufacturers and their affiliates that directly sell tobacco

(4) USE OF FUNDS.—A State may use amounts received under this subsection as the State determines appropriate, consistent with the other provisions of this Act.

(5) FUNDS NOT AVAILABLE AS MEDICAID REIMBURSEMENT.—Funds in the account shall not be available to the Secretary as reimbursement of Medicaid expenditures or considered as Medicaid overpayments for purposes of recoupment.

(b) PUBLIC HEALTH ALLOCATION ACCOUNT.—

(1) IN GENERAL.— There is established within the trust fund a separate account, to be known as the Public Health Account. Twenty-two percent of the net revenues credited to the trust fund under section 401(b)(1) and all the net revenues credited to the trust fund under section 401(b)(3) shall be allocated to this account.

(2) AUTHORIZATION OF APPROPRIATIONS.—Amounts in the Public Health Account shall be available to the extent and only in the amounts provided in advance in appropriations Acts, to remain available until expended, only for the purposes of:

(A) CESSATION AND OTHER TREATMENTS.—Of the total amounts allocated to this account, not less than 25 percent, but not more than 35 percent are to be used to carry out smoking cessation activities under part D of title XIX of the Public Health Service Act, as added by title II of this Act.

(B) INDIAN HEALTH SERVICE.—Of the total amounts allocated to this account, not less than 3 percent, but not more than 7 percent are to be used to carry out activities under section 453.

(C) EDUCATION AND PREVENTION.—Of the total amounts allocated to this account, not less than 50 percent, but not more than 65 percent are to be used to carry out—

(i) counter-advertising activities under section 1982 of the Public Health Service Act as amended by this Act;

(ii) smoking prevention activities under section 223;

(iii) surveys under section 1991C of the Public Health Service Act, as added by this Act (but, in no fiscal year may the amounts used to carry out such surveys be less than 10 percent of the amounts available under this subsection); and

(iv) international activities under section 1132.

(D) ENFORCEMENT.—Of the total amounts allocated to this account, not less than 17.5 percent nor more than 22.5 percent are to be used to carry out the following:

(i) Food and Drug Administration activities.

(I) The Food and Drug Administration shall receive not less than 15 percent of the funds provided in subparagraph (D) in the first fiscal year beginning after the date of enactment of this Act, 25 percent of such funds in the second year beginning after the date of enactment, and 50 percent of such funds for each fiscal year beginning after the date of enactment, as reimbursements for the costs incurred by the Food and Drug Administration in implementing and enforcing requirements relating to tobacco products.

(II) No expenditures shall be made under subparagraph (D) during any fiscal year in which the annual amount appropriated for the Food and Drug Administration is less than the amount so appropriated for the prior fiscal year.

(ii) State retail licensing activities under section 251.

(iii) Anti-Smuggling activities under section 1141.

(c) HEALTH AND HEALTH-RELATED RESEARCH ALLOCATION ACCOUNT.—

(1) IN GENERAL.— There is established within the trust fund a separate account, to be known as the Health and Health-Related Research Account. Of the net revenues credited to the trust fund under section 401(b)(1), 22 percent shall be allocated to this account.

(2) AUTHORIZATION OF APPROPRIATIONS.—Amounts in the Health and Health-Related Research Account shall be available to the extent and in the amounts provided in advance in appropriations acts, to remain available until expended, only for the following purposes:

(A) $750,000 shall be made vailable in fiscal year 1999 for the study to be conducted under section 1991 of the Public Health Service Act.

(B) National Institutes of Health Research under section 1991D of the Public Health Service Act, as added by this Act. Of the total amounts allocated to this account, not less than 75 percent, but not more than 87 percent shall be used for this purpose.

(C) Centers for Disease Control under section 1991C of the Public Health Service Act, as added by this Act, and Agency for Health Care Policy and Research under section 1991E of the Public Health Service Act, as added by this Act, authorized under sections 2803 of that Act, as so added. Of the total amounts allocated to this account, not less than 12 percent, but not more than 18 percent shall be used for this purpose.

(D) National Science Foundation Research under section 454. Of the total amounts allocated to this account, not less than 1 percent, but not more than 1 percent shall be used for this purpose.

(E) Cancer Clinical Trials under section 455. Of the total amounts allocated to this account, $750,000,000 shall be used for the first 3 fiscal years for this purpose.

(d) FARMERS ASSISTANCE ALLOCATION ACCOUNT.—

(1) IN GENERAL.— There is established within the trust fund a separate account, to be known as the Farmers Assistance Account. Of the net revenues credited to the trust fund under section 401(b)(1) in each fiscal year—

(A) 16 percent shall be allocated to this account for the first 10 years after the date of enactment of this Act; and

(B) 4 percent shall be allocated to this account for each subsequent year until the account has received a total of $28,500,000,000.

(2) APPROPRIATION.—Amounts allocated to this account are hereby appropriated and shall be available until expended for the purposes of section 1012.

(e) MEDICARE PRESERVATION ACCOUNT.—There is established within the trust fund a separate account, to be known as the Medicare Preservation Account. If, in any year, the net amounts credited to the trust fund for payments under section 402(b) are greater than the net revenues originally estimated under section 401(b), the amount of any such excess shall be credited to the Medicare Preservation Account. Beginning in the eleventh year beginning after the date of enactment of this Act, 12 percent of the net revenues credited to the trust fund under seciton 401(b)(1) shall be allocated to this account. Funds credited to this account shall be transferred to the Medicare Hospital Insurance Trust Fund.

SEC. 452. GRANTS TO STATES.

(a) AMOUNTS.—From the amount made available under section 402(a) for each fiscal year, each State shall receive a grant on a quarterly basis according to a formula.

(b) USE OF FUNDS.—

(1) UNRESTRICTED FUNDS.—A State may use funds, not to exceed 50 percent of the amount received under this section in a fiscal year, for any activities determined appropriate by the State.

(2) RESTRICTED FUNDS.—A State shall use not less than 50 percent of the amount received under this section in a fiscal year to carry out additional activities or provide additional services under—

(A) the State program under the maternal and child health services block grant under title V of the Social Security Act (42 U.S.C. 701 et seq.);

(B) funding for child care under section 418 of the Social Security Act, notwithstanding subsection (b)(2) of that section;

(C) federally funded child welfare and abuse programs under title IV-B of the Social Security Act;

(D) programs administered within the State under the authority of the Substance Abuse and Mental Health Services Administration under title XIX, part B of the Public Health Service Act;

(E) Safe and Drug-Free Schools Program under title IV, part A, of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7111 et seq.);

(F) the Department of Education's Dwight D. Eisenhower Professional Development program under title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6601 et seq.); and

(G) The State Children's Health Insurance Program authorized under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.), provided that the amount expended on this program does not exceed 6 percent of the total amount of restricted funds available to the State each fiscal year.

(c) NO SUBSTITUTION OF SPENDING.—Amounts referred to in subsection (b)(2) shall be used to supplement and not supplant other Federal, State, or local funds provided for any of the programs described in subparagraphs (A) through (G) of subsection (b)(2). Restricted funds, except as provided for in subsection (b)(2)(G), shall not be used as State matching funds. Amounts provided to the State under any of the provisions of law referred to in such subparagraph shall not be reduced solely as a result of the availability of funds under this section.

(d) FEDERAL-STATE MATCH RATES.—Current (1998) matching requirements apply to each program listed under subsection (b)(2), except for the program described under subsection (b)(2)(B). For the program described under subsection (b)(2)(B), after an individual State has expended resources sufficient to receive its full Federal amount under section 418(a)(2)(B) of the Social Security Act (subject to the matching requirements in section 418(a)(2)(C) of such Act), the Federal share of expenditures shall be 80 percent.

(e) MAINTENANCE OF EFFORT.—To receive funds under this subsection, States must demonstrate a maintenance of effort. This maintenance of effort is defined as the sum of—

(1) an amount equal to 95 percent of Federal fiscal year 1997 State spending on the programs under subsections (b)(2)(B), (c), and (d); and

(2) an amount equal to the product of the amount described in paragraph (1) and—

(A) for fiscal year 1999, the lower of—

(i) general inflation as measured by the consumer price index for the previous year; or

(ii) the annual growth in the Federal appropriation for the program in the previous fiscal year; and

(B) for subsequent fiscal years, the lower of—

(i) the cumulative general inflation as measured by the consumer price index for the period between 1997 and the previous year; or

(ii) the cumulative growth in the Federal appropriation for the program for the period between fiscal year 1997 and the previous fiscal year.

products in the domestic market to wholesalers, retailers, or consumers, their successors and assigns, and any subsequent fraudulent transferee (but only to the extent of the interest or obligation fraudulently transferred).

(2) DETERMINATION OF AMOUNT OF PAYMENT DUE.—Each tobacco product manufacturer is liable for its share of each installment in proportion to its share of tobacco products sold in the domestic market for the calendar year. One month after the end of the calendar year, the Secretary shall make a final determination of each tobacco product manufacturer's applicable base amount payment obligation.

(3) CALCULATION OF TOBACCO PRODUCT MANUFACTURER'S SHARE OF ANNUAL PAYMENT.—The share of the annual payment apportioned to a tobacco product manufacturer shall be equal to that manufacturer's share of adjusted units, taking into account the manufacturer's total production of such units sold in the domestic market. A tobacco product manufacturer's share of adjusted units shall be determined as follows:

(A) UNITS.—A tobacco product manufacturer's number of units shall be determined by counting each—

(i) pack of 20 cigarettes as 1 adjusted unit;

(ii) 1.2 ounces of moist snuff as 0.75 adjusted unit; and

(iii) 3 ounces of other smokeless tobacco product as 0.35 adjusted units.

(B) DETERMINATION OF ADJUSTED UNITS.—Except as provided in subparagraph (C), a smokeless tobacco product manufacturer's number of adjusted units shall be determined under the following table:

For units	Each unit shall be treated as:
Not exceeding 150 million	70% of a unit
Exceeding 150 million	100% of a unit

(C) ADJUSTED UNITS DETERMINED ON TOTAL DOMESTIC PRODUCTION.—For purposes of determining a manufacturer's number of adjusted units under subparagraph (B), a manufacturer's total production of units, whether intended for domestic consumption or export, shall be taken into account.

(D) SPECIAL RULE FOR LARGE MANUFACTURERS.—If a tobacco product manufacturer has more than 200 million units under subparagraph (A), then that manufacturer's number of adjusted units shall be equal to the total number of units, and not determined under subparagraph (B).

(E) SMOKELESS EQUIVALENCY STUDY.—Not later than January 1, 2003, the Secretary shall submit to the Congress a report detailing the extent to which youths are substituting smokeless tobacco products for cigarettes. If the Secretary determines that significant substitution is occurring, the Secretary shall include in the report recommendations to address substitution, including consideration of modification of the provisions of subparagraph (A).

(e) COMPUTATIONS.—The determinations required by subsection (d) shall be made and certified by the Secretary of Treasury. The parties shall promptly provide the Treasury Department with information sufficient for it to make such determinations.

(f) NONAPPLICATION TO CERTAIN MANUFACTURERS.—

(1) EXEMPTION.—A manufacturer described in paragraph (3) is exempt from the payments required by subsection (b).

(2) LIMITATION.—Paragraph (1) applies only to assessments on cigarettes to the extent that those cigarettes constitute less than 3 percent of all cigarettes manufactured and distributed to consumers in any calendar year.

(3) TOBACCO PRODUCT MANUFACTURERS TO WHICH SUBSECTION APPLIES.—A tobacco product manufacturer is described in this paragraph if it—

(A) resolved tobacco-related civil actions with more than 25 States before January 1, 1998, through written settlement agreements signed by the attorneys general (or the equivalent chief legal officer if there is no office of attorney general) of those States; and

(B) provides to all other States, not later than December 31, 1998, the opportunity to enter into written settlement agreements that—

(i) are substantially similar to the agreements entered into with those 25 States; and

(ii) provide the other States with annual payment terms that are equivalent to the most favorable annual payment terms of its written settlement agreements with those 25 States.

SEC. 403. ADJUSTMENTS.

The applicable base amount under section 402(b) for a given calendar year shall be adjusted as follows in determining the annual payment for that year:

(1) INFLATION ADJUSTMENT.—

(A) IN GENERAL.—Beginning with the sixth calendar year after the date of enactment of this Act, the adjusted applicable base amount under section 402(b)(6) is the amount of the annual payment made for the preceding year increased by the greater of 3 percent or the annual increase in the CPI, adjusted (for calendar year 2002 and later years) by the volume adjustment under paragraph (2).

(B) CPI.—For purposes of subparagraph (A), the CPI for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor.

(C) ROUNDING.—If any increase determined under subparagraph (A) is not a multiple of $1,000, the increase shall be rounded to the nearest multiple of $1,000.

(2) VOLUME ADJUSTMENT.—Beginning with calendar year 2002, the applicable base amount (as adjusted for inflation under paragraph (1)) shall be adjusted for changes in volume of domestic sales by multiplying the applicable base amount by the ratio of the actual volume for the calendar year to the base volume. For purposes of this paragraph, the term "base volume" means 80 percent of the number of units of taxable domestic removals and taxed imports of cigarettes in calendar year 1997, as reported to the Secretary of the Treasury. For purposes of this subsection, the term "actual volume" means the number of adjusted unites as defined in section 402(d)(3)(A).

SEC. 404. PAYMENTS TO BE PASSED THROUGH TO CONSUMERS.

Each tobacco product manufacturer shall use its best efforts to adjust the price at which it sells each unit of tobacco products in the domestic market or to an importer for resale in the domestic market by an amount sufficient to pass through to each purchaser on a per-unit basis an equal share of the annual payments to be made by such tobacco product manufacturer under this Act for the year in which the sale occurs.

SEC. 405. TAX TREATMENT OF PAYMENTS.

All payments made under section 402 are ordinary and necessary business expenses for purposes of chapter 1 of the Internal Revenue Code of 1986 for the year in which such payments are made, and no part thereof is either in settlement of an actual or potential liability for a fine or penalty (civil or criminal) or the cost of a tangible or intangible asset or other future benefit.

SEC. 406. ENFORCEMENT FOR NONPAYMENT.

(a) PENALTY.—Any tobacco product manufacturer that fails to make any payment required under section 402 or 404 within 60 days after the date on which such fee is due is liable for a civil penalty computed on the unpaid balance at a rate of prime plus 10 percent per annum, as published in the Wall Street Journal on the latest publication date on or before the payment date, during the period the payment remains unmade.

(b) NONCOMPLIANCE PERIOD.—For purposes of this section, the term "noncompliance period" means, with respect to any failure to make a payment required under section 402 or 404, the period—

(1) beginning on the due date for such payment; and

(2) ending on the date on which such payment is paid in full.

(c) LIMITATIONS.—

(1) IN GENERAL.—No penalty shall be imposed by subsection (a) on any failure to make a payment under section 402 during any period for which it is established to the satisfaction of the Secretary of the Treasury that none of the persons responsible for such failure knew or, exercising reasonable diligence, should have known, that such failure existed.

(2) CORRECTIONS.—No penalty shall be imposed under subsection (a) on any failure to make a payment under section 402 if—

(A) such failure was due to reasonable cause and not to willful neglect; and

(B) such failure is corrected during the 30-day period beginning on the 1st date that any of the persons responsible for such failure knew or, exercising reasonable diligence, should have known, that such failure existed.

(3) WAIVER.—In the case of any failure to make a payment under section 402 that is due to reasonable cause and not to willful neglect, the Secretary of the Treasury may waive all or part of the penalty imposed under subsection (a) to the extent that the Secretary determines that the payment of such penalty would be excessive relative to the failure involved.

Subtitle B—General Spending Provisions

SEC. 451. ALLOCATION ACCOUNTS.

(a) STATE LITIGATION SETTLEMENT ACCOUNT.—

(1) IN GENERAL.—There is established within the Trust Fund a separate account, to be known as the State Litigation Settlement Account. Of the net revenues credited to the Trust Fund under section 401(b)(1) for each fiscal year, 40 percent of the amounts designated for allocation under the settlement payments shall be allocated to this account. Such amounts shall be reduced by the additional estimated Federal expenditures that will be incurred as a result of State expenditures under section 452, which amounts shall be transferred to the miscellaneous receipts of the Treasury. If, after 10 years, the estimated 25-year total amount projected to received in this account will be different than amount than $196,500,000,000, then beginning with the eleventh year the 40 percent share will be adjusted as necessary, to a percentage not in excess of 50 percent and not less than 30 percent, to achieve that 25-year total amount.

(2) APPROPRIATION.—Amounts so calculated are hereby appropriated and available until expended and shall be available to States for grants authorized under this Act.

(3) DISTRIBUTION FORMULA.—The Secretary of the Treasury shall consult with the National Governors Association, the National Association of Attorneys General, and the National Conference of State Legislators on a formula for the distribution of amounts in the State Litigation Settlement Account and report to the Congress within 90 days after the date of enactment of this Act with recommendations for implementing a distribution formula.

DOJ Comments on Amendments to the Tobacco Bill

We are still looking at a number of provisions, but here are comments on a number of relevant amendments; we have not completed the Department review process. We are reviewing all of the amendments for constitutional concerns and will send over additional comments as we have them.

Ashcroft 7/Kennedy 1 & 2 -- Assessments Not Deductible

Under the bill as currently drafted, annual assessments are tax deductible and lookback assessments are not-deductible. There are few, if any, examples of regulatory fees or assessments that are not deductible, and making any of the assessments non-deductible may raise some concerns. Moreover, The distinction between annual assessments and lookbacks makes it more difficult to argue that the lookbacks are simply an adjustment to the annual assessments. This increases the risk that the lookbacks will be struck down.

These amendments would make the annual assessments non-deductible. This will increase the price of tobacco products even more, and thus advance the President's policy goals. It will also equalize the treatment of the annual assessments and the lookbacks. We are continuing to consider whether this improves the constitutional arguments in a significant way.

Ashcroft 9 -- Increasing Sentences for Methamphetamines

"Ashcroft 9" (Amendment No. 2552) proposes to increase the penalties for trafficking in methamphetamine in order to equalize those penalties with the penalties for trafficking in crack cocaine. The Department has taken the position publicly that threshold quantities for determining mandatory minimum punishment for methamphetamine should be set at or about the same levels as those for crack cocaine to reflect the destructive effects of methamphetamine because the use pattern of methamphetamine has elements of similarity to that of crack cocaine.

There are, however, enormous budget impacts to an increase in methamphetamine sentences; the Bureau of Prisons is running some numbers for us. Those numbers may affect the position the Administration should take on the bill.

Ashcroft 10 -- Mandatory Minimums for Distribution to Minors

"Ashcroft 10" (Amendment No. 2553) proposes, inter alia, to increase mandatory minimum penalties for drug offenses involving distribution to minors, distribution in or near schools, and employing minors in distribution, from 1 and 3 years to 10 and 20 years.

This is a very significant increase in the magnitude of sentences and requires much more study. As a general matter, we have supported increasing the guideline ranges, rather than using higher mandatory minimums, to account for factors such as age of the minors to whom drugs are distributed, whether the employment of minors involved arming them or subjecting them to other dangers, and/or other pertinent factors, in determining punishment within the prescribed range.

Bond 2 -- State Retail Licensing and Enforcement Block Grants -- **Support**

We generally support such grants because state and local law enforcement costs will increase due to the increased efforts to curb youth access.

Conrad 4 -- Sting Operations

We don't have the complete version of the amendment, but it seems that it is probably unnecessary because sting operations are likely to be permissible in almost all, if not all, states.

Conrad 7 -- Addiction and Dependence Claims

The proposed changes makes the definition repetitive, but it should not change the intent of the section.

Conrad 8 -- Definition of Tobacco Claim

Conrad 8 proposes an exclusion to the definition of a "tobacco claim" that shrinks its scope significantly. As currently drafted, the bill terminates all state suits, under whatever theory, where the damages sought are for health case costs. The proposed amendment would exclude suits based on antitrust, fraud, or consumer laws. The state suits that have succeeded so far, such as Minnesota's, have, however, been based on antitrust and consumer protection theories. Thus, the Conrad amendment would ensure that states could take the money under the statute and still sue the tobacco companies again for the same health care costs. This will be a major issue for the tobacco industry.

It may not make sense for the administration to actively oppose this provision, but its impact on getting industry consent cannot be underestimated.

Craig 1 -- Joint Tax Calculations -- **Strongly Object**

Craig 1 directs the Joint Committee on Taxation to calculate adjustments to grants to states based on estimated state revenue losses. These calculations appear to be binding determinations. If these calculations are binding, the amendment would be unconstitutional under Bowsher v. Synar, 478 U.S. 714 (1986). If the calculations are not binding, the amendment should be clarified.

All Americans who care about protecting their families' safety have a stake in making sure that every working family has access to the quality child care and after-school programs proven to help kids learn the values and skills to become good neighbors and responsible adults.

—Edward A. Flynn, Chief of Police, Arlington, Va.

Why Do Police Want Tobacco Bills to Support Child Care?

CHILD CARE AND AFTER-SCHOOL PROGRAMS are two of America's most powerful investments to protect children's health and the public safety.

The people on the front lines fighting crime know that denying at-risk kids quality child care programs dramatically increases the risk that those kids will become teen delinquents or chronic lawbreakers as adults. And we know juvenile crime peaks between 3:00 and 8:00 pm.

In fact, more than nine out of 10 police chiefs polled agree that America could cut crime dramatically by investing more in child care and after-school programs—and hundreds of law enforcement leaders, including the Major Cities Chiefs, last month called on Congress to make sure all kids have access to the quality child care and after-school programs that protect all of us.

What does all this have to do with tobacco and public health? Plenty.

Unsupervised after-school hours aren't just prime time for juvenile crime. They're also prime time for other threats to children's health—like teen sex and drug abuse—and they are too often the hours when children first get hooked on tobacco.

After-school programs may be the most powerful anti-smoking weapons available.

Recent research showing that children's early experiences affect the actual wiring of their brains is only the latest evidence that quality child care is essential to children's good health. Moreover, the addiction, crime and violence that child care and after-school programs prevent are the greatest threats to child health and to every American's safety.

The tobacco industry has jeopardized children's health for years. That's why any tobacco bill should earmark at least $20 billion to invest in quality child care and after-school programs for at-risk youth.

There is no more fundamental government responsibility than protecting the public safety. Congress can't meet that responsiblity without major new investments from tobacco legislation so communities can help struggling families pay for decent child care and after-school programs.

America needs to invest today in our most vulnerable children or we'll spend far more later—in money and lives—on those who become our "most wanted" adults.

FIGHT CRIME: INVEST IN KIDS. CHILD CARE NOW!

FIGHT CRIME: INVEST IN KIDS is an organization of police, prosecutors and crime victims dedicated to preventing crime.

CHILD CARE NOW! is a coalition of 100 national organizations representing millions of Americans concerned about child care and our children's healthy development.

For more information, call 1-800-233-1200

THE WHITE HOUSE

Erskine –
We thought you might want to see a description of one of the two substitute tobacco bills that will be offered on the Senate floor. (The other is from Sen. Hatch and should closely resemble the June 20th settlement.) In brief: a 75¢ per pack fee, no look back penalties, no FDA jurisdiction, almost no farmers assistance, and much reduced health spending – but a Roth health care tax cut.

Elena

Cc Bruce
Cynthia
Cynthia
Tom
Tom
Larry Stein
Erskine (w/ attached note)

Teenage Health Preservation Act

By Senator Domenici and Gramm

$5 BILLION ANTI-SMOKING, ANTI-DRUG ADVERTISING CAMPAIGN.

Establish a 5-member commission, whose members would be nominated by the President and confirmed by the Senate. The Commission would be responsible for developing and presenting to Congress a comprehensive anti-drug and anti-smoking advertising campaign aimed at teenagers. The campaign would be funded at a level of $5 billion over 5 years from the National Teenage Health Security Trust Fund.

ANTI-SMOKING AND ANTI-DRUG PROVISIONS AND PENALTIES.

Incorporate the proposals of Senators Coverdell and Craig to increase by 50% the drug interdiction budgets of the Customs Service, the Coast Guard, and the Department of Defense for activities along the U.S.-Mexico border and in the Caribbean region. Double the number of border patrol agents to achieve a level of 15,000 positions over the next five years, and increase by 25% the law enforcement budgets of the Drug Enforcement Administration and the FBI.

Adopt McCain anti-smuggling language which directs Treasury to require the placement of a unique serial number on each pack of cigarettes to assist in determining the location and date of production.

Include language previously adopted by the Senate which imposes penalties of not less than 10 years imprisonment for any adult who sells drugs to a minor; life imprisonment for a second offense.

Establish a federal penalty of not less than 20 years imprisonment for any person convicted of smuggling illegal drugs into the United States; life imprisonment upon conviction for a second offense.

Impose a fine of up to $100,000 and term of imprisonment up to 5 years for smuggling cigarettes into the U.S. Those who knowingly sell smuggled cigarettes to teenagers will face up to 1 year in prison and up to a $10,000 fine. Suspend federal student loan eligibility for teenagers who use illegal drugs or purchase cigarettes. The penalty for drug convictions will be a 1-year suspension of eligibility for federal student loans and a permanent loss of eligibility for a 2nd offense. The penalty for teen cigarette purchase will be a warning for the 1st offense; 6-month suspension of eligibility for a 2nd offense, a [illegible] suspension for a 3rd offense.

Establish a "Teenage Health Security" block grant program to the states in which the distribution of funds is linked to state adoption of sanctions for teenage tobacco use.

Minimum penalties for under-age tobacco use, in addition to any other existing penalty, are to consist of a warning for the 1st offense; 6 month suspension of driver's license for a 2nd offense; and a 1 year license suspension for a 3rd offense -- the "3 smokes and you walk" provision.

Eligibility for grant funds would also require the adoption of minimum penalties for adults who knowingly and willfully sell cigarettes to minors -- a $1,000 fine for a 1st offense; $5,000 for a 2nd offense; and a $10,000 fine and 1 year in prison for a 3rd offense.

PROMINENT DISPLAY OF WARNING LABELS.

Adopt the McCain requirement that warning statements on cigarette packages take-up not less than 25% of the upper space on the front and back of each package.

VENDING MACHINES INACCESSIBLE TO CHILDREN.

Vending machine sale of cigarettes will be restricted to areas that are not accessible to children or teenagers.

PAYMENT BY INDUSTRY EQUAL TO 75 CENTS PER PACK.

The act will provide for a payment from the tobacco industry equal to 75 cents per pack. The payment will be capped at a per pack amount that is estimated to be below the trigger point of significantly increased black market activity. After financing the tax reductions identified in Part VI, all remaining amounts will be deposited in a new "National Teenage Health Security Trust Fund."

PROVIDE FULL DEDUCTIBILITY OF HEALTH INSURANCE AND SMOKING CESSATION PROGRAMS.

Accelerate phase-in of 100% deductibility of health care insurance for self employed to be effective January 1, 1999. Allow all workers not covered by employer provided insurance to deduct fully the cost of health insurance (the Roth proposal, an "above the line" deduction).

In addition, low-income, working taxpayers who are eligible for the earned income credit could take advantage of this health insurance deduction. Specifically, the cost of health insurance premiums would be excluded from their modified adjusted gross income for purposes of the earned income credit. This would not apply to an individual covered by employer-provided health insurance or Medicaid.
The cost of any FDA approved smoking cessation program would be deductible and treated as an "above the line" deduction.

NATIONAL TEENAGE HEALTH SECURITY TRUST FUND.

The Trust Fund will finance all programs and initiatives created by this legislation. The Department of the Treasury will establish the accounting mechanism necessary to ensure that Trust Fund deposits and outlays are credited properly. All expenditures from the fund will be outside of the spending caps but all will have to be appropriated annually; there will be no new entitlement or mandatory spending programs.

No distributions or expenditures from the Trust Fund will be permitted for any purpose other than the specific authorizations provided in the "Teenage Health Preservation Act." Any money remaining in the Trust Fund after the annual appropriations process has concluded will be transferred to Medicare.

INCREASE FUNDS FOR NATIONAL INSTITUTES OF HEALTH.

Earmark an additional $5 billion over the next 5 years from the Trust Fund to the NIH in addition to the $15.5 billion increases over 5 years provided in the Budget Resolution.

PROVIDE TRANSITION ASSISTANCE TO TOBACCO FARMERS.

Authorize a per acre payment to tobacco farmers that is equal to the per acre payments authorized in the Freedom to Farm legislation for wheat, corn, grain sorghum, barley, oats, upland cotton and rice combined: $1,496.

STATE SETTLEMENTS WITH TOBACCO COMPANIES.

Includes language which, without regard to any other provision of federal law, guarantees the right of tobacco companies and individual states to enter legally binding (within the border of each state) settlement agreements, including limited liability.

WINDFALL PROFIT TAX ON LAWYER'S FEES.

For states that have reached tobacco settlements, lawyer fees above $1,000 per hour but below $1,500 per hour will be subject to a surtax of 20%; fees in excess of $1,500 per hour will be subject to a surtax of 40%. For states that have not reached a tobacco settlement and for tobacco related class action cases, the 20% surtax would be applied to fees that exceed 5% of the settlement amount; the 40% surtax would apply to fees that exceed 10% of the settlement amount. The same rules would apply to any federal settlement. 5/19/98

12:29 PM

Teenage Health Preservation Act

By Senator Domenici and Gramm

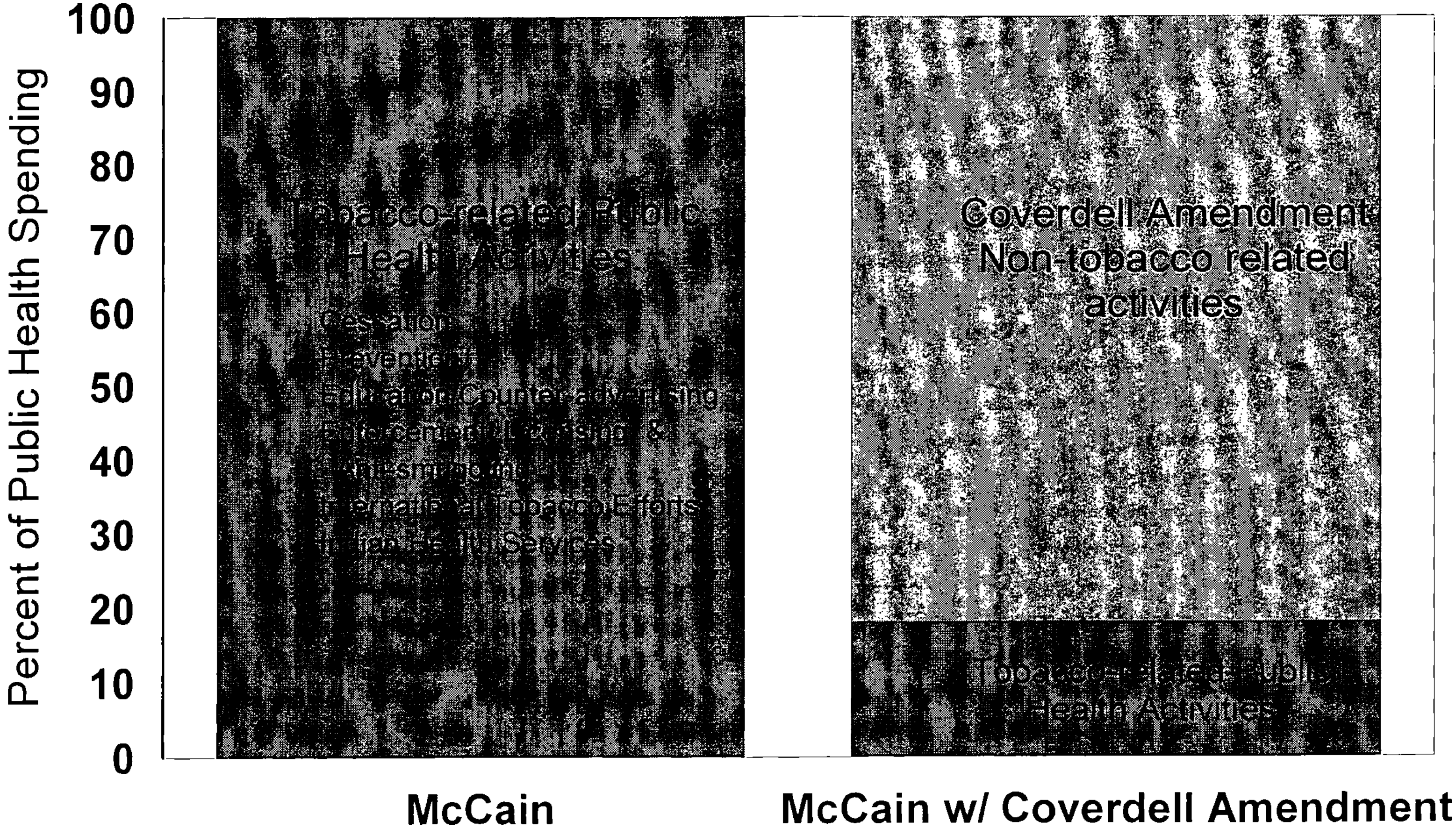
	1998	1999	2000	2001	2002	TOTAL
TITLE I – ANTI-SMOKING, ANTI-DRUG ADVERTISING CAMPAIGN						
	---	$1 B.	$1 B.	$1 B.	$1 B.	$4 B.
TITLE II – ANTI-SMOKING, ANTI-DRUG PROVISIONS & PENALTIES						
	---	$1.5 B.	$1.5 B.	$1.5 B.	$1.5 B.	$6 B.
TITLE V – PAYMENT BY INDUSTRY EQUAL TO 75 CENTS PER PACK						
	-$1.6 B.	-$8.4 B.	-$8.5 B.	-$8.6 B.	-$8.7 B.	-$35.8 B.
TITLE VI – DEDUCTIBILITY OF HEALTH INSURANCE & SMOKING CESSATION.						
	---	$2.4 B.	$6.6 B.	$7.0B.	$7.5 B.	$23.5 B.
TITLE VIII – INCREASE FUNDS FOR NATIONAL INSTITUTE OF HEALTH						
	---	$1 B.	$1 B.	$1 B.	$1 B.	$4 B.
TITLE IX – TRANSITION ASSISTANCE TO TOBACCO FARMERS.						
	---	$250 M.	$250 M.	$250 M.	$250 M.	$1.0 B.
TITLE XI – WINDFALL PROFIT TAX ON LAWYER FEES						
	---	-$.75 B.	-$.75 B.	-$.75 B.	-$.75 B.	-$3 B.
TOTAL IMPACT ON DEFICIT						
	-$1.6 B	-$3 B	+$1.1 B	+$1.4 B	+$1.8 B	-$0.3 B

Substitute Language for the Leahy Amendment

Section 4.51(b)(2)(D)(iii) is amended to read as follows:

(iii) The Treasury Department shall receive no less than 70 million dollars for each of the first five years, beginning after the date of enactment of this Act, for purposes of administering and enforcing the Anti-smuggling provisions of Subtitle B of Title XI. For each subsequent year thereafter and for purposes of administering and enforcing the Anti-Smuggling provisions of Subtitle B of Title XI, the Treasury Department shall receive an amount of no less than the amount so appropriated in the prior fiscal year.

Coverdell Amendment Could Cut Tobacco-related Public Health Activities by 82 Percent



Assumes Coverdell has funding priority among Public Health activities

José

the Controlled Substances Act (21 U.S.C. 801 *et seq.*), the Controlled Substances Import and Export Act (21 U.S.C. 951 *et seq.*), ~~and~~ or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 *et seq.*)

USA TODAY

May 12, 1998, Tuesday, FINAL EDITION

SECTION: NEWS; Pg. 5A

LENGTH: 551 words

HEADLINE: Philip Morris is client of police lobbyist fighting tobacco bill

BYLINE: Jim Drinkard

DATELINE: WASHINGTON

BODY:

WASHINGTON -- A police lobbyist who enlisted law enforcement groups to warn that a proposed tobacco bill could create a black market in cigarettes also has another employer: cigarette manufacturer Philip Morris.

The lobbyist is Jim Pasco, a former Bureau of Alcohol, Tobacco and Firearms official who now is executive director of the Fraternal Order of Police (FOP) and is registered as an advocate for the 272,000-member organization.

But Pasco also operates his own lobbying firm, and for the past 2 1/2 years has had Philip Morris as a client. Lobbying records show that last year, the company paid him $ 24,000, mostly, he said, for work he did for its Miller Brewing Co. subsidiary.

Pasco said he saw no conflict in his dual role. "We're not doing this for Philip Morris. I don't make the policy here. . . . Obviously, I'm concerned. I don't want it to be construed that I have a conflict."

Pasco's boss, FOP President Gilbert Gallegos, wrote a letter April 24 to Senate Judiciary Committee Chairman Orrin Hatch, R-Utah, warning that a Senate bill to increase cigarette prices could create "a thriving black market" and pose "huge problems for law enforcement."

Hatch's committee is holding a hearing on the subject today as lobbying on the issue intensifies. The full Senate is scheduled to take up tobacco legislation next week.

Late last month, Pasco approached Arthur Reddy, the top lobbyist for the International Union of Police Associations, and suggested that Reddy's group express its concerns to Hatch on the potential for cigarette smuggling. Reddy wrote a letter on April 28, making many of the same points as the FOP.

"Jim made most of the phone calls" to solicit the letters, said Reddy, who said he had been unaware of Pasco's connection to Philip Morris.

Pasco also contacted a lobbyist for the National Troopers Coalition, a state-police organization that has placed the issue on the agenda for its meeting this week in McLean, Va., a Washington suburb. The FOP also prompted an April 27 letter from the Federal Law Enforcement Officers Association.

Letters from four police groups were posted on the Internet site of the tobacco companies that are opposing the Senate bill. The address is www.tobaccoresolution.com .The letters also formed the basis for a full-page ad that ran in national newspapers Monday. The ad asked, "If the police are afraid of tobacco legislation . . . How safe can it be?"

In the ad, excerpts from the police letters argued that increased cigarette taxes will create an incentive for an underground market by pushing up cigarette prices.

The police connection is an illustration of tobacco's broad reach in Washington. Other groups are helping make the industry's case:

-- The National Smokers Alliance, a grass-roots group formed with seed money from cigarette makers, is seeking to generate opposition to a large tobacco tax included in several proposed tobacco bills.

-- The American Civil Liberties Union has weighed in against restrictions on advertising. For the past decade, the ACLU has received annual grants from cigarette makers Philip Morris and R.J. Reynolds, but it denies that the money has influenced its policy positions.

Contributing: Wendy Koch

GRAPHIC: PHOTO, B/W, USA TODAY