

NLWJC - Kagan

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**Tobacco-Settlement: New
Legislation - Side by Sides**

**Comparison of McCain Manager's Amendment,
McCain as Amended, Hatch and Settlement**
June 30, 1998

DRAFT

	McCain Manager's Amendment	McCain as Amended	Hatch	Settlement
Total Payments over 25 Years* (real 99\$)	\$408 billion (after volume adjustment and price caps**). Payments continue after 25th year.	\$408 billion (after volume adjustment and price caps**). Payments continue after 25th year.	\$291 billion after volume adjustment (Originally reported as \$428.5 billion, and \$408 billion in bill, but these exclude volume adjustment). 25 years only.	\$267 billion after volume adjustment (\$368.5 billion if no drop in consumption). Payments continue after 25th year.
Net Available Receipts* (nominal \$ over 5 years).	\$59 billion	\$59 billion	\$47 billion	\$40 billion
Price Increase*	\$1.10 per pack	\$1.10 per pack	66 cents per pack	64 cents per pack

To be set - new legislation - side by side

* OMB estimate

** McCain proposed to add price caps, which were not included in original legislative language

	McCain Manager's Amendment	McCain as Amended	Hatch	Settlement
Lookback Surcharges -- Industry	\$80 million for each percentage point missed for the first five points missed, \$160 million for each percentage point missed (for 6-10 points missed), \$240 million for each percentage point missed (for 11 points or more missed). Penalties are capped at \$4 billion per year.	\$40 million for the first five percentage points by which the industry misses the youth smoking reduction target, and \$120 million for each point missed thereafter. Penalties are capped at \$2 billion. (Durbin amendment).	<p><u>Years 1-5</u>: \$100 million for each percentage point missed for the first five points missed, \$200 million for each percentage point missed (for 6-10 points missed), \$300 million for each percentage point missed (for 11 or more points missed). Penalties are capped at \$5 billion per year.</p> <p><u>After year 5</u>: \$250 million for each percentage point missed for the first five points missed; \$500 million for each percentage point missed for 6 points missed or above. Penalties are capped at \$10 billion per year.</p> <p>The proposal's so-called "double-counting adjustment" means that the actual surcharges imposed are in most years substantially below the amounts per percentage point presented (e.g., the effective charge is about \$140 million per point, not \$500 million).</p> <p>Companies may have these surcharges abated if they acted in good faith and complied with the law.</p>	<p>\$80 million for each percentage point by which the industry misses the youth smoking reduction target. Penalties are capped at \$2 billion annually.</p> <p>Companies may have these surcharges abated if they acted in good faith and complied with the law.</p>

	McCain Manager's Amendment	McCain as Amended	Hatch	Settlement
Lookback Surcharges -- Company Specific	\$1000 per teen by which the company misses its youth smoking reduction target. This figure (which is equivalent to about \$64 million per percentage point) represents twice the forgone profits of hooking a teen. No cap on penalties.	\$80 million per percentage point for the first 5 percentage points, and \$240 million per percentage point thereafter. This figure represents approximately 2.5 times the forgone profits for the first five percentage points, and about 7.5 times the forgone profits for the next 19 percentage points. Penalties are capped at \$5 billion. (Durbin amendment.)	None.	None.
Youth Smoking Reduction Targets	Reduce youth smoking by 60% over 10 years.	Reduce youth smoking by 67% over 10 years.	Reduce youth smoking by 60% over 10 years.	Reduce youth smoking by 60% over 10 years.

	McCain Manager's Amendment	McCain as Amended	Hatch	Settlement
FDA Authority	Provides full authority in a separate title.	Provides full authority in a separate title.	Provides authority in a separate title with significant limitations. Bill contains many procedural hurdles and other barriers that would constrain FDA's ability to regulate tobacco products: congressional approval is required if FDA wants to reduce nicotine levels to zero or ban a tobacco product; FDA must take into account numerous additional considerations before making decisions; FDA limited to regulation of nicotine and ingredients and could not require modification to product design or parts, such as the filter, to reduce health risks; FDA would not have premarket approval authority for new or unconventional products; agency could not require manufacturers to conduct additional testing for ingredients; disclosure requirements are weak because they allow companies to use general terms to describe ingredients.	Provisions are based on device law, but with significant limitations. Imposes numerous new procedural and substantive burdens on the agency: required to make numerous additional findings before issuing a performance standard; required to use formal rule-making procedures, which are resource-intensive and lengthy (including an ALJ hearing); parties could immediately petition FDA to seek review of whether a modification has resulted in the creation of a significant demand for contraband, irrespective of whether judicial review of the standard itself is complete. FDA could not ban nicotine for at least 12 years, and additional findings are required. Ingredient review and disclosure provisions are based on standards for food (rather than drugs or devices), and give manufacturers 5 years to submit information, but if FDA does not act within 90 days, the ingredient is approved.

	McCain Manager's Amendment	McCain as Amended	Hatch	Settlement
Advertising and Access Provisions	Affirms advertising and access provisions in the FDA rule and adds additional advertising restrictions through a consent protocol.	Affirms advertising and access provisions in the FDA rule and adds additional advertising restrictions through a consent protocol.	Repeals advertising restrictions in 1996 Rule, but includes most of them in the consent protocol along with the additional restrictions contained in the settlement. (Some of the provisions, such as the limit on advertising in publications, are less restrictive than the FDA rule. Because they are contained only in the protocol, they will apply only to manufacturers, but not to distributors or retailers). The bill reaffirms the youth access restrictions, but denies the FDA the authority to modify them. Denies FDA the authority to impose civil monetary penalties for retailer violations of access restrictions; provides only for injunctive relief and criminal penalties.	Codifies FDA access and advertising restrictions, and adds some additional restrictions. Modifies several of the advertising restrictions such that they are less comprehensive than the FDA rule (e.g., permits unrestricted point of sale advertising in tobacco outlets, irrespective of whether children are permitted to enter; expands the type of visual imagery permitted; allows videos and audio advertising to be distributed to consumers). Cannot make any modifications to access restrictions for at least 5 years. FDA authority over content of advertising is unclear; unclear whether FDA could modify the advertising restrictions.

	McCain Manager's Amendment	McCain as Amended	Hatch	Settlement
Uses of Tobacco Receipts	Receipts would be divided as follows: 22% for medical research; 22% for public health efforts; 40% for the states (half unrestricted and half for designated purposes); and 16% for farmers.	After receipts are deducted from the tobacco trust fund for a tax cut and the Veterans health care amendment (see below), revenues would be divided as follows: 22% for medical research; 22% for public health efforts; 40% for the states (half unrestricted and half for designated purposes); and 16% for farmers. The Coverdell amendment expanded public health efforts to include anti-drug efforts (see below). Half of the restricted state funds must be used for child care (Kerry-Bond amendment).	Receipts would be divided as follows: Up to 36% as litigation credit. Depending on how big the credit is: 13-20% for medical research; 13-21% for public health efforts; 27-42% to the states (with little practical restriction on uses); and 11-17% for farmers.	Receipts would be divided as follows: Up to 33% credit against lawsuit settlement. Depending on size of credit: 6-9% for medical research; 17-25% for public health programs; and 44-66% to reimburse states for Medicaid outlays.
Public Health	\$13B over 5 years (22%)	\$9B over 5 years.	\$6-\$10B over 5.	\$7-10B over 5.
Research	\$13B over 5 years (22%). Mostly NIH, but includes CDC/AHCPR.	\$9B over 5 years.	\$6-\$9B over 5	\$2-\$4B over 5.
State Funds	\$24B over 5 years (half unrestricted and half for menu of seven programs).	\$16B over 5 years, half restricted and half unrestricted, of which half of the restricted funds must be used for child care.	\$12-\$19B over 5. Forty percent of a state's funds are completely unrestricted. The other sixty percent is effectively unrestricted, although states must submit a plan showing how they will spend these funds on cessation and anti-smoking activities.	\$18-\$27B over 5. Unrestricted.

	McCain Manager's Amendment	McCain as Amended	Hatch	Settlement
Protections of Tobacco Farmers	Includes Sen. Ford's LEAF Act which continues a price support program and includes compensation (buyout option) for producers (\$2.1 billion per year for 10 years; \$28.5 billion over 25 years).	Includes Sen. Ford's LEAF Act which continues a price support program and includes compensation (buyout option) for producers (authorized at \$2.1 billion per year for 10 years; \$28.5 billion over 25 years, though the farmers allocation account is funded at \$6B over 5 years). Also contains a competing proposal by Senator Lugar to end the tobacco program (\$18 billion over 3 years for buyout).	Ends the tobacco program along the lines of the Lugar bill, but over a longer period of time. Provides \$17 billion over 7 years (\$19 billion over 25 years) to compensate farmers and fund economic development programs.	None.
Environmental Tobacco Smoke Provision	Includes provisions to protect against environmental tobacco smoke; allows states to opt out only if they have state laws that are equally protective. Exempts the hospitality industry (e.g., bars, restaurants).	Includes provisions to protect against environmental tobacco smoke; allows states to opt out only if they have state laws that are equally protective. Exempts the hospitality industry (e.g., bars, restaurants).	Includes provisions to protect against environmental tobacco smoke. There is no Federal enforcement mechanism, only state enforcement. The bill exempts bars, but not restaurants. The bill does not preempt stronger state or local laws.	Includes provisions to protect against environmental tobacco smoke. Exempts the hospitality industry (e.g., bars, restaurants).
Liability Protections for Industry:				
1. Liability Cap	\$8 billion cap.	None (Gregg amendment struck the \$8 billion cap).	\$5.5 billion per year.	\$5 billion per year.
2. Bar on Class Actions	None.	None.	Yes.	Yes.
3. Bar on Punitive Damages	None.	None.	Yes.	Yes.
4. Credit Against Base Payment	None.	None.	Yes. 80% credit (could be 36% of all uses).	Yes. 80% credit.
Antitrust Exemption	No	No	Yes -- limited.	Yes.

	McCain Manager's Amendment	McCain as Amended	Hatch	Settlement
Anti-drug Provisions	At their option, states could use their restricted funds for Substance Abuse Treatment and Prevention programs and Safe and Drug Free Schools.	At their option, states could use their restricted funds for Substance Abuse Treatment and Prevention programs and Safe and Drug Free Schools; authorizes a number of drug programs that will compete with public health funding for counteradvertising, smoking cessation, licensing and enforcement (Coverdell amendment).	None.	None.
Cap on Attorneys' Fees	Set by arbitration panel.	Set by court, but cannot exceed: \$4000 per hour for actions filed before 12/31/94, \$2000 per hour for actions filed between 12/31/94 and 4/1/97, \$1000 per hour for actions filed between 4/1/97 and 6/15/98, and \$500 for actions filed after 6/15/98.	Arbitration panel to determine attorneys' fees; total fees subject to cap of 5% of industry payments. Fees to be paid by manufacturers outside of the payments required under the bill.	None.

	McCain Manager's Amendment	McCain as Amended	Hatch	Settlement
Tax Cut	None.	Gramm amendment would provide tax relief to married couples earning less than \$50,000, and a health insurance tax cut for the self-employed. Cost: \$16 billion over 4 years, \$30 billion over following 5 years, and one-third of tobacco trust fund revenues (plus other non-tobacco funds) thereafter. (If youth smoking targets are met and youth smoking declines by 67% over the next decade, the tax cut can use a larger share of the tobacco trust fund dollars.)	None.	None.

Status of Tobacco Bill
June 17, 1998

Tobacco - new by McCain

and

Tobacco - new by side by side

	McCain Manager's Amendment	Where We Are Today
Price Increase	\$1.10 over 5 years	Unchanged
Penalties: 1. Industry	Industry penalties are based on the number of percentage points missed: \$80 million (1-5 points); \$160 million (6-10 points); \$240 million (11 points or more). Penalties are capped at \$4 billion.	Durbin amendment reduced these penalties: \$40 million for the first five percentage points by which the industry misses the target, and \$120 million for each point missed thereafter. Penalties are capped at \$2 billion.
2. Company Specific	\$1000 per teen by which the company misses its youth smoking reduction target. This figure (which is equivalent to about \$64 million per percentage point) represents twice the forgone profits of hooking a teen. No cap on penalties.	Durbin amendment <u>increased</u> these penalties: \$80 million per percentage point for the first 5 percentage points, and \$24 million per percentage point thereafter. This figure represents approximately 2.5 times the forgone profits for the first five percentage points, and about 7.5 times the forgone profits for the next 19 percentage points. Penalties are capped at \$5 billion.
Youth Smoking Reduction Targets	Reduces youth smoking by 60% over 10 years.	Durbin amendment <u>increased</u> targets to 67% over 10 years.
Full FDA Authority	Provides full authority in a separate title.	Unchanged.
Advertising and Access Provisions	Codifies advertising and access provisions in the FDA rule and adds additional restrictions through a consent protocol.	Unchanged.
Protections of Tobacco Farmers	Includes Sen. Ford's LEAF Act which includes compensation (buyout and/or subsidies) for producers; continues a price support program.	Bill now contains both the LEAF Act and Senator Lugar's proposal to end the subsidy program. Votes are likely to occur to resolve this conflict.

	McCain Manager's Amendment	Where We Are Today
Comprehensive Plan to Use Tobacco Revenue to Protect Public Health and Assist Children	Revenues would be divided as follows: 22% for medical research; 22% for public health efforts; 40% for the states (half unrestricted and half for designated purposes); and 16% for farmers.	Funding percentages remain unchanged after revenues are deducted from the tobacco trust fund for a tax cut (see below). Public health efforts expanded to include anti-drug efforts (see below). Half of designated state funds must be used for child care (Kerry-Bond amendment).
Environmental Tobacco Smoke Provision	Includes provisions to protect against environmental tobacco smoke; allows states to opt out only if they have state laws that are equally protective.	Unchanged.
Liability Protections for Industry: 1. Liability Cap 2. Bar on Class Actions 3. Bar on Punitive Damages	\$8 billion cap. None None	Gregg amendment struck the \$8 billion cap. Unchanged. Unchanged.
Anti-Drug Provisions	At their option, states could use their restricted funds for Substance Abuse Treatment and Prevention programs and Safe and Drug Free Schools.	Same, plus Coverdell amendment would authorize a number of drug programs that will compete with public health funding for counteradvertising, smoking cessation, licensing and enforcement.
Tax Relief	None	Gramm amendment would provide tax relief to married couples earning less than \$50,000, and a health insurance tax cut for the self-employed. Cost: \$16 billion over 4 years, \$30 billion over following 5 years, and one-third of tobacco trust fund revenues (plus other non-tobacco funds) thereafter. (If youth smoking targets are met and youth smoking declines by 67% over the next decade, the tax cut can use one-half, rather than one-third, of the tobacco trust fund dollars.)

	McCain Manager's Amendment	Where We Are Today
Attorneys' Fees	Set by arbitration panel.	Set by court, but cannot exceed: \$4000 per hour for actions filed before 12/31/94, \$2000 per hour for actions filed between 12/31/94 and 4/1/97, \$1000 per hour for actions filed between 4/1/97 and 6/15/98, and \$500 for actions filed after 6/15/98

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Comprehensive Tobacco Proposals

March 12, 1998

Research, Public Health & Other Program
Investments

Tol - settlement - new legislation -
side-by-side

PROVISION	JUNE 1997 PROPOSED SETTLEMENT	McCAIN (S1415) Universal Tobacco Settlement Act	JEFFORDS (S1648) "Preventing Addiction to Smoking Among Teens Act" (PAST Act)	HATCH (S1530) Placing "Restraints on Tobacco's Endangerment of Children and Teens Act" (PROTECT Act)	KENNEDY (S1492) "Healthy and Smoke Free Children Act"	CONRAD (S 1638) "Healthy Kids Act"	HARKIN/CHAFEE/ GRAHAM (Tentative)	PRESIDENT'S BUDGET
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RECEIPTS

Total funding available and source of revenues.	Provides \$368.5 billion in gross payments over 25 years, including \$68.5 million by 2003, subject to adjustments for inflation, volume reduction, credits for settlement of individual cases, and penalties. Net receipts probably would be significantly less as Treasury and JCT generally estimate that increased excise taxes and related payments reduce other receipts somewhat.	Refers to a Settlement Trust Fund. No specific revenue source or amount is provided, and except for a Tobacco Community Revitalization Trust Fund, no specific funding levels are given for programs authorized. Another version of the bill (S1414) creates a National Tobacco Settlement Trust Fund in the U.S. Treasury. The trustees of the Trust Fund shall be the Commissioner of FDA and the Secretary of HHS. S1414 includes revenue and spending amounts consistent with the June 1997 Settlement, except does not provide payments in perpetuity beyond 25 years, and provides \$28.5 billion for growers. Other variations are noted below.	Funding made available from Tobacco Settlement Trust Fund, fees and penalties. No details are provided in the bill about total funding assumed available from Tobacco Settlement Trust Fund.	Establishes a Trust Fund from payments made by tobacco manufacturers. Trustees would be the Attorney General, and Secretaries of Treasury and HHS. Fund would have two accounts -- State and Federal. Portions of the total funds are earmarked in the Federal Account for assistance to farmers, asbestos-related litigation, and new program to enhance Native American Health. Remaining funds are split equally between the State and Federal Accounts. Provides \$408 billion over 25 years (\$79 billion over five years) including an initial payment of \$10 billion.	Estimates based on a \$1.50 per pack increase in three installments, using the JCT estimates of the Conrad bill. Includes net revenues of \$67 billion over 5 years. All funding assumed to begin in 1999.	Estimates based on a \$1.50 per pack increase in three installments and a \$15 billion up-front payment (not tax deductible) that is assumed to occur in FY 99. Proponents estimate 25 year total at \$500 billion in net new receipts. Since 1999 includes a \$15 billion initial payment, funding decreases in 2000. Funding generally stabilizes in 2001, the last year with a sizeable assessment increase.	Estimates based on a \$1.50 per pack increase in two installments (\$1.00 the first year \$.50 the second year). Increases would be achieved through annual industry payments totaling \$20 billion in year one and \$25 billion annually thereafter, adjusted for inflation. Also requires industry to make an initial payment of \$10 billion.	Provides \$9.8 billion for 1999; \$65.5 billion total by 2003 in tobacco legislation receipts.
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RESEARCH (See Next Page)

PROVISION	JUNE 1997 PROPOSED SETTLEMENT	McCAIN (S1415) Universal Tobacco Settlement Act	JEFFORDS (S1648) "Preventing Addiction to Smoking Among Teens Act" (PAST Act)	HATCH (S1530) Placing "Restraints on Tobacco's Endangerment of Children and Teens Act" (PROTECT Act)	KENNEDY (S1492) "Healthy and Smoke Free Children Act"	CONRAD (S 1638) "Healthy Kids Act"	HARKIN/CHAFEE/ GRAHAM (Tentative)	PRESIDENT'S BUDGET
NIH	Recommends \$25 billion, to be paid over 8 years (\$17.5 billion over the first five years), for a Public Health Trust Fund. Calls for a Presidential Commission to be appointed to include representatives of the public health community, Attorney General, <u>Castano</u> attorneys and others to determine the specific <u>tobacco-related</u> medical research. While funds are not specifically earmarked for NIH, a substantial portion of this could be expected to fund NIH activities.	No provision	Provides \$2.5 billion annually for ten years to NIH for tobacco-related research. Not less than 40% of funds are to be made available to NCI; not less than 30% to NIDA.	Establishes a NIH Trust Fund for Health Research which reflects the settlement of punitive damages. Provides \$2.1 billion in first year, \$4 billion in year five and thereafter, \$95 billion over first 25 years. Requires Directors or Administrators of NIH, CDC, FDA, SAMHSA, and ONDCP to devise National Tobacco and Other Abused Substances Research Agenda. Funds expended as follows: OD - 2% Facilities - 2% Communications - 1% Cancer - 10% ICDs - 85% in same proportions as annual NIH appropriations bill. Grants and contracts from the Trust are to be fully funded in the first year. Trust is to be excluded for budget enforcement purposes. § 521	Provides \$1.57 billion in 1999; \$4.53 in 2001 for basic research. While there is an assumption that most would be used at NIH, funding would also be available for NSF and other institutions, potentially including AHCPR and CDC. Operates as a trust fund outside of the appropriations process. Also provides \$160 million in 1999 (\$450 million in 2001) for child development research, much of which would be in NIH.	Total: Provides \$1.1 billion in 1999, increasing to \$4.5 billion in 2001, for NIH research activities. Total NIH funding peaks in 2002 at \$5 billion, then drops to \$3.6 in 2003. Cancer: \$80 million in 1999 (\$350 million in 2001) is earmarked for cancer research. Tobacco: \$80 million in 1999 (\$350 million in 2001) is earmarked for tobacco-related research focusing on relationship between tobacco use and diseases, and behavior research on the addictive effects of nicotine.	Establishes a National Fund for Health Research to provide resources over and above those provided to the NIH in the annual appropriations process. Provides \$3.2 billion annually, distributed to ICD in accordance with appropriation allocation formulas. Directs ICD to give appropriate priority to tobacco-related research.	The budget increases NIH \$1.15 billion in 1999. 2001 funding would be \$3.0 billion above 1998. Increases total \$17 billion over five years. While cancer research is expected to grow 10% in 1999, there is no legislative earmark proposed.
CDC	No recommendation	No provision	See surveillance below	No provision.	See NIH above	\$10 million in 1999, increasing to \$50 million in 2001 is provided for CDC prevention research.	Not clear. See Other HHS Research.	Budget provides \$25 million in 1999; \$138 million over five years for CDC prevention research.
AHCPR	No recommendation	No provision	To be determined by National Tobacco Task Force.	No provision	See NIH above	\$10 million in 1999, increasing to \$50 million in 2001.	Not clear. See Other HHS Research	Budget uses tobacco funding, through the RFA, for \$46 million in 1999 and \$254 million over five years. The program level increase is \$25 million in 1999 and \$147 million over five years.

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Cancer clinical trials	No provision	No provision	No provision	No provision	No provision	Provides \$250 million annually from 1999 to 2001.	Not clear.	Provides \$200 million in 1999; \$800 million total by 2001 for demonstration project.
Other HHS Research	Recommends \$100 million annually to fund research and development of methods for how to discourage individuals from starting to use and how to help individuals to quit using.	Similar to June Settlement, establishes "National Cessation Research Program." S1414 provided \$100 million annually.	Provides \$750,000 for IOM study on the framework for a research agenda to be used by Task Force.	No provision	Provides \$100 million, adjusted for inflation, for use reduction and addiction prevention research.	Smoking Patterns: Provides \$268 million in 1999 (\$200 million in 2001) for smoking pattern research focusing on minorities and women. Not clear which agency is expected to conduct research.	Provides \$625 million annually for prevention and cessation research.	See other uses below.
Non-HHS research	No recommendation	No provision	No recommendation	No provision	See NIH above	No recommendation	Not clear	Budget allocates \$3.6 billion for research in 1999, of which \$1.2 billion funds increases in HHS programs. Over five years, the budget allocates \$25 billion for research, compared to HHS research increases that total \$17 billion. The remainder funds research in NSF, Agriculture, Commerce, Education, Energy, HUD, Interior, VA, and EPA.
PUBLIC HEALTH								
Public Health	No dedicated funds for public health programs; however, Attorneys General recommend to the President and Congress public health programs and funding levels.	No specific amounts are provided. Establishes "Public Health Trust Fund" created within National Tobacco Settlement Trust Fund for block grants to States. Also Establishes Federal public health programs consistent with June Settlement recommendations. S1414	Funding made available from Tobacco Settlement Trust Fund unless otherwise noted.	Provides \$1.1 billion in first year; \$4 billion in year six; \$92 billion over first 25 years for public health programs. Specific program funding is not provided, except for State block grants described below. § 522	Funding for some public health programs are derived as a percent of excise revenues.	Excluding IHS programs, and FDA outreach and enforcement, funding for public health programs are derived as a percent of excise revenues.	Provides funding for various public health programs described below.	Funding for a number of public health activities is not specifically addressed. Instead, there is an allocation for other uses (see below) that include a number of public health activities.

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State tobacco block grants	<p>Programs are funded directly, described below.</p> <p>"Lookback " Surcharge: Not less than 90% of surcharge funds will be transferred as grants to States and local authorities to fund additional efforts to reduce underage use.</p>	<p>No specific funding amount provided. S1414 provides \$25 billion, to be paid over 8 years (\$17.5 billion over the first five years), then \$2.5 billion annually thereafter to reimburse States for tobacco-related expenditures, <u>including the establishment of liability settlement fund.</u> All programs must be approved by Secretary.</p> <p>Lookback " Surcharge: Same as June Settlement.</p>	<p>Programs are funded directly, described below.</p>	<p>No less than 50% of public health funds are to be made available to states for anti-tobacco use and cessation program block grants.</p>	<p>Provides \$1.1 billion increasing to \$1.8 billion, adjusted for inflation, by 2009. For cessation school/ community-based programs, information campaigns, event sponsorship. § 2812, 2826</p>	<p>Programs are funded directly, described below.</p>	<p>Provides \$193.5 billion over 25 years for States. Of these funds, 50% is to be used for tobacco prevention, education and cessation, and the expansion of existing public health or children's health programs. Also see Other Funds for States.</p> <p>Provides \$500 million annually for "Performance Bonus Pool" for states that meet or exceed the reduction targets within their own borders. Baselines and targets would be developed by CDC</p>	<p>Programs are funded directly, described below.</p>

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Cessation	Recommends for the first 4 years, \$1 billion, and thereafter, \$1.5 billion of the total amount paid by the tobacco industry shall be paid into a Trust Fund to be used to assist individuals who want to quit using tobacco to do so. Secretary shall promulgate regulations to govern establishment of criteria of and a procedure for the approval of cessation programs and devices for which payment may be made under the program.	Same as June Settlement. S1414 provides \$1 billion for the first 4 years, and \$1.5 billion of thereafter.	Provides \$1 billion increasing to \$1.5 billion in 2008, terminating in 2009, for <u>State and Community Cessation Programs</u> . Requires States to submit a plan for approval to the Secretary which may include provisions for science-based programs designed to assist individuals quit their use of tobacco products; training in cessation intervention methods for health plans and professionals; programs to encourage health insurers to provide coverage for cessation; planning administration, monitoring and evaluation. State plan must be consistent with cessation guidelines issued by AHCP. § 2841-2849	Directs CDC to inform tobacco consumers of effective therapies for ceasing consumption. Such actions shall be consistent with AHCP guidelines. Directs Secretary to establish a model smoking cessation program that may be used by States. No specific amount provided for these activities.	Included in State tobacco block grants described above.	Provides \$884 million in 1999; \$650 million in 2001.	Provides \$1.5 billion when fully implemented for programs designed to enhance existing employer-based initiatives, and those which target uninsured and under-served populations.	See other uses below

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Tobacco Use Prevention Programs (school & community based)	<p>Recommends \$75 million for first two years, \$100 million in the third year, and \$125 million annually thereafter to fund state and local tobacco control community based efforts modeled on the ASSIST program, designed to encourage community involvement in reducing tobacco use.</p> <p>Recommends \$125 million for the first three years and \$225 million annually thereafter to the Secretary of HHS to accomplish the reduction of tobacco usage through media and non-media based education prevention and cessation campaigns; research and development and public dissemination of technologies and methods to reduce the risk of dependence and injury from tobacco usage; testing and evaluation of health effects of tobacco; and promulgation of rules necessary to carry out the provision of this Act.</p>	<p>Same as June Settlement. S1414 provides \$75 million for first two years, \$100 million in the third year, and \$125 million annually thereafter.</p> <p>Same as June Settlement. S1414 provides \$125 million for the first three years and \$225 million annually thereafter.</p>	<p>Provides \$145 million in 1999 and 2000 increasing to \$440 million in 2008, and terminated in 2009, for <u>State and Community Action Program</u> Requires States to submit to the Secretary, acting through the CDC Office of Smoking and Health for approval a plan which may include provisions for evidence-based community initiatives for tobacco use prevention and control; infrastructure development modeled after ASSIST program; counter-advertising; school-based efforts to prevent tobacco use and addiction; planning, administration, monitoring and evaluation of these activities. § 2831-2839</p>	<p>Directs Secretary, through the CDC to develop model curricula to educate the public about the health risks associated with tobacco use. Materials should be designed to influence behavior of young Americans.</p> <p>Directs CDC to provide technical assistance to State and local public health and educational officials, and parent-teacher and other civic organizations in developing age effective anti-tobacco curricula.</p> <p>Establishes program to develop educational materials for chronic users. No agency or organization directed to develop program.</p> <p>No specific amount provided for these activities.</p>	<p>Provides \$60 million increasing to \$100 million in 2003 (adjusted for inflation) for CDC Tobacco Use Prevention Programs.</p> <p>Additional fund for States included in block grants described above.</p>	<p>Provides \$402 million in 1999 (\$290 million in 2001) for CDC tobacco use prevention programs including community and school-based education and prevention programs.</p>	<p>Provides \$1.4 billion to states for community and school-based prevention activities. A portion of these funds will assist minority and low-income communities.</p>	<p>Provides \$74 million in 1999 for CDC tobacco control programs. Also see other uses below.</p>

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Surveillance	Not specifically addressed.	Same as June Settlement.	For tobacco-related activities, provides \$290 million increasing to \$345 million by year 4 of provision then decreasing to \$145 million by year 10. Funds are to be used for tobacco-related surveillance, epidemiological studies, and the development of tobacco control prevention strategies, to be conducted by CDC in coordination with National Tobacco Task Force comprised of SG, and Dir. of CDC-OSH, AHCPR, NIH and other representatives.	Requires Secretary to use the Monitoring the Future Survey or such other comparable index, as determined appropriate by the Secretary, and that uses identical methodology. No specific amount provided for this activity. Surcharges imposed for failure to meet national goals are to be used to further the purposes of this Act. Manufacturers may apply for abatements equal to 100% plus interest of surcharges if good faith and compliance is proven. §311-3178	Requires child tobacco use surveys and other measures, though does not provide specific funding levels for these activities, but instead provides 25% of non-compliance fees to addiction and prevention research grants and for grants under the national tobacco usage reduction and education program which includes surveillance activities.	\$134 million in 1999; \$98 million in 2001.	Not clear	See other uses below.
Counter-advertising	Recommends \$500 million be spent annually in such multi-media campaigns designed to discourage and de-glamorize the use of tobacco products; to be carried out by an independent non-profit organization with a Board made up of prestigious individuals and the leaders of major public health organizations	Same as June Settlement. S1414 provides \$500 million to be spent annually.	Provides \$500 million annually for 10 years, for public health education and promotion. Contracts awarded to public and nonprofit private entities to carry out educational activities designed to reduce the use of tobacco. § 2861	Directs Secretary to carry out a mass media public education campaign. No specific amount provided for this activity.	Provides \$500 million annually, adjusted for inflation, for Federal counter-advertising campaign	Provides \$669 million in 1999; \$490 million in 2001, for media counter-advertising and non-media prevention and cessation campaign.	Provides \$750 million annually for a nationwide campaign with national, state and local components.	See other uses below

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Product regulation, enforcement of youth access restrictions and retailer outreach	Recommends \$300 million annually for the FDA to carry out obligations under this Act, including for grants to states to assist in enforcement.	Same as June Settlement. S1414 provides \$300 million annually.	Provides \$100 million for regulation and control of tobacco products. Funding derived from fee assessed on manufacturers based on their individual market shares. § 901-913 Provides \$65 million annually from 1999 to 2008, augmented by penalties and surcharges; allows rebates to manufacturers if national reduction targets are surpassed. Licenses retailers, requires photo ID's, face-to-face transactions, location of products in areas where customers do not have access, no out of package distribution, no samples, imposes civil penalty on retailers and assesses surcharges on manufacturers if national targets are not met. § 2801-2817, 2821-2825	Directs Secretary to provides funds for the administration and implementation of the public health and regulatory provisions of the Act, including funds for the CDC and FDA. No specific amount provided for these activities.	Provides \$300 million, adjusted for inflation, for FDA tobacco outreach and enforcement activities.	Provides \$300 million annually for FDA outreach and enforcement activities including regulation on tribal lands, and to examine drug and cessation devices for effectiveness, and to approve effective cessation programs and devices.	Maintains FDA authority, but prohibits banning the sale of tobacco products to adults. Specific funding amount to FDA is not clear.	Provides \$134 million for FDA enforcement activities in 1999, increasing to \$292 million in 2003.
Alcohol & Drug Reduction	No provision	Same as June Settlement.	No provision	No specific provision. See research section described above for details on National Tobacco and Other Abused Substances research agenda.	No provision	Provides \$134 million in 1999, \$100 million in 2001.	Not clear.	See other uses below.

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International tobacco control	No provision	Same as June Settlement.	No provision	No provision	No provision	Provides \$54 million in 1999 (\$40 million in 2001) for governmental programs, and \$27 million in 1999 (\$20 million in 2001) for non-governmental programs.	Provides \$100 million annually for global education efforts. Terminates all support for tobacco promotion overseas by the US Government. Provides \$300 million annually to strengthen federal anti-smuggling activities, both domestically and internationally.	See other uses below.
PROGRAMS FOR NATIVE AMERICANS								
IHS programs	No specific provision	Same as June Settlement.	No provision	Provides \$200 million annually for anti-tobacco-related consumption and cessation activities including clinic and facility construction, renovation, and improvement; provider services; community sanitation associated with clinic construction and improvement; inpatient and outpatient services, or other programs provided through the IHS. § 101,901	No provision	Provides \$200 million annually for anti-tobacco-related consumption and cessation activities including clinic and facility construction, renovation, and improvement; provider services; community sanitation associated with clinic construction and improvement; inpatient and outpatient services, or other programs provided through the IHS. § 901	Not clear.	See other uses below.

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Other programs for Native Americans	States must reserve a portion of their Tobacco Block Grant funds for their Indian tribes under regulations determined by the Secretary of HHS. In response to a Tribe's request, the Secretary may provide its share of the State's Block Grant funding directly, reducing the amount which the State would have otherwise received. Requirements for the use of funds by Tribes is the same as it is for States. Appendix III	Same as June Settlement § 402, 403, 902	No provision	Provides that Tribes receive a portion of the funds provided for State Block Grants (see Other Funds for States). The Secretary of HHS shall reduce the amount made available for each State's Grant according to the percentage of State residents who are Indians residing on reservations within its borders. Such funding shall be made available to Tribes as grants to further the purposes of the Act. Tribes shall be given flexibility to meet their unique health needs. § 101, 901	No provision	Provides that Tribes receive a portion of the funds provided for State Block Grants (see Other Funds for States). The Secretary of HHS shall reduce the amount made available for each State's Grant according to the percentage of State residents who are Indians residing reservations (and other areas within the jurisdiction of Tribes) within its borders. Such funding shall be made available to Tribes as grants and shall be used to reimburse the Tribe for smoking related expenditures and to further the purposes of the Act. Tribes shall be given flexibility to meet their unique health needs. § 901	Not clear.	See other uses below.

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CHILDREN'S PROGRAMS (All are State programs, except Head Start)								
Medicaid	No Specified Activity	Same as June Settlement.	No Specified Activity	No provision	No Specified Activity	<p>4% of the overall settlement amount will go towards Medicaid outreach. FY 99: \$0.82 B; FY01: \$0.64 B</p> <p>There are a number of changes to the Medicaid program, including:</p> <ul style="list-style-type: none"> Using Medicaid fund created by TANF to be used for Medicaid and CHIP outreach (Sec. 133(a)) Expanding Entities Qualified to determine presumptive eligibility (Sec. 133(b)) Allowing Immigrant children who enter after August 1996 into Medicaid and CHIP (Sec. 133(c)) <p>The bill would give the secretary the ability to develop a baseline number of children enrolled in Medicaid. A bonus for enrolling children above a given baseline. (Sec. 133(d))</p>	Not clear. See Other Funds for States.	<p>Provides \$100 million in 1999. \$900 million over five years would be spent on outreach activities. There are a number of changes to the Medicaid program, including:</p> <ul style="list-style-type: none"> Using Medicaid fund created by TANF to be used for Medicaid and CHIP outreach. Increase size of fund by \$25 million and remove sunset. Expanding Entities Qualified to determine presumptive eligibility. Allowing Immigrant children who enter after August 1996 into Medicaid and CHIP. Transferring Presumptive Eligibility Costs from CHIP to Medicaid.
Head Start	No provision	Same as June Settlement.	No provision	No specific provision. States may use their block grant funds in conjunction with and under a number of HHS programs including Head Start. See Other Funds for States described below. § 502	<ul style="list-style-type: none"> Funding for Early Head Start FY 99: \$157 M; FY01: \$453 M. Funding for Head Start: FY 99: \$392 M; FY01: \$1.13 B 	No provision	Not clear. See Other Funds for States.	Head Start expansions (\$305 million in 1999) are funded through regular discretionary appropriations (not related to tobacco)

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Child Care and Development	No provision	Same as June Settlement.	No provision	No provision	<ul style="list-style-type: none"> Expansion of CCDBG to increase availability and affordability of quality child care, <i>FY 99: \$314 M; FY01: \$0.9 B</i> CCDBG Health and Safety <i>FY 99: \$314 M; FY01: \$0.9 B</i> CCDBG School age care, <i>FY99: \$314 M; FY01: \$0.9 B</i> Individuals with Disabilities Education Act funding <i>FY99: \$78 M; FY01: \$0.227 M</i> <p>Research addressed above.</p>	17% of the overall settlement amount will go towards Child Care and Childhood Development Block Grant. These funds can be used for CCDBG Affordability, Quality Improvement, and Services. (Sec. 131(a)) <i>FY99: \$3.49 B; FY01 \$2.70 B</i>	Not clear. See Other Funds for States.	Provides \$1.2 billion in 1999; \$7.5 billion total by 2003 for CCDBG (unrestricted). Additional child care activities are funded outside tobacco legislation.
Education Grants	No provision	Same as June Settlement.	No provision	No provision	No provision	Provides \$1.23 billion in 1999, \$950 million in 2001, \$4.9 billion over five years for education grants.	Not clear. See Other Funds for States.	Provides \$1.1 billion in 1999; \$7.3 billion over five years for class size initiative.
OTHER PROGRAMS								
Unspecified other uses	NA	NA	NA	NA	NA	NA	Not clear. See Other Funds for States.	Provides \$3.4 billion in 1999; \$22.3 billion total by 2003 for programs including cessation programs, farmers assistance, unrestricted State funds, counteradvertising, and support for other initiatives associated with national tobacco legislation.

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Other funds for States	Did not designate an annual amount for payments to States. Mississippi, Florida, and Texas settlements appear to assume States receive \$4 billion the first year, increasing to \$8 billion by the sixth year. The State settlements also appear to assume States would receive the entire \$10 up-front payment. Did not specifically address Federal share of Medicaid.	Same as June Settlement.	Not addressed	Establishes State Account and provides \$3.3 billion in year one; \$8 billion in year six and thereafter, and \$186 billion over first 25 years. Disburses funds in State Account in accordance with allocation formulas consistent with June Settlement. State is unrestricted in use of allocation, except for amount determined to be Federal Medicaid share. Allows State to keep Federal Medicaid share for anti-smoking or tobacco-related purposes. States may use the funds for anti-tobacco programs in coordination with existing Federal programs including child nutrition, MCH, CHIP, Head Start, IHS and Ryan White.	Total funds for States includes public health block grant, child care & Head Start funds, Medicaid funds. States also get 43% of net revenue, less funding for public health programs and compensation for victims, which starts providing funds the second year, and reaches \$2.3 billion in 2001. States may keep the Federal share of Medicaid recoveries if they are used for certain purposes.	Total funds for States includes grants from a number of public health programs, child care funds, education, and Medicaid programs plus payments of \$3 billion in 1999, \$2.3 billion in 2001. States not expected to repay Federal share of Medicaid recoupments. Total funding for States would exceed \$8.5 billion in 1999 and \$6.6 billion in 2001.	Provides \$193.5 billion over 25 years for States. Of these funds, 50% would be distributed to States to use for improving early education, child care, or other purposes at their discretion.	Includes \$2.4 billion in 1999 funding for child care, education, and Medicaid (\$15.7 billion over five years). Additional payments included under "unspecified other uses" above.
Protection of farmers	No provision	Establishes "Tobacco Community Revitalization Trust Fund" to be administered by Secretary of Agriculture. Provides \$2.1 billion annually from 1999 to 2008, and \$500 annually from 2009 to 2023, for tobacco quota buyouts and assistance to tobacco communities.	No provision	Establishes "Tobacco Transition Act," and provides \$3.1 billion in year one; \$6.2 billion in year three; and \$16 billion over 25 years. Terminates the federal tobacco programs while making compensation to quota owners and tobacco farmers. Provides economic assistance to affected communities through block grants to states.	Provides \$3 billion annually for quota buyouts from 1999-2001. Provides \$500 million annually in 1999 and 2000, then \$800 million annually from 2001 to 2003, and \$400 million in 2004, for tobacco community transition assistance block grants.	Provides \$2.46 billion in 1999 (\$1.91 billion in 2001) for agricultural community revitalization. A separate authorizing bill is required for funding to remain available.	Provides \$15 billion for compensation, income support and traditional assistance to tobacco farming families, and for economic development and related assistance in tobacco communities.	See other uses above

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Event sponsorship	Recommends \$75 million annually for ten years to compensate events, teams or entries in events, who lose sponsorship by tobacco industry as a result of this Act.	Same as June Settlement. S1414 provides \$75 million annually for ten years.	No provision	No provision	Included in State tobacco block grants described above.	Provides \$27 million in 1999 (\$20 million in 2001) to compensate events, teams or entries in events, who lose sponsorship by tobacco industry.	Not clear.	See other uses above.
HI trust fund solvency	No provision	Same as June Settlement.	No provision	No provision	No provision	Provides \$570 million in 1999; \$390 million in 2001.	Not clear.	See other uses above.
Debt Reduction	No provision	Same as June Settlement.	No provision	No provision	No provision	Provides \$1.23 billion in 1999; \$950 million in 2001.	Not clear.	See other uses above.
Assistance to Sufferers	No provision.	See State tobacco block grants.	No specific provision. However, Senator Enzi, a co-sponsor, has proposed a smoker's compensation fund.	Provides \$200 million annually beginning in year two for programs and activities carried out by Secretary of Labor relating to victims of asbestos-related injuries shown to have been exacerbated by tobacco use. § 101c3D	Provides \$780 million in 1999, increasing to \$2.26 billion in 2001, for victims assistance compensation fund.	Provides \$80 million in 1999; \$60 million in 2001.	Provides \$4 billion annually for a National Victim's Compensation Fund.	See other uses above.

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State Plans/ Maintenance of Effort on New Spending	No Specified Activities	Same as June Settlement.	States must submit plans to spend tobacco funds.	States must submit plans to spend tobacco funds.	States must submit plans to spend tobacco funds. Additional funds provided under tobacco are to supplement not supplant existing expenditures. (Sec. 2811(c)(6))	State must submit plans for new spending. No specified maintenance of effort provision.	Not clear. See Performance Bonus Pool in State tobacco block grants described above.	

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