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To: Mr. Gene A. Knorr

Date: February 3, 1986

From: Gregory R. Scott

Subject: S. 2020 RE: Smoking Cessation "Demonstration Project" For
Federal Employees

Senator Paul Trible (R-VA) introduced legislation January 27, 1986, (S. 2020) entitled the "Federal Employees Benefits Improvement Act of 1986" which includes a provision (Section 109) establishing a health promotion and disease prevention "demonstration project" for Federal employees. Among the activities the demonstration project is to encourage are the "cessation of tobacco smoking" and "reduction in the misuse of alcohol, drugs, and other chemical substances."

S. 2020, and a House companion bill (H.R. 4061) sponsored by Representative Mary Rose Oakar (D-OH) is similar to legislation (H.R. 3384) vetoed by the President on January 17, 1986. The two provisions the Administration objected to in H.R. 3384 have been omitted in S. 2020/H.R. 4061. (See statement of Representative Oakar, Congressional Record E 95, January 28, 1986.)

The original legislation introduced by Senator Trible on July 17, 1985 (S. 1454) contains one sentence expanding current law permitting Blue Cross-Blue Shield to offer Federal employees refunds from their health insurance plans to make Federal retirees eligible to receive the same rebates. The House acted first when the House Committee on Post Office and Civil Service reported the Oakar bill (H.R. 3384) to the floor on September 30, 1985. As reported, H.R. 3384 did not contain the provision setting up a demonstration project and the reference to cessation of tobacco smoking. (House Report 99-292.) Section 2(h) of the bill, as reported, expresses the sense of the Congress that participants in the Federal employees health benefits program should receive adequate insurance coverage for treatment of mental illness, alcoholism, and drug addiction; and that the Office of Personnel Management (OPM) should encourage plans to provide such coverage. H.R. 3384 passed the House September 30 under suspension of the rules by voice vote (see Congressional Record, pp H 7890 - H 7895, September 30, 1985.)

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In the Senate, H.R. 3384 was referred to the Senate Committee on Governmental Affairs. During the final days of the First Session a committee amendment in the nature of a substitute was adopted by unanimous consent without any debate. (See Congressional Record pp. S 17446 - S 17449, December 11, 1985.) The substitute, as reported from the Senate Committee on Governmental Affairs, included Section 109, establishing the health prevention demonstration project, with reference to "cessation of tobacco smoking." I requested Tribble's staff to determine who sponsored the demonstration project provision in Committee. They relate that the provision originated with Senator Al Gore (D-TN). They also say that Gore's action surprised Committee colleague Ted Stevens' (R-AK) staff. On December 16 the House agreed to the Senate substitute with an additional amendment, which was then agreed to on December 19 by the Senate and sent to the White House. The President subsequently vetoed the bill on January 17 (See veto message in the Congressional Record, pp. H 2, January 21, 1986.)

The revised Oakar bill (H.R. 4061) passed the House under suspension of the rules today. Senate floor action should follow shortly.

The obvious reason why Tribble is sponsoring this legislation is because it benefits a large Virginia constituency; namely, the Federal employee. Discussions with Tribble's staff indicate an unwillingness to entertain any action to delete the reference to smoking cessation which they did not author and which they believe is "buried" in the bill and in no way compromises their opposition to the Stevens bill (S. 1937) restricting the use of tobacco in all U.S. Government buildings. Senator Warner is an original co-sponsor. Senator Warner's staff say that they would be willing to delete the provision but, since the bill is Tribble's, any such move should originate with him. They do not view the provision as a "back door" approach to the Steven's bill.

While TI is aware of the provision, they have not taken any action to delete the provision. In fact, the industry, they say, has difficulty challenging the "demonstration project" scheme because of the resulting problem that any such action would give the appearance that manufacturers are encouraging the public not to attempt to quit. There are other bills pending that set up health prevention demonstration projects for Indians and other groups buried in these lengthy pieces of legislation. To our knowledge, Senator Tribble's office did not discuss this bill with the tobacco industry before reintroducing it. Furthermore, discussions with staff indicate that they were unaware of the reference to tobacco until we brought it to their attention.

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Discussions with the Senator's staff show no willingness to delete the provision or in any way modify the bill. They are aware of the consequences of other Members viewing any such move as a "red flag," encouraging a possible floor amendment to reinsert the provision or other counter actions. On the otherhand, eventual enactment of such a demonstration project could be employed as a possible argument against subsequent enactment of Stevens; to wit, a recently enacted program already in place encourages Federal workers to quit smoking, thereby eliminating a need for enactment of S. 1937.

GRS/nm

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