SENATE—*Tuesday, June 9, 1998*

The Senate met at 9:30 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, it is awesome to realize that we have been called to be Your servants, elected to be Your friends, chosen to be Your leaders of this Nation. Grant the women and men of this Senate three liberating assurances today: that You are present in this Chamber, that they are accountable to You for the progress of this day, and that each one is called to be an enterprising instigator of cooperation and creative compromise. Father, You know all the issues of the complicated legislation before the Senate at this time. Resolve differences, create a greater spirit of unity, and motivate oneness in seeking what is really best for our Nation. Before we turn to the challenges of the day, we return to You to be reminded of why we are here and to be renewed by Your strength. In the Name of our Lord and Saviour. Amen

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT of Mississippi, is recognized.

Mr. LOTT. Mr. President, thank you.

SCHEDULE

Mr. LOTT. Mr. President, the Senate will resume consideration of the Coverdell drug amendment pending to the tobacco legislation. As a reminder to all Members, under a previous order, a cloture vote on the tobacco committee substitute will occur at 2:15 p.m. today. Members have until 12:30 p.m. in order to file second-degree amendments. And with respect to the second cloture motion which was filed, all Members have until 12:30 in order to file first-degree amendments.

It is hoped that a vote could occur on the Coverdell drug amendment prior to the cloture vote today. Therefore, rollcall votes can be expected this morning prior to the recess for the party caucuses to meet. If the first cloture motion is not invoked—and I expect it will not be—I will be consulting with the minority leader for the timing with regard to the second cloture vote, which would occur some time on Wednesday. It could occur on Wednesday morning, but it will depend on other developments in the interim. Also during today's session, the Senate may consider any legislative or executive items cleared for action.

I ask unanimous consent that the Senate stand in recess from 12:30 p.m. until 2:15 to allow for the weekly party caucuses to meet.

The PRESIDENT pro tempore. Without objection, it is so ordered.

MEASURE PLACED ON THE CALENDAR—H.R. 3433

Mr. LOTT. I understand there is a bill at the desk due for its second reading, Mr. President.

The PRESIDING OFFICER (Mr. HUTCHINSON). The clerk will report the bill for the second time.

The assistant legislative clerk read as follows:

A bill (H.R. 3433) to amend the Social Security Act to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide beneficiaries with disabilities meaningful opportunities to work, to extend Medicare coverage for such beneficiaries, and to make additional miscellaneous amendments relating to Social Security.

Mr. LOTT. I object to further proceedings on this matter at this time.

The PRESIDING OFFICER. The bill will be placed on the calendar under rule XIV.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

If the Senator would permit us to execute the order.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The PRESIDING OFFICER. The clerk will report S. 1415.

The assistant legislative clerk read as follows:

A 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.

The Senate resumed consideration of the bill.

Pending:

Gregg/Leahy amendment No. 2433 (to amendment No. 2420), to modify the provisions relating to civil liability for tobacco manufacturers.

Gregg/Leahy amendment No. 2434 (to amendment No. 2433), in the nature of a substitute.

Gramm motion to recommit the bill to the Committee on Finance with instructions to report back forthwith, with amendment No. 2436, to modify the provisions relating to civil liability for tobacco manufacturers, and to eliminate the marriage penalty reflected in the standard deduction and to ensure the earned income credit takes into account the elimination of such penalty.

Daschle (for Durbin) amendment No. 2437 (to amendment No. 2436), relating to reductions in underage tobacco usage.

Lott (for Coverdell) modified amendment No. 2451 (to amendment No. 2437), to stop illegal drugs from entering the United States, to provide additional resources to combat illegal drugs, and to establish disincentives for teenagers to use illegal drugs.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, I understand that the order of business is the amendment that I and Senator CRAIG and Senator ABRAHAM have made to the tobacco legislation; is that correct?

The PRESIDING OFFICER. The Senator is correct.

AMENDMENT NO. 2451

Mr. COVERDELL. Mr. President, in the closing hours of debate last week, I was somewhat——

Mr. KENNEDY. Parliamentary inquiry. I thought I was recognized and was asked to yield so that the clerk could report. Do I understand that I lost the floor and the Chair recognized another Senator?

The PRESIDING OFFICER. The regular order was the reporting of the bill, at which point recognition was then available. It was at that point I recognized the Senator from Georgia.

Mr. KENNEDY. Further parliamentary inquiry. Since I was recognized by the Chair, could I retain my right to continue to address the Senate?

The PRESIDING OFFICER. The regular order was to report the bill, and at that time recognition was sought by the Senator from Georgia, and he was recognized.

The Senator from Georgia.

Mr. COVERDELL. Mr. President, as I was saying, when the debate was closing, several Senators acknowledged the importance of drug abuse, teenage drug addiction, but thought that, we are suggesting, this was not necessarily the appropriate time to do it, which I take great exception to.

I think this is exactly the time to do it. I think that it sends the wrong message for us to be talking about teenage addiction and wrap our arms around it like it is only involved in tobacco.

About 14,000 teenagers die from drug addiction every year. And, as I will

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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enumerate in a bit, teenagers, parents, our society in general view the No. 1 teenage addiction problem as drugs.

Tobacco is a problem and tobacco use among teenagers has increased by 40 percent. Drug abuse among teenagers has increased by 135 percent in the last 6 years. The figures used last week were that 400,000 people, according to CDC, die each year of smoking-related illnesses. We are dissecting those numbers. I do not dispute them. But the point I make, Mr. President, is that of course this is of the entire population. You can't just measure the effects of teenage drug abuse by measuring the deaths. Fourteen thousand young people die each year, but the societal cost of drugs to our society are just staggering.

Illegal drugs, according to the Robert Wood Johnson Foundation, represents $67 billion in an annual drain on the United States. According to the University of Southern California, it is $76 billion. And 80 percent of all prisoners, whether they are in a local jail or Federal prison, today are there on drug-related charges—direct or indirect.

When you look at the scope of the prison population in the United States today, you might as well look at it and say, well, there is the drug-related causes. It is a staggering sum of money. And it produces—remembering that those folks who finally find their way to prison are but a dot on the map as compared to the incidents related to this—these are the handful that the system finally ensnares and gets in prison and is not even a measure of all which has occurred and who have not been apprehended or somehow interacted with the system and never ended up in prison.

We have had a lot of discussions in here of late about violence among teenagers. Our young society is becoming more violent. It is directly related to an increasing consumption and use of drugs by our younger population. It is an epidemic of enormous proportions, and the reach of it is stunning and staggering.

I guess where the other side was headed was that the cost of confronting teenage drug addiction would somehow interfere with the attack on the teenage smoke addiction. First of all, over 25 years, if fully appropriated, this amendment would use 14 percent of the funds raised through the tax hike the other side envisions. Over 10 years, this amendment would consume 23 percent and, over 5 years, 23 percent, in rounded off figures; over 25 years, 14 percent; over 10 years and 5 years, about 23 percent.

If we are using 23 percent of the funds—and by anyone's measure, it is the No. 1 problem—if you want to reduce it to financial measurements, it is an equal problem. The cost to American society is as great on the drug side as it is on the tobacco side. The perception of parents, families, and teenagers is that it is a far greater problem, and in the data we have before us, it is an equal financial problem. So, why in the world would we ever come down here and talk about teenage addiction and not talk about the No. 1 problem—a problem causing massive violence, total disruption, and a financial partner to the costs of tobacco?

This is how public schoolteachers rate the top disciplinary problems: No. 1, drug abuse; No. 2, alcohol abuse; No. 3, pregnancy; No. 4, suicide; No. 5, rape; No. 6, robbery; and No. 9, addiction. I point out that the No. 1 problem is probably driving all the others—robbery, assault, and the others.

A national survey of American attitudes in substance abuse: What is the most important problem facing people your age?—that is, the thing which concerns you the most. That was the question raised for 1996 and 1995. No. 1, 31 percent—one out of three—drugs; No. 2, social pressures; No. 3, crime and violence in school. Not that it is relevant, but after you go through 10 or 12 different items, teenage smoking is never raised at all. That is among students. That is what students say.

What do the parents say when asked the same question? No. 1, drugs; No. 2, social pressure; No. 3, crime and violence in school. It goes all the way down to getting a job, problems at home. At no time do the teenagers or the parents raise the question of smoking as a serious problem for teenagers.

I don't agree with them. I think teenage smoking is a serious problem, a very serious problem. The point is that the most important problem is drug abuse, teenage drug addiction.

Let me read from the startling results of the 1995 CASA survey of teens. Illegal drugs were cited as the most serious problem teens face, far above any other concern, well ahead of the 14 percent who cite social pressures. This question was open ended, meaning respondents were not provided with a list of possible responses, and it was asked early in the interview before any other question raised, the issue of illegal drugs.

While responses to this question do not strongly correlate with the teen risk score, those who cite drugs as their biggest concern are no less at risk than the average teen. Some interesting patterns do emerge. Teens who cite doing well in school as their biggest concern are less at risk than other kids. They are more concerned with doing well in school, and it keeps their minds attending to other things.

As I said a moment ago, according to the Robert Wood Johnson Foundation, the total economic cost of drug abuse is valued at $67 billion annually in 1990, up $23 billion from 1985. Research at the University of Southern California using the same methodology estimated the economic costs of drug abuse at $76 billion, up more than $30 billion from 1985.

I don't know the final disposition of this tobacco legislation. I kind of divide the debate into two camps; there is a health-related camp and a revenue-related camp. I am very concerned with the revenue-related camp, but it is my intention and I think the intention of several other members, we are not going to debate the tobacco addiction without including a strong and forceful statement on the issue of teenage drug addiction, the reason being, again, that teenage drug addiction is the No. 1 problem being faced by teenagers. It is an equal partner, in the context of social costs to our society, as tobacco. Parents, teenagers, science-based institutions, law enforcement officers—you can go anywhere in the country, any community, and ask them what the No. 1 problem going on here is, and they will say it is drugs, it is drugs.

I had an Atlanta city traffic judge call on me a couple weeks ago. I didn't know exactly why he wanted to visit. He came into the office. The first words out of his mouth were, "Senator, drugs are burning the heart out of America." He said, "I see it every day, and it is getting worse by the second, and we're not fighting it, we're not taking it on. If we don't, it will ruin our country."

Mr. President, this is the time and the exact moment, and appropriate in every other way, to bring to the forefront what drugs are doing to America's teenagers, what drugs are doing to America. As we make a conscious decision to deal with the health issues affecting America's teenagers, it is absolutely appropriate we talk about tobacco. We need to get at it. It is a very unhealthy habit, and it can be exceedingly costly. Teenage drug abuse has the same effect, and I might add that smoking marijuana as compared to smoking cigarettes is five times more deadly, five times more deadly.

With that opening statement, I yield the floor.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I regret enormously not just the amendment of the Senator from Georgia, which I know is well-intentioned, and I know his efforts on narcotics are sincere, but the entire panoply of amendments that are coming forward on the Republican side are—at least in my judgment, and I think in the judgment of many other Senators—calculated not to fundamentally improve the bill but to kill this bill. And there are provisions in here which have very little to do with drug fighting—a voucher provision to allow any Federal education funds to pay the tuition of victims for a religious school or for a private school. Boy, there is one we have spent a lot of time on under the banner of education in the

U.S. Senate, which we know to be fundamentally controversial in the Senate. That is here in this bill for the purpose of reducing the number of kids smoking.

What really disturbs me about it—and I think I have been involved in the drug fight as long as anybody in the Senate, since I first came here. I led the effort to try to expose what was happening with our loose borders during all of the efforts to fund the Contras, the narcotics that were flowing through Central America. I have led efforts to put 100,000 cops on the streets of America. We now have that happening. Everybody who fought against it was the first to go out and campaign in their districts, saluting the virtues of community policing. Senator BIDEN and others helped design and fight the 1986 and 1988 drug bills that we passed. There have been many efforts here. There is a sincere effort in the Senate to try to deal with drugs.

But to suggest that we now ought to make the drug effort competitive with the drug effort is rather remarkable to me. What do I mean by that? Well, to stop kids from smoking is part of the drug effort. There isn't anybody who doesn't say that smoking isn't sort of the gateway to marijuana and other drugs, and marijuana a gateway to cocaine, and so forth. If you treat—as we want to in this legislation—tobacco as the addictive substance that it is, that kills people, and recognize that this legislation seeks to give broad authority to the FDA in order to be able to regulate tobacco, then the question ought to be asked: Why are we setting it up so that we have this competition between the effort to stop kids from smoking and the effort to fight drugs? Let's go to the violent crime trust fund. Let's go to a host of other arenas and do some of the things that the Senator from Georgia is talking about.

But that is not really what is going on here. What is really going on here is the piling on of amendments that are calculated to kill the bill to stop kids from smoking. What is going on here is a group of people who are doing the bidding of the billions of dollars that are being spent on all of the advertising in the country, to somehow suggest to people that this bill is overweighted or that this bill is a tax bill—all the things that this bill is not.

The tobacco companies agreed to raise the price of cigarettes. The tobacco companies are settling in State after State; they are agreeing, and they agreed originally in the national settlement, that the price of cigarettes ought to be raised. The tobacco companies agreed to do that. But the great fear-mongering that is going on, to the tune of millions of dollars being spent on all of these radio advertisements and television advertisements around the country, is to try to scare the American people, because people want to help the tobacco companies and do the bidding of the tobacco companies.

The tobacco companies contribute an awful lot of money to campaigns. The tobacco companies are a powerful lobby in this country, and the tobacco companies are working their will hard to try to convince people that this bill is somehow against the public interest. What is against the public interest, Mr. President, is an effort to stall this bill in the U.S. Senate. What is against the public interest is a willingness to somehow see this bill die and forget about the fact that 400,000 of our fellow citizens die every year as a result of smoking.

The cost to America of smoking is far, far greater than any cost in this bill. I heard the majority leader say over the weekend that this bill is going to die under the weight of amendments. Well, they are not Democrat amendments, they are Republican amendments—amendment after amendment—that are coming, trying to weigh this bill down. Everybody knows that some of the amendments that may have passed are going to be fixed in conference—if we can ever have a conference. Everyone understands that if this bill is given an opportunity to breathe, if it goes out of the Senate and ultimately the House passes a bill, there is going to be a very significant negotiation and a very significant rewrite of whatever is to leave the U.S. Senate.

The effort here is to prevent something from leaving the U.S. Senate, and it is to prevent it from leaving the Senate by doing everything except paying attention to kids who are smoking. I have heard Republicans come to the floor and criticize the amount of money that is in this bill and the pot that is being used in order to stop kids from smoking. They say, isn't it terrible, here is this big pot of money, and all the Democrats want to do is spend it on some program. Well, the program happens to be counteradvertising to stop kids from smoking; it happens to be a cessation program, proven to work, which involves young people directly in the effort to try to make better choices other than smoking. What do they want to do? They want to come and spend the money on something that has nothing to do with trying to stop kids from smoking—nothing at all.

Their alternative is to fix the marriage penalty. Many of us on this side of the aisle want to fix that, Mr. President. The question is, What is an appropriate amount of money to take out of this bill, and what is the impact on a whole lot of other things that matter? The funding of this bill that the Coverdell amendment would strip away reaches 5 million smokers who would receive cessation services. And 90 percent of young people, age 12 to 17—more than 20 million people—would be exposed to effective counteradvertising that would discourage them from taking up cigarette smoking. And 50 million children would take part in school-based prevention programs, and all 50 States would implement comprehensive State-based prevention programs in order to stop underage smoking and support laws that prohibit the sale of tobacco products to minors and develop culturally sensitive preventive programs.

All of those would be threatened if the Coverdell amendment passed. They would be threatened because the Coverdell amendment wants to take more than half of the money allocated to those efforts and put it into the drug war, the Coast Guard, and into vouchers, into a set of things that, as worthy as some may be, would wind up totally negating the purpose of the health portion of this legislation.

Mr. President, this legislation has traveled, obviously, a very difficult road. But it is clear that the intent of a number of these amendments coming from the Republican side is calculated not to legitimately improve the bill, not to figure out, OK, which one of these cessation programs works the best? Do some States have a better model than others? If so, why don't we try to support those models more? Why don't we get more specific about diverting some of this money into a very specific set of counteradvertising efforts that we know work better? Some of those kinds of things might be very legitimate approaches to improving the bill. But to come in and say, no, we are going to take more than half of the money and just give it to the marriage penalty, and we are going to take some more money and give it to the Coast Guard and other antidrug efforts. Worthy as those may be, as I say, you wind up stripping away completely the capacity to do what a lot of States are struggling to do and what the health community of this country has advised us again and again is critical that we do if we are going to stop kids from smoking. That is what this bill is about. Somehow, a lot of colleagues seem prepared to simply trample on that. No one disputes the notion that somewhere in the vicinity of 3,000 kids, every single day, start smoking.

No one has come to the floor and been able to dispute the testimony of the tobacco companies themselves who acknowledge that raising the price is a critical component of reducing the accessibility of cigarettes to teenagers. Nobody has any counterevidence to that. But they simply come down and try to pile on the notion that this bill is somehow too big.

Mr. President, in the tobacco bill we have an expert designed approach to try to provide smoking cessation programs for 5 million Americans. That is an effort to try to give a second chance to some 5 million Americans. There are

45- to 50 million Americans who are hooked on cigarettes. How can you come down here and suggest you are going to take half the money that is directed towards 5 million of the 45- to 50 million Americans and say you are improving things with respect to the health of the country or with respect to young people's introduction to an addictive substance that kills them?

There is a total contradiction here in coming down and saying what we have to do is stop cocaine and stop heroin, whatever substance you are trying to stop from coming in with interdiction by beefing up the Coast Guard or beefing up Customs, all of which we ought to do, but doing it at the expense of stopping kids already in this country from smoking cigarettes which are already in this country when we know we have the ability to stop them from doing that.

I don't doubt the urgency the Senator from Georgia applies to the drug war. I have been the first to say we haven't been fighting it adequately, but I am not going to suggest that we ought to be robbing Peter to pay Paul, that we ought to be stealing from these kids in order to somehow beef up the Coast Guard. That doesn't make sense, particularly since cigarettes are the entryway to the very drugs that the Senator from Georgia wants to stop coming in.

So let's find that money. But let's find it in an appropriate place without gutting the cessation, counter advertising and other kinds of efforts that are contained in here to try to stop our own children from smoking in our own country and from getting hold of the cigarettes that are manufactured here that are already here and that kill them here. What is the common sense in coming down here and stripping away all of that to suggest somehow—Do you know what this is? This is, "Let's give the Senate a tough vote. Let's make it hard for people to vote against drug control, and we can strip away a little bit of the bill and strip away a little more." And indeed it will be overweighted in precisely the way the majority leader suggests because the entire guts of the bill will have been ripped out. That is what we are really talking about.

Mr. President, it seems to me that hopefully colleagues will recognize that the crunch time is coming on whether or not we are going to try to find the bipartisan collegiality to try to legitimately improve this bill or whether people are just determined to kill it. If they kill it, it will be clear to every American why and how it happened and who did it.

That is the choice here. If we want to legitimately restrain what some people on the other side think might be an aberration in terms of a particular choice of spending as to how you stop kids from smoking, then surely we can find a better way to help stop those kids from smoking.

There is a clear distinction between the legitimate effort to try to do that and the efforts that we are seeing on the floor, which are to strip away all the funds altogether and put them into things that have nothing to do with stopping kids from smoking, nothing to do with helping kids to be able to build the character and the value system necessary to empower them to be able to say no to cigarettes. If you can't say no to cigarettes, you are going to have a real hard time saying no to the marijuana, or to the cocaine, or to whatever it is that might flow at a later date. These are directly related.

My hope is that we will recognize the real choices of what lies in this legislation.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. COATS). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, for the last several days we have attempted to find a way to get around the impasse we have experienced. I am disappointed that we haven't made more progress, and it was only with the frustration which I had experienced that we were led to file cloture on two occasions last week.

Our desire to come to some closure on this bill and on the amendments that are pending could not be greater. We have no reservations and no objections to having a vote on the amendment offered by the Senator from Texas, Senator GRAMM, or the amendment offered by the Senator from Georgia, Senator COVERDELL. What we would like, however, is the opportunity to offer similar amendments that deal with the same issue at approximately the same time. Let's have an amendment offered by our Republican colleagues. Then let's have an amendment by our Democratic colleagues. Let's go back and forth as we had been doing now for some time. But I really do not think it is the amendments or the procedure relating to the amendments that is keeping us from getting this job done. I think the opponents of the bill will never let a fair process unfold.

It is every Senator's right to hold up legislation. That is the prerogative of the U.S. Senate. So we all understand this is a filibuster. The only way to break a filibuster is to invoke cloture.

The bill, as everyone knows, is designed really to stop 3,000 kids a day from smoking. That is really what this is all about. Since we have been on this bill, 60,000 kids have become smokers. I think everybody needs to understand what has happened; 60,000 new smokers have begun smoking since we started this legislation, 60,000 of them. About one-third of them will die of smoking-related diseases. So 20,000 of those kids at some point, because they started smoking since we have become involved in this legislation, will die.

From votes taken on those issues, it is clear that there is a bipartisan majority for reaching conclusion here. Some of the Senate wants votes on other issues like taxes, drugs, and lawyers. We are prepared, as we have already expressed, to have votes on those issues. Our position is as clear as it can be. Let's have the votes. We voted on lawyers' fees. We have already voted on an array of other issues. Some I voted for, and many I voted against. We are ready to vote on the marriage penalty. We are ready to vote on drug abuse. We are ready to keep voting, just like we started alternating back and forth. We are ready to sit down and work out a way to process the rest of the amendments, and to finish the bill. But we have now spent more time on this bill than any other bill this Congress.

The time for talking is over. Now is the time to act. Now is the time to vote. Now is the time to stand up and be counted. How many more thousands of kids will start smoking before we finish? Another 60,000? 600,000? And, if it is, indeed, one-third of those who will die from smoking, how many kids can we prevent from acquiring the habit and from dying? That is what this bill is about. That is why it is so important to come to closure.

CLOTURE MOTION

Mr. DASCHLE. Mr. President, I now send a cloture motion signed by 16 of my colleagues to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

Cloture Motion

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the modified committee substitute for S. 1415, the tobacco legislation:

Thomas A. Daschle, Carl Levin, Jeff Bingaman, Daniel K. Akaka, John Glenn, Tim Johnson, Daniel K. Inouye, Dale Bumpers, Ron Wyden, Mary L. Landrieu, John D. Rockefeller IV, Paul S. Sarbanes, Harry Reid, Richard H. Bryan, Kent Conrad, J. Robert Kerrey.

Mr. DASCHLE. Mr. President, I yield the floor.

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

AMENDMENT NO. 2451

Mr. SESSIONS. Mr. President, this is an important bill, legislation that I hope that this body can reach an accord on. The Coverdell-Craig amendment on drugs is not a way to undermine the bill but a way to improve the bill.

Drug use among young people is the No. 1 concern of parents, according to authoritative polling data. We have a bill that has gone from $360 billion to, some say, $750 billion in income to the U.S. Treasury. It would be a tragedy were we not to take this opportunity to do something about the drug abuse problem that continues to increase at extraordinary rates, particularly among young people in America today.

I serve as chairman of the Senate Judiciary Subcommittee on Juvenile Crime. I have had the occasion to deal with the drug abuse problem in that capacity. I also had the occasion, for 15 years, to be a Federal prosecutor and 12 years as U.S. attorney in the Southern District of Alabama. During that time, I was actively involved in the Mobile Bay Area Partnership For Youth, the primary drug-fighting organization which was later added to the Coalition for a Drug-Free Mobile. We worked on a monthly basis with the leadership in our community to do what we could do, as citizens within that community, to reduce drug abuse in our schools and among young people.

I learned some things during that process. I learned that what you do makes a difference. I was proud to have served under the Reagan-Bush administration as a Federal prosecutor. During that time, I observed a continual decline in drug use, according to the University of Michigan study that tested high school seniors, among others, every year for 20 years. It is probably the most authoritative and respected study in America. It showed that, for the 12 years under Presidents Reagan and Bush, drug use went down every single year, something I was extraordinarily proud to have been a part of. President Reagan and Mrs. Reagan sent a message down to every federal agency to cooperate in efforts to reduce drug abuse, because we cared about young people; we did not want them to be hooked on drugs. And it worked. Those who said the drug fight was a failure were wrong; we were making progress.

When President Clinton was elected, I sensed, and told my friends and professional acquaintances who were involved in this area, that he was making some very serious mistakes. When you go on MTV and you joke about whether or not you inhaled, saying, "Maybe I wish I had," that sends a message to young America that something has changed, that the moral-based unacceptability of drug use message that had gone out consistently for over a decade was now changed; there was going to be a new day. I recognized it then, and so did professionals. This was bad. The drug czar's office, the office that Bill Bennett used so effectively to continue to drive down drug use, was gutted. It is only recently that we have shown the need for the drug czar's office to be strengthened again and for General McCaffrey to begin to stand up to some of the inertia and bureaucracy in this Government to make a clearer point about the problem of drug use.

So, I just say that this is an important matter. It would be unfortunate, indeed, if, in our concern here, as part of this tobacco bill, which is to help the youth and health of children, we didn't also focus on drugs. It is the No. 1 concern of parents, and well it should be.

I would just say this. In general, there are a number of other amendments we need to talk about with regard to this tobacco bill. I have been intimately involved in the attorneys' fees matter. We need to vote on that again. As far as I am concerned, I will not support a bill that does not limit the incredible fees that attorneys stand to gain. So we need to have a discussion about that. We have an attorney in Miami, FL, according to John Stossel on "20/20," who hits golf balls out into the ocean from his beach-front mansion when he practices his driving. That is just indicative of how wealthy they have become from this litigation. He expects not millions, not tens of millions, not hundreds of millions of dollars, but billions of dollars. They want $2.8 billion in attorneys' fees in Florida.

They say, "A judge can decide this." A judge has already approved $2.3 billion in attorneys' fees to the firms in Texas. This is extraordinary—a billion dollars. To give an indication, the general fund budget of the State of Alabama is less than a billion dollars. This is the kind of fees we are talking about paying.

So I think we are going to have to talk about that some more. There is a provision in this bill that allows for $8 billion to be paid out "to victims who win lawsuits, smokers who win lawsuits." They can go to this fund, run by the tobacco companies, and they can get money up to $8 billion, and then they are cut off. That is a terrible plan, because some States are going to have laws, traditional laws, that will probably not allow smokers to win at all. Other States may allow them to win. One jury may give $10 million, another nothing—"You smoked; it warned you on the package when you smoked; you should not recover." We are going to have aberrational justice of the most extraordinary nature. It is going to be like the asbestos litigation, in which there are 200,000 pending asbestos cases today—200,000—and no more than 40 percent of the money paid by the asbestos companies actually got to the victims of asbestos. We are creating the exact same process with this legislation.

So I have an amendment, Senator JEFFORDS and I do; we will be introducing it—to create a compensation fund and let the Secretary of Health and Human Services, under certain guidelines, distribute the money promptly to people who are in need. If you have lung cancer from smoking, your life expectancy is a matter of months. You don't need to have 2 years of litigation before you get any compensation. If you are entitled to it, you ought to get it promptly. We would have awards within 90 days and without attorneys' fees. We don't even need attorneys under those circumstances.

So there are a lot of things we can deal with. We have a huge tax increase, and how we are going to reduce some taxes in the course of this will be important also.

So there are a lot things we need to talk about. We have 17 programs, $500 billion, $600 billion, $700 billion in new income to the Government. We ought not to pass this lightly. It is just going to take some time to go through it. I am chagrined that the Democratic leader would feel we ought to cut off the opportunities to debate and improve this bill.

As I said, I have spent some time wrestling with the drug issue over the years. It is a matter about which I feel very deeply. I gave a lot of my personal time to it. I have worked with civic leaders. I have worked with juvenile judges. I have worked with mental health officials. I have worked with treatment officials and other people. I brought in national experts to my district. I have met with them and talked with them. When I was U.S. Attorney, I chaired a national antidrug committee for the Department of Justice and had a lot of concern about it.

Let me share with you a few thoughts about what we ought to do.

We have—and Senator COVERDELL has done an outstanding job on this legislation—agreed to a particular amendment that I suggested, the parental consent drug testing provision. It is a provision that allocates $10 million to be available to schools. A school will have to ask for it. It will be voluntary for the school. They will establish a program to drug test within that school. Parents will have to consent for their children to be drug tested. If they do not want them tested, they do not have to allow them to be tested.

I will talk about that for a few minutes and explain why, if we really care about children, this is a tool which I believe has a potential to do more than any single other thing I know of to reduce drug abuse in America.

We have talked about it a lot. We tell our children we do not want them to use drugs and it is dangerous, but we do not do the things that allow us to know whether or not they are using drugs. Dr. Laura tells us we need to confront our children and be honest with them and find out whether or not they are using drugs. Sometimes you can't always take what they say at face value. Drug testing is a tool for parents, it is a tool for teachers, and it

is a tool for people who love children, who care about them. If you love them, if you care about them, you want to know whether or not they are undertaking bad habits.

It is disclosure. It is truth. It is confrontation. It is what the psychologists and psychiatrists call intervention. They will not use a positive drug test to prosecute somebody or to otherwise send them to jail or invoke the criminal law. That is prohibited by this legislation. What it will do is allow that parent, that teacher, that principal to know that this child has a problem and it could get worse. If we intervene early before addiction occurs, we have a much better chance of changing those life habits.

I don't know if this program will work—maybe it won't work—but my experience, and it has been over a number of years, tells me that it will. Let me tell you why.

A number of years ago in the early 1980s, the captain of a Navy aircraft carrier spoke before a civic organization of which I am a member. He told us that less than 2 years before, over 60 percent of the sailors on that ship, in his opinion, had tried an illegal drug within the past few months—60 percent on that naval ship. He said since they began a rigorous program, "Just Say No. No Drugs in Our Navy," and drug testing, that was down to 2 or 3 percent, in his opinion, in a matter of 2 years.

Some people were kicked out of the Navy, true, but not that many. Most of them who had a clear message of what they were expected to do, what kind of standards they were expected to meet and that those standards were going to be enforced, met those standards. Were their lives better? Was the quality of life on a naval ship better when people were not using drugs than when they were? I submit it is much better. And, in fact, I believe if you go back and study what has happened in our military, you will find the great upsurgence in quality and strength of our military coincides with the time we took a strong stand on drugs and removed drugs from the military. In fact, the military has some of the lowest drug use statistics of any group in the country. That was progress. That was good. That is the kind of thing that makes life better. It makes better soldiers, it makes those soldiers better family leaders, better parents, better with their lives and community activity. I say that is important.

I talked to a man who ran a work release center in my hometown of Mobile. He told me this story. They had 16 members on a work release gang, and they received approval to do a blind testing of those members for drugs. They had not been doing it that much. They checked them. Fifteen of the 16 had used drugs, they tested positive for drugs on a criminal prison work release program.

When they began to test regularly, drug use went down dramatically. They had discipline—not harsh discipline—but they had discipline for those who did not stay drug free, and it worked. Are those work release people better off because somebody cared enough to test them, to stay on them, to discipline them when they failed? Yes, they are.

Jay Carver, who we brought to my hometown of Mobile, ran the drug testing program in the District of Columbia for many, many years. It was the largest, most effective and efficient drug testing program in the world, I suppose, certainly in America. He said he had people who were testing positive, who had drug problems, tell him they wanted to stay on the program even after their time on it was off. Why? Because it helped them stay off drugs, and they wanted to stay off drugs. That discipline, that testing and reporting, helped them stay drug free.

Prison guards—we have had problems with drugs in prisons, and there has been a small number of prison guards over the years who, it has been discovered, were using drugs and also bringing drugs into the prisons. Drug testing among prison guards has caused a big step forward in reducing drug use in prisons.

Police departments, fire departments, transportation personnel, private companies and businesses all testify to the great increase in productivity that occurs when you eliminate drugs in those departments. I say to you that drug testing has proven to be effective in reducing drug use.

A lot of people have discussed whether or not it can be done in schools and whether or not it is constitutional. I personally believe it is. Certainly it is if parents agree, and if schools voluntarily attempt to offer it as a program, I think we will find perhaps that because certain schools are showing dramatic improvement in reducing drug use, others may want to do it in the future. And if the program doesn't work, well, we will have learned that, too. I suspect if it is properly run, we will have significant drug use reduction, and maybe as the years go by other schools may want to try it and we can develop a more comprehensive program that will improve the fight against drugs.

Mr. President, let me mention a few things that are important. Why do we want to talk about drugs when we are talking about tobacco? Why? Well, this is all about children and their health. Let me share with you some statistics.

Some say, "Well, you are just being political; you are just talking about Presidents Reagan-Bush versus President Clinton," but we ought to know these factors. I predicted to the people I dealt with that the policies of this administration were going to undermine the successes of President Reagan and Mrs. Reagan's "Just Say No to Drugs" program. I see it happening. Let me show you what has happened according to unchallenged statistics throughout this country.

For eighth graders, the portion using any illegal drug in the prior 12 months has increased 71 percent since the election of President Clinton. It has increased 89 percent among 10th graders; 57 percent among 12th graders. That is use of any illicit drug. It has increased that much in this period of time, following a time when it had been going down.

Marijuana use has accounted for much of this increase, and its strong resurgence among eighth graders is obvious. Use of marijuana in the prior 12 months by eighth graders has increased 146 percent since 1992. Yes, tobacco is important, but now we have an indication of why parents say drugs are their No. 1 concern.

Since the year President Clinton was first elected to office, among 10th graders the annual prevalence increased 129 percent, and among 12th graders, 76 percent since 1992.

This is something we ought to have talked more about in this country. I do not think the American people fully understand that policies do have impact, that leadership does count. If you are sounding an uncertain trumpet, then you have a real problem.

I remember the first drug adviser to President Reagan before you had a drug czar. Dr. Carlton Turner was from the small county in Alabama where my mother is from. I got to know him and watched him. He came to our community and he talked about the drug issue at a civic club, my Lions Club.

While he was there, somebody raised their hand and mentioned a rural county. He said the No. 1 cash crop in that county is marijuana, "ha, ha, ha." Dr. Turner jumped down that person's throat. He said, "I don't want you ever laughing about drugs. This is very, very dangerous." He had a Ph.D. and had studied marijuana. That was his field of study. He said, "We should never be laughing about it. This is a serious matter. We, as a nation, need to send a clear, unequivocal message of intolerance to drugs, and we need to stand by it. And you, as leaders in your community, need to do the same."

I thought that was a very good message. I never forgot that. That was in the early 1980s.

We started joking about, "I wish I'd inhaled." We have more drug use references in rock music, more drug use references on television and in movies than we had before. That is bad. It is one of the things I think is driving this increased use.

Daily use of marijuana, according to the survey, continues to rise by even younger and younger people. More than 1 in every 25 of today's high school seniors is a current daily marijuana user,

according to the PRIDE study, which is a good study—that is an astounding statistic—with an 18.4 percent increase since only last year.

While only 1.1 percent of 8th graders used marijuana daily in 1997—1 percent is a lot of 8th graders using drugs. That is 1 out of every 100 that are daily users. That still represents an increase of 50 percent since 1992.

LSD has increased. That is Dr. Leary's "get high" drug. It has increased over 52 percent. It has increased 50 percent among 8th graders since 1992.

More than 1 in 20 seniors in the class of 1997 used cocaine this year, a 12.2 percent increase over last year. That is cocaine, a highly addictive drug. Crack-cocaine use has continued its gradual climb among 10th and 12th graders.

Since 1992, annual cocaine use is up 87 percent for 8th graders, 147 percent for 10th graders, and up 77 percent for 12th graders. Those are big increases. That is a real societal problem. That is why parents listed it as such a high priority with them.

So I want to say to those who express their concern about tobacco and its damaging health impact on children, they are correct. But as you know, marijuana, Mr. President, is, I think, 40 times more carcinogenic than tobacco. It is a highly carcinogenic drug, in addition to the adverse effects such as habituation and other problems.

We know, for example, learning skills go down when marijuana is used. Kids grades drop, and they lose their motivation to work. That is a characteristic of marijuana use that ought not be dismissed lightly. It is a very serious drug.

So I just say this, Mr. President—I see the Senator from Arizona has returned to the floor, and I know he has many things he would like to say—but I salute Senator COVERDELL for his outstanding effort to improve this bill with a tough antidrug initiative. It will be effective. I believe the one part of it that I have discussed mostly today, the part that allows drug testing for those high school students, whose parents agree to it, could be a turning point in our effort to reduce drugs among teenagers, to make their lives healthier and richer as time goes by.

My experience, as a Federal prosecutor and as chairman of the Youth Juvenile Crime Subcommittee of the Judiciary Committee, convinces me this is the right course for us to take. I hope that we will continue to pursue it. I hope this amendment will be made a part of the bill, and I know it will strengthen it.

I yield the floor.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, before the Senator from Alabama leaves the floor, I want to thank him for not only the great, important remarks he has made about the pending amendment concerning the problem of drugs in America, but I want to also thank him for his efforts to resolve another very contentious aspect of this legislation, and that is the issue of lawyers' fees.

There was an amendment that the Senator from Alabama proposed which was defeated, perhaps because the amount of money involved in compensation for the plaintiffs' lawyers was too low. But I know that he and the Senator from Washington, Senator GORTON, and others are working on another amendment I hope we could add to this bill before we vote on final passage that would properly compensate the legal profession who has been involved in this issue, but at the same time not deprive the victims from the compensation they deserve, deprive the programs from the funding that is absolutely critical and needed if we are going to address this issue. The reality is we cannot divert as much money as being contemplated in the State settlements as well as in other areas that would go to the legal profession.

I thank the Senator from Alabama for his work on that. As we all know, in his previous incarnation he served as attorney general of the State of Alabama, and I appreciate his efforts in that direction. I also appreciate the comments he made, his opening comments, and that is, he believes we need to pass this legislation. I believe that still reflects the majority view here in the Senate. And I am eager for the Senate to complete its work on the bill.

Mr. President, we are, I know, in the third week now of contemplation of this legislation and amendments and debate and discussion. Unfortunately, last week's activities were truncated, to some degree, by a requirement for a large number of us to attend the funeral of my predecessor, Barry Goldwater. I think it is clear we are reaching a point in this legislation where we either come to closure or then we have to move on to other issues.

I believe at the right time that cloture should be invoked, if that is what it takes to complete our work in a timely fashion. I hope that rather than cloture we could agree to time agreements on the amendments. I hope we could agree to narrow the amendments even further, and we could dispose of the issues at hand. I think it is important to point out that we have pending amendments which have to do with drugs, we have tax cut alternatives, and we have substitute measures as well as I mentioned earlier an additional amendment on the attorneys' fees issue.

Very frankly, Mr. President, there are not any other significant issues or amendments that would affect this legislation. So I think they could be disposed of in short order if we can enter into time agreements. That will be my effort this morning as we enter into discussions with other Members who have an interest in the bill.

I would not vote for cloture at this time until it is clear to me that we have exhausted our efforts to come to time agreements and dispose of pending amendments. I think that is a far better way of proceeding as, frankly, we do on most pieces of legislation that come before the body.

Mr. President, I also point out that there are interests that want to see this legislation fail.

I think we should acknowledge that. It is interesting, which parts of the political spectrum these efforts come from.

I do not question the motives of any opponent of this legislation, and they may succeed. I remind opponents of this legislation that if it does not move forward and we have to move to other issues, the issue is not going away. No matter what is done on the other side of the aisle, or if nothing is done on the other side of the aisle, there will be, in the words of one well known plaintiff's lawyer in the America, "a rush to the courthouse." There will be 37 States who will proceed with their suits. There will be settlements. If the past four have been any guideline, those judgments are substantial. And, by the way, they have entailed substantial plaintiff fees—in the case of the State of Florida, I believe over $2 billion, if my memory serves me correctly. So the issue of children and tobacco is not going to go away.

I hope that when colleagues of mine on both sides of the aisle who would rather see this bill die, for whatever reason—whether it be a philosophical problem they have with a "big government solution" or whether it be, in all candor, perhaps, the use of this issue in the November elections to some political advantage, or whatever reason—the issue isn't going away.

Every day that we do delay, there are 3,000 children who start to smoke, and 1,000 of them will die early. I appeal to the better angels of our natures here in this body and ask for a lowering of the rhetoric. I am not sure it does any real good to attack someone else's position on an issue. I don't think it does any good to even question anyone's motives, whether they agree or disagree with this legislation. For the first couple of weeks, or at least the first week or 10 days as we addressed this issue, it was characterized by respect for one another's views and, I think, was very helpful as an educational debate.

Beginning the end of last week, obviously that atmosphere of comity was dramatically reduced, if not disappearing. I hope my colleagues will not get too partisan on this issue. It is not one that should be partisan. It is one that should be, indeed, nonpartisan rather than bipartisan, because it is a problem that transcends party lines.

I intend, as I said, to work this morning in trying to get some time agreements on pending legislation. We clearly have debated the drug amendment to a significant degree, and I think we could vote on that very soon. We continue to talk with Senator GRAMM about his tax cut amendment. There may be another one besides that, and then substitute measures, and attorneys' fees. I have to say, in all candor, Mr. President, there is no reason to delay any more after we have resolved those issues.

Let me just make a couple comments about the drug amendment. Obviously, illegal drugs are a terrible problem in America. It continues to pose a serious threat to our youth, and I strongly support many aspects of the pending amendment to attack the problem.

I am compelled, however, to mention that one of the criticisms that has been leveled at the pending legislation is the "new bureaucracies" issue: There are new bureaucracies and new programs, and this is a big-government solution. Let me just list some of the new programs and bureaucracies that are in this amendment: Drug Testing Demonstration Program, Driving Work Grant Program, Student Safety and Family Choice Program, Victim and Witness Assistance Program, Victim/Witness Assistance Grants, Report Card Grants, Random Drug Testing Grants, Parental Consent Drug Testing Demonstration Projects, Drug-Free Workplace Grants, Small Business Development Centers, Convicted Drug Dealers Grants, on and on.

So, Mr. President, I hope that those of my colleagues who are supportive of this legislation, as I am, will perhaps better understand why there is money spent for specific reasons in the overall tobacco bill for basically the same reason money is spent for "bureaucracies" in the drug bill—because we have to have some kind of vehicle within existing bureaucracies to attack the problem. None of us should want to say OK, Federal Government, here is the money, do whatever you want to attack either the drug problem or the tobacco problem. We have to specify as to how this body, in its wisdom, with the advice of the experts, can best dispense those funds in programs that will attack the problem.

I think a Driving Grant Program is probably important. I think a Student Safety and Family Choice Program is important. I think Report Card Grants are important. And on and on and on. So those who support this amendment—and I know it is a majority of my colleagues certainly on this side of the aisle—I hope they will understand better why the arguments about "new bureaucracies" is not necessarily valid when we are attempting to address a specific issue with specific programs.

Finally, on the issue of the money, I believe the tobacco trust fund should pay a fair share in taking action that will defend efforts to prevent and cease drug use in America. But I also hope we can take some of the money from the violent crime trust fund and other sources of revenue and ensure that funding for tobacco, for drug enforcement purposes, does not undermine the basic purposes for which the fund was established.

As I said before, I do not support a cloture vote at this time. I am hopeful that we can, as we go through this morning and early afternoon, agree on time agreements on amendments. I do believe that if we can't do that, then we either vote for cloture or we move on to other issues that are important. I believe we can move forward. I believe the majority of the American people want us to move forward, and I am still confident that we can complete this legislation in a timely fashion.

I note the presence of my colleague from Massachusetts on the floor, and I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I want to express strong support for what my friend and colleague from Arizona has commented to the Senate and thank him for this long and continuing battle. He has been a leader in terms of trying to have a responsible position on this tobacco issue. As all of us understand, this has been an issue where there has been a great deal of diversity in this body, but there has been an enormously admirable, noble, and I think commendable effort on his part to try to move this legislation in a responsible way that tries to find a common ground. I want to just commend him for his continued efforts to move this process forward.

We may have some differences on some particular issues as we address them, but I think every Member of this body who believes in the importance of developing a responsible position has to recognize his very, very strong and positive leadership. I join with others who have expressed that previously but, again, take note based upon his continuing efforts and upon his very reasoned statements that he made here earlier today.

Now, I want to just join in welcoming many of our colleagues' focus and attention on the problems that this Nation is facing in terms of substance abuse. I am so delighted that many of our colleagues on the other side of the aisle have brought forth their strong support for this Nation to be addressing this particular problem in a more aggressive way. And I welcome that, because many of us stood on the floor of the U.S. Senate in the period of the past 3 years when we saw the Drug-Free School Program, which is the one program that has been developed that had bipartisan support, that is focused on the high schools of this country, that is focused on dealing with the problems of substance abuse, alcohol abuse, and conflict resolution. It doesn't provide a lot of resources—maybe $12 or $14 per school. Nonetheless, there have been a number of very impressive and important programs that have been developed on that. We have seen in recent times many of those who have spoken in favor of this particular amendment voting in favor of cutting the program back in a significant way that would bring targeted help and assistance in terms of the at-risk youth. We have seen that program, which includes the young people who are attempting to try to acquire some kind of treatment and attention and have been afflicted by this horrific kind of addiction in terms of substance abuse, significantly cut back and cut back again.

We have seen the important success, I believe, of adding police officers to the streets across this country. The neighborhood policing concept reaches far beyond the total number of 100,000 police officers. I can tell you that in my city of Boston, where they have had the additional kinds of police officers that are community policing, that are involved in the community policing network and are out in schools setting up local kinds of police departments in these schools, in recreational areas, working virtually around the clock and doing a lot of work with community groups, nonprofit agencies, outreaching in terms of trying to deal with some of the problems of gangs. They have had a very important success.

In my State of Massachusetts—particularly in Boston—up to just 2 months ago we went close to 2 years without a youth homicide. There are a lot of factors included in the efforts in Boston. Paul Evans, our commissioner, deserves great credit. The neighborhood policing support that was received as a result of some of these programs played an important part, and, again, that program was opposed.

So I am not going to take much time here this morning to go through the opposition that many of us faced as we were looking for drug courts which have, I think, demonstrated to be very important and very effective in dealing with the more violent aspects of those that are involved in substance abuse, and the battle we have had in terms of support for those kinds of programs that have been developing to try to demonstrate their success in different regions and communities across the country.

So over the period of these past years, many of us have been trying to give additional life to the problems of substance abuse in our society and we haven't been able to get very much support. So whatever the circumstances, we are glad that at least we are hearing on the floor of the U.S.

Senate an increasing priority for this Nation in terms of focusing resources. We are not saying that necessarily just adding dollars to a particular program is going to solve the issue, but we do say that the allocations of resources—in this case, the commitment of appropriations, is at least the Nation's priorities in terms of allocating these resources. For many of those, I might say, in watching this debate on the problems of substance abuse and the so-called drug amendment, we have not heard their voices, we have not seen their support, we have not had their votes in the very recent times as all of us are trying to find ways of dealing with a problem that affects too many communities and families in this Nation.

So if nothing comes out—and hopefully something will—of the debate, at least we will have additional kinds of focus and attention and, hopefully, support to try to help families, schools, and communities deal with the problems of substance abuse.

Let's go back again to what we have here on the floor of the U.S. Senate. What we will find out, Mr. President, if you bring the experts in, in terms of substance abuse, is that virtually without exception the gateway drug to substance abuse is smoking. It is smoking. They will say that is the predominant one, and access to beer is a secondary aspect. But they will say smoking is the gateway drug to substance abuse. We won't take the time this morning—perhaps later in the debate—to show the correlation of smokers to those who get into the use of marijuana, or young smokers that start at 12, 13, and 14 years old that begin to use substances like heroin. The correlation is powerful, it is compelling, and it is convincing. If we are trying to come back to the problems in terms of substance abuse, the first place and the best place to start is with the issue of smoking. The younger the better. The younger the better.

That is why I think it is important, as we are coming to this time in the debate and discussion, to keep our focus on what the underlying legislation is all about, which is the public health of young people in this country, to discourage them from smoking with the increase in price and a vigorous antismoking campaign on the back end to try to help provide both information and assistance, cessation programs, and others, in dealing with the challenge that this Nation is facing, and which other countries are facing as well.

So, Mr. President, this is why it is so important that we get on with the business that is before the Senate, which is getting, I think, action in terms of voting rather than talking on the issue of tobacco legislation. We have all been through these various battles and we have legislation on the floor of the Senate, where there are strong differences of opinion, and the ability to delay action is readily available by Members on this issue. It seems that the debate has moved along. The issues before us are imperative and we ought to go ahead in having the cloture vote, and we can then deal with those amendments that are relevant at that time.

The first vote we are going to be facing this afternoon on the motion to invoke cloture on the tobacco legislation is a key vote. For more than 3 weeks, opponents of the legislation have used every parliamentary trick in the book to prevent the Senate from passing this bill, even though a clear majority are for it. In the 3 weeks since the Senate started this debate, 66,000 more children have started to smoke, and 3,000 more will start each day until the legislation is enacted and implemented. While the Senate fiddles, the cigarettes burn.

The opponents have attempted to create a smokescreen to divert attention from the real purpose of this legislation, which is to prevent children from beginning to smoke and becoming addicted to tobacco and help current smokers stop smoking. The opponents are desperate to have the Senate focus on anything else—limiting attorneys' fees, reducing the marriage penalty in the tax laws, prohibiting illegal drug use, school vouchers—any issue but the real issue. They would prefer to ignore the fact that tobacco use is responsible for 20 percent of all premature deaths in the United States.

Tobacco is the Nation's leading cause of preventable death and disability. It accounts for 400,000 deaths a year—more deaths than from alcohol, more deaths than from car accidents, more deaths than from suicides, more deaths than from AIDS, more deaths than from homicides, more deaths than from illegal drugs, more deaths than from fires, more deaths than from all of these combined.

Yet, the opponents of this legislation are not interested in protecting the public health and saving lives from tobacco use. They are interested in protecting big tobacco and blocking any effective action that would reduce tobacco use and therefore reduce tobacco profits.

The American people understand what is going on here. Today's vote will lift the smokescreen and demonstrate where each Senator stands on this fundamental issue. Do they stand for further delay and obstruction, or do they have the courage to act against the will of the tobacco lobbyists?

Parents are watching to see if the Senate will continue to allow tobacco companies to blatantly market their products to children, or will we force the Marlboro Man into the sunset?

People are watching to see if the Senate will continue to allow nonsmokers to be exposed to secondhand smoke, which causes 3,000 to 5,000 lung cancer deaths each year in the United States and up to 60 percent of all cases of asthma and bronchitis in young children.

Are we willing to stand up against the tobacco industry, and stand for the smoking cessation programs and the counter-advertising campaigns and the law enforcement efforts that are needed to prevent tobacco sales to minors?

There is no valid reason why the Senate cannot vote on final passage this week. If the majority leader was willing to permit the fair and timely scheduling of amendments from both sides of the aisle, we could complete action on them within a few days. We have filed for cloture because it is the only way to break the parliamentary logjam created by a small group of willful defenders of the tobacco industry. It will provide an irrefutable public record of who is ready to vote for strong legislation to prevent youth smoking and who is attempting to talk the legislation to death.

The opponents of the McCain bill are engaging in filibuster by amendment—amendments which do not even deal with the subject of smoking prevention. These amendments are transparent attempts to scuttle the legislation, not improve it. The Coverdell amendment would divert more than 80 percent of the funds currently directed to anti-smoking prevention and cessation programs.

According to the analysis, the Coverdell-Craig amendment will slash, as I mentioned, funding for the smoking prevention programs by 82 percent over 5 years. This will be $13 billion, down to the $2.4 billion that will match reduction for these programs that have been demonstrated to be effective. We have gone through that in the course of the debate, including my own State of Massachusetts, California, and other various communities, and neighboring countries such as Canada. The list goes on.

Effectively what we are saying is the Office of Management and Budget says this amendment would drain $10 billion from the $13 billion set aside by the bill each year for the antismoking programs. Effectively it guts the program.

These anti-smoking initiatives are at the very heart of the legislation. If the Senate is serious about stopping children from beginning to smoke and saving lives from tobacco-induced diseases, we have to invest in these important public health measures.

If the Coverdell amendment is enacted, there will be less funding for smoking cessation programs, for counter-advertising programs, and for school and community-based education initiatives, all of which have an excellent track record of preventing smoking by children and helping adults to stop smoking.

Clearly, we need greater enforcement efforts to prevent the illegal sale of tobacco products to minors. Each year, American youths spend over $1 billion to purchase tobacco products, despite laws in all 50 states that prohibit underage sales. According to Professor Joseph DiFranza of the University of Massachusetts Medical Center, "if $1 billion in illegal sales were spread out evenly over an estimated 1 million tobacco retailers nationwide, it would indicate that the average tobacco retailer breaks the law about 500 times a year."

We shouldn't weaken these important law enforcement efforts by reducing their funding, when they could have such a significant effect in reducing teenage smoking.

The Federal Government currently spends $520 million a year on tobacco control efforts. That sum is dwarfed by the amount spent to fight illegal drugs, which will total $16 billion this year—thirty times as much.

Deaths caused by tobacco, 400,000; the amount that is actually spent on Federal spending, $520 million; deaths caused by substance and illegal drugs is 20,000. We spend close to $16 billion. Of course, we are all concerned about the problems of substance abuse. But we are talking about now dealing with the issue of tobacco because it is the gateway to the substance abuse problem that we are facing in this country. If we don't understand that interconnection, we don't really understand this problem in a very important way.

This disparity is especially significant, since tobacco use causes 400,000 deaths a year, while illegal drugs are responsible for 20,000 deaths.

Clearly, we can do more to reduce illegal drug use, but those efforts should not come at the expense of needed antismoking initiatives. President Clinton has already asked Congress to act this year on a $17 billion counter-drug budget—the largest anti-drug budget in our history.

The National Drug Control Strategy increases funds for drug intervention programs for youth and for treatment programs. It adds 1,000 officers to the Border Patrol and 540 new DEA positions. Two hundred counter-narcotics agents will be assigned to initiatives to combat heroin and other drug smuggling. In fact, some of the components of the Coverdell amendment duplicate anti-drug strategies set in motion months ago.

The Coverdell amendment contains another provision—private school vouchers—which are poison pills for the tobacco legislation. I strongly oppose these provisions, and the Senate should reject them.

The private school voucher provisions are a blatant attempt to force the Republican anti-public school agenda on the tobacco bill. The Senate has already debated this issue at length earlier this year. We all know that it is a highly contentious issue. We should not revisit it in the context of the tobacco legislation, since private school vouchers are totally unrelated to reducing youth smoking. The only reason it was included in this amendment is to serve as an anchor to weigh down this important bill.

Our goal is to improve the public schools, not abandon them. Instead of draining much-needed resources from public schools, we need to take steps to help all schools, not just a few schools—and to help all students, not just a few students.

The Coverdell amendment would undermine these efforts by diverting federal funds to help private schools.

Supporters of this legislation are certainly prepared to allocate part of the funds to the anti-drug measures in the Coverdell amendment, but it makes no sense to allocate the vast majority of the funds to those programs.

It is time for Republicans in Congress to stop holding the tobacco bill hostage. We should free the prisoner, and do what's needed to reduce smoking.

Cloture should be invoked now to prevent any more delaying tactics. I urge my colleagues to vote to end this pro-tobacco filibuster and pass this needed legislation.

Mr. President, just to reiterate, we welcome the new voices that are speaking in terms of support for the substance abuse programs. We could have used both their voice and their vote in recent years when those programs were under attack and assault here in the appropriations committees as we were trying to deal with those issues. But now that we find new interest in these programs, we welcome their effort. But you can't get away from the fact that even in dealing with the illegal problems of substance abuse and illegal drugs that the gateway to all of this is tobacco. That is what we are focused on. That is the core issue. We take meaningful steps in terms of tobacco by discouraging young people from purchasing as a matter of price, and by taking the antismoking kinds of programs that have been included in this effort, we are going to have a meaningful impact on the number of young people that are going to smoke, and we are going to have a meaningful impact on the problem of substance abuse.

Mr. President, I hope we can come back this afternoon and move towards cloture and get on with the business before the Senate. The American people have been listening to this debate for some 3 weeks. Families are entitled to have a vote to protect their children in this country. We ought to be able to take a stand. We should be willing to take such a stand and be held accountable for that. We will have the first opportunity to do so this afternoon. I hope all of our colleagues will give support for that program so we can move this legislation, so the House will move it, eventually the President will sign it, and we will make meaningful progress in reducing the problems of youth smoking in this country.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The Senator from Missouri.

Mr. ASHCROFT. Mr. President, I am pleased to have this opportunity to speak in regard to the effort to restrict debate on this bill.

Mr. GRAMM. Mr. President, will the Senator yield for a unanimous consent request?

Mr. ASHCROFT. I will be happy to.

Mr. GRAMM. Mr. President, I ask unanimous consent that, following the remarks of the Senator from Missouri, the Senator from Iowa be recognized for 5 minutes, and following those remarks, I be recognized for 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ASHCROFT. Mr. President, I am pleased to have this opportunity to speak briefly against restraining the debate by invoking cloture here. There are too many outstanding issues to invoke cloture and to amend or stop the debate and amendment process. I rise today to oppose invoking cloture on the tobacco bill. A vote to invoke cloture, a vote to cut off debate on this massive legislation, is a vote in favor of a massive tax increase. It is a vote against tax relief, a vote against fighting illegal drug use in this country. I doubt whether those who are not keenly familiar with the procedures of the Senate would understand that when you invoke cloture, you limit amendments, and if you invoke cloture at this time—if we were to vote to invoke cloture today, we would basically be saying that we could not include in this bill any antidrug measures, we could not include in this bill any tax relief.

I think it is clear that the American people are beginning to learn what this bill is about. The American people are beginning to understand what $868 billion in new taxes really means. They are beginning to understand that there are boards and commissions and new iterations of the Federal Government, of the National Government, dictating activity in this bill, and it is time for us to continue the debate. The American people are beginning to learn that there is foreign aid in this bill, that there is $350 million a year in foreign aid just to provide for studies in foreign countries of the impact of smoking in those countries.

This legislation is almost 500 pages long. It is quite possibly an attempt at the largest expansion of government since the ill-fated Health Security Act, President Clinton's attempt to take over one-seventh of the U.S. economy in the health care measure. And, while we have spent several weeks on this bill, we have not begun to scratch the surface of this 480-page bill.

As I believe others who will be coming to the floor will show, you will find a bill like this is very complex. As I mentioned, the kinds of foreign aid measures, the kinds of things virtually unrelated to any benefit people in this United States could expect to receive from this bill are tucked into the nooks and crannies of this bill. It is no wonder people do not want further amendments. It is no wonder they want to curtail debate. But I think it is time we continue to have debate. We have spent several weeks on this bill. We have not begun to scratch the surface. There are issues that we have discussed but haven't voted on and issues that have yet to have a full and fair debate. On Friday, over 100 amendments were filed to this bill. More than 30 Members of this body have filed amendments to this bill. We should not curtail the discussion of this bill by invoking cloture.

Many important issues will not be addressed if cloture is invoked. If cloture is invoked, many of those amendments—the antidrug amendment and the tax cut amendments—would be ruled nongermane and would not be allowed to be considered. Some say this is legislation that is dead or dying and cloture is needed to salvage this legislation. That is the mindset of people who are afraid that the details of the legislation will be exposed to the American people and, as a result, the American people will no longer support the measure. That is the mindset of people who are afraid the American people will learn that this bill in fact contains a massive tax increase, $868 billion, and it is focused, 60 percent of it, on people who earn less than $30,000 a year.

The American people have a right to know what is in this bill, and we have only begun educating the American people about the bill and debating the important issues. We have had only 5 votes on amendments to this legislation, 3 motions to table that were agreed to and 2 that were not—a bill of almost 500 pages and only 5 votes so far. We have not even begun to discuss the controversial provisions regarding tobacco farmers. We have just begun to talk more about the serious problem of illegal drug use by teenagers and the fact that most parents are far more concerned about that than they are about smoking.

We have yet to vote on any amendment to provide relief from the discriminatory marriage penalty. I know there are several Senators who have amendments to address this tax penalty, including the minority leader, who has expressed that. Of course, I have a measure in this respect, as does the Senator from Texas and the Senator from New Mexico. But this cloture motion would put an end to these discussions. I ask my friends who filed this motion, what are they afraid of? Why won't they allow full and fair debate on this bill? What are they afraid of, that the American people will find out that is included in this legislation?

I believe if we are going to raise the kind of taxes that are included in this bill, we need to have a complete and open debate. Unfortunately, some from the beginning have tried to hide the tax increase. The Commerce Committee—I was a member of the committee, but I was the only one to vote against this bill—simply refused to call this a tax; instead, they called it a penalty on the tobacco companies, but put in the bill a requirement that the tobacco companies would pass it on to the American people. Thankfully, what we call something will not change its real character. If it is a tax, it is a tax, whether we call it that or not. The Finance Committee at least had the integrity to say it was a tax and that this is a massive tax increase on the American people.

The fact that the bill requires this to be paid by the American people, by consumers, not the tobacco companies, is something the American people deserve to know. This is a bill that is designed, at least in the minds of many people, to somehow punish the tobacco companies. But there is a mandate in the legislation that requires that the tax be passed through to the consumer. Tobacco companies will be fined if they don't pass the price increase on to the addicted consumers, and of course this tax does fall most heavily on those who are least able to pay it, those earning less than $30,000 a year.

Using data provided by the Centers for Disease Control, this tobacco legislation will be an annual $382 million tax increase on individuals in my home State—a $382 million tax increase on Missourians. That is more than $3 million per county in my State. Roughly $227 million of that amount would be paid by individuals in households of less than $30,000.

It is clear we should not invoke cloture. Invoking cloture would curtail the availability of amendments relating to drug use. It would curtail the availability of amendments relating to tax relief. In the face of a tax measure which potentially would add $860-plus billion to the tax responsibilities of the people of this country, I believe we should maintain our ability to talk about tax relief in the same legislation.

With that in mind, I oppose the invoking of cloture here. I think it is bad judgment. It curtails discussion unnecessarily and unduly. It would provide for the masking of the real character of this legislation from the American people when the American people have every right to know and learn about the full nature of this measure.

I thank the Chair for this opportunity to speak, and I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I rise in support of the Coverdell amendment. I sincerely hope that the Senate will adopt this important amendment. I think the main concern on this side of the aisle is not about the importance of an antitobacco campaign and an education program so teenagers will not smoke in the first place. This is very important, and it should be well funded. But money above and beyond that ought to go into fully funding existing programs rather than creating a whole new scheme of programs. Creating new Federal programs is a goal of this administration. It is important that we not just create the programs for their sake, but that we make sure that it is used wisely. There will be a lot of new revenue generated by this bill and we must not use it all to create new Federal programs.

We cannot put an obligation on the people of this country to support programs that we do not know, down the line, how much they are going to cost, just because there is a big new bonanza of money available.

The purpose of this legislation is to keep teenagers from starting to smoke in the first place. This must remain our focal point. This is one important reason that I support the Coverdell amendment, because it will put excess money into existing programs and not create a whole new list of programs. Another is that this amendment will combat illegal drug use—which also kills our children. We should not address one without addressing the other. If we say that we are going to help our children, then we simply cannot walk away from an opportunity to help them fight against illegal drugs. This is not one against the other—either we fight youth tobacco smoking or we fight illegal drug use. Quite the contrary, this amendment means that we do both.

We are in the process of considering monumental legislation. We are engaged in a major debate about what to do about tobacco. Many of the arguments in favor of this bill focus on keeping kids from starting to smoke. I believe this is a very important objective. But there is more we can do with this bill to help our kids. When you talk to young people about what concerns them, when you look at what they tell pollsters, you learn what most concerns them. If we are going to engage in all of this talk of what to do for young people, it might be a good idea to listen to what they have to say.

Young people today are very concerned about the availability of illegal drugs and of the violence that is all too common in our schools. Whatever else we might say about tobacco, it is not the source of the violence that threatens so many young people. While it has serious health consequences, those are not immediate. Smoking tobacco may give you heart disease or cancer in the future. The use of illegal drugs and the

bad things that they do are not a problem of tomorrow, those are problems this very day, they are immediate problems, and the availability of these drugs is what most concerns kids.

We hear very little of this in this debate. I think we make a mistake in not consulting what our young people are telling us. They are telling us that we must also address the use and availability of illegal drugs if we are to protect their health. That is why I am supporting amendments to the tobacco bill that will bring the issue of illegal drugs into the discussion. I wish every time the President took time to discuss tobacco and kids, he would bring the issue of illegal drugs into the discussion. And I wish that the President of the United States would never be seen with a cigar in his mouth if his campaign against tobacco is to be credible.

Seeing that he is not likely to do that, I believe that we in the Congress must talk about illegal drugs. I therefore draw to my colleagues' attention these amendments and ask them to join me in voting for them. That includes the Coverdell-Craig amendment on drug-free neighborhoods and others that strengthen our efforts to deal with illegal drug trafficking and use. These amendments put drugs back into the debate, and they should be there. They should be there every time he talks about tobacco. They should be there every time he talks about children's health. The President should also talk about not only drugs being illegal and not that they are bad because they are illegal—but they are illegal because they are bad. These amendments give support to increasing our prevention, treatment, and interdiction programs for the issues that most concern our young people.

I also call to mind an important point. In the years that we made "Just Say No" a critical element of our counterdrug efforts, we saw a significant decline in illegal drug use among our young people. And we also saw something else. "Just Say No" had a halo effect. Kids not only stopped using illegal drugs, but they also stopped using tobacco and alcohol in impressive numbers.

In the last several years, in the absence of a coherent antidrug message, drug use is on the rise—use of all drugs—especially among young people. Tobacco use is also on the rise. We must address these threats to the health and well-being of our children. And the situation is worse than we think.

As the most recent national drug strategy hints at and other studies confirm, we have been under reporting drug use for years. That means there are more addicts than we thought; there are more users than we thought. We need to keep this in mind as we talk about teen smoking. We cannot afford to leave a problem that kids say concerns them most out of our discussions. We cannot look young people in the face and tell them that we are doing all this on tobacco for their sake and ignore illegal drugs. This is a landmark opportunity to do both, and we owe it to our kids to do as much as we can.

I yield the floor.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from Texas.

Mr. GRAMM. Mr. President, I wanted to come over this morning to say a few words about the bill and about cloture. I am strongly supportive of the amendment by Senator COVERDELL, and what I would like to try to do in my brief remarks is to put this whole debate in proper context. I know literally dozens of our colleagues who support the bill have come over and spoken. It is awfully easy on these kinds of issues for people to get confused. So what I would like to do, very briefly, is to go back and put the focus of attention on where the money is coming from that comes into the bill, where the money is going, and what both—where the money is coming from and where it is going—say about the bill. Then I would like to talk very briefly about the Coverdell amendment and conclude by making a remark on the cloture vote.

First of all, for endless hours our colleagues who support this bill have damned the tobacco companies. They have indicted—convicted on many occasions—the tobacco companies for their activities over the last 25 years. And let me say that it seems to me, based on the evidence they have presented, that if one were sitting on a jury, one would have to find the tobacco companies guilty.

While our colleagues hold the tobacco companies in contempt, seeking to draw our eye to the tobacco companies, the problem is that the money coming into this bill comes not from the tobacco companies but it comes from working Americans who are relatively-modest-income people.

The reality of the bill is, interestingly enough, that while our colleagues who support the bill go on and on about the tobacco companies, damning them for their activities—and justifiably so—the reality of their bill is that the tobacco companies not only do not pay these taxes but they are mandated to pass the taxes through to the consumer.

I hope when people listen to this debate about the terrible activities of tobacco companies, they will realize that what we have in this bill is one of the giant legislative bait and switches in the history of American Government. The bait is tobacco companies—savage the tobacco companies—but the switch is that we are taxing blue-collar Americans, and, in fact, with an incredible pass-through provision in the bill, we are requiring the tobacco companies to work in concert to see that working Americans pay every penny of these taxes. That is the bait and switch of this bill.

The proponents of the bill hold up tobacco companies to revile, but they reach into the pockets of blue-collar working Americans and take untold billions of dollars in one of the largest tax increases in American history and certainly the most regressive tax increase of any size in the history of this country.

And I would like to remind my colleagues that 34 percent of the over $600 billion of taxes collected in this bill will come from Americans in families that make $15,000 or less; 47.1 percent will come from Americans in families that make $22,000 or less, and 59.1 percent of the taxes in this bill will come from families that make less than $30,000 a year.

So while our colleagues hold up tobacco companies as this source of evil and the focus of the debate, the reality is that the tobacco companies are paying no taxes and that Americans who make $30,000 or less are paying 59.1 percent of the taxes in this bill.

This is a tax on blue-collar workers, and it is a massive tax. Let me just give you an example. The Presiding Officer is from Alabama. And 24.9 percent of the people in Alabama, who are adults, smoke. That is 762,857 smokers. If this bill is implemented and, as is predicted by most sources, the price of a pack of cigarettes rises by $2.78 a pack, that means that a blue-collar worker in Alabama, a truck driver, a waitress, will pay $1,015 in additional taxes to the Federal Government if they smoke one pack of cigarettes a day.

We can say, well, they ought not to be smoking cigarettes. And, obviously, we all hope they will quit smoking cigarettes. But the point is, this bill clearly assumes they will continue to smoke in vast numbers, because how else then would the bill get over $600 billion to spend?

So the question we have to ask ourselves is, in the name of punishing the tobacco companies, why are we imposing a tax of $1,015 per year on blue-collar workers in Texas and in Alabama and all over the country? It is interesting to note that if this bill goes into effect, the Federal tax burden on people making less than $10,000 a year will rise by 44.6 percent. So this is a massive confiscatory tax on blue-collar workers.

The amazing thing is, by the logic of this bill, they are the victims. These are the people the tobacco companies conspired to induce to smoke, targeted with their advertising, many of them when they were less than 21 years of age. They now are addicted to nicotine. While the bill dubs them as "victims," and promises them that they will be

helped, the reality is the victims are being taxed by a massive amount to fund this bill. That is a point we must never forget.

I have an amendment pending to give some of this money back to blue-collar workers. I have read it written up in many newspapers and being covered in the media. Obviously, I must be doing a poor job of explaining what the objective of this amendment is, or else you would have to conclude that maybe the point is not being portrayed accurately. I would never assert that.

Basically, what I am trying to do here is to say to blue-collar workers all over America who smoke: Look, this bill wants to raise the price of cigarettes to discourage teenagers and to discourage you from smoking. But rather than impoverishing you, our objective is to change the price of cigarettes and alter behavior, so we are going to take a portion, a substantial portion of the money and give it back to blue-collar workers by repealing the marriage penalty for couples that make $50,000 a year or less.

Now, let me make it clear. In our budget, and the tax cut that will flow from it, we are going to cut the marriage penalty for those who make over $50,000 a year. And if we do not pass this bill—and increasingly it looks like we may not—then we are going to repeal the marriage penalty for everybody. But the reason that I focused in on $50,000 and below in this bill, is that smoking in America today is predominantly a blue-collar phenomenon. Seventy-five percent of these taxes will be paid by people who make $50,000 or less. So the objective here is to give some of the money back to them, so we raise the price of cigarettes but we do not pound blue-collar workers literally into the ground with this tax.

We have been in a period of chaos since my amendment was introduced because our colleagues are concerned about losing the money. If you listen to this debate, almost every day, at least a dozen times, proponents of the bill say, "This is not about money. This is about smoking. We're raising taxes not because we want the money." They say, "But we're raising taxes because we want to discourage people from smoking, and studies have shown that price is the most effective way to do that."

But their bill belies what they say in two ways: No. 1, they spend the money; and, No. 2, they spend it in the name of getting people to stop smoking when, in fact, of the 60 percent reduction in teenage smoking they seek, 50 percent would be produced by raising price alone.

So what I am trying to do in my amendment is to simply do this. Let them raise the price of cigarettes, but hold them to their word that this is not about money, and give a substantial amount of the money back to blue-collar workers who are paying this tax in the form of a tax cut, and the one I have chosen is to repeal the marriage penalty for modest income people.

I think the debate about the marriage penalty is well understood. When we get to my amendment, I will talk about it in detail. But never in America should there be a penalty involved for people who fall in love and get married. The average marriage penalty in America is $1,400 of additional taxes that people pay for the privilege of being married. As I have said on numerous occasions, my wife is worth $1,400, but I think she ought to get the money and not the Government.

And so I am going to hold out on my amendment. This bill will not pass without my amendment being part of it. And it may not pass with my amendment being part of it.

The argument against the tax cut which I have proposed, which is really a rebate to people who are bearing confiscatory taxes under this bill, and the argument against the Coverdell amendment, which seeks to broaden the protection for teenagers from smoking to smoking and drug use, the argument against it is we do not have enough money to do these things.

We are collecting over $600 billion in this bill, but they do not have enough money to give some of it back to blue-collar workers and they do not have enough money to try to do something about illegal drugs even though that is the No. 1 concern of parents.

In a recent poll, when parents were asked what things they worried most about in terms of things their children might do, 39 percent said using illegal drugs, 16 percent said joining a gang, 9 percent said drinking alcohol, 7 percent said having sex, 7 percent said driving recklessly and 3 percent said chewing or smoking tobacco.

What the Coverdell amendment simply says is, while we are protecting our children, let us not just protect them from the 3 percent, let us protect them from the concern that 39 percent of our parents list as their No. 1 concern, and that is using illegal drugs. But yet our colleagues say, we do not have enough money to do this.

That leads me to the next point, and that is, what are they using the $600 billion for? The cold reality is, not only do they have enough money to give some back to workers to prevent a massive tax-and-spend program from coming into effect, not only do we have money to improve our war on drugs and to promote the cessation of smoking for teenagers and adults, but the plain reality is this bill is awash in money. It is obvious from looking at how it is spent. And I want to give you three examples.

The first example has to do with the tobacco farmer. Obviously, we are all concerned about the impact of this bill on tobacco farmers. But when you look at this bill it is clear in looking at the tobacco farmers section that no logic whatever has gone into devising this section. In fact, it is clear that this bill has more money than it knows what to do with.

Let me just give two examples, not to belabor the point. The first example is that we are in the midst of a program we call Freedom to Farm where we literally have gone through our major commodity groups and given farmers transition payments to begin phasing out of the program. We are in the process for wheat, corn, grain sorghum, barley, oats, upland cotton and rice. We paid for wheat, a total over a 7-year period of $125.34 per acre; for corn, $220.27; for grain sorghum, $131.25. The highest payment was for rice, $714.09 per acre. If you add up all the amounts, all that we paid all seven major crops combined was $1,495.78. If you multiply that times the 740,000 acres we have planted in tobacco in America, under the Lugar provision of this bill, if you paid the cumulative amount of all the other programs combined, you would pay tobacco farmers $1,106,877,000. The Lugar provision in the bill pays tobacco farmers $22,297.29 an acre and they can go right on growing tobacco. We don't even get the land for $22,297.29 an acre.

Now, my purpose here is not to ridicule this provision. My purpose is to point out how much money is squandered in this bill. Robert Samuelson, in his article in the Washington Post the other day, cites a figure of $92,000 an hour paid to attorneys in these tobacco settlements. Yet we have no provision of this bill setting out some limit. It is my understanding that we are going to try to limit that at $1,000 an hour or $2,000 an hour, but in a bill where supposedly we can't give any of the money back to working people who are bearing a massive tax increase, we have enough money to pay tobacco farmers $22,297.29 an acre. We have enough money to pay plaintiffs' attorneys $92,000 an hour.

I have a new one today, and what I thought I would do is begin to do a new one each day that we do this bill. My new one today is on Native American smokers cessation. We have a provision tucked away in this bill, one of dozens and dozens of provisions, where we are going to provide up to $7.56 billion for smoker cessation programs among Native Americans. These bills will be targeted at the 1.4 million Native Americans served by the Indian Health Service. Adult Native Americans smoke at a higher rate than the population as a whole—39.2 percent. We will be spending $18,615.55 per adult Native American smoker in this program. If you have a family in which both adults smoke, we will be spending on their smoker cessation programs under this bill—now, hold your hat on this—$37,231.10 for every Native American family who smokes, $37,231.10.

Now, we could buy people a Chevrolet Suburban. We could buy every smoking Native American family a Suburban for what this program will cost on a per capita basis for smokers.

Now, does anybody believe that when we are talking about one little provision—and I could make this point about dozens of other programs, and I will as we go further along the debate—but does anybody believe this bill is seriously "scrubbed" for how we are spending money, when we are spending $37,231.10 per smoking Native American family on cessation? Does anybody view that as anything other than what a candidate for State office in my State called this whole process when he said, "We won the lottery."

Well, let me remind my colleagues that to some people this money is a lottery, but to blue-collar working Americans who will bear the brunt of this tax, this is going to be a massive tax increase.

Now, even at this late date, what could we do to salvage this bill? I thought I would add one final thing before I end my remarks this morning. What could we do that would make it possible to move ahead with this bill? First of all, the bulk of the money we are collecting ought to go back to the people paying the tax. If the objective of the tax is not to tax and spend, if the objective of the tax is not to fund more government, why not raise cigarette taxes, but give the bulk of the money back to the same people by repealing the marriage penalty, by making health insurance tax deductible for the self-employed, and people who don't get health insurance on their job so that Joe and Sarah Brown—one a waitress and one a truck driver, neither of which gets health insurance on their job—get the same treatment as General Motors.

Repeal the tax penalty. What I would like to see is maybe 60 percent to 70 percent of the money given back in tax rebates—not tax cuts because their taxes are going up. The taxes of Americans making less than $50,000 a year as family income will go up on a massive scale in this bill. If we repeal the marriage penalty for them, if we make health insurance tax deductible for people who make less than $50,000 a year, their taxes will still go up as a result of this bill, but they won't go up as much as they would under the existing bill and will raise the price of cigarettes without impoverishing people. Now, if my colleagues are serious when they say that it is not their objective to get this money to spend it, they just want to raise the price of cigarettes, I don't understand why we don't begin there.

Second, we ought to bring drugs and tobacco on an equal level in the bill and use half our money for smoking cessation for teenagers and half our money to try to get teenagers to stop using drugs. Since 1992, drug use among seniors in high school has risen faster than tobacco use. It is a much more serious problem and ought to be treated at least on par in this bill.

Now, if we had a bill that gave some of the money back to the States, gave some of the money back in tax rebates to the very people who will pay the taxes, and then took the rest of the money, throughout all of the massive overkill—you can't spend the money; the levels of money spent in this bill are virtually unspendable by any stretch of the imagination. Read two paragraphs in here and you can't figure out what they are doing, and we are giving them $10 billion to do it. Read another paragraph, it is not clear what they are doing, and we are giving them $20 billion to do it. What I am saying is throw all that stuff out, come up with a coherent, antismoking, antidrug program. If you do that, we have a bill. But if you do that, you do not have what I believe is driving this bill in many quarters, and that is the desire for a massive tax increase to fund the most rapid growth in government spending since Lyndon Johnson became President.

So if this is not about tax and spend, this bill can still be saved. The way it can be saved is give most of the money back in tax cuts, get the benefit of raising the price of cigarettes, give money to the States, take what is left, split it between drug abatement and smoking abatement, and come up with a simple, coherent, practical program to try to abate smoking and drugs for teenagers. If we do that, we can still have a bill. But we are not going to have one of the largest and certainly the most regressive tax increases in American history to fund a massive growth in Government.

I assume my colleagues will vote against cloture. If they vote for cloture, they are basically voting to freeze all of these programs in place—two different programs; I was only talking about one of the two programs for tobacco farmers. All of this wasteful spending, all of these massive tax increases, all of this tax-and-spend effort—if people vote for cloture, they are locking that in, because at that point none of these amendments—the Coverdell amendment to bring in drug abatement, my amendment to give a tax rebate to moderate-income people so we don't drive them into poverty with this tax—all these things will be denied. The Senate will not have an opportunity to vote on them if they vote for cloture. I trust that my colleagues will not do that.

I yield the floor.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I listened with interest to the Senator from Texas. Even when I wasn't on the floor, I heard some of it on the television. I must say that what fascinates me about it is that the real bait and switch is not the bait and switch that he has described. He has tried to describe that somehow because this bill defines a problem of smoking and then raises the prices on cigarettes, which is what the tobacco companies have agreed to do, and the tobacco companies have acknowledged affects the number of people who smoke; but he tries to allege the switch is that we don't like the tobacco companies, so what do we do? We turn around and hurt the victims.

Now, in the next breath, at the end of his speech, the Senator says why don't we just raise the price and give it back to people. Why don't we raise the price, but give it back in tax cuts. The bait and switch is that the Senator from Texas doesn't give the money back to the people who pay it. He gives it back to a whole bunch of people, many of whom are doing much better than the people who will pay the higher cigarette taxes and are also people earning much more income, and also people who don't smoke. The Senator is willing to say in one breath that here you have these victims being hurt by raising the price of cigarettes, but his amendment doesn't help those victims—maybe a very few number of them—because he is willing to give money back under a marriage penalty rebate, which even goes back to people who aren't even hurt by the marriage penalty. Talk about bait and switch. That is the most extraordinary bait and switch.

In addition to that, the Senator wants to have it both ways. The Senator from Texas comes to the floor and says, Why, these folks have presented enough evidence to allow me to find the tobacco companies guilty. So he acknowledges the evidence is that the tobacco companies have targeted young people and have willfully put a narcotic substance into the mainstream of America and helped our children get addicted to it and then lied about it; he acknowledges all of that evidence. He says that is fine; the tobacco companies are terrible, and we ought to do something about it. But what does he say we should do about it? He complains about raising the tax on the victims, but then he agrees that we ought to leave the tax in place, not give the money back to the people who he describes as victims, and somehow we ought to punish the tobacco companies. But he doesn't say how. Well, how are you going to do that?

I remember a few days ago the Senator from Texas came to the floor and said, "Why don't we have a windfall profit tax?" Whoever heard of any tax on any company for any purpose that isn't subsequently written into their ability to make profits by passing it on to the people who buy their products? The Senator from Texas is, after all, a

former economics professor. I know he understands the notion that if it costs you x amount to produce your product and you are in business to make money, you are going to sell your product to people, you are going to write in the cost of doing business to the cost of your product. So if all of a sudden we were to sort of somehow punish the tobacco companies by raising taxes on them, who in America doesn't believe the consumer isn't going to pick up the cost? Who in America doesn't believe if you want a better car with more luxurious appointments in it, are they going to give it to you? No. You are going to pay for it. If the cigarette companies are charged in whatever form you want to call it—a windfall profit, an excess, a bad behavior tax, a deception tax, or whatever you want to call it, to punish the companies, you are absolutely going to see that passed on to the consumer in a higher cost of a pack of cigarettes.

But that is not what we are doing here. The Senator from Texas and those who want to kill this bill and who are working so hard with all of these carefully crafted amendments that create tough votes for people in the Senate understand there is only one reason the U.S. Senate is presented with legislation that raises the cost of a pack of cigarettes, only one reason. It is because every expert in the country—those who have spent more years studying this issue than any of us in the Senate—has told us unequivocally that if you raise the price of cigarettes, you will reduce the number of kids who smoke. That is the reason the cost of cigarettes goes up.

So the Senator and others who oppose this legislation seem to be all over the place. They are willing to accept the price increase. They are crying for the victims, but they don't want to give back the money to the real victims, and at the same time, they are saying this is a big tax bill. At the same time, they are willing to live with the price increase that is the "big tax bill," as long as they give it back to the certain things they think are important. So what we are seeing is the greed factor played out on the floor of the Senate in the form of a lot of ideological grab bags that are going to try to get vouchers. I mean, we are going to have a voucher program here on education taken out of the hides of kids who we are trying to stop from smoking.

The bottom line is that for every day this debate goes on, as our friends try to stop this legislation in its tracks, more American children begin smoking—3,000 a day. For the period of time that we have been on the floor of the Senate debating this, 60,000 kids have started smoking, and 20,000 of those 60,000 kids will some day die early as a result of a tobacco-related disease. That is what this is about. Now, we keep hearing complaints about the amount of money that is somehow being spent.

I just heard the Senator talk about $38,000 that is going to be spent per Native American on a cessation program. Well, here is another example of the kinds of distortion that we see in the debate.

First of all, the amount of money that is made available under an authorization only, which has yet to conceivably be appropriated in an appropriate amount, is somewhere between $70 million and $196 million on an annual basis. Is that to go, as the Senator argued, just for cessation? The answer is no; that is not what it is for. If this were a real debate about the real issues that really deal with the facts, the Senator would note that it is—one of the critical components this bill has tried to recognize is the extraordinarily bad health status that exists on Indian reservations and within the Native American community, and it tries to deal with that by providing health care equipment, facilities, construction, repair of clinics themselves, and a whole group of inpatient and outpatient services. So the Senator from Texas may want to come to the floor and be cynical and/or sort of sarcastic about Native Americans and suggest that this bill is going to spend $38,000 per Native American to stop from smoking, but that is not what the bill says. That is not what the bill seeks to do. The bill seeks to rectify an enormous imbalance that for years has taken place in what is available in terms of health care overall, recognizing that all of that plays into any individual's ability to be able to be healthy and stop smoking and reduce other kinds of costs.

We also heard the Senator talk at some length about this unfair tax burden on the average American of $1,015 that the person who smokes is going to pay in a household under, I think it was about $30,000 on an annual basis. The Senator's amendment on the marriage tax doesn't just deal with that $30,000-or-under individual. It goes up to about $50,000 and, as I said earlier, rewards people. People are actually rewarded by the marriage tax, because there are some people, depending on how much money they earn and what their individual incomes are, who come out better under the current marriage structure in the Tax Code, not worse. They get rewarded, too, under the approach of the Senator from Texas.

But far more importantly, the reality is that there are only four areas where funding is allocated in this legislation: Public health, farmers, research, and the States. Forty percent of the money that is raised in this legislation goes back to the States directly. That very conservative fundamental has been one of the things that the Republicans have fought for for years. It is called a block grant. There is a block grant of 40 percent of the money. It is interesting that the Senator from Texas and the Senator from Georgia don't take money out of the block grant. They do not take money out of the farmers. They don't take money out of research. They only go to the public health components of this bill and cut that by one-half or more. Here, it is actually considerably more. This is the funding distribution under the public health account. Under the public health account, which would fund cessation programs, counteradvertising, prevention and education, enforcement and learning, antismuggling and Indian health, they would actually take, I believe, 82 percent. That would be cut under this approach in order to go into exclusively the so-called drug war.

Mr. President, if this were a fair-minded effort to try to deal with the problems of this legislation, you might want to try to approach this in a fairer distribution of how you are cutting the funds or how you want to fund the drug war. Some of the efforts the Senator from Georgia wants to make in funding I agree with completely. For years, I have said we don't have a real drug war in America and there is a lot more we could do. But to do it at the expense of those proven efforts that will reduce kids picking up the gateway drug, which is nicotine—tobacco—doesn't make sense. It would be far fairer—if we are going to talk about all the money that is being raised and all the money that is being spent in this legislation, then why not grab back some of the money from the farmers, or from the research, or from the States? I think the answer to that is fairly obvious as to why it isn't happening. It describes the politics of precisely where we find ourselves today.

Mr. President, we keep coming back to the reality. The Senator talks about the victims and the $1,015 they spend. Nobody is forcing them to do that. One should have a little sympathy, I suppose, because the tobacco companies so adroitly and intensely worked to get them addicted when they were young kids, recognizing that 86 percent of the adults in America who today smoke and are addicted began smoking as children.

We ought to probably feel something about the compulsion that sends them to buy those cigarettes. But if, in fact, raising the price will reduce even some of them smoking, as the tobacco companies have acknowledged—the R.J. Reynolds memoranda, the Philip Morris memoranda, all document that adults were reduced in smoking by the price increases of the 1980s. So it stands to reason that they would be reduced in their smoking levels by this price increase in the late 1990s. But their price increase in the 1990s would be accompanied by very significant efforts to train professionals, to educate

children, to reach into our schools, and create a climate within which the entire attitude about smoking and drugs and health will change.

I would suggest respectfully to the Senator from Georgia that nothing would help our antidrug efforts more than some of the value-building, character-building efforts that are part of the counseling and cessation programs that build sufficient self-esteem and awareness among our young people that they will decide not to smoke. Quite clearly, if you have built up the courage and the capacity to say you are going to refuse a cigarette, you are most likely building the foundation to be the kind of person who can also say no to marijuana, which is a form of cigarette. So I think there is a real contradiction in what is happening here—that, unfortunately, to strip away the ability to be able to pursue these proven efforts is significant.

In addition to that, one of the things that the Senator from Texas and others vilify so much is the category under counteradvertising. Mr. President, a number of tobacco industry documents make it clear how much the industry targeted young kids as young as 13 years old. While the Senator says, "I accept the notion that the tobacco companies are evil for having done this and they would be found guilty for doing it," the fact is that it takes a certain counteradvertising effort, which is very expensive to counter, to contradict, and undo that targeting process. You can't just acknowledge it and walk away from it. You can't just say, "I accept. Let's find them guilty, but we are going to give them probation or even less than that." The question is, Are you going to do something about undoing the consequences of it? The fact is that at present there is no national antitobacco public education campaign that counters the protobacco imagery that has been presented to both adults and children by the tobacco companies.

Very few States have the resources to be able to undertake the kind of long-term, sustained effort necessary, I think Nancy Reagan proved beyond any doubt whatsoever in her steadfast and, frankly, significant campaign in the 1980s on the "Just Say No" Program. I join with my colleague in saying that I think there has been a retrenchment from that. I think we have gone backwards. I think the administration has dropped the ball to some degree in its efforts to help counter nationally the kind of efforts we want. "Just Say No" had a profound impact on at least casual use in this country, and we saw the figures go down. Why on Earth then, given that record, would we want to turn away from an effort to have the counter media effort here and have antitobacco advertisements?

The 1994 Surgeon General's report indicates that the mass media are particularly appropriate channels for tobacco education among young people who are heavily exposed to and often greatly interested in the media. Several States, my own among them—Massachusetts, California, and Arizona—have developed programs that are particularly effective. They work. We have seen a reduction in smoking as a consequence of those efforts. But we have learned that they have to be sustained and they need to be of even greater impact. That means creating this national strategy and having the funding to do it. So that is in here. That is one of the efforts that is being wiped out by the current proposal as well as by most of the criticisms that we have heard.

And the cessation programs themselves—it is just like the debate I remember we had on the crime bill. People came to the floor of the Senate, and there was such scorn and derision about midnight basketball, and such scorn and derision about some of these programs that take place in the boys and girls clubs, or the YMCA or the YWCA. People were able to say those are somehow tax-and-spend programs.

But what we have learned is that they really are the lifeline for a lot of kids in this country who have no parents at home, whose school doors shut at 2 o'clock in the afternoon, and who are, according to the Carnegie Foundation report some 7 years ago, most likely to get into trouble either with an unwanted teenage pregnancy or with some problem with drugs, introduced on the street in the afternoons when there is no adult supervision or structure in their lives. That is a proven fact all across this country. Talk to the president of the Boys and Girls Club. Talk to any of the people who dedicate their lifetimes trying to take care of kids who are stranded, alone, without sufficient parental support. Those people will tell you it makes a difference to have an adult role model, to have adult supervision, to have structure in their lives.

I recently went to a middle school in Charlestown, in Boston, and talked to a lot of kids in the middle school aged 10 to 14 years old. I was dumbstruck to learn that more than 15 percent of those kids aged 10 to 14 were going home in the afternoon, at 2 o'clock, to households that had no adult in them for 4 to 5 hours, for the rest of the day. That is the kind of program that now meets with derision on the floor of the Senate, where, specifically targeted with respect to children, we would have the ability to reduce these kids' exposure to a lot of the vicissitudes of life, not the least of which would be smoking and/or drug dealing and other kinds of problems that arise in the course of the day, unsupervised.

We believe what the Surgeon General and other experts have suggested, which is that there are some 48 million Americans out there who currently smoke and want to quit, who would like to quit, and they spend billions of dollars every year on patches, on nicotine alternatives, on chewing gums, on counseling, on hypnosis, and on all kinds of other efforts just to quit smoking. But one of the most successful ways to quit smoking is to help kids never start.

In Massachusetts, we have a program underway. We wish we could reach more kids. If we pass this legislation, we could reach more kids. But right now, limited as it is, we have been able to reach about a million kids in the State. We have been able to reduce smoking by 30 percent. That is a very significant level. That saves lives, saves money, and ultimately provides a much healthier country.

So that is the choice here. My hope is that a little bit more common sense and a little less effort to stop this legislation in its tracks would guide some of the amending process we are going through. I will join my colleagues and say I think there is a lot of money here. I think some of it might, indeed, be better spent. There are ways we could constructively arrive at that. But if all we are going to do is come to the floor and fight about these amendments that carve out and carve out, with a whole lot of issues involved in them that have already proven very tricky and very contentious and very divisive on the Senate floor in previous incarnations, if we keep revisiting them, one can only interpret that, unfortunately, as an effort to either derail or slow down or stop the fundamental legislation we are trying to achieve ourselves.

There is a simple bottom line here. You cannot argue this every single way—certainly, I suppose you can, and be inconsistent. That never bothered some people around here. But it seems to me if we are going to try to achieve a significant piece of legislation that will affect kids, you can't accept one notion that you ought to raise the price and then cut away the capacity to put into place the significant cessation, counteradvertising, and other kinds of efforts that would most impact the level of teenage smoking, which is what this legislation is all about.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I note Senator STEVENS is on the floor desiring to speak. Might I ask, is he on a short timeframe? Does he want to speak now?

Mr. STEVENS. No. I thank my colleague very much.

Mr. DOMENICI. Mr. President, there are no time limits, are there, on speeches at this point?

The PRESIDING OFFICER. There are no restrictions. We are under consent to adjourn at 12:30.

Mr. DOMENICI. At 12:30; I hope I don't take that long.

Mr. President, I wish I could have been on the floor when Senator GRAMM spoke a little earlier, because I would have risen when he stated what we ought to try to do and what components we ought to try to agree upon to get a bill. I think he is right on. For those who were not listening, let me see if I can repeat.

First of all, let me suggest, in the past—I have noticed that we get large groups of lobbyists in a room promoting causes in only two circumstances. One, when there is a giant tax bill or tax reform measure, the halls are lined with them. That prompted Senator Dole, once, to speak of the "Gucci gultch." The only other time I see a large group in a room joined together lobbying, sending notes, watching television, is when there is a huge amount of money to spend. I have not seen large groups for any other causes. Guess what. In this case, it is obvious. The proponents of the bill have nothing in mind for tax cuts. So this large group meeting, with just scores of people watching every speech on the Senate floor and then sending people out to all the offices to get things done is because this is a giant spending bill.

There is no one more concerned about what is happening to young people and tobacco than I am. I was a smoker for a long time. I didn't start when I was a youngster, however. Fortunately, for me, I quit. It has been 8 or 9 years—I can't remember—and I am very lucky. I have a large group of wonderful children and not a single one smokes. My wife doesn't smoke. I can hardly imagine what a burden I was on them when I had these cigarettes around all the time. I even remember the chairman of the Budget Committee, the distinguished Senator from Florida, Senator Chiles, who had to sit there while I smoked through all these markups. He bought me one of those suction machines. I would have to put my cigarettes on it and then it would suck up all the smoke. At least, he said, I could make it through these 10- to 12-hour markups.

But, frankly, if we knew how to make our children quit smoking with $150 billion, and we said that is going to really keep them off cigarettes, and cancer rates are going to come down and the adult population is going to imitate the kids and they are going to stop smoking—because we have not talked about adults. I mean, they are smoking, too.

As a matter of fact, those in the health business of the United States and health care—clearly something admirable and something we are all concerned about—they are the lobbyists for this bill. They all started off with something in mind. They had their pet projects, and everybody would talk about them as if they were related to teenage smoking. Everybody would come to the floor and speak about the statistics on teenagers smoking and talk about "that is what we were here for," while the provision of the bill that had to do with teenage smoking is about one fiftieth of the bill in terms of pages. The rest of it is programs, programs we are supposed to fund and money we are supposed to give back to the States.

I wonder how many Senators know that of the amount we give back to the States, we tell them how to spend at least half of it. When you look at the list, one wonders what the different programs the States are going to spend the money on have to do with teenage smoking. They have nothing to do with it. But it is suggested the Governors chose the programs—and they ought to have the right to—and we ought to comport with it and say "that is all you can use it for," because, after all, they spent so much State tax money taking care of those people in their States who got lung cancer and were hospitalized, and had these very large treatment expenditures that came out of Medicaid.

Let me tell you, it is absolutely amazing that we are so willing to put a huge portion—40 percent—of what we are supposed to take in under this bill to compensate the States for health care costs when the big health care costs were actually paid for by the U.S. Government taxpayers and the U.S. Government, because Medicare and Medicaid, in particular Medicare, is an Federal program, not a State program. This bill doesn't put a penny in it. It is still going bankrupt because of the enormous drag on that program of more than $25 billion a year for cancer-related smoking diseases.

Medicaid, I know in my State, is paid for 75 percent by the Federal Government. Some States were 50; some States were 65. I think it is more than logical that a very large portion of anything we get here, if we put this together, should either go back to the taxpayers or will go back to the U.S. Government to help defray the expenses that we put into programs, like Medicare, which tax the American working men and women in a very, very regressive manner.

Having said that, I believe, and I state publicly right here today, that I think a bill can be put together. I am not sure that it isn't too late for many because they are already part of the group that wants to spend all this money on all these different programs that are supposed to be directed at our children smoking, but I believe there ought to be a part of this program that goes back to the States. I don't know that there has to be 40 percent, and I don't know that it has to be for the programs that are dictated in this bill for the States.

I also believe there ought to be a major antismoking and antidrug component to this bill, and it ought to be rather substantial. I certainly compliment the distinguished Senator from Georgia for the amendment that he has which brings front and center an even more disastrous habit which is catching on with our teenagers, more disastrous than smoking, and that has to do with illegal and illicit drugs from marijuana to the hard stuff, to cocaine. Now, the new surge is even something different from cocaine. We thought we were doing some good in that regard. Now heroin is back in vogue and use is growing. I compliment Senators COVERDELL and CRAIG for offering this amendment.

If we decided to give back to the States some but not necessarily as much money as this bill says, if we had a major program in illegal drug prevention akin to the amendment which the distinguished Senator from Georgia and his cosponsor, Senator CRAIG, have put before us, and then we did something for research through the NIH, or related, and gave the taxpayers of this country a break, especially those who are going to see the very onerous cost of cigarettes impinge on their lives because cigarettes may be as high as $3.50 to $4.50 a pack, if a bill like this passes, collecting a rather substantial amount of money—and I believe any bill ought to have a component which says let's reduce taxes, and since almost everybody on both sides of the aisle—maybe we quibble over details—but everybody knows the most antifamily, antichildren provision of the Tax Code is the one that punishes families who have two members working for a living as compared to two single people making the same amount—the marriage penalty. It is antifamily, it is antichildren, and clearly, that ought to be fixed. This is a rare opportunity to do that. If we can come together on a stripped-down bill that got rid of a lot of the things in this bill that really are not necessary and are not directly related to the problem at hand, we might make some headway.

I also remind everyone that whenever any of us come here and say let's not pass a brand new major tax-and-spend bill under the nomenclature and title of helping our children quit smoking—Secretary Shalala said that if, indeed, the FDA regulations that they propose could be put in effect—and I will add, if they are constitutional—that they alone have been predicted by the Administration to reduce smoking by 50 percent in 7 years. That is a rather significant proposal and a rather significant assessment by an administration about teenage smoking.

Why are we in such a hurry to put this big tax on and spend it for all these other things under the emphasis—I think ill-placed emphasis—that we are helping people quit smoking,

when if we just tried those FDA regulations, if they are constitutional, they would restrain it by 50 percent in 7 years? I doubt we would achieve a higher goal even if we enact this huge tax and spend bill. In fact, I am not at all sure that we will do better.

If you look around the country, as I have in my home State, New Mexico recently completed, I say to my friend from Georgia, a drug, alcohol, and tobacco use survey of public high school students around the State of New Mexico. Not surprising, cigarette use has increased slightly. It is now 54 percent at the 12th grade level. In 1993, it was 47.

What is more shocking about the results of the survey is how much illegal drug use has increased in the past 5 years. In my State—I was looking at the chart which Senator COVERDELL used—and in my State, marijuana use by 12th graders is up 38 percent; cocaine is up 144 percent; and 51 percent of the students in New Mexico who smoke marijuana said they got it from friends at school. We know that drug use often correlates with illegal behavior. I said "often," I didn't say "always."

Sixty-three percent of the kids detained in New Mexico's juvenile justice system for violent behavior reported they used drugs on a weekly basis prior to their arrests. So nationally, the statistics are no more encouraging, and the Senator from Georgia, Senator COVERDELL, has stated those in his emphasis as to why we ought to adopt his amendment.

I support that amendment because it goes after illegal drug use from a number of fronts, and I am particularly pleased that in addition to promoting an anti-illegal drug use campaign, it does give some additional resources to those who are out there in the trenches fighting this war.

I say to Senator COVERDELL, I suggest that in the State of New Mexico, a major group of policemen—probably 40 percent of the law enforcement in the State is one police entity—they informed us and put out an article which they really believe there ought to be more money put into law enforcement. Particularly I will tell you what they are very worried about. They are worried about the fact they are going to get stuck with all the black market and illegal sales of tobacco, and they are going to be the ones to go out and enforce it. They truly believe at these prices it is going to be enormous in a State like ours; that it will come across from Mexico and all different places, and they are going to just be besieged.

Obviously, I have not thought of a way to help local law enforcement in this bill, but it is not too far-fetched as part of that provision which seeks to help us with reference to the black market, that we ought to give some thought to our local law enforcement people.

This afternoon or tomorrow I am going to speak on another subject, but I will say to Senators, I am continually amazed at what I find in this bill as page after page is looked at.

I have two reports here. One is called "Reducing the Health Consequences of Smoking," 1989. The other is called "The Health Consequences of Using Smokeless Tobacco, Advisory Committee to the Surgeon General." And there is a third report referred to in a provision of this bill that we can't even get the report, so we have only the executive summary of 1986, a report to the Surgeon General.

All I want to say about it right now is, believe it or not, there is a provision in this bill—I do not know who wrote it—but it says the burden of proof in the courts of America will be shifted to the tobacco companies with reference to any illness, disease, infirmity, that is reported in any three of these reports—even if it is mentioned. It means all you have to do is go file in the future, file a cookie-cutter lawsuit, and the tobacco company must disprove that your ailment or your disease or your condition came from smoking.

This afternoon, or when I get the floor again, I will go through a list of what that is going to mean. I mean, if ever—if ever—there was a lawyers' relief bill, beyond that which we have been discussing in terms of their recompense for the settlements, it is here.

We have been looking around for tort reform. And here we have exactly the wrong kind of tort reform. I do not believe very many Senators know that this provision is in this bill. I do not know whether I will try to take it out. I would just like to make sure it is well known.

I do not want to leave the impression, and never have, that tobacco companies should not pay for what they have wrought on this society in terms of misleading advertising and the effects of smoking. But to say that three reports that compiles the research of every ailment or disease that has been researched to try and find a causal relationship between that ailment and cigarette smoking should be incorporated by reference in this bill is not a good way to legislate. Under this provision a plaintiff would not have to worry about proving it anymore, just allege it, sue for it, and the tobacco company must then prove that they did not cause it.

That provision has been researched of late, and we will talk about it in a little more detail—how many thousands and thousands of lawsuits that would precipitate from people with diseases and ailments who never even gave a thought until now that they might find somebody who would pay for that; namely, the tobacco companies.

So I say to those who are very, very well-intentioned, who support this measure, I have said before—and the bill was redone—I said before that it was far too cumbersome, had way too many agencies and bureaus and bureaucratic innovations in it that nobody should really support. It was fixed somewhat. And I still seriously question how it got put together, how these kinds of provisions could find themselves in there with no discussion.

To me, this is one bill that I am very glad is taking a long time to get through the Senate. We normally say discussion on the Senate floor is good because it lets everybody understand what is going on and what the issues are. Frankly, I do not think we would have found out about all the things in this bill if we had not been down here for a couple weeks. It is just a very difficult job, very hard to do.

So let me summarize. I believe the amendment ought to pass, because if we are going to raise significant money, as purported in this bill, we ought to go after more than just the problems that teenage tobacco smoking brings to our country. We ought to try our best, in a very reasonable and well directed way, to spend money trying to get a better handle on illicit and illegal drug use by our children and, in fact, by the American population. So I hope that passes. I hope cloture is not invoked.

But I say that I believe it is beginning to come to the surface that a bill could be put together. It surely cannot be the bill that is before us. As a matter of fact, I think probably it ought to just get redrafted, if people want to put a bill together. Essentially, it ought to take care of the States in some way, not necessarily 40 percent. It ought to have a very significant tax cut, especially for those American families who are going to pay the tobacco tax—pay most of the tobacco tax. If we do that, it ought to be directed at the marriage penalty, perhaps some health related tax provisions, but that ought to take the lead. And we ought to put a major program together in trying to really declare war through advertising and other initiatives to aid in the prevention of smoking among kids. And, as I indicated, it is corollary with reference to illegal drugs.

Another component could be research at NIH on cancer and related kinds of research. And that is probably doable in this country. And if you are going to spend some additional money, you can probably justify it there as well as anywhere else, although I would suggest that if you have a big bill like this with a lot of resources, we can bring amendments to the floor, one after another, showing areas where the U.S. Government is not doing what it ought to do in certain areas of endeavor that are our responsibility as a Nation. And if it is needed, and doing a better job, we could have a myriad of amendments that we could let people vote on and decide what to do.

For instance, I give you one. It is totally unrelated, but some provisions in this bill are also. When will the U.S. Government pay for Indian schools in America?—which are falling down around the kids, totally ill-equipped, are way beyond anything we would have non-Indian kids in in the United States. And the only entity that is supposed to pay for it is the Federal Government. It is not a school board, not a State; it is the Federal Government. There is a backlog of over $750 million. And we are leaving those kids out there, watching the suicide rates go up, watching the illegal drug rate go up, watching all the social problems they have, and every year we take care of one or two schools.

The PRESIDING OFFICER. The Senator should be reminded we have an agreement to recess at 12:30.

Mr. DOMENICI. I am sorry I went over. I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, first, I thank the Senator from New Mexico for the enlightened remarks we just heard on this very important subject. I always enjoy the opportunity to hear his analysis. I hope he will return later this afternoon and continue with it.

Mr. President, I yield the floor.

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I make an inquiry. I know we have the agreement to recess at 12:30. Is there not a vote at 2:15 when we return?

The PRESIDING OFFICER. That is correct. We have a cloture vote at 2:15.

Mr. DURBIN. I was looking for an opportunity to speak for 5 minutes. I ask unanimous consent that, after that vote, I have that chance in general debate.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DURBIN. Thank you, Mr. President.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:37 p.m., recessed until 2:14 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. COATS).

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The Senate continued with consideration of the bill.

CLOTURE MOTION

The PRESIDING OFFICER. The clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the modified committee substitute to S. 1415, tobacco legislation:

Senators John Kerry of Massachusetts, Robert Kerrey of Nebraska, Kent Conrad, Harry Reid of Nevada, Paul Wellstone, Richard Durbin, Patty Murray, Richard Bryan, Tom Harkin, Carl Levin, Joe Biden, Joseph Lieberman, John Glenn, Jeff Bingaman, Ron Wyden, and Max Baucus.

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate be brought to a close on the committee substitute?

The yeas and nays are required. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Pennsylvania (Mr. SPECTER) is absent because of illness.

Mr. FORD. I announce that the Senator from Hawaii (Mr. INOUYE) is necessarily absent.

The result was announced—yeas 42, nays 56, as follows:

[Rollcall Vote No. 150 Leg.]

YEAS—42

Akaka	Durbin	Leahy
Baucus	Feingold	Levin
Biden	Feinstein	Lieberman
Bingaman	Glenn	Mikulski
Boxer	Graham	Moseley-Braun
Breaux	Harkin	Moynihan
Bryan	Hollings	Murray
Bumpers	Johnson	Reed
Byrd	Kennedy	Reid
Cleland	Kerrey	Rockefeller
Conrad	Kerry	Sarbanes
Daschle	Kohl	Torricelli
Dodd	Landrieu	Wellstone
Dorgan	Lautenberg	Wyden

NAYS—56

Abraham	Ford	McCain
Allard	Frist	McConnell
Ashcroft	Gorton	Murkowski
Bennett	Gramm	Nickles
Bond	Grams	Robb
Brownback	Grassley	Roberts
Burns	Gregg	Roth
Campbell	Hagel	Santorum
Chafee	Hatch	Sessions
Coats	Helms	Shelby
Cochran	Hutchinson	Smith (NH)
Collins	Hutchison	Smith (OR)
Coverdell	Inhofe	Snowe
Craig	Jeffords	Stevens
D'Amato	Kempthorne	Thomas
DeWine	Kyl	Thompson
Domenici	Lott	Thurmond
Enzi	Lugar	Warner
Faircloth	Mack	

NOT VOTING—2

Inouye	Specter

The PRESIDING OFFICER. On this vote the yeas are 42, the nays are 56. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. McCAIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator is recognized, under the previous order, for 5 minutes.

Mr. DURBIN. Mr. President, I ask unanimous consent to extend that to 10 minutes, if there is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator is recognized to speak for 10 minutes.

Mr. DURBIN. Mr. President, for those who have counted out the tobacco lobby, for those who said the tobacco giants are now flat on their backs and have no strength left on Capitol Hill, I am afraid the last vote is an indication that there is still life in that tobacco lobby. This vote of 42 to 56 on a motion to bring to a halt the debate and bring to a vote the tobacco bill is a sad commentary on where we are today.

This legislation, S. 1415, which is the product of the Senate Commerce Committee and the hard work of both Republican and Democratic Senators, deserves a vote, not just because it is on the floor today but because what this bill sets out to do is so important for this Nation. Instead, what we have seen are the opponents of this legislation come to this floor over the last 3 weeks, producing amendments to grind us down, mire us down in debate, sink us in this morass of technicalities and procedures so we never get to this bill.

Many of my colleagues, Senators, have come to this floor and offered very important amendments, interesting amendments. They are not related to tobacco and children though. An amendment comes to the floor from one of the Senators, "Let's talk about reforming the Internal Revenue Code." That is a good idea. We should do that on a regular basis. But on this bill? Why on this bill? This bill, which is designed to stop the addiction of our children to tobacco products, why should it be a forum for this debate on reforming the Internal Revenue Code?

Another Senator comes to the floor and says, "Let's talk about the problem of narcotics in America." It is a terrible problem. It is a terrible problem. Everyone agrees with that. Every parent agrees with that. Yet, to raise that as an issue on this bill? To suggest, as part of this debate, we ought to talk about school vouchers? School vouchers, that is an important debate, too. But why in this bill? Why in this legislation, this historic piece of legislation that gives us a chance, for the first time in this Nation's history, to do something meaningful about tobacco, are we being diverted by so many amendments?

Do you know what the order of business before the Senate is at this moment? I can tell you what it is. You may want to write this down. For those with scorecards at home, be prepared with your pencils ready. We are currently debating the Coverdell amendment to the Durbin amendment to the

Gramm motion to recommit with two underlying Gregg amendments still pending.

Hard to follow? It is designed to be hard to follow. It is designed to tangle us up in procedure so we never get to vote on this bill and never vote on this issue.

The tobacco companies have to be cheering after that last vote, 42 to 56, so we continue to mire ourselves in this procedural mess and never get to the bottom line. What is the bottom line? Let me show you in this graph. This is the bottom line. The smoking rates among high school seniors in America are at a 17-year high. As I speak today, in the Senate gallery we have many visitors and friends and a lot of youngsters who are here from schools. You know what I am talking about. You know what is happening in your grade schools and in your junior high schools and in your high schools—more and more children are starting to smoke. I have never in my life ever met a parent who has come to me and said: "Great news, I just got the best news. My daughter just called, she started smoking." Have you ever heard that? I never heard that from any parent. It is a troubling piece of information which every parent dreads.

More and more kids, now over half the high school seniors in America, are taking up this deadly habit. Since we started this mindless debate, 66,000 children in America have started smoking for the first time. Tobacco companies have a big smile on their face: More and more kids addicted to their products, kids who will spend a fortune over their lifetimes on this addiction and ultimately a third of them to be victims of an early grave, because of this tobacco addiction. Yet here we are on the floor of the U.S. Senate. Here we are with this historic opportunity, with bipartisan legislation, to do what is right, to pass legislation and say to the tobacco companies, "The game is over. We are no longer going to allow you to appeal to and addict our children. We are going to ask you be held accountable, accountable for reducing the percentage of children who are smoking." And, by overwhelming votes, Senators on both sides of the aisle supported my amendment last week to hold the tobacco companies specifically liable if kids continue to be lured into this addiction. Yet, over the weekend one of the leaders here in the Senate says the tobacco bill is all but dead—all but dead, after all this work.

Keep in mind, we are not just talking about another piece of legislation in the Senate. We are talking about the No. 1 preventable cause of death in America today. Members of the Senate, Democrats and Republicans, who missed this opportunity, will, frankly, have to answer for it—perhaps not in the next election, but maybe at a later time—as to why at this moment in history, when we had the chance to seize the opportunity and do something to help our children, we failed to do so.

I continue to believe we have a chance to pass this legislation. We have Democrats and Republicans alike who believe it is not only right but timely. But if we allow this procedural morass to continue, if we do not bring to a vote the critical amendments necessary so we can bring this bill to final passage, then the clock runs out.

As I said once before, I guess time is on the side of those who want to stop this legislation. But history is not on their side. History will judge them harshly. Having been given this opportunity to pass an important bill, they missed it. They missed it, to the detriment not of their own political careers but of their children. And the money to be raised from this bill, the money that comes from a tobacco tax—that is right, t-a-x, tobacco tax; call it a fee or what you like, I call it a tobacco tax—that money is going in for specific purposes to help children: Smoking cessation clinics, antismoking advertising, and medical research.

I will stand in the State of Illinois, or wherever I am called on, to defend that vote. I think asking smokers to pay more for their product to reduce the sales to children and put money in the Treasury for those purposes is a defensible thing to do and not something we should shrink away from. I have heard all this argument on the other side about this bill: Senator MCCAIN's bill is going to create some massive Federal bureaucracy. Not so. Not so. This bill basically does, in self-executing ways, what we sought to achieve in the beginning, when 42 State attorneys general filed lawsuits across the United States saying to tobacco companies: Your day is over. You are going to be held accountable. This came to a basic agreement about a year ago. We are building on that agreement.

I salute them for their initiative in allowing us to reach this point. But, will this Senate miss this opportunity, as we missed the opportunity to pass campaign finance reform? Will we miss this opportunity to pass comprehensive tobacco legislation? This last vote, 42 to 56, is an indication we have a long way to go. Cooler heads have to prevail. Senators on both sides of the aisle have to understand, this is more than gamesmanship on some amendment tree; this is fundamentally a question about the public health of America and the public health of our children.

What we and the American people are waiting for is leadership, leadership here in the Senate to bring action to a close on this legislation. While we wait for that leadership, the advertising industry is waiting, too, pens poised, ready to write the next generation of ads for cigarettes to hook children. That will happen if this bill fails.

The lawyers are waiting, too. The lawyers are waiting with their legal briefs in hand to continue the next round of State litigation, and that will continue, month after month and year after year, if this bill fails.

The parents are waiting. The parents of America are waiting to see whether or not their children will be able to escape this addiction to tobacco while they go to school and while they grow up. Passing this bill will help those parents.

And, yes, the tobacco companies are waiting, too. They are waiting to see whether the Senate will drop the ball and give them another year of obscene profits at the expense of our children.

The President of the United States and this administration have shown extraordinary leadership on this issue. No President in history has ever stuck his neck out as far as President Clinton in fighting the tobacco lobby. He has taken a lot of grief for it. There have been a lot of people who invested a lot of money in opposition to folks who supported it. But he was right to do it. Those of us on the floor of the Senate who have been fighting this tobacco battle for over a decade have dreamed of this day and this opportunity.

And that is why it is so sad that we find ourselves in this gridlock, this procedural gridlock. I am sorry that the motion to close down debate and limit the amendments to those germane to the bill did not prevail. A similar motion will be offered tomorrow, and I hope that motion will prevail. In the meantime, I hope Democrats and Republicans will join Senator MCCAIN and Senator KERRY of Massachusetts in a bipartisan effort to pass this landmark legislation.

Mr. President, I yield back the remainder of my time.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Senator from Kentucky.

Mr. FORD. Mr. President, let me say to my colleague from Illinois, I understand his frustration. I understand the goals that he is attempting to reach, and I agree with him, but I am one of those who voted against cloture. In his 15-minute speech, he did not mention the farmer, the farmer who could wake up in the morning if we pass this bill with some amendments in it and be out of business in 36 months. The Senator from Illinois wouldn't mind that, but I certainly do.

I don't object to smoke-free schools. Ninety percent and better in my State, a tobacco State, are opposed to underage smoking. We have no problems with that. But be fair to those and help those who have a life in front of them based on a legal product. They have had no part in all these problems of lies and documents and court cases, but are down there living by the sweat of their brow. And we are not talking about the farmer.

Look at this bill that is before us and the amendments that have been adopted or that are pending, and you want cloture to be invoked on that bill and be the bill that goes out of here? I cannot allow that. I cannot in good conscience allow cloture to be voted on that bill and my farmers not be taken care of.

I agree with the Senator from Illinois—of course I do—we have lost the target. We have lost the target. Someone figured up the other day that if everything that has been introduced and is in this bill is taken care of, we will spend 169 percent of the estimated amount of money that is going to be raised in the next 5 years.

Mr. President, I am one of those—and I admit it, it is on the record—but I want people to know why I voted against cloture and will continue to vote against cloture until we can get some consensus as it relates to my farmers.

The Senator from Illinois said he wants leadership. I think our leader is doing one heck of a job. I think he is pushing the point. I think he is doing the right thing for the position he is in, and I think the leadership on the other side is making one mistake after the other after the other after the other, because of what they are trying to do—to make a lifesaving piece of legislation into a tax cut bill. We need to understand that, and I think the American people will.

Mr. President, I am hopeful that before we have too many cloture votes and are criticized for voting no on cloture that we can have something that is palatable or even reasonable—even reasonable—that we can vote on to do the right thing for those we represent. I represent 65,000 small farm families, and I intend to see that, to the best of my ability, every one of those are treated fairly. Up to now, the answer has been no, and the answer will continue to be no on cloture until such time that we can see some daylight as it relates to those families that are struggling down in my State of Kentucky. I yield the floor.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

AMENDMENT NO. 2451

Mr. COVERDELL. Mr. President, I, of course, am aware of the longstanding concern of the Senator from Illinois about tobacco, but I think to suggest that some of the amendments that are being discussed have some meaning other than their stated purpose is not appropriate. The amendment before the Senate is an effort to make sure that any legislation that deals with teenage addiction embrace all the components of teenage addiction. Yes, smoking, but, yes, drug abuse and the smoking of marijuana which, I point out, is five times more dangerous than smoking a cigarette—five times.

The principal drug abuse and addiction on behalf of teenagers is smoking, not cigarettes, but marijuana. I have long felt that for us to come to the Senate and talk about the dangers of tobacco and the addiction of tobacco and be absolutely silent on the question of teenage addiction to drugs is unconscionable policy.

Mr. President, just yesterday on June 8, the President of the United States at the United Nations in New York said:

> Ten years ago, the United Nations adopted a path-breaking convention to spur cooperation against drug trafficking. Today the potential for that kind of cooperation has never been greater or more needed. As divisive blocks and barriers have been dismantled around the world, as technology has advanced and democracy has spread, our people benefit more and more from nations working and learning together. Yet the very openness that enriches our lives is also exploited by criminals, especially drug traffickers. Today we come here to say no nation is so large and powerful that it can conquer drugs alone; none is too small to make a difference. All share a responsibility to take up the battle. Therefore, we will stand as one against this threat to our security and our future. The stakes are high, for the drug empires erode the foundations of democracy, corrupt the integrity of market economies, menace the lives, the hopes and future of families on every continent. Let there be no doubt that this is ultimately a struggle for human freedom.

Those are pretty lofty remarks, but where is the administration in support of our attempts to confront these drug cartels, to confront the fact that the target of these cartels are kids age 8 to 14 years old—8 to 14? Yes, tobacco is hazardous, and it has been abusive to health and it is increasing. Over the last 6 years, it has increased about 40 percent.

What about drug abuse? What about these points the President made to the world? It has increased 135 percent in the last 6½ years—135 percent. And his team, the President's team the day following these remarks is blocking votes on trying to make a component of teenage addiction embrace and confront drugs. It is OK to talk the talk, but you have to walk the walk.

Mr. President, this administration does not have a good record on the issue of teenage drug addiction. It does not have a good record. It came into office—if we are talking about the troubles of drug abuse—it came into office, and it closed down the drug office, for all practical purposes. It came into office and it massively reduced interdiction efforts in the Caribbean and on the border. As a result, Mr. President, massive amounts of new drugs are flowing into the country almost unfettered.

As a result of that, the price of these drugs has collapsed, utterly collapsed, and for some of these drugs, the price has dropped 70, 80, 100 percent—not 100—70 percent. So no message—more kids are unaware of the fact that drugs are dangerous. In fact, several years ago—2 years ago—that number was at the lowest ever. The number of children who perceived drugs to be dangerous to them was at an all-time low. So why are we surprised, if they do not think it is dangerous, that suddenly the use of it would just skyrocket and go up 135 percent?

Mr. President, framing what has happened here is important: Quit talking about it; dismantled interdiction; closed the drug czar office; massive amounts of new drugs in the country; no message to kids or parents about the dangers of drugs—boom, a new epidemic, a new epidemic. One million-plus new teenagers caught up in drugs.

Mr. President, there are 1.1 million prisoners in America today. Over 800,000 of them, 800,000 out of 1.1 million, are there on drug-related charges—indirect or direct. And $67 billion a year it is costing this country.

The No. 1 problem for teenagers, according to teenagers, according to parents, according to all statistics—and not by a slim margin; by an enormous margin, 2, 3, 4 to 1—they have said that is the No. 1 problem our kids face, smoking marijuana, getting in the drug culture, the No. 1 problem. It is accessible everywhere, and it is cheap. The other side says, "Oh, this is not appropriate to be talking about this on the tobacco bill." What in the world does it take to be appropriate?

Five times more dangerous to smoke it, mind-altering, 800,000 prisoners, $67 billion a year, the principal problem of teenage addiction, and we just heard the Senator from Illinois: "This is a poison pill amendment." The logic defies me, absolutely defies me.

He talked about school choice. What he is talking about is three paragraphs in this amendment that says if a child becomes a victim of a crime, including drug-related, that the school system could move the child to another school.

Mr. President, I will give you an example. First of all, we have a letter from the all-knowing NEA, which says, "This amendment"—this is the drug amendment provision—"to allow Federal tax dollars to be used to provide private school vouchers is a cynical attempt to use the recent tragic violence in our schools to advance a political agenda."

What they are talking about is the ability for a local school to take this teenage girl, who was assaulted at her school, sexually assaulted, in an abandoned locker room in De Kalb County—this amendment would allow this school system to move her to another school. That is what the ruckus is about over there. Heaven forbid that we would make it possible for one of these victims of a violent crime to be moved to a safer location. That is what he is talking about when he talks

about the nonrelated issue of school choice. He is talking about this girl and the right for a school system to try to protect the victim of a violent crime. "But this is not a serious attempt to make the bill better. There's not any relevance here."

Fourteen thousand teenagers die every year as a result of teenage drug use. Once again, in the drug culture, the chances of rehabilitation are very limited. That is why you have to have massive campaigns to educate. The administration and the Congress have already understood this because they are trying to launch a national campaign now. And I applaud them for it. It is just too little. If we are going to get this drug epidemic under control we have to get serious.

There was an article in the paper June 2, a pretty interesting article, Mr. President. I will just read a few select remarks from it.

As commandant of the U.S. Coast Guard for the last 4 years, Admiral Robert E. Kramek played a key role in the war on drugs, serving as coordinator for U.S. interdiction efforts. But in leaving the post last week, after 41 years in the service, the 58-year-old admiral could not hide a sense of frustration and dismay about what he described as partisan bickering, pork-barrel politics that have hamstrung the United States in its fight against illegal narcotics. He said, "If we want to win the war on drugs, we've got to have the will to win." He said, "While politicians have described the war on drugs as a high priority and a matter of national security, they have failed to fund it adequately, preferring instead to pour billions of dollars into other things." He said, "Funds spent on interdiction represent 10 percent of the antinarcotic budget. Today [this is the admiral] I have two-thirds of the money, half of the ship time, half of the aircraft flight hours I need," the admiral said. "And you can't get there from here. You can't make a 50 percent reduction in demand in the flow of drugs into this country over the next 10 years with what we're committing to the battle."

The amendment that the other side does not want us to vote on, that some on the other side say is not relevant, the amendment responds to the admiral. The Coast Guard appropriation for interdiction would be doubled with this amendment. In other words, exactly what the admiral said he did not have the amendment gives him. It gives him the ship time to get back in the waters instead of being in mothballs. It gives him the aircraft and the surveillance that he needs to shut down the Caribbean.

The Caribbean got shut down in the 1980s, Mr. President. It got shut down. It was pouring into the United States. The will was put together, and in the 1980s it was locked off. It is not locked off anymore. It is pouring through the Caribbean again, pouring through the Caribbean.

Now the amendment also doubles the interdiction budget of U.S. Customs. It doubles the interdiction budget of the Department of Defense. It strengthens the civil and criminal penalties for custom violations and doubles the number of border agents by the year 2003.

Now, why all the interdiction? Because part of the reason that our teenagers, who are the target of these cartels, are being so affected by these drugs is that they are everywhere and readily accessible and cheap. If these interdictions are successful, the price goes up and the availability goes down. Price goes up. The other side is talking about the fact that price affects purchasing. It works that way in drugs, too. If the floor of the price drops out, you can buy marijuana as cheaply as a pack of cigarettes, what do you think will happen? The price affects not just tobacco, it affects drug use, too. And we have allowed the price to just plummet, too much of it, too accessible, too cheap.

So the admiral is absolutely correct. If we are going to stop this epidemic, it is going to require a nation demonstrating the will. If the President is serious in his statement about our nations of the world coming together to confront the evil empires, then he needs to have a message sent over here to his team and say we want drug addiction to be a part of this effort.

I find it curious, I have to tell you just at the outset, as to how you could have ever gotten into a debate about teenage addiction and been absolutely silent on the No. 1 problem, addictive problem, teenagers are facing. I find it incredulous. Then to make matters even worse, some lame argument that it isn't relative. First of all, the majority of the teenagers using it, smoke it. It is a product that is smoked, just like tobacco. The only difference is it is five times more dangerous. National Institute on Drug Abuse and National Institutes of Health say:

Someone who smokes marijuana regularly may have many of the same respiratory problems that tobacco smokers have. These individuals may have daily cough and phlegm, symptoms of chronic bronchitis, and more frequent chest colds. Continuing to smoke marijuana can lead to abnormal functioning of lung tissue injured or destroyed by marijuana smoke. Regardless of the THC content, the amount of tar inhaled by marijuana smokers and the level of carbon monoxide absorbed are three to five times greater than tobacco smokers. This may be due to the marijuana users' inhaling more deeply and holding the smoke in the lungs.

But it is not relevant? What a puzzle. I have been trying to figure the logic. Just try to match that paragraph with the suggestion that this amendment is not relevant to this issue. Nonsense. It is the No. 1 issue. No. 1 for parents, for teenagers, for our society, for this country. It is an epidemic.

We had a lot of discussion about the fact that tobacco is focused on youngsters—and that is horrible—but the cartels are totally focused on teenagers, age 8 to 14. It is the first war that has ever been waged against kids that we are in the middle of.

So we suggest an amendment, if this legislation becomes law, that says 20 percent of the resources, 20 percent, are to be focused on the Nation's No. 1 problem. I think that leaves 80 percent to deal with what is, among families and teenagers, the eighth most serious problem.

I see the coauthor of this amendment has arrived on the floor. I yield the floor.

The PRESIDING OFFICER. The senior Senator from Idaho.

PRIVILEGE OF THE FLOOR

Mr. CRAIG. Mr. President, I ask unanimous consent that on Wednesday, June 10, between the hours of 3 and 4 p.m, Anson Chan, the chief secretary of Hong Kong special administration regional government, be given floor privileges.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRAIG. Mr. President, I am so pleased to be able to stand on the floor today with my colleague from Georgia who is the primary author of the important amendment that is before the Senate. He has done such an excellent job of laying out what everyone in America knows to be the No. 1 issue facing our young people and literally facing the American culture, and that is the drug culture and the impact it is having on the lives of an awful lot of our citizens and especially our young people.

Neither he nor I belittle the concern that 3,000 young Americans start smoking every day. But 3,000 young Americans that start smoking don't die every day. But about 40 of our youngest and sometimes our brightest die every day because of an overdose of drugs or because of a crossfire of a gang shooting that was drug-related. That adds up to about 14,000 young Americans.

Yet this legislation we have before us, S. 1415, 753 pages that our colleagues tell us will cause young citizens in this country to smoke less and live a better life, has not one word in it about illicit drugs, the drug traffic, and what we as a citizenry and those of us as policymakers ought to be doing, where we can, to stop the rapidly increasing flow of illicit drugs into this culture.

My colleague from Georgia, Senator COVERDELL, and I join together. By this amendment we are saying if you are really sincerely concerned about what goes on amongst our young folks today that may in some way damage them, then you ought to be voting for this legislation because the Senator from Georgia, like myself, and I know like the Presiding Officer at this moment, have on many occasions gone before grade school and high school groups to talk about the state of affairs of our country and the importance to those young people of what goes on in our country, and we have asked the question, Is cigarette smoking a problem.

Yes, a few hands go up. They are concerned about it. Others are not because they are smoking. But when you ask about drugs, when you ask about the character of them, the nature of them, the availability of them, all hands go up, or nearly all hands, because young people know better than anyone else what is going on amongst their peer group. They are frighteningly concerned because oftentimes it impacts the life of a friend or it disrupts in a massive way a friend's family.

Yet today this Senate is silent on the issue. This administration has retreated in a dramatic way from the war on drugs that was launched by the administrations of President Reagan and President Bush.

Let me give some very interesting statistics. While there are not as many pot smokers as tobacco smokers at current rates, if the current rate continues, in but a few short years there will be almost as many marijuana, pot, weed smokers amongst our youth as there are tobacco smokers. There has been a 25 percent, 38 percent, and 31 percent increase in the number of children who have smoked a cigarette in the last 30 days, in the month of May. In comparison, there has been 175, 153 and a 99 percent increase, respectively, in the number of children who have tried a joint of marijuana in the last 30 days in the 8th, 10th and 12th grades, respectively.

That is an American tragedy. We know it. Yet, we have allowed this administration and, frankly, we have allowed the Congress to be relatively silent on the issue. That is why the Senator from Georgia and I could be silent no longer. It is critically important that we speak out, that we begin to shape more clearly policy that will work toward interdiction. As the Senator has just spoken to, the Coast Guard, dramatically cut back, with ships in mothballs—they are not out in the Gulf of Mexico, where they were for a good number of years, stopping the flow of illicit drugs moving into the market.

There is a 70 percent flow of drugs coming across our southern borders, and we are silent to it. Well, yes, in all honesty, there has been a limited amount of interdiction. Yes, there was an effort on the part of this administration as it related to the money laundering in Mexican banks. But just the other night, on television, there was attention addressed to three Mexican brothers operating south of the border, in Tijuana, talking about the multi-hundreds of millions of dollars in cash-flow and the intimidation and the deaths that they can bring down on citizens who get in their way because they are the kings of drugs flowing up the west coast. We know who they are. Their pictures were shown on television. But we do limited amounts of things against them. Are we frightened of them? No. It is just a retreat from the scene. It is the attitude of, well, we will fund a little bit of therapy if somebody gets hooked on drugs. But somehow we don't want to engage in a war to save our children.

I was once a smoker. I am not proud of it, but I was. But I quit, I guess when I matured enough to know that it wasn't good for me and smart enough to know that it wasn't the right thing to do. But you know, if I would have been hooked on a major drug like cocaine, I might not be here today. The great tragedy of young people and drugs is that it kills them. Young people, while smoking cigarettes may be the cool and stylish thing to do amongst their peers, grow up and mature. There is a reverse peer pressure that begins to develop, and in great numbers we see young people quitting in their twenties and early thirties. They can quit because they are not dead. But if they are hooked on cocaine or heroin, which is the follow-up to marijuana, they are dead. That is how they quit. We know it.

We saw the great tragedy out in California of the great humorist a few weeks ago whose wife could not get off cocaine. She finally killed that humorist and then took her own life and left two small children. That is the story of drugs, the tragedy of drugs. The other side is saying that we have a bitter pill here: We are trying to destroy a tobacco bill. Quite the opposite: We are trying to make it a good piece of legislation that truly does something against this phenomenal drug culture in our society. That is what we ought to be debating. Those are the real issues.

Let me give you some fascinating statistics. Young people are young people, and for those of us who are now adults, but, more importantly, for those of us who have raised teenagers, we know a lot more about kids than we used to know, especially if we have raised our own. We know that if you put a challenge against them, oftentimes they will meet the challenge. Well, guess what? The American public knows that, too. And so when they were recently asked, just in the last week, in a nationwide survey—not funded by a tobacco company, funded privately—the question was asked: Which of the following do you believe is the most responsible for young people initially beginning to smoke? Ten percent of the American public said Hollywood, television, popular culture.

You know, it is true. When that handsome or attractive television star or movie star walks out in prime time with a cigarette in their hand, that is cool; that is something, those viewing say, I ought to do. Yes, when President Clinton said he didn't inhale and then later on MTV he jokingly said he might have on a second try, guess what happened? Marijuana usage amongst teenagers bottomed out and headed up, because the leader, the icon of America's culture, kind of shrugged it off as no big deal. But the tragedy of no big deal is that, step one, marijuana smoking leads to step two, a search for cocaine, which can lead to death. The numbers have dramatically changed during this administration. I am amazed that they aren't out on the front line with us attempting to lead a war against drugs.

Well, back to the question: Who most influences young people to initially start smoking? Thirteen percent say the parent example—in other words, a power figure, an important figure in your life. If your parents smoke, you are likely to smoke.

The tobacco industry and their advertising—if you listened to the debate from the other side on the floor, you would be convinced that they alone caused 3,000 kids a day to start smoking. The American public says that maybe 6 percent of the cause is laid at the feet of the tobacco companies. I am not going to let the tobacco companies off. Yes, we now know that they targeted young people by their advertising, and that is wrong, and we ought to try to stop that. But the public knows that it didn't work that much.

Guess what. No. 1 factor: 59 percent say influence of peers and friends. If you have ever raised a teenager, you know that that is absolutely correct. It is the pressure of those whom they associate with, those whom they go to school with, those whom they play with; that is the real influence. If the friend is smoking, then there is a great pressure for you to smoke. Worst of all, if the friend is using drugs and thinks it is cool, and you are in that group, as a teenager, there is phenomenal pressure on you to go along, to be cool, to be part of the crowd.

Well, the statistics go on. But, most importantly, the American public has not been fooled by the rhetoric on the floor from the other side that somehow this massive tax increase, this massive expansion of Government programs, is somehow going to stop teenagers from smoking and make the world a safer and healthier place, because when they were asked, in this same poll, basically what the impact of this legislation would do and what it really was, 57 percent of them said it was a massive tax increase and a major increase in Government. And then they asked the question about raising the price of a pack of cigarettes by better than double—$2.50 when everything is added in at the furthest extension of the bill—is that more likely or less likely to stop teenagers from smoking? Sixty-seven percent of Americans said it was less likely. Strangely enough, Mr. President, if you do the math and you raise cigarettes to that amount, all of a sudden marijuana becomes less expensive in a relative sense. Kids are paying

three times or four times the price of tobacco for a joint of marijuana. Yet, we are being told that if you just jack up the price somehow they quit smoking. Yet, marijuana usage in a 30-day period in this last month of May was up 157 percent amongst eighth graders. It sounds like a lot of spendable income to me. Yet, that is not taken into consideration.

So my colleague from Georgia and I said that somehow we have to change this. We have to work with our colleagues here in the Senate to change it. How long can we go with these figures and statistics and death rates smacking us in the face and saying it is not a problem, it is not a problem if 14,000 young people die directly or indirectly related to drugs on an annual basis? That is a national crisis by any definition deserving a national effort of magnitude against it. That is what the Coverdell-Craig amendment does.

As my colleague from Georgia was speaking and talked about doubling the interdiction budget for U.S. Customs, doubling the interdiction budget for the Coast Guard—in other words, ships out of mothballs and back in the water—the Department of Defense put some effort there because they have been pulled back. As my colleague from the State of Idaho who is chairing at this moment knows, we have seen a major effort out in our State with drug-free communities and a drug-free neighborhood effort. We help there. While that has been a marvelously successful voluntary effort bringing in business and educators in our State, we help them out by some block grants giving flexibility to do more in the local communities by millions of dollars nationwide to encourage the successes in Idaho and other communities to have those successes across the board everywhere. Does it make a difference if national leaders and local leaders and State leaders are standing up telling their young people not to get involved in drugs? You bet it does. Our First Lady, Nancy Reagan, was oftentimes joked about because she said "just say no." Yet, because she was and is a national leader and a national image of great respect, the young people responded.

There is value in saying no and not shrugging it off and laughing and saying, "Maybe I ought to have tried to inhale." But it is very important that leaders of this country say no.

Our legislation helps leaders at the local level and the State level say no. Why should teenagers convicted of drug crimes or associated with drug purchases have a driver's license? If you are caught drinking at an illegal age in the State of Idaho, you don't have a driver's license. Shouldn't it be the same? Our bill provides for that incentive, and it ought to.

But the real arena is our schools. This legislation makes allowable the use of Federal funds to provide school choice for grades K through 12 for students who are victims of school violence related to drugs, and includes drug-related crimes, creates incentives for States to provide an annual report card for parents and teachers listing incidents of crime. In other words, it lifts the awareness of drugs in the community and in the school system to get parents involved along with their educators to build a drug-free school environment. That is what we ought to be talking about—and a smoke-free environment. Let me add that. That is important, too, because we want to get kids away from tobacco.

The thing I fear most in all of what we do or may not do is that we are hiding in the myth that has been perpetrated by some, including the former Director of the Food and Drug Administration, that if you just jack up the price of a pack of cigarettes the problem goes away. Yet, every nation that has tried that in the past—and Canada is a perfect example—lost their market because the market went into the black market. When there is a desire in the public arena for something and you restrict the ability of the public to get to it, they will find a way. Thirty percent of the sales in Canada went into the black market. They had to lower the tax to get the sales back to control the product.

My point is very simple. If we do that in this country and 30 to 40 percent of tobacco and cigarette sales move into the black market, then that cool dude on the street that is selling your kids marijuana or cocaine is going to open his coat and say, "Oh, you can have some cigarettes, too. I am your local cigarette vendor, but I also have marijuana and cocaine. What is your choice?" Wouldn't that be a human tragedy if that is what this legislation, S. 1415, results in?

I am not saying that is the intent. I am saying that is how the market reacts. The statistics and facts show that in Canada, in Europe, and in Germany, that is exactly what happened. Yet, we are so naive to think you just jack up the price as high as you can possibly get it. Oh, sure, you are going to get hundreds of billions of dollars from the lower income, 30 percent of the socioeconomic scale of this country, and you are going to spend that in all kinds of programs. The trial lawyers are all going to get billions of dollars. But what about the kids? What about the kids?

You can't tell the tobacco industry to quit advertising without their consent. It is something called the first amendment in our country. They said they would voluntarily do that if we would control this a little bit. This Senate has chosen not to do so. So we will not get their consent. They will not become involved. But the great tragedy is our kids will be the victims still. While it may curb a few of them from smoking, we are silent—deathly silent—to the issue of drugs.

I am extremely proud to stand on the floor today with my colleague from Georgia to offer the most comprehensive anti-teen-drug amendment, to my knowledge, that this Senate has put forward. I don't plead with my colleagues from the other side. I challenge them to get aboard, to quit looking at the dollars and the political game being played, and come with us into good, effective public policy that mans the front lines once again in the war against drugs, that allows national leadership and State and community leadership to unite to say that perpetuating a drug culture among teenagers of our country is an evil we will not tolerate. That is what our amendment does so very clearly.

So to the other side, don't call it a bitter pill. How dare you? I don't blame you for being embarrassed about the President's record. The country ought to be. But we don't have to live with that record. We can walk beyond it. This amendment allows that to happen. This is not a bitter pill, nor is it a placebo. It is the beginning of a major and comprehensive effort to deal with the reality of our time. That is that there is the growth of a drug culture in our society that is killing America's youth in greater numbers than we ever dreamed possible. It is time that we stop it.

Mr. COVERDELL. Mr. President, will the Senator yield?

Mr. CRAIG. I would be happy to yield.

Mr. COVERDELL. There are so many numbers that we talk about here. We often talk about how complicated it gets. But when the Senator talks about the magnitude of this issue, I think there are two figures that have been spellbinding to me, and it fits so much with what the Senator is saying.

What all this means is that today one in four—that is 25 percent—of high school students are using drugs now regularly—one in four. Most of them are smoking it. They smoke it. But they say it is not relevant—1 in 10 junior high schools students. When the Senator was talking about the number of students that are affected by this, the number of deaths, 25 percent of the high school population in the United States and 10 percent of the junior high population in the United States.

I just wanted to make that point.

Mr. CRAIG. The last 30 days, 8th, 10th, 12th graders, using marijuana, up on the average of 100 percent. That is a dramatic figure that you speak to.

Out in my State of Idaho—rural, big public land State—two major raids last year of huge magnitude, to interdict marijuana, and still it remains, by everybody's figures—and we don't have those figures—the No. 1 cash crop in this country being driven by this huge

market in this country. And that is in this country. And we are not getting that, let alone getting the huge flow of cocaine and heroin coming in from the outside along with marijuana, 70 percent of the flow across our southern borders.

The Senator from Georgia dealt with that with greater money for Border Patrol and interdiction. When we look at what is going on in Mexico today and their attitude in relation to this, it is a huge money machine for them, and it permeates down through their system, and it corrupts it. And it will corrupt ours, because there is the constant effort to corrupt. So that those who are of the profiteers can gain access through to the innocent, the children.

I thank my colleague from Georgia for his effort and his energy in this area. He brought my attention to this issue, and it was obvious to me in a very short time that we had to deal with this. We will be back, successful or unsuccessful here. This is something I think neither of us will rest on until we have a much clearer, stronger public policy in this area and we engage our Government in probably one of the most significant wars—against our very culture and our people, our young people, our future—that we have ever seen before.

I thank my colleague, and I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, working off the remarks of the Senator from Idaho, which I appreciated very much—not only his cooperation in joining in the amendment in the first place but the energy and intellect that he has brought to the discussion since that time—as he was talking, I was reminded of a meeting that occurred, probably, now, some 2 years ago.

I was encouraged to stop by a female youth detention center in the middle of my State. I really didn't expect that much from the meeting, but they gathered about 20 of the inmates. Their ages were 12 to 16. They were each given the assignment to tell about their own experience and what happened. As they walked—I was quite taken with the courage. It is not an easy thing. First all, the circumstances were pretty rough; and then they have to sit there and talk about it. But they did. They walked around the room. They were in the detention center for prostitution, assault and battery, attempted murder, car theft—and you name it—all related to an addiction to drugs. All of it.

It was very moving, the damage and their realization of it. I asked them, in the meeting, if they could say whatever they wanted to say to the rest of the youth of the Nation, what would they say? Really quite remarkable. They all said essentially the same thing in different ways. They said, "Don't use drugs. Do not believe you can control them"—which is the point my colleague was making. "The drugs will control you. And do not use drugs to be anybody's friend, because if somebody is encouraging you to use drugs, they are not your friend." They all had a sense of how dramatically their lives had been changed. One young girl said she was afraid to leave the institution; she just knew she was going to have difficulty breaking away from it.

Cigarettes are a tough problem. But there isn't anybody in a youth detention center over it.

Mr. President, as has been stated here repeatedly, this amendment is a very bold statement about what this Nation is going to do about drug use. I am not going to name the individual here I was talking with several months ago. Suffice it to say, the individual was the head of one of our Nation's most powerful agencies. I said, "Are we guilty of just taking on this drug epidemic in a kind of day-to-day, you just kind of keep the wheels turning, but have been unable to understand, as in the Persian Gulf, that this Nation needs to be bold and forceful and come down on this with a hammer?" He paused for a moment, and he said, "We are guilty. We are not paying enough attention. We are not getting bold."

That makes all those men and women out there on the front lines—two of whom were killed a couple of weeks ago, overwhelmed at the border, shot and killed. All those people out there—I am not talking about the teenagers for a moment, but the people trying to help them—get the feeling that we don't care. I am sure the debate they have listened to here on this amendment has not encouraged them: "This is not relevant." This is relevant. This is destroying lives as we stand here and talk. The chance of recovery once the addiction occurs, once somebody is on this stuff—getting them off of it is murder. Our best shot is that they don't get on it in the first place.

So, yes, we need advertising to dissuade people from smoking. In fact, we have been doing a lot of that. This Nation has improved the statistics about tobacco. All of you have seen it. You walk outside, in this new culture, and you see a gaggle of people outside the building smoking in front of the building. When you walk into a restaurant, we just take it for granted, but the hostess says, "Smoking or nonsmoking?" The flight attendant says, "This is a no-smoking flight." Everywhere we go, in our culture, we are beginning to get a message: Tobacco is not healthy.

We are making progress, and we should continue doing it. And I do not fault the underpinnings of the bill to improve the advertising. But it is flawed thinking, to think we can go to the Nation and say it would really help teenagers, and we would have been silent on the No. 1 addiction problem and the one that is undermining our society, the one that is so difficult to correct, if somebody does get snared on this.

One of the provisions in this amendment gives Customs the authority to, up to 5 percent of their force, be able to move it, irrespective of collective bargaining agreements. There is a flurry of worry on the other side because of that. Why is this language in the amendment? Because Customs has to have the authority, from time to time, to alter the nature of who is present at a point of entry. They have to mix it up. So, we have this amendment which—as I said, it is limited up to 5 percent, to give them some flexibility to be able to maneuver who is at a given post at a given time.

It is almost as if every NEA, Fraternal Order of Police, lets them dominate this war. For heaven's sake, we don't want a rape victim to be able to be moved or someone who is a victim of a drug crime, we don't want to give a school district the ability to move that student to a safe-haven school.

Mr. President, I am going to take a few minutes and describe in more detail exactly what the amendment does.

No. 1, it stops the flow of drugs at our borders, and it doubles the resources for U.S. Customs, doubles the resources for the U.S. Coast Guard and doubles the resources for the Department of Defense. It also increases the antinarcotic capacity of the FBI by 25 percent and the Drug Enforcement Agency by 25 percent. In other words, I am responding to the gentleman I talked to a moment ago. It is a bold statement. It responds to what the admiral, who I quoted, said, that the Nation doesn't have the will to fight this battle. This says the Nation does have the will and is going to fight it. Then the accountability will be up to the admirals. We are going to give them the materiel to fight the fight, and then they better win it.

It strengthens the civil and criminal penalties for Customs violations and doubles the number of border agents by the year 2003.

It protects our neighborhoods and schools from drugs.

It has a title dealing with drug-free teen drivers, providing $10 million per year in grants for States that institute voluntary drug testing for teen driver license applicants and for States that enact and enforce laws that crack down on drivers who use drugs. Only five States do that, Mr. President. Only five States have expanded DUI to drug driving. So this legislation encourages an expansion of drug driving.

Drug-free schools: It makes it allowable to use Federal funds to provide compensation and services to K through 12, kindergarten through high school students, who are the victims of

school violence, including drug-related crimes. It creates incentives for States to provide an annual report card to parents and teachers listing incidents of school violence, weapons possession or drug activity, and makes voluntary random drug testing programs an allowable use of Federal funds.

The drug-free student loan provision: It restricts loans for students convicted of drug possession, 1 year for first offenders, 2 years for second offenders and indefinitely for third. It restricts loans for students convicted of drug trafficking, 2 years for first offenders and indefinitely for second offenders. It resumes loan eligibility on an expedited basis for students who satisfactorily complete a drug rehabilitation program that includes drug testing.

Drug-free workplace: It authorizes $10 million per year in SBA demonstration grants for small- and medium-size businesses to implement drug-free workplace programs and provides technical assistance for businesses through SBA.

Drug-free communities: It authorizes $50 million per year to encourage communities nationwide to establish comprehensible, sustainable and accountable antidrug coalitions through flexible matching grants, and it allows up to $10 million of these funds to be used each year to encourage the formation of parent-youth drug prevention strategies.

Mr. President, there is data that strongly suggests that if parents talk to children about the drug issue, the chance of their children becoming users are cut in half—cut in half. But if you ask students by survey or in person whether they are talking to their parents about these problems, they are not. Only about 10 percent of the knowledge that students learn about drugs are coming from the parents. That dialog is not occurring, which also explains why what parents think about the drug epidemic is different from what children think, and children are far more knowledgeable, unfortunately, about the drug epidemic than their parents.

The other day I mentioned one statistic of, "Do your children know someone who uses marijuana?" The percentage of parents who think that is the case is 20 percent. When you ask the students, "Do you know someone who smokes marijuana?" Yes, over 70 percent. There is a disconnect out there, and that disconnect is hurting us. That is what this provision is meant to get at. We have to get parents talking to their children.

One of the ads being used now from the drug czar's office shows a little girl sitting at a desk, and she is being talked to by a voice. The voice says: "There is a pack of matches there. Do you use matches?"

The little girl says, "Oh, no, they are dangerous."

"How do you know that?" the voice says.

"My mommy told me so."

Then they say, "Well, are drugs dangerous?"

And the girl just sits there and looks at the camera. Inference: Mommy is not talking to the little girl about drugs.

These provisions begin to highlight this dialog.

Ban free needles from drug addicts. This has been very controversial, a dispute in the administration, the drug czar's office arguing there should be no needle exchange program. It almost came about, but the drug czar caused a change.

I was given this pamphlet earlier this afternoon. It is published by the Bridgeport Needle Exchange Program of Bridgeport, CT. This is the kind of thing that a needle exchange program would move toward.

The brochure says: "Shoot smart; shoot safe. Tips for safer crack injection."

I have to tell you, Mr. President, the Federal Government should have nothing to do with anything associated with this kind of activity.

"Get your stuff ready. Have a cooker, water, syringe, citric or ascorbic acid, cotton or alcohol wipes ready."

It is your ABCs on how to use a needle. It goes through every step.

"Get a vein ready. Tie off a good vein and clean with alcohol wipe. Never share a syringe or cooker."

Just all your tips.

This legislation makes it absolutely clear that there will be no needle exchange program. It would be banned, and it ought to be.

As I mentioned a little earlier, the Drug Enforcement Agency would receive an antinarcotic budget increase of 25 percent. The Federal Bureau of Investigation would receive an increase in the drug enforcement budget by 25 percent. It would require the registration of convicted drug dealers and provides $5 million per year in incentive grants to States that require convicted drug dealers who target kids to register with local law enforcement.

That is the nuts and bolts of the amendment that we are discussing this afternoon, an amendment that has been criticized as being not relevant to the subject or issue.

From the outset, I have been stunned that this legislation would be silent on teenage drug addiction. Myself, Senator CRAIG and others decided that could no longer be the case.

If we are going to talk about teenage addiction, we have to simply make sure that in the center of this debate is the subject of teenage drug abuse. Why? Because teenage drug abuse is the No. 1 problem—No. 1—because it is costing our society $67 billion a year; because it has resulted in 800,000 U.S. prisoners in jails, in prisons, State and Federal; because it has caused, and continues to cause on a daily basis, the most violent, hostile attack on our citizenry and its property.

As bad as smoking a cigarette is, it does not cause a mind to pick up a gun and murder someone. But drug abuse does. That is why we have seen this surge of violent crime among our youth that everybody is so alarmed about—drug based. And as we have wondered about the increase in mindless crime, just senseless and brutal—drug based. Drugs alter the mind, and they cause inexplicable activity and hostility that the rest of society bears the brunt of.

Relevant? You bet. And this Senator, for one, any time you talk about teenage addiction, which I am glad we are talking about, we are going to talk about drug addiction because it is part of it. And it is smoke driven, the only difference being that it is five times as dangerous to smoke this stuff as tobacco.

Mr. GRAHAM. Mr. President, at this point in the debate, it is appropriate to ask one very simple question: Why are we here? Why have Members of the Senate spent months of their time focusing on this issue? Why, with a busy schedule, and few legislative days left this year, are we occupying the Senate's time with this bill?

The answer to this question is equally simple—the most important thing the Senate can do this year is to make significant inroads in cutting youth smoking.

If you accept this simple premise—that the goal of a tobacco bill should be about reducing teen smoking, then the decision on how to vote on the Coverdell amendment is clear. The amendment should be opposed.

Mr. President, let me be perfectly clear. I support increased appropriations for drug enforcement and drug interdiction. I represent a State that has experienced major crises related to drug trafficking and drug use. And I know better than most, as a member of the Senate Caucus on International Narcotics Control, the importance of fighting the scourge of drugs in America.

Last year, I joined my House colleague and fellow Floridian JOHN MICA in establishing a new High Intensity Drug Trafficking Area in Central Florida. I was also an original co-sponsor of the Drug Free Communities Act. I have co-sponsored a bill with Senator GRASSLEY that will establish a national strategy to attack money laundering. I have fought to increase funding for our counternarcotics efforts time and time again.

Just next week I will be holding a field hearing in Miami on the current interdiction efforts in the Caribbean. I know how serious the drug threat is, and I have been and will be committed to doing whatever it takes to keep drugs away from our children.

I support many of the measures in the Coverdell amendment. And if the United States Senate ever gets serious about addressing this issue, perhaps funding these measures through general revenues, I would support them wholeheartedly.

In fact, we will have an opportunity to vote on an alternative which addresses the drug problem by authorizing funds to increase the number of border patrol agents, Coast Guard officers, and money for the Department of Defense to increase interdiction. And we will be able to augment these programs without gutting anti-tobacco efforts.

Mr. President, let's stay focussed, stick to the purpose, and send a message to parents right now that we are serious about reducing teen smoking.

If we adopt the Coverdell amendment, here's what happens: five million smokers will not receive smoking cessation services. Those who argue that the tobacco taxes are regressive should remember that cessation and other public health programs are targeted toward helping those who will actually pay the tax.

Over 20 million children will not receive the benefits of effective counter advertising to discourage them from taking up the deadly habit of cigarette smoking.

Fifty million children will not participate in school-based prevention programs.

States will not have the funds to develop their own anti-smoking programs which are so vital in protecting our children.

We will not have the benefit of future biomedical advancement through increased funding for NIH research.

In addition, we have solid scientific evidence to suggest that if we stop kids from smoking, they may never take up the use of illicit drugs, such as cocaine and marijuana. This "gateway effect" has been well documented.

Let's look at the findings of the Surgeon General's 1994 report, "Preventing Tobacco Use Among Young People"—ninety-eight percent of all cocaine users smoked cigarettes first.

Among 12 to 17 year olds—those who smoke are 114 times more likely to use marijuana and 32 times more likely to use cocaine.

By contrast, less than one percent of those children who never smoked end up using cocaine or marijuana.

Mr. President, if we are interested in cutting drug use among our children, we should pass this tobacco bill now, and leave the funding to States and public health intact, and then come back and fund the real anti-drug initiatives in the Coverdell proposal and the Democratic alternative amendment. There is simply no reason why we cannot and should not do both. Our kids are worth it.

This is simply the greatest opportunity, and perhaps our only opportunity to take a huge step toward reducing youth smoking. This bill is our best chance to have a significant impact on the Nation's public health. We shouldn't blow it.

Mr. President, those who attempt to gut this bill through funding extraneous programs—are going to be on the wrong side of history. For all of these reasons, I urge the rejection of the Coverdell amendment.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ALLARD). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I ask unanimous consent that I be allowed to proceed for the next 20 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY

Mr. CHAFEE. Mr. President, I rise today to say a few words about the Transportation Equity Act for the 21st Century, otherwise known as the ISTEA reauthorization legislation. This was passed by the House and Senate on May 22, and the President will sign this historic legislation into law later this afternoon.

In the rush to finish the conference before the Memorial Day recess—and I know the Chair remembers well the frantic hours that were taking place then—and during our subsequent efforts on the technical corrections bill to this overall legislation, I did not have an opportunity to speak about what was accomplished in this important bill. I also want to take this chance to thank the many people who were involved in the effort.

First, a word about the legislation. It is the result of over 2 years of hard work and careful negotiation. But I think the final product is better for the extra time and effort that was put into it.

This legislation builds upon the landmark achievements of the so-called first ISTEA legislation, which stands for Intermodal Surface Transportation Efficiency Act. That was in 1991. Senator MOYNIHAN of New York was chairman of our committee at the time, the Environment and Public Works Committee, and was, I think it is fair to say, the principal author of that landmark legislation in 1991.

Now, how is this bill historic? And how is it different from the 1991 legislation?

First, and most obvious, ISTEA II, or sometimes called the Transportation Equity Act for the 21st Century, authorizes a record amount of funding for surface transportation: almost $218 billion for highway and transit programs over the next 6 years.

Of this amount, almost $174 billion will be for highways—that includes bridges, obviously—$3 billion is for highway safety programs, and $41 billion is for transit programs.

Now, $205 billion of these funds are authorized from the highway trust fund, and $13 billion from the general fund. In total, the funds provided in the conference report represent a 40 percent increase over the last so-called ISTEA legislation—40 percent increase.

We will provide these record funding levels in the funding guarantee within a balanced budget. I think that is terribly important to remember, Mr. President. We are not increasing the Federal deficit, despite some of the statements that have been made in the various news media.

For achieving these record funding levels for the highway program, Senators BYRD, GRAMM, WARNER and BAUCUS deserve special recognition, as well as Congressmen SHUSTER and OBERSTAR from the House. All of those Members fought long and hard to ensure transportation would receive substantial increases over the original ISTEA legislation.

I know that the sums in this bill are large, and the press reports sometimes imply we spent too much, but I think we have to put all this into context.

The bill authorizes, indeed, $218 billion. And I must say, that is a lot of money, as we all recognize. It is over 6 years. As I said, this represents a large increase over ISTEA I of 1991.

However, and I think this is an important point, only about 30 to 40 percent of the total projected spending for highways and transit by all levels of government is encompassed in this legislation. People come up to me and say, well, isn't that a lot of money to be spending on transportation—that is, highways, bridges and transit—over the 6 years? Yes, it is a lot of money, but you have to realize it only represents about 30 to 40 percent of the total projected spending that will be done.

Where does the other spending come from? It comes from counties, it comes from States, it comes from cities that are doing things on their own.

In addition to record authorization levels, this legislation made significant changes to the way we budget for transportation at the Federal level. This legislation changed the budgetary treatment of the highway trust fund following the model set forth in a bill first introduced by Senator BOND, which I was pleased to cosponsor and work on with him, the so-called Bond-Chafee legislation.

This bill ensures that all Federal gas tax revenues deposited into the highway trust fund are spent on transportation programs. In effect, this bill reestablishes the linkage between the highway trust fund taxes and transportation spending that was envisioned when the highway trust fund was created. If future revenues to the highway trust fund increase, then under this legislation the highway spending will increase; and, of course, it works the other way, likewise. If the amount going into the highway trust fund from the various taxes—principally the Federal tax on gasoline—decreases, then highway spending, likewise, will decrease.

Now, using Congressional Budget Office projections, $198 billion of the total funding for highway and transit programs will be guaranteed under the new budget mechanism we have. Of the $198 billion, $162 billion is for highway and highway safety programs and $36 billion is for transit programs. It is important to note that this historic change which reestablishes the linkage between the trust fund moneys and trust fund spending was all accomplished within the balanced budget framework. We will keep the highway trust fund on budget as part of a unified budget and we will offset the increased spending with spending reductions in other programs.

I want to thank Senator BOND for his tireless work on the so-called Bond-Chafee proposal, which provides the underlying foundation for the budget reforms we implemented in this legislation. I thank the cosponsors of the Bond-Chafee proposal for their input. I also want to thank Senator DOMENICI and his staff for their work throughout the year and for their help in crafting the final budget mechanism that will become law later this afternoon.

I believe the original ISTEA was a landmark piece of legislation. I have said that many, many times. However, it is true that in the 1991 legislation there were some shortcomings, particularly for the so-called donor States. These were the States that put in substantially more into the trust fund than they got back. The original ISTEA established a 90 percent minimum allocation program which was intended to guarantee that each State at least got back 90 percent of what that State put into the trust fund. The problem was that it didn't work. The 90 percent only applied to some of the programs and wasn't structured mathematically to achieve its goals. The old minimum allocation calculation applied to fewer than 80 percent of the programs, leaving some States to receive a percentage share that was equal to 70 to 80 percent of their share of contributions. In other words, a program that was designed to make sure that every State got back at least 90 percent failed. Indeed, some States were left with between 70 plus up to 80 cents back on the dollars as opposed to the 90 cents.

In this legislation, thanks to the leadership of Senator WARNER and others in the Senate, tremendous efforts were made to guarantee that each State would get back—at least originally, we sought 92 percent. We weren't able to achieve that under the formula, but we did come up so that every State got back 90.5 cents for every dollar that State put into the trust fund, at least. So the donor States were put in far better shape than they previously had been under the old former legislation.

Other members of the Environment and Public Works Committee who played a key role in achieving this result were all very, very helpful. In addition, we had Senators who were not on the committee who were very anxious about the program. Senators ABRAHAM, LUGAR, COATS, MACK, GRAHAM, and LEVIN were diligent in their efforts to see that their States got back at least the 90.5 cents.

Another area where ISTEA broke with the past is how priority projects, otherwise known as demonstration projects, are treated. I realize that these projects are viewed by some just like the demonstration projects of the past. However, I think the way we dealt with them in this legislation was somewhat different. First, the special projects, demonstration projects in this bill, did receive an amount of attention that was far out of proportion to their dollar significance. The high priority projects similar to those in ISTEA I only received 5 percent of the total. If you read the newspapers, you would think they were consuming 40 to 50 percent of the total. Not at all. These special projects received 5 percent of the total. In the original bill, priority projects were treated as mandatory spending, exempt from the appropriations process. In this legislation, priority projects are discretionary spending, subject to the obligation limitations in the appropriation process.

Third, under the former bill, ISTEA I, priority projects were always funded at 100 percent of their authorized level. In other words, priority projects were not reduced when the total authorization went down. However, in this legislation, these projects were treated as the same as the other core projects, taking their share of any reduction caused by a shortfall in final appropriations. If the total amount goes down, the special projects go down, likewise.

We made a sincere commitment to safety in this legislation, recognizing that more than 40,000 Americans die and 3 million are injured in highway crashes every single year in our country. This is a tragic effect for millions of American families. We recognized these statistics and included a variety of initiatives to address this terrible problem. We increased the Federal commitment to improve roadway safety, providing more than $6.6 billion for highway safety programs; $3.6 billion of that will be available for safety construction, efforts aimed at eliminating road hazards and improving safety at rail-highway grade crossings. We provided a little over half a billion in incentives to States to promote seatbelt use. Seatbelt usage is by far the most important step that vehicle occupants can take to protect themselves in the event of a crash. We provided half a billion in incentive programs to encourage States to adopt tough .08 blood alcohol concentration standards. This is something that Senators LAUTENBERG and DEWINE worked very, very hard on. I want to recognize their efforts.

Under the category of innovation, we recognized we must maintain the strength of the transportation system we have in place but we have to provide new tools to address new problems and supply new solutions. We have to look at ways to finance our substantial infrastructure needs, evaluating the potential of new methods to design and build infrastructure more efficiently so we have innovative financing provisions, the so-called Transportation Infrastructure Financing and Innovation Act. That is a mouthful. It is also known TIFIA. I want to thank Senators GRAHAM and MOYNIHAN for their leadership on that important provision.

As far as intelligent transportation systems go, this is a forward-looking initiative. We have to make the most efficient use of our existing highways. We provide new options for transportation planners to address safety and capacity concerns. The objective is to move more vehicles in a safer fashion over the same amount of highway that exists—not expand the highways, just move more vehicles along the existing highways in a safe fashion.

The environment received great attention in our legislation, and, I might say, so did ISTEA I in 1991. But we continued that. Indeed, we increased funding for the Congestion Mitigation and Air Quality Program. In other words, where congestion arises, we took efforts to mitigate those problems and the reflections that that congestion has upon our air quality.

We boosted funding for the Transportation Enhancements Program. We increased that by 38 percent over the prior legislation of 1991. So States can use these funds for what we call transportation enhancements, such as bicycle and pedestrian facilities and historic or environmental preservation projects.

We initiated a wetlands banking system to mitigate transportation's effect on wetlands. When we build new roads, all too often wetlands are affected. We want to promote wetlands restoration.

We did that by making wetlands restoration a profitable private enterprise.

We reauthorized and amended the Aquatic Resources Trust Fund, which provides about $350 million annually to States throughout the Nation for sport fish restoration and boat safety programs.

So these are some of the things that we did. We had environmental streamlining. We held the line on administrative expenses. We added a design-build system for contracting. Current law doesn't allow the use of the so-called design-build concept in highway construction. The design-build concept combines the design and construction phases of a highway project, allowing projects to be built faster and at less cost to the taxpayer.

Mr. President, I will conclude by recognizing the tremendous efforts put forth in this legislation by the staffs and by the Department of Transportation. I want to thank Secretary Slater and Federal Highway Administrator Wykle for their time and effort on this bill and for making the full resources of the Department available to us. From the Department of Transportation, I thank specifically Jack Basso, Nadine Hamilton, Bud Wright and his staff, Tom Weeks, Bruce Swinford, Roger Mingo, Dedra Goodman, Frank Calhoun and his staff, Patricia Doersch, Bryan Grote, and David Seltzer. These individuals, particularly on the formula runs, were tremendously helpful.

I thank Secretary Slater for allowing Cheryle Tucker from the Federal Highway Administration to be detailed to our committee for 16 months to help us on this. I thank all the conferees from the Environment and Public Works Committee; all 18 were conferees. I think that was very helpful to me, and I believe it worked well. These members took hours from their busy schedules to listen to summaries of what was taking place and offered suggestions. I thank the chairman of the subcommittee, Senator WARNER, and the ranking member, Senator BAUCUS, for their efforts in getting this legislation up to the full committee.

Lastly, I would like to recognize the efforts of the Senate staff who worked so long and hard. Of course, I thank every single one of them. Particularly, I recognize the work of Jimmie Powell, who was just tireless, and a series of others who did such a good job. I am going to run over the names of some of those who worked on the reauthorization that I was particularly close with. Chris Hessler; Dan Corbett, of course, who was tireless and always present; Ann Loomis; Tom Sliter; Kathy Ruffalo, with Senator BAUCUS; Chris Russell; Gary Smith; Tracy Henke, with Senator BOND; Jason Rupp; Doug Benevento, with Senator ALLARD; Abigail Kinnison with the Environment and Public Works Committee; Al Dahlberg with the Environment and Public Works Committee; Linda Willard with the Environment and Public Works Committee; Ellen Stein with Senator WARNER; Chad Bradley with Senator INHOFE; Chris Jahn with Senator THOMAS; Gerry Gilligan with Senator SESSIONS; Rick Dearborn with Senator SESSIONS; Arnold Kupferman with Senator MOYNIHAN; Polly Trottenberg with Senator MOYNIHAN; Liz O'Donoghue with Senator LAUTENBERG; Kirsten Beronio with Senator LAUTENBERG; Drew Willison with Senator REID; Melissa White with Senator GRAHAM; Tim Hess with Senator GRAHAM; Joyce Rechtscheffen with Senator LIEBERMAN; Christopher Prins with Senator LIEBERMAN; Rob Alexander with Senator BOXER; Joshua Shenkmen with Senator WYDEN; Howard Menell with the Banking, Housing, and Urban Affairs; Peggy Kuhn with the Banking, Housing, and Urban Affairs; Joe Mondello with the Banking, Housing, and Urban Affairs; Loretta Garrison with the Banking, Housing, and Urban Affairs; Bill Hoagland with the Budget Committee; Brian Riley with the Budget Committee; Austin Smythe with the Budget Committee; Mitch Warren with the Budget Committee; Ann Begeman with the Commerce, Science and Transportation Committee; Charlotte Casey with the Commerce, Science and Transportation Committee; Clyde Hart with the Commerce, Science and Transportation Committee; Bob Greenawalt with Senator CHAFEE; Ashley Miller with Senator ROTH; Keith Hennessey with Senator LOTT; Carl Biersak with Senator LOTT; Janine Johnson with Senate Legislative Counsel; Peter Rogoff with Senator BYRD; Pam Sellers with Senator COATS; Steve McMilin with Senator GRAMM; and Dave Russell with Senator STEVENS.

They all were tremendous, and I feel bad if I left out the names of any of them. So it goes, Mr. President, without the help of these individuals, we plain could not have gotten this legislation accomplished. So I thank every one of them.

I thank the Chair.

Mr. President, I yield the floor.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The Senate continued with the consideration of the bill.

Mr. ROBB addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. ROBB. Mr. President, I would like to return to a discussion of the bill that is currently before the Senate. I voted against cloture today, and barring some major shift in the direction of this legislation, which now, regrettably, appears unlikely, I will have no choice but to vote against cloture again tomorrow.

Mr. President, I have a keen interest in the pending legislation. I have three children, all now grown. No member of my family smokes now, and I hope they never do. In the Senate, we represent millions of parents who have the same wish for their children. There are thousands of Virginians who belong to the American Heart Association, the Virginia Cancer Society, the American Lung Association, Virginians who have fought for years against the scourge of smoking-related disease.

There are also, however, thousands of honest, hard-working, God-fearing, law-abiding, taxpaying Virginians whose lives and livelihoods would be dramatically affected solely by the actions this Congress may take on the tobacco issue. For example, there are thousands of Virginians who work to manufacture tobacco-related products, and thousands more who work in associated industries, like the dock-workers at the Ports of Hampton Roads, foil manufacturers, and filter makers. And there are the thousands of Virginia families who work the soil and grow tobacco, who face not only the uncertainty other farmers face regarding the weather and other uncontrollable forces, but must contend with the added uncertainty of what Congress may do to affect their lives.

In short, to an extent not shared by many of my colleagues I represent virtually every interest affected by this legislation. While some would argue that because I'm from a tobacco state I must be biased on this issue. I believe that because I'm from a tobacco state, I'm in a unique position to be objective. I'm willing to listen with an open mind to public health advocates, who want to protect the Commonwealth's children, but I'm also willing to listen with an open mind to tobacco workers and tobacco growers whose very livelihood is under attack. Indeed, I've worked closely with both the public health community and the tobacco grower communities—as well as the tobacco worker communities—whose concerns were not fully represented in the June 20 agreement.

I have believed from the outset that a resolution of the issues surrounding tobacco is in the best interests of all interested parties—children, the public health community, tobacco workers, plaintiffs, tobacco companies, tobacco farmers and their communities. I've said that from the very beginning and my position has not changed.

I still want very much to support comprehensive legislation that will address these concerns. Comprehensive legislation, however, must be reasonable. While by its very nature complicated legislation will not be perfect in any one individual's eyes, it must be fair and responsible. And indeed, it must meet its stated objectives. I have reluctantly come to the conclusion that as it now stands, this legislation

has lost sight of its objective and will do more harm than good.

When we began this process of crafting legislative solutions to the problem of tobacco use among our children, we all understood it would not be easy. We knew that difficult and complicated issues needed to be addressed, and consensus would be hard to reach. But as I stand here today, I've become convinced that this effort has hopelessly faltered, tripped up by an unholy alliance of those who wanted to toughen the bill and those who wanted to kill it. We've lost our focus on our original goals. The lure of money to pay for both expensive tax cuts and federal programs, and the politics of punishment, have unfortunately proven irresistible.

We had, and regrettably for now we've lost, an historic opportunity to address underage tobacco use. While I did not agree with every element of the proposed resolution of tobacco issues that emerged with the original settlement agreement on June 20, 1997, I did see it as a chance to resolve many of the issues surrounding tobacco that have proven intractable in the past. The process of reaching the conclusion was not perfect, and there were parties who were not invited to participate, most notably in my view the tobacco growers and tobacco workers, to the extent their interests did not coincide with the companies'. But the framework for a resolution was there, representing compromise by the states, the tobacco companies, and the public health community.

A carefully crafted, moderate compromise, however, is no match for a hot political issue. Between those who focused on punishing tobacco companies, and those who focused solely on opposing a tax increase, we have a political free-for-all. And these two factions, one of which believes it is protecting the children and the other which believes it is protecting the taxpayer, have united to create legislation in its current state that has become unworkable, irresponsible and unlikely to solve the problem it is designed to address.

This legislation should be about developing a plan to stop children from using tobacco products. And I do not doubt the commitment of those who have worked so hard on this bill to achieve a reduction in youth smoking. In my view, however, the amendments to the underlying bill that we have adopted recently do not get us closer to that goal. To the contrary, they make the essential compromise unreachable.

It is clear that the advertising and marketing rules the FDA put in their regulations represented the outer limits of what the government could do to restrict speech without the consent of those being restricted. To entice consent from the tobacco companies to modify their speech, the bill contained a cap on the amount of money a consenting company could be required to pay during any one year. That cap did not shield any company from paying any judgment rendered by a court; it merely regulated the time period over which such payments would be made.

During the amendment process, we've witnessed the emergence of an unlikely coalition of those who seek to punish the companies and those who seek to kill the bill who teamed up to strip that provision from the bill, virtually ensuring that no company will consent to greater restrictions, and preventing us from further limiting the advertising and marketing practices of the tobacco companies which many have come to the floor to denounce. However gratifying that vote may have been for some, I believe that amendment moved us away from our objective to combat teen tobacco use.

I believe the absence of liability protection does even further damage to the goal of the legislation. Without some limitation on liability, a "Powerball" plaintiff could hit a jackpot with a lone jury and walk away with the keys to the company. If that occurs, the company's funds will not be there to spend in the public interest as elected representatives see fit, but will be spent however the winning plaintiff sees fit. No funds for counter-advertising, no funds for smoking cessation programs, no money for cancer clinical trials and, yes, no money for farmers. This is a perverse result, which may satisfy a short-term craving for revenge but will leave the programs we want to support starved for funding over the long-term.

A better approach, in my view, would be to eliminate punitive damages for prior bad acts in exchange for a substantial up-front payment by the tobacco industry. This approach would have the benefit of allowing those "punitive damages" to go toward the public good, rather than to plaintiffs and their attorneys who "hit the jackpot."

Without liability protection, a single runaway jury could wipe out a major U.S. corporation, without any corresponding public benefit except the satisfaction of some from "slaying the beast." But it would come at great social cost. It would destroy the jobs of those employed by those companies, and all of those in related jobs whose livelihoods depend on the company. And because there would still be a demand for cigarettes, other companies, both foreign and domestic, would simply step into the market and continue selling cigarettes, so there would be no guarantee of any perceptible public health benefit. I'm not convinced that this is the most rational course.

I'm also uncomfortable with the look-back provisions. The look-back provision sets up a performance standard, requiring certain goals of tobacco use reduction by minors. If those goals are not met, a strict liability scheme imposes penalties on those who manufacture tobacco products. While I certainly favor performance standards, I question their application when meeting the standard is not within the control of the entity charged with reaching it. Meeting the goals of the look-back provisions depend entirely on controlling the behavior of adolescents.

I'm not convinced that either the government or the tobacco companies really know how to control teen behavior, and while we should certainly try to develop methods of eliminating the use of tobacco products by adolescents, I don't believe we should assess damages against companies if those strategies don't work. The way the look-back provisions are currently structured, if the tobacco companies do everything this legislation requires them to do, and it doesn't work, they are still assessed damages, regardless of culpability. I believe this overestimates the power of the tobacco companies, because it requires companies to be responsible for the behavior of adolescents.

Finally, with regard to the tax increase on tobacco products, I'm not unalterably opposed to raising the price. In fact, I voted against the amendment that would have eliminated any tax from this bill. I have in the past supported necessary tax increases when I believed them to be in the national interest, such as the 1993 deficit reduction package which has helped spur the economy. But I believe we should think long and hard before levying a tax that disproportionately taxes those at the bottom of the economic ladder. If we determine that raising the price by $1.10 per pack is the only way to tackle the problem of teen tobacco use, then I believe we have an obligation to assess it. But given the uncertainty as to what will actually stop teens from trying to act like adults by smoking, it seems to me we should try other approaches first. A massive, regressive tax ought not be the first resort, it should be the last resort.

In its 1996 regulations, for example, the Food and Drug Administration indicated that marketing and advertising restrictions, and tougher retail enforcement, could cut teen tobacco use in half. While that estimate was likely overly optimistic, I think that we can expand upon the approach taken by the FDA to achieve the goal we all share. In the proposed rule, the FDA stated that "the agency has examined many options for reducing tobacco use by children and adolescents, and believes an effective program must address the two following areas: (1) Restrictions on cigarette and smokeless tobacco sales that will make these products less accessible to young people; and (2) restrictions on labeling and advertising to help reduce the appeal of tobacco products to young people along with

requirements for a manufacturer-funded national education campaign aimed at those under 18 years of age to help reduce the products' appeal to these young people." I would prefer enhancing these proposals, and determining whether they can solve the problem, before assessing a major tax on adults. Since only 2% of the cigarettes purchased are used by children, I would place emphasis on a far more precise tool than a tax on the other 98%, unless such a tax is the only weapon left in our arsenal.

For example, I would like to focus more on requiring those children who smoke to accept some short-term consequences of the decisions they make, such as taking away their car keys.

This is the type of approach that would be a more exact tool. But it is not to say that I could not have supported some look-back provision, or some tax increase, so long as they were contained in an otherwise balanced bill and the proceeds targetted toward supporting and enhancing the objective. In fact, I agreed to serve on the tobacco task force to try to help develop a balanced approach that would solve the problem. I knew going in that no proposal would be completely to my liking, and I was prepared to accept some less palatable provisions as part of a workable package I could have embraced.

For example, although I've always believed the look-back provisions were not sound public policy, despite the support they had from the companies, as part of a fair and reasonable resolution, I could have supported this approach. I was willing to accept a certain level of variance from my ideal in the interest of accomplishing the objective. This legislation, however, has reached the point where the burden is too heavy and the variance too great.

I cannot in good conscience support legislation which places too heavy a burden on people I represent without some guarantee that their legitimate concerns would be addressed and without some certainty that the objective of reducing youth tobacco use would be met. All along, I've wanted to achieve the dual goal of reducing teen tobacco use and looking out for the economic well-being of the hard-working people I'm here to serve.

This bill in its current form no longer has enough emphasis on these objectives, which is why I now am not supporting it. An unusual confluence of those who want to punish the companies and those who want to kill the bill have shaped legislation which many of us who wanted a responsible bill can no longer support. I had hoped to come to a different conclusion about this process. I still believe that a properly crafted global settlement is in the best interest of those concerned about tobacco. A resolution of the issues that have dogged the tobacco industry for decades, if done correctly, would be good for growers and their communities, children, tobacco workers, the tobacco industry, smokers, non-smokers, and the public health community. The uncertainty that now surrounds these issues is good for no one.

Discussed rationally, I believe we could develop a solution that would address these uncertainties. On the floor of the Senate during an election year, as we all know, rational discourse doesn't always carry the day.

Mr. President, let me conclude by saying that I began this process with an open mind and a sincere belief that comprehensive tobacco legislation that could be both reasonable and effective in reducing smoking among our youth was in the best interest of all parties involved. I would have supported that legislation. But in the last three weeks, in amendments aimed at punishing tobacco companies, we have weakened the ability of this legislation to do what we all say we want it to do: reduce teen smoking. Again, this has been done by an unfortunate alliance of those who want a bill that's too punitive and those who want simply to kill this bill. In the end, I cannot support legislation that brings great and unnecessary economic harm on working people, and does not effectively achieve the benefit of preventing young Virginians—and young Americans—from becoming young smokers.

Mr. President, I yield the floor. I suggest the absence of a quorum.

Mr. KERRY. Will the Senator withhold?

Mr. ROBB. I withdraw my request.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Let me say to my friend from Virginia, I have great respect for his analysis and for the sober, introspective approach that he brought to this legislation. I must say I cannot disagree with him—that from, certainly, my perspective, there are one or two amendments that have been agreed to that may be a reflection of sort of a first-round fervor on the floor of the Senate. On the other hand, I am convinced that is going to change over the course of the legislative process. Some people have been trying to wish this bill dead for some period of time.

I think the Senator from Arizona and I would agree, this bill is not dead. This bill is going to continue to be fought out in the context of the Senate. I hope in the end the Senator from Virginia will find that, while he may not agree with what could still leave the Senate floor—and I believe the bill could still leave the Senate floor—if the Congress of the United States works its will in a complete way, it is possible that something could come back, ultimately, that the Senator may feel is better.

I also respect the Senator's particular needs with respect to Virginia. There are certain Senators here who obviously have a very particular problem they need to try to resolve in the context of this legislation. At the moment, there is not certainty as to that for the Senator. But I might say that might be also resolved as we go along here. So, I do respect his thinking on it. I appreciate his thoughtful approach.

Just so colleagues may have a sense of where we are and what we are doing, we do believe it may be possible within a short period of time that there would be a couple of votes. Our hope is to be able, though it is not yet guaranteed, to proceed forward with a couple of votes, conceivably one on the Coverdell amendment and then an alternative thereto, and then conceivably, first thing tomorrow, we may be able to deal with the issues of the Gramm amendment and a Democrat alternative to it.

So, even though things are not bubbling over with excitement on the floor itself, I think there is some quiet progress being made in some meetings behind the scenes. Hopefully, that will allow us to begin to break forward and set up something of a legislative agenda where we can begin to debate some additional amendments and, hopefully, proceed forward. That, obviously, will continue to depend on the goodwill of our colleagues and on the degree to which there is a good-faith effort to try to legislate rather than to procrastinate. Hopefully, within a short period of time we may be able to propound a request with respect to that.

I see the Senator from Wisconsin is on his feet and wishes to speak, so I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Mr. President, I come here today to discuss an amendment to the tobacco bill and to highlight how tobacco companies have used court secrecy orders to deceive and endanger the American public. While secrecy orders may be justified to protect personal information or trade secrets, they all too often have been abused—especially by tobacco companies—to undermine health and safety. We need to strike a better balance and make sure this tactic can't be used to cover up future bad conduct.

Typically, tobacco companies—like many other defendants—threaten that without "secrecy," they will fight to conceal every document, and they will refuse to settle. They insist on making secrecy—or "protective"—orders a precondition to turning over documents and to settlement. And overmatched victims have no choice but to accept these demands, even though there is no legal reason why most of the documents should be kept under wraps.

While courts actually have the legal authority to deny requests for secrecy, often they do not—because both sides

have agreed, and judges don't take the time to independently look into the matter themselves.

Over the years, we have raised this concern, citing several examples, including defective heart valves, exploding fuel tanks, and dangerous playground equipment. In case after case, people have been injured or killed by defective products that remained on the market while crucial information was sealed from the public light. This is not only wrong, it is also unacceptable.

There is no doubt that the most flagrant abuse of secrecy orders involves Big Tobacco. This tactic has served the industry in two disturbing ways. First, it dramatically drove up the cost of litigation by making every plaintiff "reinvent the wheel." As one tobacco official boasted, rather crudely, "the way we won these cases was not by spending all of [our] money, but by making that other S.O.B. spend all his." And secrecy orders helped them do it.

Second, secrecy kept crucial documents away from public view. The tobacco companies have used secrecy orders and attorney-client privilege to conceal all kinds of materials critical to public health and safety, including many relating to teen smoking and nicotine levels. Once these documents were released, public outrage compelled action. But if the public had this information earlier, we could have saved thousands of lives.

The underlying tobacco bill—which I strongly support—sets up a depository where tobacco companies are supposed to send current and future documents. But the tobacco companies have made clear that they will not cooperate. They'll just tie up this and other provisions in court, and the promise of a meaningful document library will literally be empty.

So the bill leaves a big, big loophole. In the future, tobacco companies could add new ingredients to cigarettes that pose health risks or make tobacco more addictive. And they will still be able to rely on secrecy orders to conceal these hazards from the public.

Our proposal will close this loophole. It is simple, effective and limited in scope. It only applies to a small category of cases, like tobacco, which involve public health or safety. Before approving secrecy orders, courts would apply a balancing test—they could permit secrecy solely if the need for privacy outweighs the public's right to know. In addition, the amendment bars any agreement that would prevent disclosure to the federal and state agencies charged with protecting public safety.

Mr. President, our proposal does apply to more than just tobacco cases, of course, and it should. We need to prevent others from copying the tobacco industry's tactics.

Bipartisan support for this proposal has grown over the years. Last Congress, it passed the Judiciary Committee 11 to 7. So if the tobacco bill moves forward, this proposal should be included.

But even if the tobacco bill goes down, we still need to address this problem. Because who knows what other hazards are hidden behind courthouse doors? So if necessary I will offer this amendment to another measure.

Today, a debate is raging about whether the President is hiding behind court orders and legal privileges. But when health and safety are at issue, there shouldn't be any debate at all. This is far too important. We need to learn our lessons from tobacco and take action to stop the next threat.

Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I ask unanimous consent to speak as in morning business for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PATIENTS' BILL OF RIGHTS

Mr. DORGAN. Mr. President, I want to speak just for a moment about the Patients' Bill of Rights that we have introduced in the Senate and that many of us in the Senate hope can be considered on an expeditious basis by the U.S. Senate.

The Patients' Bill of Rights is a piece of legislation designed to address some of the concerns we have about managed care. In many instances, health plans are denying patients the right to know all of the treatment options available for their not just the cheapest treatments available. The Patients' Bill of Rights would guarantee that right, along with the opportunity to understand your rights with respect to emergency care and a range of other rights that we believe should be inherent.

I want to tell the Senate another story, as we have done almost every day the Senate has been in session, that describes, again, the urgent need for passage of the Patients' Bill of Rights.

This is about a young woman named Paige Lancaster from Stafford, VA. In 1991, when Paige Lancaster was 11 years old, her mother took her to see her HMO pediatrician because she had complained of nausea and severe daily headaches for some long while.

For the next 4 years, Paige repeatedly sought medical treatment for headaches from two other HMO pediatricians available. They prescribed adult-strength narcotics but never once consulted with a neurologist nor did they recommend during all this time an MRI, CAT scan, EEG, or any other diagnostic test, for that matter, to diagnose Paige's condition.

Then in 1996, Paige's school counselor worried about this young girl's deteriorating high school performance. She recommended to the doctors that they perform some diagnostic tests to determine the cause of this young lady's debilitating symptoms.

Mr. President, 4½ years after the first visit by this child complaining of severe headaches, the doctors finally ordered an EEG and an MRI. The MRI revealed a massive right frontal tumor and cystic mass that had infiltrated over 40 percent of her brain. One week later, Paige underwent surgery to remove the tumor. However, the surgery was unsuccessful because of the tumor's size and maturity. Paige then underwent a second and third surgery and radiation therapy, and she is, we are told, likely to require additional surgery and ongoing intensive care.

What is so outrageous about this case is that the HMO covering Paige had in place a financial incentive program under which her physicians would receive bonuses for avoiding excessive treatments and tests.

This is not something new. We know of managed care organizations in which the contracts with the physicians require that, if a patient of the physician shows up in an emergency room, the cost of that emergency treatment comes out of the payment to the physician—an unholy circumstance, in my judgment, because it creates exactly the wrong kind of incentive for physicians.

In this case there is the same kind of incentive in reverse. The HMO had in place a financial incentive under which physicians would receive bonuses for avoiding excessive treatments and tests. Clearly, physicians should not prescribe excessive treatments and tests, but, just as clearly, physicians should not have to consider their own financial circumstances when determining whether they should prescribe a test.

The Lancasters, Paige's parents, challenged the HMO's handling of Paige's case, but, unfortunately for them, the insurance for their children was provided by Mr. Lancaster's employer and was subject to something called ERISA, the Employee Retirement Income Security Act. Under ERISA, the only available remedy to the patient is the cost of the benefit denied, in this case the $800 cost of the MRI. In other words, under ERISA, the HMO cannot be sued. The piece of legislation that we have proposed in the U.S. Senate, the Patients' Bill of Rights, would hold HMOs accountable by allowing patients to sue when their

HMO's coverage, or lack of it, has caused them harm. The bill will also require HMOs to disclose any financial incentives that might cause the HMO doctors to skimp on patient care. Any incentives that exist between the HMO and the doctor must be disclosed to the patients.

This young girl, Paige Lancaster, waited nearly 5 years for a diagnosis, one might argue, in part, because the wrong incentives existed between an HMO and a doctor. The incentives were about saving money rather than providing quality health care.

We very much hope we can get back to the notion in this country that practicing medicine ought to be done in doctor's offices and hospitals, not in the office of some insurance company accountant 500 or 1,000 miles away. It is our hope that we will be able to bring to the floor of the Senate the Patients' Bill of Rights because we think this country needs it. We hope the Senate can debate it and pass it in the coming weeks.

Mr. President, I yield the floor.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I ask unanimous consent to speak as in morning business not to exceed 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ELIZABETH "BETSY" DOWNS ENGELKEN

Mr. STEVENS. Mr. President, the other day, I had the pleasure of being invited to join my son Ben at the Blessed Sacrament School in Arlington to see my granddaughter participate in one of her first events at that school. I appreciated that opportunity because I had occasion to meet up with a friend, Elizabeth "Betsy" Downs Engelken, who has been a teacher there for some 20 years. We have something in common. She happens to also have a relationship to my granddaughter, because she is the mother of my son's wife, Elizabeth.

As Betsy retires after 20 years, I thought I would come to the floor and talk about this lady who has developed such creative teaching skills and has endless enthusiasm for the children with whom she works. She has a sparkling sense of humor, and it is really a delight to see what she has done working with the Diocese of Arlington for these past 20 years.

While she has been there, Betsy Engelken has developed unique talents to identify students that need special assistance and have learning disabilities. She has been a representative of the teachers on the school board and successfully initiated action to bring about additional recognition for teachers and pay increases.

She has worked on developing new techniques to find ways to bring children into the 21st century. She has brought them awareness of the new kinds of systems that they encounter as they go through school. But above all, I think she has really had a great impact on the many children she has taught because she has a real commitment to children.

So I want to share with my colleagues the joy I have had recently in terms of being able to participate in this event with my granddaughter Susan. And I also want to congratulate Elizabeth "Betsy" Downs Engelken for her years of commitment to the children of this area.

Thank you, Mr. President. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SMITH of Oregon). Without objection, it is so ordered.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The Senate continued with the consideration of the bill.

Mr. LOTT. Mr. President, as most Senators are aware, there is a signing ceremony at the White House at 5:30 on the highway transportation bill, so a large number of Senators will be there for that occasion. But we thought it was important we get a vote on the drug-related amendment this afternoon. So we have checked with parties on both sides.

I ask unanimous consent that a vote occur on amendment No. 2451 at 6 p.m. this evening, and immediately following that vote the Senate proceed to vote on the Democratic alternative, with the time between now and 6 o'clock to be equally divided on the issue of drugs.

I further ask unanimous consent that immediately following the granting of this consent, the Democratic leader be recognized to offer their alternative, and the Coverdell amendment be temporarily laid aside for that purpose.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. For the information of all Senators—and I know Senator KERRY will want to comment; but I want to make it clear what we have done here—these two votes will be the two votes that will begin at 6 p.m., with one right behind the one at 6. They will be the last two votes of the evening.

Following those two votes, we will continue to work on a similar agreement, which we have not yet gotten everybody to sign off on, that will provide for votes on the marriage penalty and the self-deductibility of taxes issue by midday on Wednesday. We are working to see if we can get an agreement to have a vote at 1 o'clock, followed by an alternative that the Democrats would offer.

We do have a joint meeting in the morning to hear the President of South Korea at 10 o'clock. So we will not actually be able to get started on the marriage penalty and its alternative discussion until about 11 o'clock. But Senators will be notified when the second cloture vote will occur and the marriage penalty votes will occur during Wednesday's session of the Senate, we assume shortly after the noon hour; hopefully by 1 or 2 o'clock.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I want to thank the majority leader for his hard work in putting together this unanimous consent agreement. At the completion of it, we will have made progress on two of the very important key issues associated with this legislation, the drugs and tax cut. I also want to thank him for comity in giving the other side, obviously, an opportunity to propose their amendment. I am very encouraged by this. It seems to me, and the majority leader I hope would agree, that there are a couple of substitutes—attorneys' fees and the agricultural issues—that are the difference between Lugar and the LEAF bill that would keep us from completing action on this legislation.

I want to thank the majority leader, again.

Mr. LOTT. If the Senator would yield, I want to say I have discussed with him today and with others in the Senate and in the administration, the fact of the matter is, we sort of have been locked in this position for a week. The important thing was to try to come to an agreement and get some votes on these important issues. This gets us started in that direction. I think that is important.

Mr. MCCAIN. I think they are two important provisions. Obviously, we have had significant debate on both the issue of drugs and tax cuts. I'm very pleased that we are going to make progress on both of those issues.

I hope the substitutes—one, I understand by Senator HATCH, and the other by Senators GRAMM and DOMENICI would be ready for us to start debating and discussing. We also plan to have another amendment on attorneys' fees, and then what remains, I think we could hopefully get time agreements on the amendments.

As we go through this process, one, we don't have a lot of time left; and, two, we have our up days and our down days. I suggest that all of us try to take and keep a steady stream as we

work our way through this important issue.

I thank my friend from Massachusetts for his sincere and very valiant effort to try and maintain the comity on both sides of the aisle. I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the majority leader and the minority leader for their efforts, jointly, with the Senator from Arizona and others. I am certainly appreciative of the fact we are able to proceed forward with a couple of votes here. I think this is an important beginning of our efforts to be able to really tie down narrowly some of the most contentious issues and to be able to lay out, hopefully, an agenda for the rest of the week which would really enable us to make some progress.

As the Senator from Arizona said, there really aren't that many major issues. There are some concerns Senators have and there are certainly amendments out there, some of which I know the Senator from Arizona and I are perfectly prepared to accept in the context of improving the bill, that we have before the Senate.

AMENDMENT NO. 2634 TO AMENDMENT NO. 2437

(Purpose: To stop illegal drugs from entering the United States, to provide additional resources to combat illegal drugs, and to establish disincentives for teenagers to use illegal drugs)

Mr. KERRY. Mr. President, at this time, I send the Democratic alternative to the desk on behalf of Senator DASCHLE and myself.

The PRESIDING OFFICER. Under the previous order, the Coverdell amendment is set aside and the clerk will report the amendment.

The bill clerk read as follows:

The Senator from Massachusetts [Mr. KERRY] for Mr. DASCHLE, for himself, Mr. Kerry, and Mr. BIDEN, proposes an amendment numbered 2634 to amendment No. 2437.

Mr. KERRY. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

The PRESIDING OFFICER. The time will be equally divided.

Mr. KERRY. Just to inform Senators and others about what is happening here, we will vote on the Coverdell amendment and we will also vote on a Democratic alternative. The Democratic alternative covers many of the provisions of the Coverdell amendment with respect to drugs, beefing up our Customs enforcement, beefing up the Coast Guard, providing for capacity to be able to do a better job of drug enforcement, but it does so in a way that does not strip from the tobacco legislation the capacity to perform what we set out to perform under the health provisions.

We have maintained the minimum expenditures with respect to the counteradvertising and cessation programs and thereby kept a floor of those things we hope to achieve within the original tobacco legislation. I think that is the most important distinction.

In addition to that, there are a few other distinctions with respect to the needle program. There is a 1-year moratorium rather than a total stripping of that provision. In addition to that, there are a few other corrective measures with respect to testing and other aspects.

Finally, I might add with respect to the vouchers—because that is, obviously, constitutionally and otherwise such a contentious issue within the Senate—the Democrat alternative provides for the capacity for any victim of a drug-related crime or violent crime within a school system to be able to be properly transferred to another school, but without the guise of creating a whole new program with respect to education that would involve both private schools, parochial schools and the kind of support structure for those schools that obviously has divided the Senate so much in other legislation. We believe it is a more temperate, reasonable approach to the issue that allows us to do the best of what is in the Coverdell proposal with respect to drugs, but also maintain the best of what is in the tobacco legislation.

That is a fundamental summary, if you will, of the distinctions between the two approaches, both of which will be voted on shortly after the hour of 6 o'clock.

Mr. President, I ask unanimous consent to add the Senator from Delaware, Senator BIDEN, as a cosponsor of the alternative.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Carolina is recognized.

Mr. FAIRCLOTH. Mr. President, I rise in support of Senator Coverdell's and Senator Craig's amendment. These two Senators have focused attention on a critical issue for the next generation of Americans.

We are here today to discuss the MCCAIN bill, which seeks to combat teen smoking. Now, I doubt whether anyone in this Chamber would argue with the notion that teen smoking and use of tobacco products should be curtailed. But I want to focus our attention on the fact that there are other arguably more serious problems that our young people are facing today and seem to be turning a blind eye to.

I have been told for months that this antitobacco effort is aimed at one goal and one goal only. That is, making sure our children don't smoke and stop if they have started. If the real motivation for this bill were, in fact, to address the problems facing our young people, then someone please tell me why we are not here today addressing other serious problems that teenage Americans are facing—even more serious problems, problems that impact their life in a more direct manner. Why are we not dealing with the problem of teenage drug use which has been on the rise in recent years? Why are we not dealing with the frightening problem of juvenile violence, which is a throwoff from drug use? Why are we not dealing with the problem of teen drinking, with alcohol-related fatalities on the rise around American college campuses and high schools?

Teenage drug use today leads to ruined lives and overdose deaths every single day in this country. Underage alcohol drinking leads to drunken-driving fatalities every single day in this country.

The Centers for Disease Control and Prevention recently reported two-thirds of eighth graders have experimented with alcohol and 28 percent have been drunk at least once. Two-thirds of eighth graders have been drunk at least once.

A recent study by the National Institute on Alcohol Abuse says that the earlier people start drinking, the more likely they are to become alcoholics and addicted.

Let's put this in the proper perspective. We are debating a $1 trillion bill that is aimed at preventing children from starting to smoke. Yet, how many billions of dollars are we proposing to combat those other ills that plague our children, which are, in my opinion, more direct and more immediate?

I would like to focus today on the biggest of these problems now facing America's young people, which is the crisis of illegal drugs. While tobacco use by teenagers is a problem, illegal drug use by teenagers is much more than a problem, it is a crisis. And if our mandate is to protect our Nation's children, then we must not ignore our illicit drug crisis. I believe we should take this opportunity to address the problem of the illegal drug crisis in America.

Illegal drugs and drug-related crimes are ripping apart the fiber of families and communities, weighing down our education and health care systems, overburdening the resources of law enforcement, prosecutors, courts, and prisons. Drugs are literally changing the nature of the country our children and grandchildren will inherit. It is a crisis.

Drugs are altering the very definition of what it means to be a child in this country today. They alter the experiences that children have in school, and they are altering children's perception of the world around them.

Drugs are now a pervasive part of what it means to grow up as an adolescent in this country. If you are not a

teenager who engages in drug use, you will be one who will be confronted by others who are drug users and presented with the temptation.

I do not think anyone in this Chamber, as much as they might dislike tobacco use, could stand up with a straight face and say the same things about the evils of smoking cigarettes that I have just said about drug use. Drug use is a problem of an entirely different magnitude, and it is unbelievable to me that we are not addressing that problem today.

Let's look at the hard numbers that demonstrate the recent rise in illegal drug use among teenagers while Congress has continued to ignore the problem—and we have ignored it.

Surveys released recently have uniformly shown that drug use is on the rise by our young people. Among eighth graders—now, these are really children—the proportion using illegal drugs in the prior 12 months has increased by 56 percent since 1992. Now, these are children. Overall teenage drug use has doubled since 1992. One-half of 17-year-olds now say they could buy marijuana within an hour.

Marijuana-related emergency room incidents rose 32 percent last year as a direct result of higher drug impurities and marijuana laced with PCP.

The Drug Abuse Warning Network has data that says that heroin-related emergency room episodes increased a whopping 27 percent in 1997. Now, these are heroin-related episodes among teenagers—up 27 percent in 1 year. Cocaine-related episodes increased by 21 percent. We are not talking about the population as a whole; we are talking about teenagers.

And between 1993 and 1994, the number of overall drug-related incidents rose by 17 percent for individuals between the ages of 12 and 17—12 years old.

In 1993, one out of three juveniles detained by police were under the influence of illicit drugs at the time of their offense, and this is according to statistics from the U.S. Justice Department. This represents a 25 percent increase in crimes committed by young people—teenagers.

It is plain to see that the Clinton administration has been asleep at the wheel on the illegal drug problem. The President is focusing much more of their time and energy on the use of tobacco.

Just look at what the administration's Office of National Drug Control Policy has said about tobacco use by teens versus illegal drugs by teens. The drug control strategy of this administration is laid out in so-called performance measures of effectiveness. That is a very high-sounding thing we are going to do. But in this document, the administration discloses that they have more ambitious goals about lowering teenage smoking and tobacco use than they do about lowering teenage drug use.

They state that their goals are to reduce youth tobacco consumption by 25 percent by 2002 and by 55 percent in 2007. Now, for drug use, they hope to get down about 20 percent by 2002, which is 5 percent less than tobacco, and 50 percent by 2007—again, 5 percent less than tobacco. So it is clear in black and white that the administration's 10-year national drug control strategy is focused on tobacco and not on drugs.

While this President is busy taking on tobacco, a National Guard counterdrug program has been decreased by $32 million since 1997. This is the very program that helps local sheriffs, who simply cannot afford to own helicopters, planes, and the pilots to go with them. They are fighting drugs on a local level.

With the President's approach, total smoking will not decrease at all; the children will be smoking marijuana and not tobacco. This administration cares more about tobacco use than it does about illegal drugs. In my opinion, this is a serious misplacement of priorities.

Let me emphasize that I don't even have faith that what the McCain bill proposes to do—supposedly in the name of reducing teenage tobacco use—will even work. It rests on the twin pillars of an advertising ban and a price increase in order to accomplish a decrease in teen tobacco use.

They propose doing away with tobacco advertising, and the sponsors argue that all these flashy, colorful tobacco ads cause kids to smoke. Well, there has never been, as far as I know, an ad for illegal drugs or marijuana in this country; yet, the youth of the Nation are using it more and more every day. They seem to have found out about it without it being advertised.

Secondly, the McCain bill proposes to raise the price of tobacco products drastically, from roughly $2 to $5 for a pack of cigarettes, and that the youth of this country, the teenagers, are price sensitive. They think that raising the price would cause these teenagers to stop smoking. What it will do is provoke, quickly and surely, a massive black market so that schoolchildren will be able to buy smuggled cigarettes out of the back of a truck.

I have some more news. If they think raising the price of a pack of cigarettes will slow down cigarette smoking, why hasn't drug use been totally eliminated? The price of marijuana and cocaine on the black market is astronomical.

Therefore, the two pillars upon which the McCain bill rests its attack on teen smoking—an ad ban and a high price—are already in place with respect to illegal drugs. What have they done there? Not anything.

Instead of focusing on these flawed approaches to fighting the problem of teen smoking, we should be looking at legislation that proposes new and innovative approaches to fight the crisis of illegal drug use by our Nation's young people. The hard facts show that there is no mission more vital to our Nation's future than doing more to protect our children and teenagers from the ravages of illegal drugs.

Let's not ignore this problem because it is more politically popular these days to be against tobacco and to talk about it. This tobacco bill is nothing more than a smokescreen to hide the fact that the Clinton administration has been out to lunch on the drug war for 6 years.

It starts from the top. The President joked about his own use of drugs. But drugs are no laughing matter, and they are destroying hundreds of thousands of young people in this country. They are the scourge of the schools and playgrounds. This amendment is about the safety and health of the next generation. It is about the future of this country.

Mr. President, I yield the floor and the remainder of any time I might have.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. JEFFORDS. Mr. President, Senator MCCAIN has said I may yield myself such time as I may consume.

The PRESIDING OFFICER. The Senator is recognized.

Mr. JEFFORDS. Mr. President, I am here today to talk about the tobacco bill. As we all know, under the present circumstances, we don't seem to be making much progress. On the other hand, I have been here long enough to know that sometimes we go through these phases where we come to situations where we have sort of a partisan battle on how we should proceed, and then finally, after we do that for a while, we recognize that we both ought to sit down and try to reconcile our differences and join together to make sure we do not let this opportunity pass that we have before us, where we could do so much to help, on the one hand, stop teenagers from starting to smoke and, on the other hand, help those who are addicted to tobacco and do what we can to ensure that they are taken care of.

One of the most sticky problems we have is what to do as far as how to compensate the victims of tobacco. We tried initially to have a system set up where the amount of money that would be subject to lawsuits and claims would be capped. That was killed with the Gregg-Leahy amendment. I have been involved in a number of issues over the years involving these kinds of matters, not the least of which was examining the situation with respect to asbestos, black lung disease, and other matters. And it seemed to me and to others that

we ought to look at it as an opportunity to find a solution other than through the court system.

I am here today to talk about an amendment that Senator SESSIONS, Senator ENZI, and I plan to offer in the Senate—in fact, it has already been placed on file—to see what we can do to try to find a more humane system to solve this very difficult situation. Hours, days, and weeks have been spent arguing about liability, per-pack tax levels, States rights, and other issues.

But why are we really here?

No. 1, to reduce teen smoking; and, most importantly, to assure that teens don't start smoking, because we know if they don't start smoking, the odds are they never will smoke. Also, to strengthen the public health program and to ensure that victims of smoking are compensated fairly. That is what I would like to concentrate on today. The amendment that we have will bring logic to the system of compensating individuals.

As I mentioned earlier, throughout my time in Congress I have authored legislation to prevent smoking, supported increasing cigarette prices and requiring manufacturers to disclose the ingredients in cigarettes, and worked to reverse the impact of tobacco on the health of Americans. In fact, the present bill contains a substantial amount of the language that came from our committee in these areas. It has been adopted by the McCain bill. We have some very good provisions in the basic bill. We have a foundation to build upon. I have done all of these things hoping that together we could end the blight that cigarettes have brought to the lives of millions in this Nation.

Any legislation that Congress approves must ensure that families and individuals harmed by tobacco receive compensation in a timely and equitable manner. I fear, though, that this legislation we are finally considering will not achieve that goal. I am sure it won't. That is why I am here today.

With this bill, States are granted funds to begin to pay the health costs associated with smoking. Individuals, however, are left on their own to seek justice through the court system. You can only imagine the consequence of 50 million people bringing lawsuits. That is the number of potential claimants that you have. I know many lawyers out there are only all too ready to participate in this action. With up to 40 percent of the compensation going directly into their pockets, on the average, the lawyers in this Nation are happy to see this situation occur. But I am not sure that is the most equitable and fair way of doing it. Billions of dollars are at stake, and millions of people's lives are at stake.

But if the legal profession benefits, who loses? Those truly deserving of compensation—smokers and their families facing serious health consequences from smoking—will be left counting pennies. Our amendment attempts to hand these funds to those Americans who must recover from the tragedy of their addiction, and their families.

Our amendment would set up a compensation system designed by a bipartisan commission to award compensation to tobacco victims. This is not a situation where blame has to be determined—the tobacco companies admit to the linkage of smoking to illness. All we are concerned about here is how we should compensate.

Also, there is a certain logic in one of the problems with bringing the court suits. It is a thing called "assuming the risk," where the individuals have had years of looking at labels which tell them that it is a danger to their health. That creates a problem in the tort system as to how you award compensation.

The asbestos cases, as I mentioned earlier, provide us with an example of what may happen if we rely only on the judicial system to resolve the millions of claims against the tobacco manufacturers. As I will show later, it shows you what kind of system came about from the asbestos cases because of the horrendous mess that occurred in the courts. In the asbestos situation, only hundreds of thousands of lawsuits were brought, and they brought the system to a stoppage. They created a catastrophe. When you think that tobacco could result in millions of cases, you can only imagine what would happen in the court system if this were allowed to continue with this as the only option.

With asbestos, Federal judges struggled with an overwhelming backlog of lawsuits filed across the country on behalf of the asbestos victims. Many of these victims contracted fatal lung disease in working with the product.

I add as a side note, because there is somewhat of a linkage here, that those who suffered from asbestosis and smoked ended up with a much worse situation. So we even have a linkage in that respect.

Many victims died before the courts considered their case. These people never received the compensation they deserved in these cases. We cannot let this happen again in the tobacco case.

Lawsuits over asbestos claims have been mired in the Federal and State courts for over two decades. These lawsuits are few compared to the millions that will arise related to tobacco. In fact, 200,000 asbestos cases were filed in which compensation has been paid.

Another 200,000 cases are pending, and another 200,000 are projected to be filed in the future. Many of the 200,000 claimants who have received compensation have only received about 10 cents on the dollar of what they deserve. It is not getting any better for the remaining claimants.

I shudder to think how long victims of tobacco will need to wait to make it through the courts. Must we again allow individuals to die, waiting for their cases to be heard or settlement to be reached?

No, and we have the solution. No lengthy depositions, years waiting to get to courts, weeks of trial and so on. But first of all, let me talk a little bit about what happened in the asbestos situation.

First of all, when the cases were brought the system came pretty much to a screeching halt, there were so many cases filed. Then awards were granted, heavy damage awards for the first victims. And what happened? The companies were driven into bankruptcy. Finally, in order to allow those companies to at least continue in business, a trust situation was set up so they are run by a trust. A certain amount of the available profits were made available for compensation to victims. However, also, to allow you to see how appropriate this kind of system might be in this case, they also were allowed, if they were not happy with compensation through the commission proposal, to sue.

In the meantime, which has been a couple of years now that this system has been in effect, only one person has gone to the court after going through the compensation commission.

Similarly, our amendment will create a commission to review the research and documents of the tobacco companies that they have long kept secret and compile a list of diseases linked to smoking and develop the compensation that these individuals deserve for their injuries. An individual harmed by smoking can simply apply to the Secretary of Health and Human Services for compensation and receive it in an expedited manner.

Also, we have it worded such that we want to make sure—although we are talking billions of dollars here, that could rise up to many, many billions, up to $25 billion that could be held in trust for this purpose—we would make sure that those who are most harmed would be considered first. The compensation may be so huge, as far as all of the individuals who may be affected, that you want to make sure those who are permanently disabled or those who are terminally ill would be fully compensated before you get into the lesser harmed individuals.

The amendment also gives these individuals the ability to appeal the decision that was reached if they feel it is appropriate.

The program is funded by voluntary contributions from the tobacco manufacturers. If they refuse to participate, as was in the original part of the bill, they would be subject to the current use of the courts to get the injured parties their just compensation.

The method we have developed would put compensating funds in the hands of

victims and not their lawyers. As the asbestos cases show, individuals received less than 40 cents on the dollar of the compensation for the harm they incurred. The lion's share of the money went to make lawyers very wealthy. Why should we do so again? Our approach will avoid costly lawyers' fees and get the compensation to people who deserve it the most.

The asbestos cases will also illustrate what will happen if we rely on lawyers and the courts to strangle the tobacco companies. The asbestos companies eventually went bankrupt, as I mentioned earlier, because of a few earlier judgments that gave claimants such large sums of money. Unfortunately, after companies went bankrupt, individuals who had their suits settled or a judgment reached received only 10 cents on the dollar for damages suffered. A majority of the harmed individuals received almost nothing. In fact, people suffering almost identical symptoms from asbestos exposure received vastly different awards, depending on the jury that heard their case.

These lessons outline for me the importance of the approach we are taking to provide proper compensation to tobacco victims. The amendment will allow the claims to be sorted through and the funds distributed in a timely manner. With this we avoid the huge backlog of cases in our state and federal courts. We grant compensation before the injured parties are no longer with us. We ensure that tobacco victims will be given their due without lawyers taking a major cut. Finally, all injured parties will be guaranteed a source of funds and all similar claims will be treated equally.

I would strongly urge my colleagues to carefully consider our amendment as an alternative to insure that individuals harmed by tobacco manufacturers will receive the full compensation they deserve in a timely and efficient manner. For our country, we cannot allow a repeat of the asbestos catastrophe, and most especially for the people that were harmed by the tobacco manufacturers.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JEFFORDS. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. The Senator has the time remaining until 6 o'clock.

Mr. KERRY. I thank the Chair. I will ask unanimous consent a memorandum from the National Governors' Association, which is opposed to the Coverdell-Craig-Abraham amendment, be printed in the RECORD.

Let me just say the Governors are deeply concerned about the financing mechanism which violates the financing that they are obviously concerned about with respect to the State expenditures on the cessation programs and other efforts with respect to the antismoking effort.

I also ask unanimous consent that a statement of the national president of the Fraternal Order of Police in opposition to the Coverdell amendment be printed in the RECORD.

I would just summarize. While they say it has a laudable goal of augmenting the ability of the Customs Service to interdict contraband coming across the border, they are deeply concerned about some antilabor schemes that strip Federal agents of their rights as employees. It also has significant language with respect to the bargaining process which would be changed without a hearing.

So I ask unanimous consent that both of those memoranda be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL GOVERNORS ASSOCIATION,
Washington, DC, June 5, 1998.

To: Washington Directors, Health Reps, and State Contacts w/o DC offices.
From: Jennifer Baxendell.
Subject: Tobacco Amendment.

The Coverdell-Craig-Abraham anti-drug proposal will be the first amendment voted on next week after the cloture vote is completed. A summary of the amendment is attached.

Without entering into the merit of the amendment itself, its financing mechanism violates our principle of opposing any amendment that reduces the pool of $196.5 billion over 25 years reserved for the states. The Coverdell amendment is estimated to cost between $2 and $3 billion annually, which is to be financed through the trust fund. This earmark would be taken off the top of the trust fund, shrinking the amount of money against which the 40% of the revenue reserved for the states would be applied.

Please contact your Senate offices again in opposition to reduction of the state settlement pool. The McCain bill provides the federal government with over $320 billion in new tobacco revenues over 25 years with which to finance Washington's prioritized investments.

Call me at 202-624-5336 with questions/feed back. Thanks.

NATIONAL LEGISLATIVE PROGRAM,
Washington, DC, June 5, 1998.

STATEMENT OF GILBERT G. GALLEGOS, NATIONAL PRESIDENT OF THE FRATERNAL ORDER OF POLICE ON COVERDELL AMENDMENT TO S. 1415

The more than 272,000 rank-and-file members of the Fraternal Order of Police want to make absolutely clear our vehement opposition to language contained in an amendment offered by Senator Coverdell and others to S. 1415, the "Universal Tobacco Settlement Act."

This amendment, which has the laudable goal of augmenting the ability of the Customs Service to interdict contraband coming across the border, contains an anti-labor scheme to strip Federal agents of their rights as employees and thwart bargaining partnerships between rank-and-file agents and management by giving the Secretary of the Treasury the carte blanche power to nullify collective bargaining agreements.

It also gives the Secretary additional retaliatory powers against officers who do not kow-tow to management's every whim by enabling the unheard of power of transferring—permanently—up to five percent (5%) of Customs officers employed to new duty stations. This not only removes experienced interdiction officers—and does so for potentially political reasons—it also uproots families. This is simply unacceptable.

Perhaps the most blatantly offensive language in the amendment is the "sense of Congress" that collective bargaining undermines the war on drugs at our border. This patently untrue. Is it the sense of Congress then, that the officers who are charged with keeping narcotics out of country, preventing drugs from reaching our neighborhoods and schools, would somehow be parties to agreements that undermine that responsibility? Many of the bargaining issues discussed at the table are critically important to the success of the law enforcement mission—officer safety, hour and wage issues. If Congress wishes to strengthen the ability of our officers to fight drugs on our border, they would do well to endorse and strengthen the commitment of the Treasury Department to agreements reached between labor and management at the bargaining table. This language in amendment does not make any "sense" at all.

The amendment also includes language which gives the Treasury Department the ability to nullify any agreement that might have been reached if negotiations continue for more than ninety (90) days and impose their own "last offer." This is absurdly unfair. No matter what happens, the Treasury Department will "win" in the collective bargaining process, and this amendment will substantially weaken the ability to Customs officers to negotiate on an equal playing field.

This amendment contains a poorly concealed attempt to strip away the rights of law enforcement officers, and the Fraternal Order of Police, cannot support Senator Coverdell's proposal unless he strikes the anti-labor language it contains.

Law enforcement officers have, arguably, one of the toughest jobs in the nation. They alone are charged with keeping the streets and neighborhoods of this country safe from crime and drugs. Every day, police officers put their lives on the line—life and death decisions are in the job description. To restrict the ability of these officers to sit down and talk with their employers about workplace issues—when the work they do is to prevent drugs from making it into the United States—is counterproductive to the law enforcement mission and common sense.

Mr. KERRY. Mr. President, let me summarize, if I may, what the Democrat alternative, the amendment which Senator DASCHLE has submitted, seeks to accomplish here. First of all, the alternative antidrug amendment does not jeopardize the funding for public health. I think this is critical to understand. The Coverdell amendment will take more than 50 percent of the public health money and strip that away so as to deny the capacity of the tobacco legislation to accomplish the cessation programs, the State assistance programs, the counteradvertising and

other efforts, in order to reduce the number of kids smoking.

What we seek to achieve in the Daschle alternative is we remove the section in the Coverdell amendment that would have eliminated the floors for funding of public health programs from the tobacco trust fund, which would have also diverted that money for other purposes.

Second, we include tough money-laundering provisions that provide critical assistance to State and Federal law enforcement in order to combat drug problems by enhancing the Federal prosecutors' ability to combat international money laundering and to seize the assets of drug kingpins and others who have engaged in illegal activities, which, I might add, would significantly augment our ability to fight drugs as well as provide additional economic assistance to some of the antitobacco efforts. In addition to that, we provide the States with additional funding to drug test, and we provide drug treatment for inmates.

None of that is in the Coverdell approach. So it is clear, there are significant differences in how one can do a better job of fighting drugs. We believe the money-laundering provisions in the Democrat alternative are significantly stronger than in their approach.

In addition, we have what we believe are significantly improved versions of some of the antidrug initiatives set forth in the Coverdell legislation without the liabilities carried in the Coverdell amendment. First of all, there are additional resources for interdiction. There is an increased budget for U.S. Customs, increased budget for the Coast Guard, and increased budget for the Department of Defense. But, instead of grabbing that, robbing Peter to pay Paul, stealing from the trust fund, so to speak, and denying us the ability to accomplish the fundamental goals of the antitobacco legislation, we seek to authorize that from the general revenues, which is really a more fair and more thoughtful way, in our judgment, to be able to try to deal with the problem of a drug war.

We have significant additional measures with respect to drug-free borders. We do so without attacking some of the entities that are a critical component of the drug war: Customs agents, police, and others. We increase the civil and criminal penalties for customs violations, and we raise the number of border agents by 2003 to 15,000. In other words, 15,000 additional border agents by the year 2003.

We give the Customs Service flexibility to address urgent drug interdiction needs, working with the front-line employees to identify the problems and to collaborate in finding effective solutions to those urgent needs. The Coverdell approach basically declares war on our own agents and begins to try to accomplish a certain ideological agenda with respect to labor unions that we think is inappropriate and unnecessary here.

We, furthermore, provide $10 million per year out of the general revenues to States that institute voluntary drug testing for teen drivers' license applicants or crack down on drivers who use drugs. So we have a strong provision in our approach to deal with the problem of drug testing for teen drivers.

In addition to that, we have a section on drug-free schools, but we do not add the poison-pill provision of school vouchers by the backdoor which would literally threaten to scuttle the entire tobacco legislation. All of us here know that no issue has been more contentious for a lot of different reasons. It is part of really what has divided the U.S. Senate so significantly and so unfortunately throughout the debate on education.

There are many people on our side of the aisle—I know on both sides of the aisle—who desperately want to improve the public school system and to recognize that we have some very significant problems in the public schools of this country. But increasingly, all we talk about in the Senate are either vouchers or money. We are sort of polarized. We are locked into this gridlock of discussion where one side is fighting for vouchers so 1,000 kids may get saved in the school system and the other side winds up saying, "We have to have more money," but in between all of the issues of curricula, standards, testing, finding good principals, hiring another 2 million teachers and how we are going to do that, a host of other things get lost.

What the Coverdell amendment fundamentally does is take us right back to that very narrow debate where all we are going to do in response to the laudable goal of trying to take the victim of a violent crime or of a drug-related crime and move them to another school, instead of doing that within the public school structure, all of a sudden here is another voucher plan to provide the opportunity for that person to move to a parochial school, religious-based school or to a private school. If that were part of some comprehensive program to deal with all the schools of this country and the 90 percent of our children who are in public school, perhaps it might meet with less resistance on the floor of the Senate. But under the circumstances, it is a backdoor effort within the tobacco bill to try to do something that the Senate has already struggled with so significantly.

Moreover, we create, as does the Coverdell legislation, the same financial incentives for States from general revenues. Unlike the Coverdell amendment, we take it from the general revenues; they take it from the tobacco trust fund. And we provide an annual report card to parents and teachers listing incidents of school violence, weapon possession or drug activity, and we also encourage the implementation of certain disciplinary policies.

In addition to that, we provide $10 million to States for parental consent drug testing of children, as does the Coverdell amendment, but we do that without coercing parents into allowing that testing by denying access to extracurricular activities, such as athletics, for those who are unwilling to subject their children to such testing. We think both from a fairness and commonsense point of view that is more in keeping with the spirit of how the relationship between parent and school ought to work.

Like the Coverdell amendment, we provide drug-free student loans. We restrict the loans for students convicted of drug possession. We restrict the loans for students convicted of drug trafficking, and just as the Coverdell legislation does, we resume loan eligibility on an expedited basis for those students who satisfactorily complete a program that includes drug testing.

Just like the Coverdell amendment, we authorize $10 million per year in SBA demonstration grants, but unlike the Coverdell amendment, once again, we do not strip the capacity of the tobacco legislation to work. We do not take away the cessation programs or other youth activities and youth-access efforts that are contained within the tobacco legislation in an effort to restrict the access of our young people to cigarettes.

I might add this is, I think, one of the most important things to remember when we reflect on what we are trying to achieve here. I used to be a prosecutor. I was the chief prosecutor and administrative officer for one of the 10 largest district attorney's offices in the Nation. I was part of the effort in the years when we created the first drug task forces and we created the first priority prosecution efforts and major violator efforts. I have tried cases that have sent people to jail for the rest of their life. I am proud of that record.

I have fought hard in the Senate to continue that kind of, I hope, conscientious antidrug effort. So I don't want to be somehow viewed as less concerned than my friend here with whom I work on the Foreign Relations Committee, on our subcommittee, on the issue of drugs.

I don't think we have a legitimate drug war in the United States. I have said that for a number of years. If you don't have adequate treatment, if you don't have adequate education, if you don't have adequate enforcement, if you don't have the capacity for swift and certain punishment, if you don't have the ability to put the people in jail who ought to be or sufficient capacity to keep the ones off the streets who ought to be kept off the streets, you are not serious. But you certainly are not serious if you don't have drug

treatment on demand. Only about 26 or 30 percent of all drug addicts in the United States of America get treatment after 20 years of talking about this issue. That is not contained sufficiently in this legislation, and it ought to be.

What we have to stop doing is these scatter-shock, helter-skelter efforts that do little Band-Aids here and little Band-Aids there and somehow pretend, "Boy, have we done something to fix the drug war." We haven't. Nor is this going to do it. But, most importantly, what it is going to do is strip away the ability of the tobacco bill to do what it is intended to do, which is to get kids to stop smoking. That is the gateway drug to marijuana and ultimately to harder drugs.

If we are serious about a drug plan for America, we shouldn't be trying to augment the Coast Guard or augment the Department of Defense at the expense of the kids who are at the earliest stage of their life, who we are trying to teach and give the value system and the self-esteem and the structure with which to be able to make a decision, not to pick up a cigarette. The values that allow a kid and the strength of character that comes to a kid, that brings that child to the point of not picking up a cigarette are the same values and the same foundations that help that child decide not to do the other things that peer pressure forces them toward or that modernity in American life thrusts on them. So it doesn't make sense to strip away that capacity in this bill.

The Senator from Georgia will say, "Well, it doesn't automatically do that; all it does is authorize these numbers."

Mr. COVERDELL. Will the Senator yield?

Mr. KERRY. And that is true. I want to finish the thought and then I will be happy to yield to my friend. It is true all it does is authorize it. We all know what happens when the appropriators ultimately get those pressures put in front of them, and you have Department of Defense, Coast Guard or other kinds of antidrug efforts competing against something that we have never done before in America, which is sufficiently empower our antismoking efforts, sufficiently try at that early entry level to keep kids from being hooked.

I respectfully suggest to my colleague, this is well intentioned, and I know he is sincere in his passion about wanting to stop drugs and is caring about this, and I agree with him completely that the efforts to date are insufficient. No question about it. But I also believe very strongly that we ought to approach this in a commonsense way.

I yield to my friend for a question without losing my right to finish my time.

Mr. COVERDELL. I advise the Senator, of course I have not seen his amendment and the vote is scheduled at 6. I would like to make a comment, and I ask unanimous consent that I be given up to 10 minutes to respond to the remarks the Senator has just characterized.

Mr. KERRY. Let me say to my friend from Georgia, if I can, I don't want to be the bogeyman with respect to his request, but the leadership has carefully scheduled this because of the expectation of Senators to be in certain places. I know the time was equally divided——

Mr. COVERDELL. Up to 10 minutes.

Mr. KERRY. Mr. President, I will happily yield to my friend in a moment. And I would agree to the unanimous consent request for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. But will that be equally divided?

Mr. COVERDELL. I am trying to catch up with you.

Mr. KERRY. I might add, we are just trying to catch up with their side. The time was equally divided up until now. And the Senator from North Carolina and the Senator from Vermont both spoke using all of the time of that side. So we are just trying to catch up on our side.

Mr. COVERDELL. All right. I ask unanimous consent that we have 15 minutes equally divided.

Mr. KERRY. Mr. President, 15 minutes equally divided. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. So, Mr. President, the bottom line is, as I said, really whether or not we are going to try to approach this—maybe the Senator and I could agree that the goals of our amendment are indeed worthy, and he would like to wrap them into one, and we could have one vote accepting our amendment. I would like to do that. I yield the floor.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator from Georgia.

Mr. COVERDELL. First, let me say that I appreciate that so much of the Coverdell-Craig-Abraham amendment has been wrapped into this amendment we have just heard described. I have not had a chance to see the amendment. There are some nuances.

What the Senator from Massachusetts characterizes as vouchers and choice, I characterize as common sense to handle a child that has been the victim of a crime. And I do not agree that that should be characterized as a voucher. It does not deal with the needle exchange permanently. It only deals with a couple years. But much of the amendment is the same.

So then the core question—they both authorize funding, and, as I understand it, it is at similar levels. So the question is, what does the authorization fall against? And where are the pressures?

The Coverdell-Craig amendment authorizes against a new revenue stream which comes from an increase in the price of tobacco. The Daschle amendment—I believe it is the Daschle amendment—from the other side authorizes against the current budget or the caps, so the pressure will fall against current programming: education, VA, veterans, all of that. That is where you put the pressure. I put the pressure against the new revenue stream. And I think that is more appropriate and much more likely to happen. I do not think it is near as likely to happen under the Senator's amendment from Massachusetts as it is to happen if this tobacco settlement weaves its way through the Congress and there is a drug section in it. It is far more likely to occur than under the Senator's amendment.

I appreciate the fact that we agree on its importance, that much of what we have drafted has been embraced. But I think it is far more likely to occur in the manner in which I suggested. And I do not accept the argument that it is misplaced. Most of teenage drug abuse occurs in smoking, smoking marijuana, which is five times more dangerous than tobacco.

Mr. KERRY. Would my colleague yield for a question?

Mr. COVERDELL. Sure.

Mr. KERRY. It is an important part of the discussion. I would ask my colleague—they are both smoking. They are both smoking a grown substance, wrapped in paper, and it requires the same process. But the same ingredients of smoking are the same impact fundamentally that require counseling, education, and knowledge to build up the sort of resistance to peer pressure.

I ask my colleague, if that is the purpose of it, why would he not want an increased level of funding to guarantee that they are sort of wrapped together? Smoking marijuana and smoking cigarettes are almost one in the same. They are both a narcotic substance. They both can ultimately result in great harm to health. Therefore, you want the cessation programs, the counteradvertising, et cetera. Why would the Senator then strip that capacity away for these other objectives rather than augment those?

Mr. COVERDELL. One, as I said a moment ago, I am not very encouraged where we are because this initiative has fallen poorly against the goals of the Congress and the administration over the last 6 years.

The interdiction budget has dropped from over $1 billion in 1991 and 1992, to under $700 million. It got down to $500 million in 1995. Flight hours that are protecting our citizens have dropped from 36,000 to 11,000. Ship days have dropped from 4,000 to 1,700 days.

We had one experiment recently in the Coast Guard in Puerto Rico that kept 350-plus million doses of cocaine off American streets. These are all interconnected.

The best thing we can have happen is for the child not to get ensnared into the drug war in the first place. I believe that you cannot deal with teenage addiction and separate it from the tobacco bill. I just do not think that is the right thing to do.

I think they should be embraced together. I think, given the scope, that this is the No. 1 problem. Given the scope of it, the fact that it would be authorized to consume 20 percent of these revenues, it is perfectly logical and sound. And there would be a revenue base generated to do it. I do not see the revenue base standing behind the good Senator. And I equally am admiring of the work that you have done on this issue. I have respect for it. I just do not think that amendment which has come late—very late—in response to what we have endeavored to do will achieve a new, bold initiative on antinarcotics in the United States.

I yield back whatever—I do not yield back the time; but I save it.

The PRESIDING OFFICER. The Senator from Georgia has 1 minute 40 seconds remaining.

Mr. KERRY. Mr. President, let me respond to my friend again. I do not think he absolutely answered my question. What he says is we have to have the interdiction efforts, we have to have an addition for the Coast Guard, the military because of the number of hours they are flying. I agree with that.

I think we have a very serious problem growing in this country with respect to our military because of the increased OPTOUT and OPTEMPO versus the pay we are giving them, and the opportunities for time off, and so forth. That is a huge issue, and it is growing in the country.

But the point is—and I make it again to my friend from Georgia—as a former prosecutor I can remember that there is a threshold level that you can stop drugs coming in, this sort of nuisance level. You can raise the price. You can always raise the cost of doing business.

But no one I know in the business of law enforcement, no one I know who is serious about the drug effort believes that augmenting interdiction at the expense of the demand side is going to cure the problem.

For every 300 tons of whatever that you stop, I promise you, there is an airplane that has been constructed with phony sides to it or any number of containers on ships, or any means, that the demand will bring those products. They will even manufacture them in this country. They will find a way to get them to people.

The key issue is reducing the level of demand. And the demand for a cigarette that has tobacco in it is the same demand for the white rolled piece of paper that has marijuana in it—same act, same discipline, same entryway, entry gate to drugs. Most experts in the field of treatment and demand will tell you that that is the gateway drug.

So it seems to me illogical on its face to say we are going to strip down the efforts to get the demand side reduced so we can augment what was going to automatically be increased anyway, which will be increased demand, increased interdiction. And you get caught in this vicious cycle where all of our resources keep being allocated to an area that does not give you as much return as education and treatment. Again, the perks are pretty clear on that issue, that if fewer and fewer kids started in the first place with cigarettes, you would have less and less demand, and no pusher can increase the number of people to demand the drugs fast enough to make up for kids who say no. If those kids are strong enough and educated enough and well prepared enough to say no, that is the way we will solve the problem in this country, more than any other.

Again, the Senator from Georgia strips away a significant portion of that. He makes them competitive. It is the wrong way to come at this.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. How much time remains?

The PRESIDING OFFICER. The Senator from Georgia has 1 minute 40 seconds, and the Senator from Massachusetts controls 4 minutes 20 seconds.

Mr. COVERDELL. Mr. President, from 1980 to 1992 drug use among teenagers was reduced by two-thirds. It was reduced in great part by the massive interdiction program and much of an education program that was voluntary.

My point here is that the amendment we have offered to the tobacco bill, which shares an addiction problem with these new revenues, is a bold component for drug interdiction and drug education, the very points that the Senator from Massachusetts is making.

The proposal he puts to the table is designed very much the same way. As I said, there are nuances that are somewhat different. I think the likelihood of funding for this bold program under the Senator's amendment is far less—far less. Yes, if it all came about, it would be augmented, but there are more than sufficient revenues in the proposal we have on the floor, which is a tax bill, to fund a strong drug interdiction proposal and a strong antismoking proposal.

I yield the floor.

Mr. KERRY. Mr. President, let me say to my friend, if the funding is so jeopardized, as he suggested it is, then shame on us. Then we are not serious about the drug war. Shame on us.

Mr. COVERDELL. We aren't.

Mr. KERRY. Then shame on us. We ought to be prepared to do it. But don't do it at the expense of stopping kids from smoking.

The Senator just made my argument. The Senator from Georgia said between 1980 and 1992 we reduced drug use in America by 30 percent. Am I correct, the Senator said that?

Mr. COVERDELL. Sixty-six percent. From 1979 to 1992, it was reduced by two-thirds.

Mr. KERRY. We reduced drug use in America by two-thirds, according to the Senator from Georgia, between 1979 and 1992.

He has just made the argument for not doing what his own amendment seeks to do, because if you look at how we reduced that drug use by two-thirds between 1979 and 1992, it was because Nancy Reagan and the Reagan administration, to their credit, augmented our outreach efforts, our advertising efforts, the counteradvertising. We brought role models—sports figures and others—into the communities. We had an aggressive effort in the United States to reach into our communities and teach kids not to.

That is precisely what this tobacco legislation is seeking to do with respect to cigarettes, and there is no reason in the world that you can't dovetail all of the drug efforts into that so that smoking, drugs, all of it, are dependent on the same disciplines. They are dependent on kids being raised with enough awareness of the downside and with enough self-esteem and enough structure around them to be able to make good decisions.

What the Coverdell amendment does is reduce the capacity of kids to make those decisions. If we want to reduce drugs in America by two-thirds, we need to do what this tobacco legislation set out to do, and I believe we can do that by melding some of what the Senator from Georgia seeks to do. That is what the Democratic alternative seeks to do.

I yield back the remainder of my time.

AMENDMENT NO. 2451

Mr. McCAIN. Mr. President, I will vote for the Craig-Coverdell amendment because I believe that we should move forward with this bill. While I agree with the thrust of the amendment, I am seriously concerned that all of the revenue to fund this effort will come from the tobacco trust fund.

If we are to have legislation that provides for settlement of State cases, funding for smoking prevention and cessation, funding for research, farmer assistance and a tax cut, we must allow for funding for the drug amendment under additional accounts including the violent crime trust fund.

Clearly, the President will not sign legislation that does not provide the

funding necessary for the basic purposes of this act. So, while I will support the drug amendment, my vote is to keep the process moving.

This is but one wicket in the legislative process and at the end of the day, if we are to have a meaningful bill, we must reconcile the various demands for trust fund revenues in a manner that will achieve the essential purposes of this bill, and which will best serve the public health and the public interest.

Mr. KERRY. Have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not.

Mr. KERRY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment numbered 2451, offered by the Senator from Georgia, Mr. COVERDELL.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Pennsylvania (Mr. SPECTER) is absent because of illness.

Mr. FORD. I announce that the Senator from Hawaii (Mr. INOUYE) is necessarily absent.

The result was announced—yeas 52, nays 46 as follows:

[Rollcall Vote No. 151 Leg.]

YEAS—52

Abraham	Frist	McConnell
Allard	Gorton	Murkowski
Ashcroft	Gramm	Nickles
Bennett	Grams	Roberts
Bond	Grassley	Roth
Brownback	Gregg	Santorum
Burns	Hagel	Sessions
Campbell	Hatch	Shelby
Coats	Helms	Smith (NH)
Cochran	Hutchinson	Smith (OR)
Collins	Hutchison	Snowe
Coverdell	Inhofe	Stevens
Craig	Kempthorne	Thomas
D'Amato	Kyl	Thompson
DeWine	Lott	Thurmond
Domenici	Lugar	Warner
Enzi	Mack	
Faircloth	McCain	

NAYS—46

Akaka	Feingold	Levin
Baucus	Feinstein	Lieberman
Biden	Ford	Mikulski
Bingaman	Glenn	Moseley-Braun
Boxer	Graham	Moynihan
Breaux	Harkin	Murray
Bryan	Hollings	Reed
Bumpers	Jeffords	Reid
Byrd	Johnson	Robb
Chafee	Kennedy	Rockefeller
Cleland	Kerrey	Sarbanes
Conrad	Kerry	Torricelli
Daschle	Kohl	Wellstone
Dodd	Landrieu	Wyden
Dorgan	Lautenberg	
Durbin	Leahy	

NOT VOTING—2

Inouye	Specter

The amendment (No. 2451), as modified, was agreed to.

Mr. CRAIG. Mr. President, I move to reconsider the vote.

Mr. COVERDELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. We must have order in the Chamber.

AMENDMENT NO. 2634

Mr. KERRY. Mr. President, may I have the yeas and nays on the Daschle amendment? Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered.

The clerk will call the roll.

The bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from Pennsylvannia (Mr. SPECTER), is absent because of illness.

Mr. FORD. I announce that the Senator from Hawaii (Mr. INOUYE), is necessarily absent.

The result was announced—yeas 45, nays 53, as follows:

[Rollcall Vote No. 152 Leg.]

YEAS—45

Akaka	Feingold	Levin
Baucus	Feinstein	Lieberman
Biden	Ford	McCain
Bingaman	Glenn	Mikulski
Boxer	Graham	Moseley-Braun
Breaux	Harkin	Moynihan
Bryan	Hollings	Murray
Bumpers	Johnson	Reed
Byrd	Kennedy	Reid
Cleland	Kerrey	Robb
Conrad	Kerry	Rockefeller
Daschle	Kohl	Sarbanes
Dodd	Landrieu	Torricelli
Dorgan	Lautenberg	Wellstone
Durbin	Leahy	Wyden

NAYS—53

Abraham	Faircloth	Mack
Allard	Frist	McConnell
Ashcroft	Gorton	Murkowski
Bennett	Gramm	Nickles
Bond	Grams	Roberts
Brownback	Grassley	Roth
Burns	Gregg	Santorum
Campbell	Hagel	Sessions
Chafee	Hatch	Shelby
Coats	Helms	Smith (NH)
Cochran	Hutchinson	Smith (OR)
Collins	Hutchison	Snowe
Coverdell	Inhofe	Stevens
Craig	Jeffords	Thomas
D'Amato	Kempthorne	Thompson
DeWine	Kyl	Thurmond
Domenici	Lott	Warner
Enzi	Lugar	

NOT VOTING—2

Inouye	Specter

The amendment (No. 2634) was rejected.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, we have now dispensed with the issue of addressing the problem of drugs in America. Tomorrow, we will take up the tax cut issue. There will be an amendment on this side of the aisle and an amendment on the other side of the aisle.

It is our hope that, following that, we will be able to take up the substitute. There are, I understand, two important substitutes, one by the Senator from Utah, which he has talked about at some length, and also one by perhaps Senator GRAMM and Senator DOMENICI. There is still concern about the issue of attorneys' fees. I would not be surprised if there was another amendment on that issue, and, of course, there is the remaining issue of the agriculture section of the bill, which could be addressed after cloture, if necessary.

Frankly, Mr. President, I don't know of any other major issues that are affecting this legislation. I hope that we can not only move forward but, at the appropriate time this week, hopefully the majority leader can propose a cloture vote so we can bring this issue to a close.

All of us are aware that we are in our third week on this legislation. All of us are aware that we have other legislation that we need to address, including very important appropriations bills.

I must say that on this day I am pleased with the progress that we have made, and I am pleased that we are going to address the issue of taxes, which is important to Members on both sides of the aisle.

So, Mr. President, I say, in the words of the late Mark Twain, the reports of the death of this legislation are premature. However, we certainly, by no means, have total confidence that we will reach a successful conclusion. But I think those of us who are supporting this legislation can be pleased at the progress we are making at this time. And it does not in any way mean that we do not have a lot of difficult hurdles to get over before we have a final vote.

I yield the floor.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Let me join the Senator from Arizona in simply saying that I think this was an important step forward today in a lot of respects. Neither the Senator from Arizona nor I want to sort of overly characterize what it may mean in the total yet, but it does open up the opportunity for the Senate to now move to the two remaining, most significant issues and then lay the groundwork to have, hopefully, an order of amendments for the following ones. I think it is not insignificant, therefore.

The last week permitted us, frankly, to be able to work quietly behind the scenes to be able to arrive at some understandings about the structure of the tax component of the bill. And while there are two alternatives being offered, the fact is that for a week we have understood that embracing a component of the tax cut in this legislation was not inappropriate—in fact, might not only be a necessary ingredient of passing it but also an important reality for the amounts of money that are being raised in the revenues.

So I think we are on a track where we have the ability tomorrow to make

again some significant progress. And hopefully, with the substitutes, then we will have few remaining contentious issues and, obviously, some others that we ought to be able to arrive at a reasonable understanding about.

So my hope is that those Senators who have must-do amendments will certainly inform us of those in the course of the next day or so.

I thank my colleague for his cooperation. And I yield the floor.

MORNING BUSINESS

Mr. KERRY. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBB addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ROBB. Thank you, Mr. President.

TRIBUTE TO BRIGADIER GENERAL TERRY PAUL

Mr. ROBB. Mr. President, I would like to just share with those of our colleagues who are watching the floor at this moment a ceremony that I just attended, that a number of our colleagues just attended, for the promotion of then Colonel Terry Paul to Brigadier General Terry Paul, the U.S. Marine Corps.

This is somewhat unusual, because General Paul has been serving as the Marine Corps liaison in the U.S. Senate for almost a decade. He came as a lieutenant colonel, he was promoted to the rank of full colonel, and this afternoon was promoted to the rank of brigadier general, where he will move across the Potomac to serve as the Legislative Assistant to the Commandant of the Marine Corps.

Many generals, officers of the Marine Corps, admirals of the Navy, representatives of the Department of Defense, and some of our colleagues in the House and Senate were there, to recognize an extraordinary Marine and an extraordinary patriot, someone who has worked very, very hard and very, very professionally in a job that many of us appreciate.

Mr. President, during his nearly 10-year assignment with the Marine Corps Liaison Office here in the Senate, General Terry Paul has championed a number of programs—like the M1A1 tank, the Maritime Pre-positioned Forces (MPF), the V-2 Osprey, and the Advanced Amphibious Assault Vehicle (AAAV)—that have helped sustain the Corps as the premiere expeditionary force in readiness and have helped mold the Corps for the twenty-first century.

To those of us who worked with him, General Paul has been a strong advocate for his beloved Corps.

He has poured his heart and soul into every facet of an issue, championing the best interest of the Corps and the nation, regardless of scope or monetary value.

He has also never lost sight of the individual Marine—working just as hard to secure a piece of gear that would keep a Marine dry during inclement weather as he would for a multi-million dollar modernization program that enhances the overall capability of the Corps.

As the Marine Corps' representative to the United States Senate, General Paul has also been instrumental in planning and assisting with countless congressional oversight missions here and abroad.

And as the only Senator serving on all three national security committees, I have personally embarked upon many a mission with General Paul.

On numerous occasions, I have been grateful for his invaluable assistance to me and to other Members of this body on what are inevitably grueling visits overseas.

General Paul unfailingly represents the Corps and country with great commitment and dedication.

Not only does General Paul do his job with extraordinary efficiency, with immense dedication, and with enormous pride, but he also does his job with great humor.

Whether it's Marine Corps ear-marks in the DOD bill, or racing to an airport in Ashgabat at 0-dark-30, or showing us the mettle of the Marines at Paris Island, Terry Paul is a consumate professional.

In my judgment, no one has better represented the Marine Corps on Capitol Hill.

And so, Mr. President, it is with high hopes and great appreciation that I wish General Paul godspeed as he embarks upon this new mission.

He moves to the Pentagon having contributed greatly to our work here—and having represented the Corps here in the Senate with enormous conviction.

We will miss him as a regular colleague—or at least an honorary colleague—in the Russell Senate Office Building—but he will be with us in spirit as he moves across the river. I look forward to continuing to work with him.

I will end by saying: to a Marine's Marine, to a man who epitomizes the motto of the Corps—Semper Fidelis, General Terry Paul.

And with that, Mr. President, I thank the Chair for the opportunity to recognize the extraordinary service of a very fine Marine and a very fine and patriotic American, and I yield the floor.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I join in the very kind remarks of the Senator from Virginia concerning Colonel Paul. He has done an outstanding job for many, many years and is a man all of us are proud of in his service to our Nation.

TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY

Mr. LOTT. Mr. President, this is a great day for America's drivers, rail passengers, and freight haulers. Today, the Transportation Equity Act for the 21st Century (TEA21) has been signed into law. TEA21 will lead to better, safer, and less congested roads and bridges throughout the country. This extremely important transportation legislation is a great investment in our nation's future.

I applaud my colleagues, in both chambers of Congress, and on both sides of the aisle, for passing the Transportation Equity Act by overwhelming majorities.

Transportation is one of the few issues that Congress deals with that clearly and directly impacts every American, every day. That is why it was so imperative that both chambers take swift action on this important infrastructure bill. Whether driving to work, participating in a car pool, taking a commuter train, riding a school bus, hauling goods from one city to the next, or transporting an accident victim to the nearest hospital, Americans depend on safe roads, highways, and bridges to get them to their ultimate destination.

When the extended Intermodal Surface Transportation Efficiency Act (ISTEA) ran out on May 1, Congress recognized the importance of getting this new reauthorization legislation passed. A number of states could have been in serious jeopardy had Congress waited beyond the Memorial Day recess to enact the Transportation Equity Act. Now that the President has acted on this landmark transportation bill, I am proud that Congress has fulfilled one of our most important responsibilities to the American people. Authorizing road and bridge improvements into the next century is a significant accomplishment. This act alone should dispel the notion that this Congress has done nothing.

The Transportation Equity Act for the 21st Century (TEA21) deals with a wide range of highway, transit, research, recreational, safety and environmental policy initiatives. TEA21 is a balanced and effective infrastructure bill that will enhance our nation's roads and highways. TEA21 extends and improves upon many of the provisions contained in ISTEA, helping move America forward into the next century. It furthers the notion of an efficient and integrated national intermodal transportation system. This unified system links America's 161,000 mile National Highway System with state and

local roads, ports, trade corridors, and airports. TEA21 is necessary for our nation's prosperity.

The Transportation Equity Act for the 21st Century provides a total of $216 billion for infrastructure development and improvements. That represents a 40% boost in transportation spending over current levels. This bill affects every state, every county and every city, providing significantly more money for the projects around the country that need and deserve federal assistance. TEA21 provides $173 billion for highways, $41.3 billion for mass transit, and $1.7 billion for highway safety programs. That translates into an annual highway spending increase of $8 billion and about $2 billion more annually for mass transit. Every year, $10 billion more will be spent on needed infrastructure.

Mr. President, I am particularly pleased that the Transportation Equity Act, as its title implies, provides more equity than the formula allocations provided by ISTEA. Under TEA21, each state is guaranteed to receive at least 90.5 cents for every dollar that its drivers send to Washington through the gas pump. As a result, forty-nine states will receive more money, with an average increase of about 44% over their current allocation levels. Even Massachusetts, the one state that did not receive a funding increase, will still get back more than it contributes annually to the Highway Trust Fund.

Many of the beneficiaries of the Act's minimum guarantee are the southern, midwestern, and western states commonly referred to as donor states. For years, these states have received far less in highway funding than they contributed in gas tax revenues. While TEA21 doesn't completely eliminate their donor status, North Carolina, Tennessee, Georgia, Indiana, Oklahoma, Louisiana, Arizona, Montana, among other donor states, will for the first time see an overall increase of more than 50% and a return of more than 90 cents on the dollar.

My home state of Mississippi, for example, will receive 92 cents. That's a 58% increase over the state's current gas tax return. While this is not a perfect dollar for dollar exchange, it represents significant progress that will help pave a great number of dirt and other substandard roads in Mississippi. In the years to come, I will continue my efforts to improve the formula allocation for all donor states.

Mr. President, TEA21 also re-establishes the covenant with our nation's drivers. It insures that each dollar of revenue contributed to the Highway Trust Fund is spent on transportation priorities and not on other initiatives. While this bill does not take the Highway Trust Fund off-budget, it does guarantee a minimum of $200.5 billion will be spent over the next six years on highways, safety, and mass transit programs. TEA21 also ensures that Congress fulfills its obligation to live within the Balanced Budget Agreement.

TEA21 authorizes bridge repair and improvement projects around the country. It supports the preservation of national historic covered bridges and includes funding that will allow states to retrofit bridges so they will be less prone to earthquake damage. Additionally, the bill provides $900 million to replace the decaying Woodrow Wilson Memorial Bridge, a 35 year old structure that now carries more than twice the 72,000 vehicles it was built to withstand. At the current rate of deterioration, passenger and freight traffic will be forced to stop in seven years. This is a major crossing on America's East-Coast highway that carries over 190,000 cars and trucks daily. That is why TEA21 was correct to step in.

I believe Congress has passed a bill that not only improves and enhances America's transportation system, but one that enriches our nation's economy and our quality of life. New roads and bridges spur economic development, increase mobility, and foster connectivity. For each dollar spent on our nation's infrastructure, society receives an exponential financial and social return on this public investment. In fact, economist Thomas Hogarty recently concluded that motor vehicle transport yields $6 trillion to $10 trillion in tangible benefits annually. That's trillion with a "t." Good roads, good bridges, and good transit systems facilitate the movement of people and supplies from the suburbs to major metropolitan areas and back, from one region of the country to another and from America to across the globe. Aside from heightening intrastate and interstate travel and trade, transportation improvements also support the creation of better and higher paying jobs. In Mississippi, for example, road work over the last ten years has helped prompt a 34% increase in the state's growth rate. I am very excited about the economic prospects for Mississippi under TEA21.

Mr. President, passage of the Transportation Equity Act will help repeat Mississippi's success story in each and every state. Infrastructure expenditures directly and indirectly support the 10 million people employed by our nation's transportation and related industries. In fact, Congressional Quarterly recently reported that TEA21 will lead to the creation of 400,000 new jobs throughout the United States.

TEA21 will strengthen our trade relationships with neighbors to the north and south of our nation's borders. TEA21 provides $700 million for trade and border crossings, and supports the continued development I–69, an 1,800 mile interstate that will stretch between nine states, from the Texas border with Mexico to Michigan's border with Canada. This Pan-American roadway, with vital regional connectors, will promote economic development all along its path. Additionally, I–69 will help virtually every state by fostering interstate and international commerce, helping our nation realize the benefits of the North American Free Trade Agreement.

The Transportation Equity Act is also a bill about safety. It provides over $2 billion for highway safety programs and authorizes $650 million in motor carrier safety grants. One of the many important reforms in TEA21 is the $500 million seat belt program which provides incentive grants to states that increase their seat belt usage or that exceed the national average. The Act also takes aim at drunk driving. It provides grants to states that have or adopt the more strict 0.08 percent blood-alcohol standard. TEA21 also promotes the development of airbags that do a better job of protecting children and smaller adults.

One of the issues that I felt very strongly about was the creation of a program to encourage states to improve their one-call system. As this Congress focused on our surface infrastructure, I felt it was important to include protections for our underground infrastructure. This took the form of a national call-before-you-dig system used to prevent accidents at underground facilities such as telephone, cable and power lines, water-maines and pipelines. A number of serious accidents have been caused by excavation without notice or by inaccurate markings of underground lines. While 49 states have one-call programs, it is widely recognized that many states' systems need to be strengthened.

Under TEA21, states that significantly improve their current one-call systems will qualify to receive federal grants. TEA21's one-call provision does not impose a federal mandate or establish a one-size-fits-all approach. It merely establishes national goals and offers states that want to participate the opportunity to apply for assistance. Decisions on a state's one-call system will still be left up to each state. The identification of minimum standards, however, will offer states a guide-post to help them improve their systems should they choose to do so. I believe that this non-prescriptive approach to state one-call systems will significantly enhance public safety, minimize disruptions, and improve environmental protection.

The Transportation Equity Act is also an environmental bill. It establishes private sector mitigation banks in support of wetlands, and streamlines the environmental review process for transportation projects. Senator BOND and Senator BREAUX championed these much needed fixes. TEA21 also increases annual funding for the Congestion Mitigation and Air Quality Program and for Transportation Enhancements to $1.5 billion and $630 million

respectively. Additionally, the bill extends the Aquatic Resources Trust Fund, which supports sportfish restoration and boat safety programs, and provides to the fund an additional 1.5 cents per gallon of fuel tax revenues in fiscal year 2002, and another 2 cents after 2003. Another one of the important compromises achieved in this bill involves the harmonization of the Environmental Protection Agency's schedule for regulating regional haze and the 2.5 particulate matter standard.

This bill also authorizes several transportation research programs which will help our nation adapt to and utilize constantly changing technologies that will improve safety, ease congestion, and protect the environment.

Mr. President, I would like to conclude by thanking our colleagues who were instrumental in crafting and passing this landmark bill. First, my heartfelt appreciation goes out to Senator JOHN CHAFEE for his stewardship of this important, responsible, and historic transportation package. I also want to pay special tribute to Senator WARNER, Senator BAUCUS, Senator MCCAIN, Senator HOLLINGS, Senator D'AMATO, Senator SARBANES, Senator ROTH, Senator MOYNIHAN, Senator BOND, and Senator NICKLES because their guidance and leadership proved vital to this effort. I also want to recognize Senator DOMENICI for his efforts to ensure that the desired funding levels fell within the budget caps. Without his help, we may well have ended up with a much smaller bill.

All of the Senate conferees deserve a great deal of credit for bringing this much-needed transportation bill to fruition. Each and every one of them rolled up their sleeves and worked with Congressman BUD SHUSTER, Chairman of the House Transportation and Infrastructure Committee, and the House conferees to produce the largest infrastructure bill in U.S. history.

Lastly, a number of Senate staff worked long and hard on this bill. They worked many weekends and frequently late into the night. Mr. President, our colleagues know that staff provide invaluable assistance as public policy is formulated. Here they were essential. On behalf of our nation's highway users, I would like to thank each of them. I believe it is important to identify the staff directly involved in TEA21.

From the Senate Committee on Environment and Public Works: Daniel Corbett; Albert Dahlberg; Stephanie Daigle; Chris Hessler; Abigail Kinnison; Ann Loomis; Jason Patlis; Jimmie Powell; Kathy Ruffalo; Tom Sliter; Ellen Stein; Sharon Tucker; and Linda Willard.

From the Senate Committee on Commerce, Science and Transportation: Ann Begeman; Carl Bentzel; Moses Boyd; Lance Bultena; Charlotte Casey; Timothy Cook; Penny Dalton; James Drewry; Clyde Hart; Clark LeBlanc; John Raidt; and Sloan Rappoport.

From the Senate Committee on Banking, Housing, and Urban Affairs: Robert Drozdowski; Rachel Forward; Loretta Garrison; Steven Harris; Peggy Kuhn; Howard Menell; and Joseph Mondello.

From the Senate Committee on the Budget: William Hoagland; Brian Riley; and Austin Smythe.

From the Senate Legislative Counsel: Janine Johnson.

The following staff also participated on behalf of their Senator: Rob Alexander; Steven Apicella; Mark Ashby; Doug Benevento; Renee Bennett; Kirsten Beronia; Chad Bradley; Rick Dearborn; Steve Dye; Mike Egan; James English; Tracy Henke; Keith Hennessey; Timothy Hess; Gerry Gilligan; Chris Jahn; Arnie Kupferman; Adam Lawrence; Stephanie Leger; Ryan Leonard; Lisa Linnell; James McCarthy; Stephen McMillin; Ashley Miller; Beth Miller; Liz O'Donoghue; Justin Oliver; Brigitta Pari; Peter Phipps; Mark Prater; Chris Prins; Darla Romfo; Joyce Rechtscheffen; Brad Robinson; Peter Rogoff; Jason Rupp; Christine Russell; David Russell; Pamela Sellers; Joshua Sheinkmen; Becky Shipp; Gary Smith; Dave Thompson; Polly Trottenberg; Joseph Trujillo; Mitch Warren; Andrew Wheeler; Melissa White; Clay Williams; and Drew Willision.

Again, these individuals worked very hard on the Transportation Equity Act for the 21st Century and the Senate owes them a debt of gratitude for their dedicated service to this legislation.

Mr. President, now that President Clinton has signed The Transportation Equity Act for the 21st Century, our nation has enacted the foundation of our infrastructure for the next millennium. TEA21 will improve interstate and international commerce, stimulate our economy, protect our environment, and foster the use of modern transportation technologies.

With TEA21, American's can now look forward to better, safer and less congested roads and bridges throughout the nation.

ACKNOWLEDGMENT OF SENATOR GORDON SMITH'S 100TH PRESIDING HOUR

Mr. LOTT. Mr. President, today, I have the pleasure to announce that Senator GORDON SMITH is the latest recipient of the Golden Gavel Award, having presided his 100th hour earlier today.

The Golden Gavel has served for many years to mark a Senator's 100th presiding hour and continues to represent our appreciation for the time these dedicated Senators contribute to presiding over the U.S. Senate—a very important duty.

With respect to presiding, Senator SMITH has consistently pitched-in when presiding difficulties have arisen. With the aid of his enthusiastic scheduling staff, Senator SMITH has gladly carried more than his share of the presiding load.

It is with sincere appreciation that I announce to the Senate the newest recipient of the Golden Gavel Award—Senator GORDON SMITH of Oregon.

TRIBUTE TO THE 1998 RECIPIENTS OF THE PHOENIX AWARD FOR SMALL BUSINESS DISASTER RECOVERY

Mr. FORD. Mr. President, I rise today to pay tribute to Ruby L. Wyatt and Dixie L. Owen of Falmouth, Kentucky, who have both been selected as Phoenix Award recipients for Small Business Disaster Recovery by the U.S. Small Business Administration. The Phoenix Award seeks to recognize outstanding individuals who overcome the odds in the face of disaster.

Ruby is the President of Wyatt's Supermarket, Inc., and her daughter Dixie is the Secretary of this business which has been owned by their family for over 50 years. Ruby and her late husband Abe started in the grocery business in 1945 by selling food and supplies from the back of their Studebaker truck throughout the rolling hills of northern Kentucky. The Wyatt family soon expanded their operation and opened a full service supermarket.

The business continued to flourish until a major flood hit Falmouth in March 1997. The supermarket Ruby and Dixie had just built only seven years earlier, was devastated by the flood. Ruby, at age 75, and Dixie decided to rebuild the store. In just 66 days, Wyatt's SuperValu reopened for business and all 52 employees were rehired. Today, Wyatt's SuperValu is the only grocery store serving Pendleton County.

Ruby and Dixie's dedication did not end with rebuilding their own business. They worked to help secure federal funds to help rebuild the surrounding community in the aftermath of the flood. In addition, Ruby and Dixie participated in a fund-raiser with the Coca-Cola Company that raised money for the local public library damaged by the flood.

There can be no doubt that Ruby and Dixie's drive and determination during the aftermath of the flood is worthy of the Phoenix Award. The community of Falmouth is lucky to have two business leaders who are dedicated to the well-being of their community. The actions of the Wyatt family serve as a role model for other business leaders who are affected by natural disasters. I congratulate them on their success and wish them many future years of success serving the people of northern Kentucky.

TRIBUTE TO THE KENTUCKY SMALL BUSINESS PERSON OF THE YEAR

Mr. FORD. Mr. President, I rise today to pay tribute to Mr. Lior S. Yaron of Louisville, Kentucky, who has been selected as the Kentucky Small Business Person of the Year by the U.S. Small Business Administration.

Mr. Yaron is the President and CEO of LSY International, a distribution company in Louisville. He started the company in 1985 in New York and then moved the headquarters to Kentucky. Lior began LSY with a unique idea of marketing General Electric appliances with European voltage standards to domestic customers who would be moving back to their native country.

Mr. Yaron recognized that he was in a position to fill a niche market. As a result, his customers were able to buy an appliance in the U.S. that was designed to work on foreign voltage standards. This allowed customers to bring these appliances back to their home country without having to pay duties, thus providing them with significant savings while also giving them quality home appliances.

The success of LSY is also attributed to heavy advertising in publications frequently read by foreign nationals. Mr. Yaron relied on his unique advertising to minimize risks associated with selling goods that are only marketable overseas. LSY's innovative way of doing business has enabled it to grow and prosper. Sales have increased from $600,000 in 1985 to $11,520,460 in 1997. Employees have increased from only two in 1985 to 40 in 1997.

And finally, I would like to say that Mr. Yaron's vision and innovation set an example for all small business entrepreneurs. I am very happy that Mr. Yaron is being recognized for all of the hard work that has gone into this successful business. I congratulate him on this significant accomplishment and am proud that this innovative business is based in Kentucky.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday, June 8, 1998, the federal debt stood at $5,495,352,165,488.00 (Five trillion, four hundred ninety-five billion, three hundred fifty-two million, one hundred sixty-five thousand, four hundred eighty-eight dollars and zero cents).

Five years ago, June 8, 1993, the federal debt stood at $4,303,726,000,000 (Four trillion, three hundred three billion, seven hundred twenty-six million).

Ten years ago, June 8, 1988, the federal debt stood at $2,540,845,000,000 (Two trillion, five hundred forty billion, eight hundred forty-five million).

Fifteen years ago, June 8, 1983, the federal debt stood at $1,308,822,000,000 (One trillion, three hundred eight billion, eight hundred twenty-two million).

Twenty-five years ago, June 8, 1973, the federal debt stood at $453,694,000,000 (Four hundred fifty-three billion, six hundred ninety-four million) which reflects a debt increase of more than $5 trillion—$5,041,658,165,488.00 (Five trillion, forty-one billion, six hundred fifty-eight million, one hundred sixty-five thousand, four hundred eighty-eight dollars and zero cents) during the past 25 years.

IN MEMORY OF TERRY SANFORD

Mr. HOLLINGS. Mr. President, on April 18, 1998, this body mourned the passing of a distinguished and beloved former colleague, Terry Sanford of North Carolina. In the days following Terry's death, I heard many moving tributes to him on this floor. And at his funeral in North Carolina, I heard eloquent eulogies and heartfelt testimonials to his greatness. But I have heard no tribute to Terry Sanford more sincere or beautiful than that of Joel Fleishman, who was a good friend to Terry Sanford and whom I, too, am proud to claim as a friend. Mr. Fleishman's tribute evokes the qualities that made Terry Sanford a great statesman and educator, and it reminds us all of the importance of principled public servants to a republic such as ours.

At this time, Mr. President, I ask unanimous consent that Mr. Fleishman's tribute to Terry Sanford be printed in the RECORD.

There being no objection, the tribute was ordered to be printed in the RECORD, as follows:

TERRY SANFORD

Dear Margaret Rose, Terry, Betsee, and all members of Terry Sanford's family. Be comforted by the many, many years of exuberantly joyful memories which all of you shared with Terry, as well as by the grandeur of his astonishing gifts to society, all of which will forever bring credit to the Sanford name. One of the greatest privileges of my life, and certainly the greatest shaper of my career, have been my work and friendship with him over 47 years, as well as the warm friendship which you all have given me so generously.

Seeing you there, Terry, Jr., brings to mind one of the hallmarks of his way of doing everything. His original sense of humor was no secret to anyone. One time he was meeting with some out-of-state, indeed Northern corporate CEOs in the Governor's office, trying to get them to invest in North Carolina, and he had a call from you, which went, he told me later, as follows: "Dad, I caught that big turtle that's been giving me trouble in the pond. What should I do with him?" Deliberately without explaining the question to those in his office, Terry responded to you, "Well, son, shoot 'im and throw 'im in the back of the truck. We'll decide what to do with him later." The folks in Terry's office turned pale, afraid to ask for fear of what they might learn, and even more than a bit anxious than before about doing business with this good old boy turned New South politician.

Over the past 20 years I had occasion to introduce Terry Sanford hundreds of times, mainly when we were jointly trying, alas, to raise money for Duke. I loved regaling the audiences with his achievements and watching him first blush and then riposte with that deadpan, twinkle-in-the-eye humor. He would surely blush and fire back ripostes at what all of us are saying about him today.

Terry Sanford was a great-spirited, great-souled man, a man of passion, a man with a conscience that had real bite, a man, above all, who cared about people (really cared!), a man of loyalty. But most of all, Terry Sanford was a creative genius, but a thoroughly practical one, who transformed everything he touched into something finer, better, worthier and more useful to the world. If I had to call him by any single phrase, it would be "the great transformer."

At a time when most Southern governors were engaged in shameless, vicious race-baiting—and Fritz Hollings of South Carolina and Leroy Collins of Georgia were notorious exceptions to that pattern—Terry Sanford staked his political career on achieving equality of opportunity without regard to race, and thereby transformed public discourse in North Carolina.

At a time when, as he entered the governorship, North Carolina ranked next to last—49th—among the states in per capita income, Terry Sanford sparked the transformation of its economy by giving life, energy and momentum to Luther Hodges' and Romeo Guest's dream of a high tech research park as the magnet and engine of North Carolina's technological transformation. He got Jack Kennedy to give the Research Triangle Park the only one of the National Institutes of Health ever located outside of Washington and helped persuade IBM to be the first anchor tenant of the Park. What Sanford got rolling, governors Dan Moore, Bob Scott, Jim Holshouser, Jim Hunt and Jim Martin took to ever greater heights, and now North Carolina is in 32nd place destined to go even higher. Think what moving from 49th to 32nd means for all the people of North Carolina, and what it tells us about the power of enlighted, dedicated political leadership to do good in partnership with non-governmental entities.

At a time when government was thought by most people to be capable of solving, and indeed to have a monopoly on solving, all public policy problems by itself, Terry Sanford energetically created policy-shaping and problem-solving partnerships among government at all levels, not-for-profit organizations, foundations and for-profit corporations, pioneering in what is now the fashion—trisectoral public problem-solving. Miracle of miracles, he even began the practice of systematically drawing so-called "pointy-headed" academics from their ivory towers into policymaking and administration in government.

At a time when Duke University was barely known outside the South, Terry Sanford conceived and launched a plan to let the whole world in on the secret that Duke was one of the best universities in the world. The market test of his success is that the number of applications for undergraduate admission over the fifteen years of his presidency doubled—from 3.7 to 8 per place in the class, and went ever further later as a result of the momentum he established, while soaring in quality as well. [He loved to tell the story of President Few's effort to recruit William James' student and fellow Harvard colleague, Professor MacDougald, to the Duke faculty as the first professor of psychology.

Professor MacDougald was on sabbatical at Oxford, and Few cabled him the offer, which was financially very attractive, inviting him to join the faculty of Duke in Durham, N.C. He instantly wired back, saying "I accept; where's Durham?" Thanks in part to Terry Sanford, everyone now knows where Durham is.]

The great transformer!

What was his secret? What were the qualities of mind and character that enabled him to achieve these feats?

First of all, he genuinely cared about people, about individuals. He was not someone who loved "the people" in principle, while disdaining them as individuals.

Secondly, he never let things get to him. Over 47 years I knew him to get angry only once. That was when a state trooper on duty at the Governor's Mansion inadvertently let it be known to a reporter that—get this—alcohol was in fact being served at the Mansion, and Terry was furious that his mother might discover that he had an occasional sip!

He stuck to his word. Unlike so many persons who occupy political roles, whether as public office-holders or university presidents, Terry Sanford did not change his mind or his tune depending on what those with whom he was talking wanted to hear, or according to the views of those with whom he had most recently met. If he made a decision and committed himself to you, you could count on the fact that he would stick to it, and not be persuaded out of it by the next person with whom he talked.

How could he do that? Because he had real values, bedrock values. There was a there there!

His fidelity was the inevitable result of the fact that what motivated him in all his actions were the values to which he wholeheartedly committed his life and his entire career. Those values were the lyrical melody his soul sang from his birth to his death on Saturday last, a song which stirred the hearts and minds of the millions who admired, voted for, and followed him in the audacious goals he set for us all. It was those values that led him to do all that he did, and not some ego need to be loved or admired or be constantly in the spotlight.

And he served those values with the most amazing energy I've ever encountered in anyone. He was literally indefatigable! It was not only boundless but it was never-ending, showing itself even as he fought the last battle of his life against cancer.

One is forced to ask, "Why?" Why did Terry Sanford pour so much of himself into his quest for a better society? Anyone must wonder why a rational human being would sacrifice so much of their own life for others. One time, Terry and Bert Bennett were out on the road campaigning with Margaret Rose, and they were all being subjected to the same old cold peas and chicken, and equally tasty rhetoric from local politicians. Margaret Rose was complaining to Bert that Terry was gone from home all the time. Little Terry and Betsee were moaning about missing their father. Bert slipped a note to Terry, which said "Why do you continue to stay in this business anyway?" Terry fired back a note with the following words: "To keep the SOBs out." That's a bit more jugular than Edmund Burke's "All that is required for evil to triumph is for good men to do nothing."

Of course, it was more, a lot more than that.

It was the ideals which drove him. I know of no public figure who has demonstrated such consistent fidelity to his ideals over a lifetime as Terry Sanford did. Most of us change as we grow older, get a little more radical, even conservative perhaps, as the case may be. But his devotion to his ideals didn't waver one whit in the 47 years I knew him. What were those ideals?

Devotion to democracy, little "d" as well as big "D." He always believed from the depth of this being, and always acted on the belief, that the best cure for the ills of democracy is more democracy. He was a relentless, devoted big D Democrat. That is one, as he taught me, whose credo is "What my dog trees, I'll eat."

Devotion to equality of opportunity for all, irrespective of race, religion and gender. His creed has always been that of the Declaration of Independence—"We hold these truths to be self-evident,"—and by "self-evident" he really meant self-evident—"that all men"—and women, he would add—"are created equal, that they are endowed by their Creator with certain inalienable rights, that among these are life, liberty and the pursuit of happiness." [Until Terry Sanford became president of Duke University, there was a quota on the admission of Jewish students. The day he became president, it was removed.]

Devotion to education as the most important means of society's continuing renewal, and of the individual's personal growth and ladder to a better life. Of all the things he was called—and he reveled in the fact that he was called many things good and bad—he was proudest of being called "the education governor"—not just of North Carolina, although that would surely have satisfied him—but the education governor of the entire United States, probably the first governor of any state in the nation in history to be widely so called. And I'll bet, too, that he is just as proud to have inspired Jim Hunt to aspire to, and indeed to earn, the same proud title.

Devotion to the development of leadership—to bringing along young people and nurturing them—as society's single best means of ensuring the future flow of wise, energetic and dedicated leaders required to solve the problems of succeeding generations.

As all of us are now gathered in the Duke Chapel to celebrate Terry Sanford's life, think how those four great ideals—devotion to democracy, to equality, to education, and to leadership development—that animated his career have come to combine in the mission of the nearby building and Institute that are honored by his name, and how they bear witness to his devotion to them. A more perfect match could hardly be imagined!

In an age when many politicians seem drawn to seek office, like moths to a flame, primarily by a desire for power, fame, and the spotlight, but who use the public interest as a mask and justification for their ambition, Terry Sanford was exactly the opposite. Public service was his end and public office was the means of his service. He was obsessed by fixing what is wrong, making things better, serving the public, and he sought public office as the most effective means for someone with his mix of talents to do so. His ambition was redeemed because it was always yoked to his over-riding, all-consuming, relentless quest for benefiting the public. He was driven by his vision of making things better for all North Carolinians, especially the powerless, the less well off, those who are discriminated against. I said he had a conscience with real bite. He not only preached doing right, but he did right. When the business folks at Duke proposed moving payday for the hourly workers from Friday to Monday, someone wrote and delivered to Terry a note with two verses from Deuteronomy (24:14, 15): "Thou shalt not wrong a day-laborer who is poor and needy whether of they brethren or of the strangers that are in thy land, in thy gates. On his day shalt thou give him his wage and let not the sun go down on it, for he is poor and setteth his heart upon it; let him not call unto God against thee, and a sin would be upon thee." He instantly reversed the change.

In another extraordinary respect, Terry Sanford was unique among all those of my acquaintance. He had an unquenchable thirst for ideas from everyone, which led him to seek out persons of all stations and conditions of life with whom to consult about everything that he cared about. His life was a never-ending pursuit of the best ideas from as a wide a circle as possible about how to solve the problems of concern to him, or to them. Unlike so many public figures and university presidents, he was resolutely determined to resist becoming the captive of his long-time friends, his campaign workers, his kitchen cabinet. It goes without saying that he was always loyal to them, and that they had access to him. But that inner circle was perpetually refreshed over the years by hundreds of others whom he sought out and drew in on a continuing basis. He had the most remarkable thirst for new ideas of any man of action I've ever known. That characteristic had to be one of the keys to the many significant innovations for which he is so justly credited all across North Carolina and at Duke University. Honesty requires me to say that not all of the ideas he picked up and decided to run with seemed to me in prospect likely to succeed, but I am struck in retrospect by how many of them did.

Another key is the way he recruited, empowered and defended associates. Once he hired or otherwise engaged someone, he turned them loose to carry out their visions, and he backed them to the hilt! If you worked for Terry Sanford, you never had to worry about whether the would come to your aid when you needed it, or protect you from those who opposed what you were trying to do. He simply empowered you with the authority of his office, and he was loyal to you.

At least most of the time.

My first assignment the day after the victorious second primary, was to drive Margaret Rose home to Fayetteville. Tom Lambeth handed me a set of car keys, and said take the blue Oldsmobile in the parking lot of the Carolina Hotel, which was campaign headquarters. So Margaret Rose and I went out to the car, got in and started to drive away, when she said, "Why don't we drive around the Mansion just to take a look at where we'll be living next January." Of course there was still the general election to win, but Republicans weren't as powerful then as now. So we drove north on MacDowell Street and went all the way around the mansion and then headed south on Wilmington Street. We hadn't gotten two blocks past the Mansion when I heard police sirens behind us. To say that I was petrified is the understatement of the decade. I could see the screaming headlines in the N&O the next morning: "Gubernatorial Nominee's Wife and Sanford Aide arrested for speeding." I was baffled because I knew we had not been speeding. It was worse. The policeman told me that the car Mrs. Sanford and I were in had just been reported as stolen. So I sheepishly got out of the car, and asked the police to let me make my one phone call. I wasn't about to tell them to whom. I called Tom,

who told Terry, whose immediate response was "Get Margaret Rose out of there as fast as possible, and forget about Joel!" It turned out that there were two blue Oldsmobiles in the lot, one of which belonged to the hotel manager, and miraculously the Sanford car keys fit his, too. We all had a great laugh when it was over.

Our bodies exist, I believe, only so that they can serve as instruments of the spirit that will animate us all if we but allow it to do so. Our bodies are but the means whereby we acquire the materiality to accomplish our visions in the world of the material. The spirit that animated Terry Sanford's body is the same spirit that found expression in the lives and bodies of Thomas Jefferson, Andrew Jackson, Abraham Lincoln, Charles Brantley Aycock, Franklin Roosevelt and John F. Kennedy, and although their bodies are long buried, their spirits live on in us. And it was the same spirit, too, that radiated through the body of Frank Porter Graham, in whose U.S. Senate campaign in 1950 Terry Sanford played his first active political role. The only time Tom Lambeth tells me that he ever saw Terry Sanford come close to breaking into tears was when he spoke about what Frank Graham's life had meant to him. Frank Graham's vision was Terry Sanford's vision, too: "In this land of liberty, for which our fathers died, and for which we would live, work, and give our all, may America become a country in which the highest and the lowest and all the people equally together have the freedom to struggle for the higher freedom of truth, goodness and beauty; where democracy is without vulgarity, excellence is without arrogance, the answer to error is not terror and the response to a difference in color, race, religion, ideas, and economic condition is not discrimination, exploitation, or intimidation."

It is not the body that we are here to bury that is Terry Sanford; what we bury is but the envelope. The real Terry Sanford can never be buried; that is the spirit, vision, energy and compassion that animated that body for eighty years. THAT is the Terry Sanford whom we honor and love, and that can never be interred in the earth from which the body came. As long as his spirit, vision, energy, and compassion animate *us*, all of us whose lives he stirred to "burgeon out all that is within us," in Governor Aycock's words, the values for which we love and honor Terry Sanford will go on leading us to serve the goals to which he helped inspire us to dedicate our lives.

EMERGENCY MEDICAL SERVICES FOR KING COVE, ALASKA

Mr. STEVENS. Mr. President, I lend my strong support to Senator MURKOWSKI and Congressman YOUNG in their efforts to provide better access to emergency medical services for the people of King Cove, Alaska. Senator MURKOWSKI's bill, S. 1092, and its companion bill in the House will put an end to the recent string of deaths resulting from emergency medical evacuation efforts out of King Cove.

King Cove is one of the most prolific fishing communities in the nation and has the largest fish processing operation in Alaska. It sits at the tip of the Alaska Peninsula, 600 miles southwest of Anchorage in the North Pacific Ocean.

King Cove is served by a small dirt runway. The runway has no lights and no instrument capability, and has no personnel manning it. It sits in a valley between two large mountains. The weather and the surrounding terrain create winds that are described as "venturi effects"—under these conditions the wind can blow in opposite directions at opposite ends of the runway. The winds aloft over the runway create wind shears that have flipped planes and thrown them into mountains. King Cove's airstrip is closed roughly one out of every three days, often for many days at a time.

Cold Bay also lies on the tip of the Alaska Peninsula. It is a community built entirely around the third largest nonmilitary runway in the state. Cold Bay is a ten minute plane ride from King Cove, just on the other side of a wildlife refuge. The main runway at Cold Bay is over ten thousand feet long. The crosswind runway is over five thousand feet long. Both are paved. Cold Bay's airport has runway lights and supports full instrument approaches. It is a designated landing site for the space shuttle, and is closed an average of two days a year.

The people of King Cove need emergency access to Cold Bay when the weather turns bad. Ferry service is not a viable option. The same wind that shuts down King Cove's runway can drive forty foot seas on Cold Bay. Recently, state officials looking into King Cove ferry service saw a one hundred twenty foot fishing boat fail to make it into the harbor because the seas were too rough.

The people of King Cove want to build a single lane gravel road to Cold Bay, but they need an easement through seven miles of federal land to do it. Many people who have never been to Alaska don't want to see this road built. They cite the cost of the road, the precedent of granting a right of way, and the availability of other options. What they don't cite is the eleven people who have died in recent years trying to fly out of King Cove.

Senator MURKOWSKI's bill does not authorize a single dollar of federal funds to build this road. It merely provides a land exchange in which the refuge gains five hundred acres of wilderness area.

The bill does not establish any precedent with respect to land use in wildlife refuges. There are currently 42 miles of road in this refuge, about a third of which are in wilderness areas. The Fish and Wildlife Service already encourages people to use these roads for bird-watching. Congress frequently allows a number of uses in wilderness areas. Just last Congress we allowed the use of all-terrain vehicles in the Anaktuvuk Pass land exchange.

Some people say that telemedicine is the answer to King Cove's emergency medical needs. I am a strong supporter of telemedicine, but I know that it is a diagnostic tool. Once a diagnosis is made, patients still need to get to a hospital. Telemedicine cannot reattach limbs or provide prenatal care.

Alaska is used to being micromangaged by Washington, but we will not sit by and listen to specious arguments made to raise funds for extreme environmental groups. We have a simple bill to fix a simple problem, and if we don't do it more people will die.

The people of King Cove deserve reasonable access to medical facilities. They have made a generous land exchange offer in return for the right of way. I strongly support Senator MURKOWSKI's efforts and urge my colleagues to support him as well when the bill comes to the floor. I ask that I be added as a cosponsor to the King Cove Health and Safety Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONGRATULATIONS TO THE UNLV GOLF TEAM

Mr. REID. Mr. President, I rise today to express my congratulations to Coach Dwaine Knight, Assistant Coach Casey Whalen, and the entire University of Nevada, Las Vegas golf team for capturing its first-ever NCAA national championship.

The UNLV Rebels secured the title after fending off rival Clemson to win the NCAA tournament, which was held in the final week of May at the University of New Mexico's Championship Golf Course. UNLV easily set a team tournament record by shooting a sizzling 34 under (72-hole) par of 1,118. The previous mark was 23 under par.

Prospects for winning the title appeared dim at the beginning of the season. Despite high rankings, the team failed to make the cut in the tournament in 1997, and lost key players to graduation and the professional ranks. Some in the media speculated that UNLV could not win the big tournaments. The team has clearly proved its doubters wrong.

It is interesting to note, however, that the Rebels came in a disappointing 10th in the season's first match and fell dramatically in the rankings. Undeterred, the squad, which includes only one senior, bounced back to win seven contests, a UNLV record.

Importantly, instead of being laden with highly recruited stars and overblown egos that are the trademarks of so many top amateur sports programs, the 1998 Rebels featured a handful of student-athletes with tremendous heart and determination. Coach Knight has rightfully stated that the mark of this year's team was its will to do battle. Indeed, the group's desire to persevere and overachieve should be an inspiration to all who follow the sport.

Bob Hope once said that if you watch a game, it's fun. If you play it, it's

recreation. If you work at it, it's golf. Plain and simple, the Rebels' tremendous success can be traced to their commitment to hard work. And, I might add, their hard work doesn't stop on the greens. In fact, the team is comprised of model student-athletes, young men who understand their first priority is academics. Their commitment to the sport is matched only by their commitment to the classroom.

I am particularly proud to report that the team earned a very respectable grade point average of 3.1 in the fall semester and 3.4 in the spring term. Moreover, they are true sportsmen in the sense that they represent themselves with class and good character.

The Rebels' success is something in which Nevadans can take great pride. In fact in southern Nevada, where the population increases by a thousand a week, where a new, spectacular course seems to open every month, and where the sun shines bright 300 hundred days a year, golf has emerged as nothing short of a sensation. The success of the UNLV team certainly contributes to the sport's popularity in southern Nevada.

Today, I applaud team members Jeremy Anderson, Chris Berry, Daron Dorsey, Charley Hoffman, Scott Lander, Bill Lunde, Christian Thornley, Morten Vidhoj, Scott Wingfield, the coaching staff, as well as the loyal fans, supportive community and UNLV, on the squad's amazing success. The UNLV golf team's hard work and great accomplishments have made Nevadans very proud, and I wish team members continued success in all their endeavors.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting one treaty, a withdrawal, and sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT CONCERNING THE NATIONAL EMERGENCY WITH RESPECT TO WEAPONS OF MASS DESTRUCTION—MESSAGE FROM THE PRESIDENT—PM 137

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

As required by section 204 of the International Emergency Economic Powers Act (50 U.S.C. 1703(c)) and section 401(c) of the National Emergencies Act (50 U.S.C. 1641(c)), I transmit herewith a 6-month report on the national emergency declared by Executive Order 12938 of November 14, 1994, in response to the threat posed by the proliferation of nuclear, biological, and chemical weapons ("weapons of mass destruction") and of the means of delivering such weapons.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 9, 1998.*

REPORT ENTITLED "INTERNATIONAL CRIME CONTROL ACT OF 1998"—MESSAGE FROM THE PRESIDENT—PM 138

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on the Judiciary.

To the Congress of the United States:

I am transmitting for immediate consideration and enactment the "International Crime Control Act of 1998" (ICCA). The ICCA is one of the foremost initiatives highlighted in my Administration's International Crime Control Strategy, which I announced on May 12, 1998. The proposed legislation would substantially improve the ability of U.S. law enforcement agencies to investigate and prosecute international criminals, seize their money and assets, intercept them at our borders, and prevent them from striking at our people and institutions.

Advances in technology, the resurgence of democracy, and the lowering of global political and economic barriers have brought increased freedom and higher living standards to countries around the world, including our own. However, these changes have also provided new opportunities for international criminals trafficking in drugs, firearms, weapons of mass destruction, and human beings, and engaging in fraud, theft, extortion, and terrorism.

In response to these formidable threats to the American people, I have directed the Departments of Justice, State, and the Treasury, as well as the Federal law enforcement and intelligence communities, to intensify their ongoing efforts to combat international crime. In order to carry out this mandate most effectively, the many departments and agencies involved need the additional tools in the proposed ICCA that will enhance Federal law enforcement authority in several key areas, close gaps in existing laws, and facilitate global cooperation against international crime.

The ICCA's provisions focus on seven essential areas to improve the Federal Government's ability to prevent, investigate, and punish international crimes and criminals:

(1) INVESTIGATING AND PUNISHING ACTS OF VIOLENCE COMMITTED AGAINST AMERICANS ABROAD

—Broadens existing criminal law to authorize the investigation and punishment of organized crime groups who commit serious criminal acts against Americans abroad. (Current law generally requires a link to terrorist activity.)

—Provides jurisdiction in the United States over violent acts committed abroad against State and local officials while in other countries on official Federal business.

(2) STRENGTHENING U.S. AIR, LAND, AND SEA BORDERS

—Increases penalties for smugglers who endanger Federal law enforcement officials seeking to interdict their activities, introducing the Federal criminal offense of "portrunning" (i.e., evading border inspections, often through the use of force).

—Addresses gaps in current law relating to maritime drug interdiction operations, introducing the criminal offense of failing to stop ("heave to") a vessel at the direction of a Coast Guard or other Federal law enforcement official seeking to board that vessel.

—Provides clear authority to search international, outbound letter-class mail if there is reasonable cause to suspect that the mail contains monetary instruments, drugs, weapons of mass destruction, or merchandise mailed in violation of several enumerated statutes (including obscenity and export control laws).

—Broadens the ability to prosecute criminals smuggling goods out of the United States.

(3) DENYING SAFE HAVEN TO INTERNATIONAL FUGITIVES

—Authorizes the extradition, in certain circumstances, of suspected criminals to foreign nations in two separate cases not covered by a treaty: (1) when the United States has an extradition treaty with the nation, but the applicable treaty is an outdated "list" treaty that does not cover the offense for which extradition is sought; and (2) when the United States does not have an extradition treaty with the requesting nation.

—Provides for exclusion from the United States of drug traffickers and their immediate family members and of persons who attempt to enter the United States in order to avoid prosecution in another country.

(4) SEIZING AND FORFEITING THE ASSETS OF INTERNATIONAL CRIMINALS

—Expands the list of money laundering "predicate crimes" to include certain violent crimes, international terrorism, and bribery of public officials, thus increasing the availability of money laundering enforcement tools.

—Broadens the definition of "financial institution" to include foreign banks, thereby closing a loophole involving criminally derived funds laundered through foreign banks doing business here.

—Provides new tools to crack down on businesses illegally transmitting money, and to investigate money laundering under the Bank Secrecy Act.

—Toughens penalties for violations of the International Emergency Economic Powers Act.

—Criminalizes attempted violations of the Trading With the Enemy Act.

(5) RESPONDING TO EMERGING INTERNATIONAL CRIME PROBLEMS

—Enhances enforcement tools for combating arms trafficking, including requiring "instant checks" of the criminal history of those acquiring explosive materials from Federal licensees and clarifying Federal authority to conduct undercover transactions subject to the Arms Export Control Act for investigative purposes.

—Addresses the increasing problem of alien smuggling by authorizing the forfeiture of the proceeds and all instrumentalities of alien smuggling.

—Cracks down on the international shipment of "precursor chemicals" used to manufacture illicit drugs, primarily by authorizing the Drug Enforcement Administration to require additional "end-use" verification.

—Provides extraterritorial jurisdiction for fraud involving credit cards and other "access devices," which cost U.S. businesses hundreds of millions of dollars every year.

—Authorizes wiretapping for investigations of felony computer crime offenses.

(6) PROMOTING GLOBAL COOPERATION

—Expands the authority of U.S. law enforcement agencies to share the seized assets of international criminals with foreign law enforcement agencies.

—Provides new authority, applicable in cases where there is no mutual legal assistance treaty provision, to transfer a person in United States Government custody to a requesting country temporarily for purposes of a criminal proceeding.

(7) STREAMLINING THE INVESTIGATION AND PROSECUTION OF INTERNATIONAL CRIME IN U.S. COURTS

—Authorizes the Attorney General to use funds to defray translation, transportation, and other costs of State and local law enforcement agencies in cases involving fugitives or evidence overseas.

—Facilitates the admission into evidence in U.S. court proceedings of certain foreign government records.

The details of this proposal are described in the enclosed section-by-section analysis. I urge the prompt and favorable consideration of this legislative proposal by the Congress.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 9, 1998*.

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 2:35 p.m., a message from the House of Representatives, delivered by Mr. Hanraham, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 1150. An act to ensure that federally funded agricultural research, extension, and education address high-priority concerns with national or multistate significance, to reform, extend, and eliminate certain agricultural research programs, and for other purposes.

S. 1244. An act to amend title 11, United States Code, to protect certain charitable contributions, and for other purposes.

The enrolled bills were signed subsequently by the President pro tempore (Mr. THURMOND).

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time and placed on the calendar

H.R. 3433. An act to amend the Social Security Act to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide beneficiaries with disabilities meaningful opportunities to return to work, to extend Medicare coverage for such beneficiaries, and to make additional miscellaneous amendments relating to Social Security.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–5235. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report of the Board of Governors of the Federal Reserve System for calendar year 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC–5236. A communication from the General Counsel of the Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Single Family Mortgage Insurance; Electronic Underwriting" (RIN2502–AH15) received on May 29, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–5237. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the report on the State of Fair Housing in America for 1995; to the Committee on Banking, Housing, and Urban Affairs.

EC–5238. A communication from the President of the United States, transmitting, pursuant to law, the report of a notice entitled "Continuation of Emergency with Respect to the Federal Republic of Yugoslavia (Serbia and Montenegro) and the Bosnian Serbs"; to the Committee on Banking, Housing, and Urban Affairs.

EC–5239. A communication from the President of the United States, transmitting, pursuant to law, a report relative to the national emergency with respect to Burma; to the Committee on Banking, Housing, and Urban Affairs.

EC–5240. A communication from the Managing Director of the Federal Housing Finance Board, transmitting, pursuant to law, the report of a rule entitled "Amendment to Affordable Housing Program Regulation" (RIN3069–AA73) received on May 26, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–5241. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the report on the operations of the Exchange Stabilization Fund for fiscal year 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC–5242. A communication from the Chief Counsel of the Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, the report of a rule regarding property owned or controlled by the Government of Sudan, specially designated narcotics traffickers, and a vessel no longer owned or controlled by Cuba received on May 26, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–5243. A communication from the Deputy Director for Policy and Programs, Community Development Financial Institutions Fund, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Notice of Extension of Application Deadline" received on May 26, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–5244. A communication from the Chief Counsel of the Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, the report of a rule regarding individuals and entities whose property is blocked because they have been determined to play a significant role in international narcotics trafficking received on May 26, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–5245. A communication from the Secretary of the Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "Custody of Investment Company Assets Outside the United States" (RIN3235–AE98) received on May 26, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–5246. A communication from the Deputy Associate Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled "Revision to the NASA FAR Supplement on Technical Performance Incentive Guidance" received on May 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5247. A communication from the Deputy Associate Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled "Revision to the NASA FAR Supplement on Contractor Performance Information" received on May 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5248. A communication from the Acting Associate Administrator for Legislative Affairs, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of the annual performance plan for fiscal year 1999; to the Committee on Commerce, Science, and Transportation.

EC–5249. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule concerning the closure of directed fishing for Pacific cod by vessels using hook-and-line gear in the Bering Sea and Aleutian Islands management area (Docket 971208298–8055–02) received on May 26, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5250. A communication from the Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule concerning summer period scup fisheries closures in Delaware, New Hampshire, Maryland, and Massachusetts (Docket 971015246–7293–02) received on May 26, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5251. A communication from the Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule concerning Atlantic bluefin tuna quota specifications and general category effort controls (RIN0648–AK87) received on May 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5252. A communication from the Acting Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule regarding the Fishery Management Plan for the Summer Flounder, Scup, and Black Sea Bass Fisheries (RIN0648–AK78) received on May 26, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5253. A communication from the Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule regarding the Fishery Management Plan for Atlantic Surf Clam and Ocean Quahog Fisheries (RIN0648–AF41) received on May 26, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5254. A communication from the Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule regarding the availability of Federal assistance under the Halibut and Sablefish Fisheries Quota-Share Loan Program (RIN0648–ZA38) received on May 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5255. A communication from the Office of the Chairman of the Surface Transportation Board, transmitting, pursuant to law, the report of a rule entitled "Rail Service Continuation Subsidy Standards" received on May 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5256. A communication from the Secretary of Commerce, transmitting, pursuant to law, the report on actions taken in respect to the New England fishing capacity reduction initiative for calendar year 1997; to the Committee on Commerce, Science, and Transportation.

EC–5257. A communication from the ADM Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule regarding FM broadcast stations in Vergennes, Vermont, Willsboro and Malone, New York (Docket 97–185) received on May 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5258. A communication from the ADM Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Revisions to Part 21 of the Commission's Rules regarding the Multipoint Distribution Service" (Docket 96–179) received on May 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5259. A communication from the ADM Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule regarding FM broadcast stations in Brinkley and Colt, Arkansas (Docket 98–15) received on May 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5260. A communication from the ADM Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule regarding FM broadcast stations in Bozeman, Montana (Docket 98–23) received on May 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5261. A communication from the ADM Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule regarding deregulation of the equipment authorization requirements for digital devices (Docket 95–19) received on May 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5262. A communication from the ADM Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule regarding FM broadcast stations in Speculator, New York (Docket 98–12) received on May 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5263. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety Zone; Oceanside, CA" (RIN2115–AA97) received on May 29, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5264. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations; Clear Creek, TX" (RIN2115–AE47) received on May 29, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5265. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Braked Roll Conditions" (RIN2120–AF83) received on May 29, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5266. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace; Knoxville, IA" (Docket 98–ACE–12) received on May 29, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5267. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–145 Series Airplanes" (Docket 98–NM–34–AD) received on May 29, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5268. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Airbus Model A300, A310, and A300–600 Series Airplanes" (Docket 98–NM–13–AD) received on May 29, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5269. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Dornier Model 328–100 Series Airplanes" (Docket 98–NM–40–AD) received on May 29, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5270. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Raytheon Model Hawker 800XP Series Airplanes, and Hawker 800 (U–125A Military Derivative) Airplanes" (Docket 98–NM–165–AD) received on May 29, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5271. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; McDonnell Douglas Model DC–9 and DC–9–80 Series Airplanes, Model MD–88 Airplanes, and C–9 (Military) Series Airplanes" (Docket 97–NM–251–AD) received on May 29, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5272. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Aerospatial Model ATR42–300 and –320, and Model ATR72 Series Airplanes" (Docket 98–NM–24–AD) received on May 29, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5273. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; de Havilland Model DHC–8–301, –311, –314, and –315 Series Airplanes" (Docket 97–NM–330–AD) received on May 29, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5274. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Construcciones Aeronauticas, S.A. (CASA) Model CN–235 Series Airplanes" (Docket 97–NM–331–AD) received on May 29, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5275. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments" (Docket 29226) received on May 29, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5276. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments" (Docket 29227) received on May 29, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5277. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revocation of Class D Airspace, Lubbock Reese AFB, TX, and Revision of Class E Airspace, Lubbock, TX" (Docket 98–ASW–18) received on May 29, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5278. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments" (Docket 29225) received on May 29, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5279. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Food Labeling; Nutrient Content Claims—General Provisions" (Docket 98N–0283) received on May 26, 1998; to the Committee on Labor and Human Resources.

EC–5280. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule regarding sodium phosphates for over-the-counter laxative use (RIN0910–AA01) received on June 2, 1998; to the Committee on Labor and Human Resources.

EC–5281. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Direct Food Substances Affirmed as Generally Recognized as Safe; Sheanut Oil" (Docket 88G–0288) received on June 2, 1998; to the Committee on Labor and Human Resources.

EC–5282. A communication from the Commissioner of Education Statistics, Office of Educational Research and Improvement, Department of Education, transmitting, pursuant to law, the statistical report of the National Center for Educational Statistics for 1998; to the Committee on Labor and Human Resources.

EC–5283. A communication from the Administrator of the Foreign Agricultural Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Amendment to the Production Flexibility Contract Regulations" (RIN0560–AF25) received on June 2, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5284. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Tuberculosis in Cattle and Bison; State Designation; Hawaii" (Docket 97–063–2) received on June 2, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5285. A communication from the Assistant Secretary for Land and Minerals Management, Department of the Interior, transmitting, pursuant to law, the report of a rule regarding oil and gas and sulphur operations in the outer continental shelf (RIN1010–AC45) received on May 28, 1998; to the Committee on Energy and Natural Resources.

EC–5286. A communication from the Assistant Secretary for Land and Minerals Management, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Blowout Preventer (BOP) Testing Requirements for Drilling and Completion Operations" (RIN1010–AC37) received on June 2, 1998; to the Committee on Energy and Natural Resources.

EC–5287. A communication from the Director of the Office of Rulemaking Coordination, Department of Energy, transmitting, pursuant to law, the report of a rule regarding policy on small entity compliance with statutory and regulatory requirements received on June 2, 1998; to the Committee on Energy and Natural Resources.

EC–5288. A communication from the Secretary of Defense, transmitting, notices of military (Navy) retirements; to the Committee on Armed Services.

EC–5289. A communication from the Secretary of Defense, transmitting, notices of military (Air Force) retirements; to the Committee on Armed Services.

EC–5290. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting the report of the texts of international agreements, other than treaties, and background statements (98–70 through 98–75); to the Committee on Foreign Relations.

EC–5291. A communication from the Assistant to the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report of a rule entitled "Leverage Capitol Standards: Tier 1 Leverage Ratio" (Docket R–0948) received on June 2, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–5292. A communication from the Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Adjustments of Status for Certain Nationals of Nicaragua and Cuba" (RIN1115–AF04) received on June 2, 1998; to the Committee on the Judiciary.

EC–5293. A communication from the Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, the report of a rule regarding criminal aliens and custody redeterminations (RIN1115–AE88) received on June 2, 1998; to the Committee on the Judiciary.

EC–5294. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the report on direct spending of receipts legislation within seven days of enactment dated May 1, 1998; to the Committee on the Budget.

EC–5295. A communication from the Secretary of Health and Human Services, transmitting, a draft of proposed legislation entitled "The Child Support Enforcement Budget Amendments Act" ; to the Committee on Finance.

EC–5296. A communication from the President of the United States, transmitting, pursuant to law, a report of action under the Trade Act of 1974 concerning wheat gluten; to the Committee on Finance.

EC–5297. A communication from the Chairman of the United States International Trade Commission, transmitting, pursuant to law, the report on the operation of the United States trade agreements program for calendar year 1997; to the Committee on Finance.

EC–5298. A communication from the National Director of Appeals, Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, the report of a rule entitled "Federal Income Tax Withholding on Compensation Paid to Nonresident Alien Crew by a Foreign Transportation Entity" received on June 2, 1998; to the Committee on Finance.

EC–5299. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule regarding Department Store Inventory Price Indexes for April 1998 (Rev. Rul. 98–29) received on June 2, 1998; to the Committee on Finance.

EC–5300. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Pension, Profit-Sharing, Stock Bonus Plans, etc.; Certain Cash Deferred Arrangements" (Rev. Rul. 98–30) received on June 2, 1998; to the Committee on Finance.

EC–5301. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Weighted Average Interest Rate Update" (Rev. Rul. 98–32) received on June 2, 1998; to the Committee on Finance.

EC–5302. A communication from the Chairman of the Equal Employment Opportunity Commission, transmitting, pursuant to law, the report of the Office of Inspector General for the period October 1, 1997 through March 31, 1998; to the Committee on Governmental Affairs.

EC–5303. A communication from the Senior Deputy Chairman of the National Endowment for the Arts, transmitting, pursuant to law, the report of the Office of Inspector General for the period October 1, 1997 through March 31, 1998; to the Committee on Governmental Affairs.

EC–5304. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, the report of the Office of Inspector General for the period October 1, 1997 through March 31, 1998; to the Committee on Governmental Affairs.

EC–5305. A communication from the Federal Co-Chairman of the Appalachian Regional Commission, transmitting, pursuant to law, the report of the Office of Inspector General for the period October 1, 1997 through March 31, 1998; to the Committee on Governmental Affairs.

EC–5306. A communication from the Chairman of the Securities and Exchange Commission, transmitting, pursuant to law, the report of the Office of Inspector General for the period October 1, 1997 through March 31, 1998; to the Committee on Governmental Affairs.

EC–5307. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report of the Office of Inspector General for the period October 1, 1997 through March 31, 1998; to the Committee on Governmental Affairs.

EC–5308. A communication from the Secretary of Labor, transmitting, pursuant to law, the report of the Office of Inspector General for the period October 1, 1997 through March 31, 1998; to the Committee on Governmental Affairs.

EC–5309. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule regarding revisions to the

Knox County portion of the Tennessee SIP (FRL6104–1) received on June 2, 1998; to the Committee on Environment and Public Works.

EC–5310. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule regarding gasoline volatility requirements for the Pittsburgh-Beaver Valley Ozone Nonattainment Area (FRL6102–4) received on June 2, 1998; to the Committee on Environment and Public Works.

EC–5311. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule regarding emissions from perchloroethylene dry cleaning systems in Texas (FRL6104–2) received on June 2, 1998; to the Committee on Environment and Public Works.

EC–5312. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Azoxystrobin; Pesticide Tolerances for Emergency Exemptions" (FRL5793–6) received on June 2, 1998; to the Committee on Environment and Public Works.

EC–5313. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Clopyralid; Extension of Tolerance for Emergency Exemptions" (FRL5789–8) received on June 2, 1998; to the Committee on Environment and Public Works.

EC–5314. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Fenbuconazole; Pesticide Tolerance for Emergency Exemptions" (FRL5791–5) received on June 2, 1998; to the Committee on Environment and Public Works.

EC–5315. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants; Petroleum Refineries" (FRL6106–4) received on June 2, 1998; to the Committee on Environment and Public Works.

EC–5316. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Polyvinyl Chloride; Tolerance Exemption" (FRL5789–7) received on June 2, 1998; to the Committee on Environment and Public Works.

EC–5317. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule regarding standards for municipal solid waste landfills (FRL6106–8) received on June 2, 1998; to the Committee on Environment and Public Works.

EC–5318. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of two rules regarding the State of Florida Implementation Plans and emission standards for Washoe County, Nevada (FRL6015–4, FRL6014–5) received on June 2, 1998; to the Committee on Environment and Public Works.

EC–5319. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Sinorhizobium meliloti Strain RMBPC–2; Significant New Use Rule" (FRL–5789–5) received on June 2, 1998; to the Committee on Environment and Public Works.

EC–5320. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Saab Model 2000 Series Airplanes" (Docket 96–NM–211–AD) received on June 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5321. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Airbus Model A310 and A300–600 Series Airplanes" (Docket 96–NM–172–AD) received on June 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5322. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Glaser-Dirks Flugzeugbau GmbH Model DG–400 Gliders" (Docket 98–CE–14–AD) received on June 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5323. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Glaser-Dirks Flugzeugbau GmbH Model DG–400 Gliders" (Docket 98–CE–11–AD) received on June 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5324. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Dornier Luftfahrt GmbH Models 228–100, 228–101, 228–200, 228–201, 228–202 and 228–212 Airplanes" (Docket 97–CE–121–AD) received on June 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5325. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Pilatus Aircraft Ltd. Models PC–12 and PC–12/45 Airplanes" (Docket 97–CE–38–AD) received on June 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5326. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Short Brothers Model SD3–30, SD3–60, SD3–SHERPA, and SD3–60 SHERPA Series Airplanes" (Docket 97–NM–102–AD) received on June 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5327. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class E Airspace; Livingston, MT, and Butte, MT, and Removal of Class E Airspace; Coppertown, MT" (Docket 97–ANM–20) received on June 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5328. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Special Local Regulations for Marine Events; The Great Chesapeake Bay Swim Event, Chesapeake Bay, Maryland" (RIN2115–AE46) received on June 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5329. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety Zone; Coney Island Air Show Days, Coney Island Channel, Brooklyn, New York" (RIN2121–AA97) received on June 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5330. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Special Local Regulation: Fireworks displays within the First Coast Guard District" (RIN2115–AE46) received on June 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5331. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on air cargo security; to the Committee on Commerce, Science, and Transportation.

EC–5332. A communication from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule regarding the Federal-State Joint Board on Universal Service (Docket 96–45) received on June 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5333. A communication from the Secretary of the Consumer Product Safety Commission, transmitting, pursuant to law, the report of a rule regarding child-resistant packaging for certain household products containing fluoride received on June 2, 1998; to the Committee on Commerce, Science, and Transportation.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HATCH (for himself and Mr. LEAHY):

S. 2143. A bill to amend chapter 45 of title 28, United States Code, to authorize the Administrative Assistant to the Chief Justice to accept voluntary services, and for other purposes; to the Committee on the Judiciary.

By Mr. COVERDELL:

S. 2144. A bill to amend the Fair Labor Standards Act of 1938 to exempt from the minimum wage recordkeeping and overtime compensation requirements certain specialized employees; to the Committee on Labor and Human Resources.

By Mr. SHELBY (for himself, Mr. ROCKEFELLER, and Ms. MOSELEY-BRAUN):

S. 2145. A bill to modernize the requirements under the National Manufactured Housing Construction and Safety Standards Act of 1974 and to establish a balanced consensus process of the development, revision, and interpretation of Federal construction and safety standards for manufactured homes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HATCH (for himself and Mr. BENNETT):

S. 2146. A bill to provide for the exchange of certain lands within the State of Utah; to the Committee on Energy and Natural Resources.

By Mr. DASCHLE (for himself and Mr. JOHNSON):

S. 2147. A bill to amend the Internal Revenue Code of 1986 to provide a deduction for

two-earner married couples, to allow self-employed individuals a 100-percent deduction for health insurance costs, and for other purposes; to the Committee on Finance.

By Mr. HATCH (for himself and Mr. KENNEDY):

S. 2148. A bill to protect religious liberty; to the Committee on the Judiciary.

By Mr. REID (for himself and Mr. BRYAN):

S. 2149. A bill to transfer certain public lands in northeastern Nevada; to the Committee on Energy and Natural Resources.

By Mr. FRIST (for himself, Mr. KENNEDY, Mr. JEFFORDS, Mr. WELLSTONE, Ms. MIKULSKI, and Mr. TORRICELLI):

S. 2150. A bill to amend the Public Health Service Act to revise and extend the bone marrow donor program, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. NICKLES (for himself, Mr. LOTT, Mr. COATS, Mr. INHOFE, Mr. HELMS, Mr. MURKOWSKI, Mr. GRAMS, Mr. FAIRCLOTH, Mr. BOND, Mr. ENZI, Mr. SESSIONS, Mr. HAGEL, and Mr. COVERDELL):

S. 2151. A bill to clarify Federal law to prohibit the dispensing or distribution of a controlled substance for the purpose of causing, or assisting in causing, the suicide, euthanasia, or mercy killing of any individual; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. ROTH (for himself and Mr. THOMAS):

S. Res. 245. A resolution expressing the sense of the Senate that it is the interest of both the United States and the Republic of Korea to maintain and enhance continued close U.S-ROK relations, and to commend President Kim Dae Jung and the Republic of Korea for the measures already implemented and those it has committed to implement to resolve the country's economic and financial problems; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH (for himself and Mr. LEAHY):

S. 2143. A bill to amend chapter 45 of title 28, United States Code, to authorize the Administrative Assistant to the Chief Justice to accept voluntary services, and for other purposes; to the Committee on the Judiciary.

SUPREME COURT VOLUNTEER LEGISLATION

Mr. HATCH. Mr. President, year after year, millions of people flock to Washington D.C. to visit the seat of American government. They come from every state of the union and most of the nations of the Earth to view for themselves the workings of the oldest democracy in the world. This city, through its historic edifices, tells the story of our nation. I am grateful for the thousands of professionals and volunteers who help to share that story with all who come to hear it.

Over one million of these visitors come to the Supreme Court Building each year. They come to see, experience, and learn about the workings of American justice. Meeting this large demand can be taxing on the resources of the Court. To satisfy this need, without adding an undue burden to the budget, the Court has asked Congress to enact legislation permitting volunteers to conduct public tours of the Supreme Court building.

This legislation will provide the Court with the same benefits that have recently been extended to the Congress. Currently, 35 volunteers from the Capitol Guide Service assist Capitol visitors by providing historical perspective and insight. I have been told by the Capitol Guide Service that the influx of volunteers, allowed by legislation in the 104th Congress, enabled them to increase the volume of their tours of the Capitol by approximately twenty-five percent. Moreover, it provided the personnel necessary to expand their service to the exterior of the Capitol. Guides positioned outside the Capitol help direct visitors and provide information about the historic external architecture of this building. The use of volunteers has improved the experience of citizens visiting the Capitol grounds.

The proposed legislation, like that covering congressional volunteers, will have no adverse fiscal impact, nor will it displace any Supreme Court employees. The legislation will, however, dramatically improve the ability of the Supreme Court to educate the public about this distinctly American institution.

I believe that upon passage of this legislation, all Americans who visit our seat of Justice will appreciate the expanded services made available by its enactment.

By Mr. SHELBY (for himself, Mr. ROCKEFELLER, and Ms. MOSELEY-BRAUN):

S. 2145. A bill to modernize the requirements under the National Manufactured Housing Construction and Safety Standards Act of 1974 and to establish a balanced consensus process for the development, revision, and interpretation of Federal construction and safety standards for manufactured homes; to the Committee on Banking, Housing, and Urban Affairs.

MANUFACTURED HOUSING IMPROVEMENT ACT

• Mr. SHELBY. Mr. President, today I introduce a bipartisan bill with my colleagues, Senators JOHN ROCKEFELLER and CAROL MOSELEY-BRAUN. Entitled the "Manufactured Housing Improvement Act," (MHIA) this bill is designed to modernize the requirements under the National Manufactured Housing Construction and Safety Standards Act of 1974 and to establish a balanced consensus process for the development, revision, and interpretation of Federal construction and safety standards for manufactured homes.

Many do not realize that the manufactured homes of today are completely different from those of twenty or even ten years ago. They also do not realize that this is the fastest growing segment of the housing industry, and that it accounts for one out of every three new single family homes sold. Between 1980 and 1990, the industry experienced a 60 percent growth in market share, and last year set a twenty year sales record. There are good consumer-oriented reasons for this tremendous growth—manufactured housing offers quality and aesthetically pleasing housing at an average cost of $37,300, excluding the land. Today, manufactured housing has lowered the threshold to the American Dream of home ownership for millions of Americans, including first-time home buyers, senior citizens, young families, and single parents.

At a time when home ownership is becoming harder for the average American to attain, and with more than 5.3 million Americans paying more than 50 percent of their incomes on rent, I believe it is imperative to update the laws that regulate the private sector solution to affordable housing. In order for the manufactured housing industry to remain competitive, Congress must modernize the National Manufactured Housing Construction and Safety Standards Act of 1974.

My bill would do just that. MHIA would establish a consensus committee that would submit recommendations to the Secretary of Housing and Urban Development (HUD) for developing, amending and revising both the Federal Manufactured Home Construction and Safety Standards. This provision will allow the manufactured housing industry to update and create applicable building codes and standards just like other participants in the housing industry. In addition, the committee would be authorized to interpret the standards, thereby eliminating confusion and uncertainty in the market place.

The Manufactured Housing Improvement Act would authorize the Secretary of HUD to use industry labeling fees for the administration of the consensus committee and the hiring of additional HUD staff. The Secretary of HUD would also be authorized to use industry label fees to promote the availability and affordability of manufactured housing.

This legislation is a very significant step forward in that both the Manufactured Housing Institute and the Manufactured Housing Association for Regulatory Reform endorse this legislation. The industry participants have modernized the quality and technology of manufactured housing. Congress must now modernize the laws that regulate an industry that provides affordable

housing and contributes more than $23 billion annually to our nation's economy.•

• Mr. ROCKEFELLER. Mr. President, I join today with Senator SHELBY to introduce legislation intended to strengthen the manufactured housing industry. Manufactured housing provides a major source of affordable housing for American families and seniors. This industry represents almost 30 percent of new single-family homes sold in the United States. In my state of West Virginia, manufactured housing represents more than 60 percent of new homes.

Manufactured housing should play a strong role to increase the availability of affordable housing. This issue will be especially important to seniors. According to a recent national survey, 45 percent of households living in manufactured homes are headed by a person more than 50 years old.

Manufactured housing is affordable housing, and it is the fastest growing type of housing nationally. The average cost of a new manufactured home without land in 1997 was $38,400. Even with land and installation fees, this cost is well below the typical costs of a newly constructed site-built home.

But this industry faces challenges. Unlike other housing, manufactured housing is regulated by the 1974 National Manufactured Housing Construction and Safety Standards Act by the Department of Housing and Urban Development, (HUD). Because of reform in HUD management, the federal officials overseeing manufactured housing have declined from a staff of 34 to only eight. This decline in staff has occurred at the same time that the industry has grown. Unfortunately, due to a lack of staff, HUD cannot keep pace with the need to update the code on a consistent basis and timely manner. For example, there are new nationally recognized standards for fire protection prepared by the National Fire Protection Association and endorsed by the National Institute for Standards and Technology (NIST). However, there is no indication that HUD is ready to act on using these new standards to upgrade its codes for manufactured housing. In fact, between 1989 and 1996, a consensus committee has made 140 suggestions to HUD about changes for the federal codes on manufactured housing. More than 80 of these provisions are still pending in the Department.

In 1990, Congress established a National Commission on Manufactured Housing and pushed the commission to forge a consensus on key issues for this important industry. Unfortunately that effort collapsed in 1994.

This legislation is a new effort to address the challenges facing the industry. Introduction of the bill is just a first step. We all understand that the legislative process is designed to seek a consensus and improve legislation. I believe that we must work hard to forge a consensus between the industry and the consumers. This will be a challenge, but the potential rewards can be great for both sides. The industry can win and prosper with a more effective, streamlined regulatory process that keeps pace with improvements and standards. Consumers will win if safety standards and regulations are adopted more efficiently, such as the pending fire safety standards. Also, if the industry can use newer standards to provide better housing, manufactured housing could be designed to meet a wider variety of needs including modules for assisted living and stack able units for urban sites.

My hope is that all sides will see this legislation as an opportunity to come together and develop a new, improved program for manufactured housing. Affordable housing is a major issue for families and communities. Manufactured housing is playing a key role in affordable housing, but more could and should be done. To achieve success, we need to develop a bipartisan, consensus approach. We need to help the industry and assure consumers that safety and standards will be retained and improved, not weakened. This is worth our combined effort to provide more affordable housing.•

By Mr. HATCH (for himself and Mr. BENNETT):

S. 2146. A bill to provide for the exchange of certain lands within the State of Utah; to the Committee on Energy and Natural Resources.

UTAH SCHOOLS AND LANDS EXCHANGE ACT OF 1998

Mr. HATCH. Mr. President, nearly 2 years ago, President Clinton announced, from the South Rim of the Grand Canyon, the formation of the country's newest national monument, the Grand Staircase-Escalante Monument in southern Utah.

Because of the clandestine manner by which the Administration made this decision and planned its announcement, what should have been cause for celebration among Utahns resulted in feelings of exploitation and abuse. Public trust in our federal government reached an all time low in southern Utah, and many wounds inflicted then still exist today.

Today, I am introducing legislation, along with my colleague Senator BENNETT, which, if passed, will help restore trust in our government and assist the healing process among our rural citizens in Utah.

The Utah Schools and Lands Exchange Act of 1998 codifies a recently signed agreement brokered by the Secretary of Interior, Bruce Babbitt, and Utah Governor Michael Leavitt to exchange Utah School Trust lands located within Utah's national parks, monuments, recreation areas, and forests for cash and federal assets in other parts of Utah. The collaboration that should have taken place prior to the establishment of the Grand Staircase-Escalante Monument has finally taken place to mitigate one of the severest impacts of that presidential declaration.

This agreement is the result of a lengthy and somewhat fragile negotiation, which included such critical issues as achieving the effective management of the public's land, preserving the environment, and consummating a fair and equitable exchange between the federal government and the State of Utah. The result is a mutually beneficial exchange of state and federal property that deserves the support and approval of the Congress.

As my colleagues may recall, when Utah achieved statehood in 1896, a number of sections within each township were set aside for the support of the common schools. By law, these lands, known as School Trust Lands, are to be managed in the best possible way to generate revenue for Utah's school children. Several western states have a similar revenue plan for their public school systems.

Utah's checkerboard pattern of land owernship—squares of federal, state, and private land intermingled throughout the state—has historically created difficulties between the federal and state governments. Conflicts of interest between federal and state land managers became more obvious and divisive as national parks, forests, or monuments were created.

When federal land is set aside or designated as a national park, forest, or monument in Utah, our School Trust Lands are captured within their boundaries. In effect, the state loses its ability to generate revenues from these lands because they have been surrounded by lands in a specially protected designation. By 1990, over 200,000 acres of school trust land were isolated within federal designations.

In 1993, Congress passed legislation I sponsored along with other delegation members—the Utah Schools and Lands Improvement Act of 1993, P.L. 103-93—to help resolve this land management situation. But implementation has been unsatisfactory. There have been endless arguments over appraisals and literally millions of dollars in expenses to the state for legal and research activities. For this reason alone, the legislation we are introducing today is necessary.

During his announcement to establish the Grand Staircase-Escalante National Monument, President Clinton voiced his firm commitment that Utah's school children would not be negatively affected by the creation of the Monument. In other words, those School Trust Lands captured within the Monument's boundaries would be withdrawn and made fully available, and thus profitable, for the benefit of

Utah's public education system. The principal purpose of this bill is to put the bipartisan, federal-state negotiated agreement into effect and to ensure that the President's promise to protect Utah's school children does not ring hollow. This is accomplished in several ways.

First, as I mentioned, this bill will transfer approximately 350,000 acres of School Trust Lands that are located within Utah monuments, recreations areas, national parks, and forests, to the federal government. These lands are similar in nature to the adjacent federal lands and are deserving of the same designation and special management considerations as their federal neighbors. This exchange harmonizes the land ownership pattern within Utah's national parks, forests and monuments, thus eliminating any competing management objectives within these designations. The American people will be greatly benefited once the entire acreage within a park or forest is federal land.

Let me assure my colleagues that those lands to be acquired by the federal government are just as extraordinary as the adjacent federal lands.

For example, this acreage includes: Eye of the Whale Arch, located in Arches National Park; the Perfect Ruin (an Anasazi ruin) and the Jacob Hamblin Arch of Glen Canyon National Recreation Area; several hundred foot red rock cliffs located within in the Grand Staircase-Escalante National Monument; and the high mountain alpine area in the Wasatch-Cache National Forest known as Franklin Basin. It includes many other exciting natural wonders, such as ancient Native American rock art panels in Dinosaur National Monument and unique geologic formations of the Waterpocket Fold within Capitol Reef National Park.

Our proposal will protect these and other precious land forms by transferring their ownership to the federal government.

For its part, the State of Utah will receive $50,000,000 in cash previously set aside in the 103rd Congress for P.L. 103-93. This money has already been appropriated and thus there is no budgetary impact caused by this bill. An additional $13,000,000 produced from unleased coal sales will also be forthcoming to the State. These funds will all be deposited to the Utah Permanent School Fund for the benefit of Utah's current and future school children.

In addition, under the terms of the agreement, the State will gain access to 160 million tons of coal, 185 billion cubic feet of coal bed methane resources, 139,000 acres of land and minerals located in nine Utah counties, and a variety of minerals including limestone, tar sands, oil, and gas.

Coal reserves the state will receive include the Mill Fork Tract and North Horn Tract in Emery County; the West Ridge Tract in Carbon County; and the Muddy Creek and Dugout Canyon Tracts located in both Carbon and Emery Counties.

The coal bed methane resources acquired by the state are situated in the Ferron Field, located in Carbon and Emery counties, and totals 58,000 acres.

Finally, the agreement provides for additional state acquisitions, including limestone deposits, oil and gas properties, and Tar Sands, and several properties identified in 1993 will be transferred to state control: the Blue Mountain Telecommunication Site, located in Uintah County, and the Beaver Mountain ski resort in Cache County.

Mr. President, in closing let me mention one important point regarding the Babbitt-Leavitt agreement to be effectuated by the legislation we are introducing today. The entire exchange is of approximately equal value. This is a delicately structured package that includes an exchange of state lands for federal assets. Each party to the agreement recognizes this fact, which is the glue keeping this agreement together.

And, while protecting the interests of both the State of Utah and the federal government, the agreement and the bill also protect existing stakeholders, such as the affected local governments and the valid existing rights of permittees, such as ranchers and mining leases. As I mentioned earlier, the important fact to keep in mind is there is no impact to the federal budget from this legislation.

Mr. President, Secretary Babbitt and Governor Leavitt have achieved an historic agreement that is truly remarkable. The State of Utah has been trying to exchange School Trust Lands captured within federal reservations for decades, thus allowing these lands to be profitably utilized for the benefit of Utah's school children. We now have an opportunity through this agreement to reach this worthwhile goal.

I hope that the Senate will seriously review this agreement and this legislation will add its support with little, if any, alteration. I believe this proposal is necessary and will provide substantial benefit to the people of Utah and the citizens of this country.

Mr. BENNETT. Mr. President, I am pleased to join my colleague Senator HATCH in introducing the Utah School Lands Exchange Act. This legislation is the result of months of negotiations between the Utah School and Institutional Trust Administration (SITLA), the Governor of Utah and the Secretary of Interior.

Utah is a mosaic of land ownership and the federal government is the largest landlord. With 22 million acres under BLM management alone, eight million acres under the United States Forest Service and another three million in National Parks and Monuments, public lands issues command considerable attention in my state. This is complicated by the 1894 Enabling Act which created a checkerboard pattern of state ownership among federal lands, intermingling five sections of state lands in every township. The federal government and the state of Utah have been trying to resolve the thorny issue of how to manage or dispose of these trust lands for well over a half century now. My father attempted to bring some resolution to the issue when he served in this body more than forty years ago.

In 1993, after extensive negotiations, Congress passed P.L. 103-93 which set in motion a process to exchange lands out of Utah's National Parks and Forest lands for other parcels within the state. The process was marginally successful at best, due to the complex process of appraisals and arbitration established by the legislation. Of the 500 plus parcels identified in that exchange over five years ago, less than forty have actually been exchanged to date. The trust lands issue was further complicated by the creation of the Grand Staircase-Escalante National Monument in September of 1996. Without going into details, 176,000 acres of School Trust Lands were locked up by the creation of the Monument. President Clinton promised to use his office to facilitate the prompt exchange of these lands. Most Utahns were skeptical that this would actually happen. In fact, SITLA and the Utah Association of Counties filed suit over the creation of the Grand Staircase-Escalante National Monument.

Now, nearly two years later, the Clinton Administration has reached a historic agreement with the Governor of Utah and SITLA to exchange 376,000 acres of state lands for 138,000 acres of federal lands. This agreement fulfills the President's commitment to the schoolchildren of Utah and reduces the uncertainty over the future management of the Monument. I hope my colleagues understand that it is in the best interest of the federal government to exchange these lands promptly.

This proposal benefits the school children of Utah as well as the visitors and users of public lands. In exchange for lands encumbered within parks, forests and the Monument, the state of Utah will receive just compensation in the form of mineral assets, comparable lands within the state and a sizable cash payment. These assets will be administered by the State Institutional Trust Lands Administration for the improvement of public education in Utah. In that context, we must support this agreement. We have a responsibility to help SITLA fulfill its mandate and utilize these lands for the greatest benefit to the children of Utah. Without this exchange, these lands, despite their significant mineral potential, will remain unproductive.

At a time of competing interests and lack of consensus regarding land use in

Utah, this is a step in the right direction. I believe that the agreement reached between the state and the Department of Interior bridges the gap that has existed for decades. While some interests are not totally satisfied, I believe the legislation we are introducing today is a fair and equitable agreement. I am also confident that the Committee will listen closely to those parties and make a good-faith effort to resolve any lingering concerns.

I appreciate the good work of my colleague Senator HATCH, Governor Leavitt and Secretary Babbitt, as well as our colleagues in the House. I am confident that we will see a resolution to this longstanding debate in the 105th Congress. I urge my colleagues to support this bill and bring this issue to closure.

By Mr. DASCHLE (for himself and Mr. JOHNSON):

S. 2147. A bill to amend the Internal Revenue Code of 1986 to provide a deduction for two-earner married couples, to allow self-employed individuals a 100-percent deduction for health insurance costs, and for other purposes; to the Committee on Finance.

MARRIAGE PENALTY TAX RELIEF

Mr. DASCHLE. Mr. President, it is my pleasure today to introduce legislation to encourage family and work and to facilitate the purchase of affordable health insurance by self-employed individuals.

It is no secret to many married Americans that the tax code often penalizes marriage. An estimated 21 million American couples with two breadwinners pay more than if they had remained single and filed separate tax returns—an average of nearly $1,400 more.

The marriage penalty is justifiably one of the most unpopular aspects of our tax system, second only to the complexity of the tax code. The federal government should be encouraging family and work, not discouraging them through disincentives in the tax code or any other area of public policy.

The bill I am introducing today would significantly reduce the added tax burden that many middle and lower income couples face when both spouses work. It will do so by providing an above-the-line 20 percent deduction against the earnings of the lesser earning spouse. The 20 percent deduction would be phased out between family adjusted gross incomes of $50,000 and $60,000. It would also be applied against the calculation of earned income for the purpose of determining eligibility for the Earned Income Credit, increasing the size of these refundable credits for a large number of families with incomes between $10,000 and $30,000. Finally, the bill would accelerate the date at which health insurance costs incurred by the self-employed become fully deductible. This is necessary to place farmers and small businessmen and women on the same footing as large, established companies when they purchase health insurance.

Congress has wrestled with the marriage penalty problem several times during the past century in an attempt to reconcile two goals that cannot always be satisfied simultaneously in the context of a progressive tax system. The first is to ensure that a couple's total tax is the same, irrespective of the breakdown of earnings between spouses. The second is to ensure that couples will be taxed the same irrespective of whether they are married or still single.

Before 1969, the tax code treated married couples as if they were composed of two single individuals. This avoided penalties on marriage, but it created higher rates on single taxpayers than married couples in cases in which one spouse earned all or most of the couple's income. Joint returns were computed by applying the normal rates to one-half of the couple's aggregate taxable income and multiplying the resulting amount by two. Single taxpayers' returns were computed by applying the normal rates to the full taxable income, causing a greater amount of the income to be taxed at a higher marginal rate.

When Congress acted in 1969 to redress the perceived inequity to single taxpayers, it created the modern-day marriage penalty by causing some married couples who file a joint return to pay more tax than would two single persons with the same total income. Congress based its action on the assumption that a married couple's expenses are lower than those of two single persons having separate households.

The time has come to reexamine this tradeoff, which was made nearly thirty years ago. Doing so, however, will require us to confront hard budgetary realities. Complete elimination of the marriage penalty without also eliminating the marriage bonus would cost an estimated $29 billion per year, a sum that is far in excess of what can be afforded while maintaining our commitment to a balanced budget and the use of budget surpluses for Social Security reform. While the drive to pay down the national debt and save Social Security will make comprehensive reform of the marriage penalty difficult any time soon, more targeted efforts are not only possible, they are the right thing to do.

We have an historic opportunity to redress the unjustified added tax burden we place on some married couples without undermining our commitment to pass an effective national tobacco policy and enact reforms to save Social Security. My bill would sharply reduce the marriage tax penalty for most couples with incomes of less than $60,000 at a fraction of the budgetary cost of other marriage penalty tax proposals, such as that offered by Senator GRAMM of Texas to increase deductions for all married couples. The reason is that these other proposals fail to distinguish between couples who incur a penalty and those who enjoy a marriage bonus. The Congressional Budget Office estimates that about 29 million families, those in which one spouse earns much more than the other, currently pay less than if they had filed single returns—an average of $1,300 less. Senator GRAMM's proposal and others like it dilute the amount of tax relief they are able to deliver to penalized couples by providing just as much of a tax cut to couples who receive a bonus.

By targeting its tax relief more directly on the couples who experience a marriage penalty, my bill would reduce this penalty far more for most families with incomes below $60,000 than competing approaches. For Example, in the case of a couple making $35,000, split $20,000 and $15,000 between the two spouses, my proposal would provide an additional tax deduction of $3,000 (i.e., 15% of $15,000). This is over twice as much marriage penalty tax relief as could be provided at a comparable cost by a proposal to increase the deduction for all joint filers. Similarly, for a couple making $50,000 divided evenly between the two spouses, my bill would provide a $5,000 deduction (20% of $25,000), representing more than three times as much tax as a proposal that costs the same but extends a supplemental deduction to all married couples.

We simply do not have the luxury of applying tax relief indiscriminately if we are to make good on our other commitments, whether they be passage of an effective tobacco bill that reduces youth smoking or preservation of budget surpluses for the difficult task of shoring up the financing of the Social Security system. The legislation I introduce today is aimed at demonstrating that we can reconcile our competing priorities. We can do right by married couples incurring a tax penalty and farmers and small businesses who must purchase their own health insurance at the same that we do right by our children and our growing population of seniors.

Mr. President, 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. 2147

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

SECTION 1. DEDUCTION FOR TWO-EARNER MARRIED COUPLES.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of

1986 (relating to additional itemized deductions for individuals) is amended by redesignating section 222 as section 223 and by inserting after section 221 the following new section:

"SEC. 222. DEDUCTION FOR MARRIED COUPLES TO ELIMINATE THE MARRIAGE PENALTY.

"(a) IN GENERAL.—In the case of a joint return under section 6013 for the taxable year, there shall be allowed as a deduction an amount equal to the applicable percentage of the qualified earned income of the spouse with the lower qualified earned income for the taxable year.

"(b) APPLICABLE PERCENTAGE.—For purposes of this section—

"(1) IN GENERAL.—The term 'applicable percentage' means 20 percent, reduced by 2 percentage points for each $1,000 (or fraction thereof) by which the taxpayer's modified adjusted gross income for the taxable year exceeds $50,000.

"(2) TRANSITION RULE FOR 1999 AND 2000.—In the case of taxable years beginning in 1999 and 2000, paragraph (1) shall be applied by substituting '10 percent' for '20 percent' and '1 percentage point' for '2 percentage points'.

"(3) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this subsection, the term 'modified adjusted gross income' means adjusted gross income determined—

"(A) after application of sections 86,219, and 469, and

"(B) without regard to sections 135, 137, and 911 or the deduction allowable under this section.

"(4) COST-OF-LIVING ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2002, the $50,000 amount under paragraph (1) shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, except that subparagraph (B) thereof shall be applied by substituting 'calendar year 2002' for 'calendar year 1992'. If any amount as adjusted under this paragraph is not a multiple of $2,000, such amount shall be rounded to the next lowest multiple of $2,000.

"(c) QUALIFIED EARNED INCOME DEFINED.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified earned income' means an amount equal to the excess of—

"(A) the earned income of the spouse for the taxable year, over

"(B) an amount equal to the sum of the deductions described in paragraphs (1), (2), (7), and (25) of section 62 to the extent such deductions are properly allocable to or chargeable against earned income described in subparagraph (A).

The amount of qualified earned income shall be determined without regard to any community property laws."

"(2) EARNED INCOME.—For purposes of paragraph (1), the term 'earned income' means income which is earned income within the meaning of section 911(d)(2) or 401(c)(2)(C), except that—

"(A) such term shall not include any amount—

"(i) not includible in gross income,

"(ii) received as a pension or annuity,

"(iii) paid or distributed out of an individual retirement plan (within the meaning of section 7701(a)(37)),

"(iv) received as deferred compensation, or

"(v) received for services performed by an individual in the employ of his spouse (within the meaning of section 3121(b)(3)(A)), and

"(B) section 911(d)(2)(B) shall be applied without regard to the phrase 'not in excess of 30 percent of his share of net profits of such trade or business'."

(b) DEDUCTION TO BE ABOVE-THE-LINE.—Section 62(a) of the Internal Revenue Code of 1986 (defining adjusted gross income) is amended by adding after paragraph (17) the following new paragraph:

"(18) DEDUCTION FOR TWO-EARNER MARRIED COUPLES.—The deduction allowed by section 222."

(c) EARNED INCOME CREDIT PHASEOUT TO REFLECT DEDUCTION.—Section 32(c)(2) of the Internal Revenue Code of 1986 (defining earned income) is amended by adding at the end the following new subparagraph:

"(C) MARRIAGE PENALTY REDUCTION.—Solely for purposes of applying subsection (a)(2)(B), earned income for any taxable year shall be reduced by an amount equal to the amount of the deduction allowed to the taxpayer for such taxable year under section 222."

(d) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking the item relating to section 222 and inserting the following new items:

"Sec. 222. Deduction for married couples to eliminate the marriage penalty.

"Sec. 223. Cross reference."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

SEC. 2. DEDUCTION FOR HEALTH INSURANCE COSTS FOR SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (1) of section 162(l) of the Internal Revenue Code of 1986 is amended to read as follows:

"(1) ALLOWANCE OF DEDUCTION.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to 100 percent (75 percent in the case of taxable years beginning in 1999 and 2000) of the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, his spouse, and dependents."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

By Mr. HATCH (for himself and Mr. KENNEDY):

S. 2148. A bill to protect religious liberty; to the Committee on the Judiciary.

THE RELIGIOUS LIBERTY PROTECTION ACT OF 1998

Mr. HATCH. Mr. President, the first freedom guaranteed in the Bill of Rights is the freedom to believe and to put those beliefs into practice as we think right, without government interference. This promise of freedom of worship is, for many, this country's founding principle—the pilgrims' reason for braving thousands of miles of dark and dangerous seas, and countless privations once here. The Constitutional guarantee of the free exercise of religion for all has been a beacon to the world throughout our history.

In America, priests should not be punished for declining to violate the confidence of the confessional to turn state's evidence against religious confessors. In America, the ability of citizens to hold private Bible studies in their own homes or the freedom of synagogues and churches to locate near their members should not be left entirely to the whims of local zoning boards. Congregants of any faith should not be told by the government who they can and cannot have as religious leaders and teachers. No, not in America.

Last year, when the Supreme Court struck down part of the Religious Freedom Restoration Act in the case of City of Boerne versus Flores (117 S.Ct. 2157 (1997))—an Act that sought to redress a threat to religious liberty of the Court's own making—we who value the free exercise of religion vowed we would rebuild our coalition and craft a solution which appropriately defers to the Court's decision. Well, we have done so, and we are ready to move forward.

We introduce today legislation that uses the full extent of our powers to make government cognizant of and solicitous of the freedom of each American to serve his or her concept of God. Where adjustment in general rules can possibly be made to accommodate this most basic liberty, it ought and must be made. As our government exists to guarantee such freedoms, government should only in the rarest instances itself infringe on this most basic and foundational freedom.

We have worked together across party lines and with a coalition of truly remarkable breadth to fashion federal legislation to protect religious liberty that is consistent with both the vision of the Framers of the First Amendment and the ruling of the current Supreme Court about Congress' power to legislate in this area.

The legislation that we introduce today will subject to strict scrutiny laws that substantially burden religious exercise in those areas within legitimate federal reach through either the commerce or spending powers, and provides procedural helps to ensure a full day in court for believers who must litigate to vindicate Free Exercise claims in areas of predominantly state jurisdiction. The legislation seeks to protect religious activity even in the face of general legislative rules that make that worship difficult or impossible through unawareness, insensitivity, or hidden hostility

We believe we have constructed legislation that can merit the support of all who value the free exercise of religion, our first freedom. We commend it to our colleagues in the Congress, and to all those who wish to keep the Framers' promise of religious freedom alive for all Americans of all faiths.

Mr. President, I commend this important legislation to my colleagues for their support. It is backed by an unprecedented coalition ranging from Focus on the Family, Family Research Council, and the Southern Baptist Convention to People for the American Way and the ACLU. I also ask unanimous consent that a copy of the bill

and an explanatory section by section analysis be placed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

S. 2148

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 "Religious Liberty Protection Act of 1998".

SEC. 2. PROTECTION OF RELIGIOUS EXERCISE.

(a) GENERAL RULE.—Except as provided in subsection (b), a government shall not substantially burden a person's religious exercise—

(1) in a program or activity, operated by a government, that receives Federal financial assistance; or

(2) in or affecting commerce with foreign nations, among the several States, or with the Indian tribes;

even if the burden results from a rule of general applicability.

(b) EXCEPTION.—A government may substantially burden a person's religious exercise if the government demonstrates that application of the burden to the person—

(1) is in furtherance of a compelling governmental interest; and

(2) is the least restrictive means of furthering that compelling governmental interest.

(c) FUNDING NOT AFFECTED.—Nothing in this section shall be construed to authorize the United States to deny or withhold Federal financial assistance as a remedy for a violation of this Act.

(d) STATE POLICY NOT COMMANDEERED.—A government may eliminate the substantial burden on religious exercise by changing the policy that results in the burden, by retaining the policy and exempting the religious exercise from that policy, or by any other means that eliminates the burden.

(e) DEFINITIONS.—As used in this section—

(1) the term "government" means a branch, department, agency, instrumentality, subdivision, or official of a State (or other person acting under color of State law);

(2) the term "program or activity" means a program or activity as defined in paragraph (1) or (2) of section 606 of the Civil Rights Act of 1964 (42 U.S.C. 2000d–4a); and

(3) the term "demonstrates" means meets the burdens of going forward with the evidence and of persuasion.

SEC. 3. ENFORCEMENT OF THE FREE EXERCISE CLAUSE.

(a) PROCEDURE.—If a claimant produces prima facie evidence to support a claim of a violation of the Free Exercise Clause, the government shall bear the burden of persuasion on all issues relating to the claim, except any issue as to the existence of the burden on religious exercise.

(b) LAND USE REGULATION.—

(1) LIMITATION ON LAND USE REGULATION.—No government shall impose a land use regulation that—

(A) substantially burdens religious exercise, unless the burden is the least restrictive means to prevent substantial and tangible harm to neighboring properties or to the public health or safety;

(B) denies religious assemblies a reasonable location in the jurisdiction; or

(C) excludes religious assemblies from areas in which nonreligious assemblies are permitted.

(2) FULL FAITH AND CREDIT.—Adjudication of a claim of a violation of this subsection in a non-Federal forum shall be entitled to full faith and credit in a Federal court only if the claimant had a full and fair adjudication of that claim in the non-Federal forum.

(3) NONPREEMPTION.—Nothing in this subsection shall preempt State law that is equally or more protective of religious exercise.

(4) NONAPPLICATION OF OTHER PORTIONS OF THIS ACT.—Section 2 does not apply to land use regulation.

SEC. 4. JUDICIAL RELIEF.

(a) CAUSE OF ACTION.—A person may assert a violation of this Act as a claim or defense in a judicial proceeding and obtain appropriate relief against a government. Standing to assert a claim or defense under this section shall be governed by the general rules of standing under article III of the Constitution.

(b) ATTORNEYS' FEES.—Section 722(b) of the Revised Statutes (42 U.S.C. 1988(b)) is amended—

(1) by inserting "the Religious Liberty Protection Act of 1998," after "Religious Freedom Restoration Act of 1993,"; and

(2) by striking the comma that follows a comma.

(c) PRISONERS.—Any litigation under this Act in which the claimant is a prisoner shall be subject to the Prison Litigation Reform Act of 1995 (including provisions of law amended by that Act).

(d) LIABILITY OF GOVERNMENTS.—

(1) LIABILITY OF STATES.—A State shall not be immune under the 11th amendment to the Constitution from a civil action, for a violation of the Free Exercise Clause under section 3, including a civil action for money damages.

(2) LIABILITY OF THE UNITED STATES.—The United States shall not be immune from any civil action, for a violation of the Free Exercise Clause under section 3, including a civil action for money damages.

SEC. 5. RULES OF CONSTRUCTION.

(a) RELIGIOUS BELIEF UNAFFECTED.—Nothing in this Act shall be construed to authorize any government to burden any religious belief.

(b) RELIGIOUS EXERCISE NOT REGULATED.—Nothing in this Act shall create any basis for regulation of religious exercise or for claims against a religious organization, including any religiously affiliated school or university, not acting under color of law.

(c) CLAIMS TO FUNDING UNAFFECTED.—Nothing in this Act shall create or preclude a right of any religious organization to receive funding or other assistance from a government, or of any person to receive government funding for a religious activity, but this Act may require government to incur expenses in its own operations to avoid imposing a burden or a substantial burden on religious exercise.

(d) OTHER AUTHORITY TO IMPOSE CONDITIONS ON FUNDING UNAFFECTED.—Nothing in this Act shall—

(1) authorize a government to regulate or affect, directly or indirectly, the activities or policies of a person other than a government as a condition of receiving funding or other assistance; or

(2) restrict any authority that may exist under other law to so regulate or affect, except as provided in this Act.

(e) EFFECT ON ON OTHER LAW.—Proof that a religious exercise affects commerce for the purposes of this Act does not give rise to any inference or presumption that the religious exercise is subject to any other law regulating commerce.

(f) SEVERABILITY.—If any provision of this Act or of an amendment made by this Act, or any application of such provision to any person or circumstance, is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provision to any other person or circumstance shall not be affected.

SEC. 6. ESTABLISHMENT CLAUSE UNAFFECTED.

Nothing in this Act shall be construed to affect, interpret, or in any way address that portion of the first amendment to the Constitution prohibiting laws respecting an establishment of religion (referred to in this section as the "Establishment Clause"). Granting government funding, benefits, or exemptions, to the extent permissible under the Establishment Clause, shall not constitute a violation of this Act. As used in this section, the term "granting", used with respect to government funding, benefits, or exemptions, does not include the denial of government funding, benefits, or exemptions.

SEC. 7. AMENDMENTS TO RELIGIOUS FREEDOM RESTORATION ACT.

(a) DEFINITIONS.—Section 5 of the Religious Freedom Restoration Act of 1993 (42 U.S.C. 2000bb–2) is amended—

(1) in paragraph (1), by striking "a State, or subdivision of a State" and inserting "a covered entity or a subdivision of such an entity";

(2) in paragraph (2), by striking "term" and all that follows through "includes" and inserting "term 'covered entity' means"; and

(3) in paragraph (4), by striking all after "means," and inserting "an act or refusal to act that is substantially motivated by a religious belief, whether or not the act or refusal is compulsory or central to a larger system of religious belief.".

(b) CONFORMING AMENDMENT.—Section 6(a) of the Religious Freedom Restoration Act of 1993 (42 U.S.C. 2000bb–3(a)) is amended by striking "and State".

SEC. 8. DEFINITIONS.

As used in this Act—

(1) the term "religious exercise" means an act or refusal to act that is substantially motivated by a religious belief, whether or not the act or refusal is compulsory or central to a larger system of religious belief;

(2) the term "Free Exercise Clause" means that portion of the first amendment to the Constitution that proscribes laws prohibiting the free exercise of religion and includes the application of that proscription under the 14th amendment to the Constitution; and

(3) except as otherwise provided in this Act, the term "government" means a branch, department, agency, instrumentality, subdivision, or official of a State, or other person acting under color of State law, or a branch, department, agency, instrumentality, subdivision, or official of the United States, or other person acting under color of Federal law.

RELIGIOUS LIBERTY PROTECTION ACT OF 1998—SECTION-BY-SECTION ANALYSIS

Section 1. This section provides that the title of the Act is the Religious Liberty Protection Act of 1998.

Section 2. Section 2(a) tracks the substantive language of the Religious Freedom Restoration Act, providing that government shall not substantially burden a person's religious exercise, and applies that language to cases within the spending power and the commerce power. Section 2(b) also tracks RFRA. It states the compelling interest exception to the general rule that government

may not substantially burden religious exercise.

Section 2(a)(1) specifies the spending power applications. The bill applies to programs or activities operated by a government and receiving federal financial assistance. "Government" is defined in §2(e)(1) to include persons acting under color of state law. In general, a private-sector grantee acts under color of law only when the government retains sufficient control that "the alleged infringement of federal rights [is] 'fairly attributable to the State.'" Rendell-Baker v. Kohn, 457 U.S. 830, 838 (1982). Private-sector grantees not acting under color of law are excluded from the bill for multiple reasons: because it is difficult to foresee the consequences of applying the bill to such a diverse range of organizations, because applying the bill to religious organizations would create conflicting rights under the same statute and might restrict religious liberty rather than protect it, and because the free exercise of religion has historically been protected primarily against government action and this bill is not designed to change that.

Section 2(a)(2) applies the bill to religious exercise in or affecting commerce among the States, with foreign nations, or with the Indian tribes. The language is unqualified and exercises the full constitutional limit of the commerce power, whatever that may be. The provision is tautologically constitutional; to the extent that the commerce power does not reach some religious activities, the bill does not reach them either. To the extent that this leaves some religious exercise outside the protections of the bill, that is an unavoidable consequence of constitutional limitations on Congressional authority.

Section 2(c) prevents any threat of withholding all federal funds from a program or activity. The exclusive remedies are set out in §4.

Section 2(d) emphasizes that this bill does not require states to pursue any particular public policy or to abandon any policy, but that each State is free to choose its own means of eliminating substantial burdens on religious exercise.

Section 2(e) contains definitions for purposes of §2.

The definition of "government" in §2(e)(1) tracks RFRA, except that the United States and its agencies are excluded. The United States remains subject to the substantially identical provisions of RFRA and need not be included here.

Section 2(e)(2) incorporates part of the definition of "program or activity" from Title VI of the Civil Rights Act of 1964—the part that describes programs and activities operated by governments. This definition ensures that federal regulation is confined to the program or activity that receives federal aid, and does not extend to everything a state does. The constitutionality of the Title VI definition has not been seriously questioned.

The definition of "demonstrates" in §2(e)(3) is taken verbatim from RFRA.

Section 3. This section enforces the Free Exercise Clause as interpreted by the Supreme Court. Section 3(a) provides generally that if a complaining party produces prima facie evidence of a free exercise violation, the government then bears the burden of persuasion on all issues except burden on religious exercise.

This provision applies to any means of proving a free exercise violation recognized under judicial interpretations. See generally Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah, 508 U.S. 520 (1993); Employment Division v. Smith, 494 U.S. 872 (1990). Thus, if the claimant shows a burden on religious exercise and prima facie evidence of an anti-religious motivation, government would bear the burden of persuasion on the question of motivation. If the claimant shows a burden on religious exercise and prima facie evidence that the burdensome law is not generally applicable, government would bear the burden of persuasion on the question of general applicability. If the claimant shows a burden on religion and prima facie evidence of a hybrid right, government would bear the burden of persuasion on the claim of hybrid right. In general, where there is a burden on religious exercise and prima facie evidence of a constitutional violation, the risk of nonpersuasion is to be allocated in favor of protecting the constitutional right.

Section 3(b) provides prophylactic rules to prevent violations of the Court's constitutional tests as applied to land use regulation. Land use regulation is administered through highly individualized processes, often without generally applicable rules. These individualized processes are conducive to discrimination that is difficult to prove in any individual case, but there appears to be a pattern of religious discrimination when large numbers of cases are examined. Section 3(b)(1) provides that land use regulation may not substantially burden religious exercise, except where necessary to prevent substantial and tangible harm, that jurisdictions may not deny religious assemblies a reasonable location somewhere within each jurisdiction, and that religious assemblies may not be excluded from areas where nonreligious assemblies are permitted.

Subsection 3(b)(2) guarantees a full and fair adjudication of land use claims under subsection (b). Procedural rules before land use authorities may vary widely; any procedure that permits full and fair adjudication of the federal claim would be entitled to full faith and credit in federal court. But if, for example, a zoning board with limited authority refuses to consider the federal claim, does not provide discovery, or refuses to permit introduction of evidence reasonably necessary to resolution of the federal claim, its determination would not be entitled to full faith and credit in federal court. And if in such a case, a state court confines the parties to the record from the zoning board, so that the federal claim still can not be effectively adjudicated, the state court decision would not be entitled to full faith and credit either.

Subsection 3(b)(3) provides that equally or more protective state law is not preempted. Subsection 3(b)(4) provides that §2 shall not apply to land use cases. The more detailed standards of §3(b) control over the more general language of §2.

Section 4. This section provides remedies for violations. Sections 4(a) and (b) track RFRA, creating a cause of action for damages, injunction, and declaratory judgment, creating a defense to liability, and providing for attorneys' fees.

Section 4(c) subjects prisoner claims to the Prison Litigation Reform Act. This permits meritorious prisoner claims to proceed while effectively discouraging frivolous claims; prisoner claims generally dropped nearly a third in one year after the Prison Litigation Reform Act. Crawford-El v. Britton, 66 U.S.L.W. 4311, 4317 n.18 (May 4, 1998).

Section 4(d)(1) overrides the states' Eleventh Amendment immunity in cases in which the claimant shows a violation of the Free Exercise Clause, enforced under §3. Section 4(d)(2) waives the sovereign immunity of the United States in the same cases. This override of state immunity and waiver of federal immunity do not apply to statutory claims under §2.

Section 5. This section states several rules of construction designed to clarify the meaning of all the other provisions. Section 5(a) tracks RFRA, providing that nothing in the bill authorizes government to burden religious belief. Section 5(b) provides that nothing in the bill creates any basis for regulating or suing any religious organization not acting under color of law. These two subsections serve the bill's central purpose of protecting religious liberty, and avoid any unintended consequence of reducing religious liberty.

Sections 5(c) and 5(d) were carefully designed to keep this bill neutral on all disputed questions about government financial assistance to religious organizations and religious activities. Section 5(c) states neutrality on whether such assistance can or must be provided at all. Section 5(d) states neutrality on the scope of existing authority to regulate private entities as a condition of receiving such aid. Section 5(d)(1) provides that nothing in the bill authorizes additional regulation of such entities; §5(d)(2), in an abundance of caution, provides that existing regulatory authority is not restricted except as provided in the bill. Agencies with authority to regulate the receipt of federal funds retain such authority, but their specific regulations may not substantially burden religious exercise without compelling justification.

Section 5(e) provides that proof that a religious exercise affects commerce for purposes of this bill does not give rise to an inference or presumption that the religious exercise is subject to any other statute regulating commerce. Different statutes exercise the commerce power to different degrees, and the courts presume that federal statutes do not regulate religious organizations unless Congress manifested the intent to do so. NLRB v. Catholic Bishop, 440 U.S. 490 (1990).

Section 5(f) states that each provision and application of the bill shall be severable from every other provision and application.

Section 6. This section is taken verbatim from RFRA. It is language designed to state neutrality on all disputed issues under the Establishment Clause.

Section 7. This section amends RFRA to delete any application to the states and to leave RFRA applicable only to the federal government. Section 7(a)(3) amends the definition of "religious exercise" in RFRA to clarify that religious exercise need not be compulsory or central to a larger system of religious belief.

Section 8. This section defines important terms used throughout the Act.

Section 8(1) defines "religious exercise" to clarify two issues that had divided courts under RFRA: religious exercise need not be compulsory or central to a larger system of religious belief.

Section 8(2) defines "Free Exercise Clause" to include the First Amendment clause, which binds the United States, and also the incorporation of that clause into the Fourteenth Amendment, which binds the States.

Section 8(3) defines "government" to include both state and federal entities and persons acting under color of either state or federal law. This tracks the RFRA definition. The free exercise enforcement provisions of §3 and the remedies provisions of §4 supplement RFRA, and these provisions are subject to the rules of construction in §5; each of these sections applies to both state and federal governments. This definition does not

apply in §2, which has its own definition that reaches only state entities and persons acting under color of state law.

By Mr. REID (for himself and Mr. BRYAN):

S. 2149. A bill to transfer certain public lands in northeastern Nevada; to the Committee on Energy and Natural Resources.

THE NORTHEASTERN NEVADA PUBLIC LANDS TRANSFER ACT

• Mr. REID. Mr. President, I rise to introduce The Northeastern Nevada Public Lands Transfer. This Act provides for the transfer of Federal land to the Cities of Wendover, Carlin, and Wells and the Town of Jackpot, all in Elko County, Nevada.

Mr. President, the rural communities in northeastern Nevada, are growing. For example, in 1997, the City of West Wendover was certified as Nevada's fastest growing city. These communities are surrounded by Federal lands, with every little private land available for expansion and growth. In addition, because over 71 percent of the land in Elko County is in Federal ownership, these local governments do not have the resources to just go out and buy more land.

Mr. President, the property being conveyed in this Act has been determined to be important to the industrial, commercial, residential, infrastructure, and recreational needs of the citizens of Elko County. Conveying these lands in one transaction provides the county certainty about its future, which will allow it to diversify its economy and develop these properties in a planned and orderly manner.

Mr. President, Elko County has valid concerns about its future. The gaming and tourism industry is the primary employer, and every indication is that it will remain healthy. However, an economy, based on a single industry, bears an inherent risk of failure.

Mr. President, the City of West Wendover, in conjunction with the North Eastern Development Authority, has recently completed a countywide Economic Development Plan, which emphasizes the importance of economic diversification as its primary goal. This plan promotes quality development which enhances the quality of life for Elko County residents. West Wendover, Nevada has currently spent $100,000 for the Environmental Assessment and the Baseline Assessment, an Air Force prerequisite for land conveyance. In addition, the West Wendover City Council and the Nevada Rural Development Authority have indicated that they are committed to working together to ensure that economic development in the area is accomplished through a logical, well considered development plan.

Mr. President, I request unanimous consent that the Northeastern Nevada Public Lands Transfer Act to be printed in the RECORD.

S. 2149

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 "Northeastern Nevada Public Lands Transfer Act".

SEC. 2. AIR FORCE LAND CONVEYANCE, WENDOVER AIR FORCE BASE AUXILIARY FIELD, NEVADA

(a) CONVEYANCE.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act and subject to subsection (c), the Secretary of the Air Force shall convey, without consideration, to the City of West Wendover, Nevada (in this section referred to as the "City"), all right, title, and interest of the United States in and to the property described in paragraph (2), for purposes of permitting the City to develop the parcels for economic and public purposes.

(2) PROPERTY DESCRIPTION.—The property described in this paragraph is the land consisting of approximately 15,093 acres of land, including any improvements, located within the Wendover Air Force Base Auxiliary Field, described as follows: Township 32 North, Range 69 East; Township 32 North, Range 70 East; and Township 33 North, Range 70 East; Mount Diablo Base and Meridian, being more particularly described as: All of Section 24 less the United States Alternate Route 93 right-of-way and those portions of sections 12 and 13 east of the east right-of-way line of United States Alternate Route 93 in Township 32 North, Range 69 East; all of sections 3, 4, 5, 8, 9, 10, 15, 16, 17, 18, 19, 20, 21, 22, and the portions of sections 6 and 7 east of the east right-of-way line of United States Alternate Route 93 in Township 32 North, Range 70 East; all of sections 22, 27, 28, 32, 33, 34, and the portions of sections 16, 20, 21, 29, 30, and 31 east of the east right-of-way line of United States Alternate Route 93 and the portion of section 15 east of the east right-of-way line of U.S. Alternate Route 93 and south of the south right-of-way line of the Union Pacific Railroad Company right-of-way in Township 33 North, Range 70 East, not including the land comprising the Lower Jim's Mobile Home Park, Scobie Mobile Home Park, Ventura Mobile Home Park, Airport Way, Scobie Drive, or Opal Drive.

(b) EXCEPTION FROM SCREENING REQUIREMENT.—The Secretary shall make the conveyance under subsection (a) without regard to the requirement under section 2696 of title 10, United States Code, that the property be screened for further Federal use in accordance with the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

(c) HAZARDOUS MATERIALS.—

(1) SURVEY.—Not later than 180 days after the date of enactment of this Act, the Secretary shall complete hazardous material surveys with respect to the property to be conveyed under subsection (a) in order to identify any needed corrective actions that are required with respect to such property.

(2) CORRECTIVE ACTIONS.—The Secretary shall take any corrective actions that are identified by the surveys under paragraph (1) as soon as practicable after the surveys.

(3) POSTPONEMENT OF CONVEYANCE.—The Secretary may not carry out the conveyance of any property under subsection (a) that is identified under paragraph (1) as requiring corrective actions until the Secretary completes the corrective actions.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey mutually satisfactory to the Secretary and the City. The cost of the survey shall be borne by the City.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

(f) WITHDRAWAL.—The public land described in subsection (a) is withdrawn from the operation of the mining and mineral leasing laws of the United States.

SEC. 3. TRANSFER OF CERTAIN PUBLIC LANDS TO THE CITY OF CARLIN, THE CITY OF WELLS, AND THE TOWN OF JACKPOT, NEVADA.

(a) CONVEYANCE.—The Secretary of the Interior, acting through the Director of the Bureau of Land Management, shall convey without consideration, all right, title, and interest of the United States, subject to all valid existing rights, in and to the property described in subsection (b).

(b) DESCRIPTION OF PROPERTY.—

(1) CITY OF CARLIN, NEVADA.—The Secretary shall convey to the City of Carlin, Nevada, in accordance with subsection (a) the property consisting of approximately 60 acres located in the SW¼SW¼ and the E½SE¼SW ¼ of section 22, Township 33 North, Range 52 East, Mount Diablo meridian.

(2) CITY OF WELLS, NEVADA.—The Secretary shall convey to the City of Wells, Nevada, in accordance with subsection (a) the property consisting of approximately 4,767 acres located in the E½SE¼ of section 1, the W½ of section 2, the E½ and the NW¼ of section 3, S½NW¼ of section 4, section 6, the NW¼, the SW¼, and a portion of the SE¼ of section 11, the N½ of section 12, section 14, the N½NW¼ of section 16, section 18, the W½ of section 20, and section 23, all of Township 37 North, Range 62 East, Mount Diablo meridian.

(3) TOWN OF JACKPOT, NEVADA.—The Secretary shall convey to the Town of Jackpot, Nevada, the property, consisting of approximately 532 acres located in a portion of the NE¼NW¼ and the NW¼NE¼ of section 6, the W½NW¼, the NW¼SW¼, and the SW¼SW¼ of section 7, and the NW¼NW¼ of section 18, all of Township 47 North, Range 65 East, Mount Diablo meridian and portions of section 1, portions of section 12, and the NE¼NE¼ of section 13, Township 47 North, Range 64 East, Mount Diablo meridian.

(4) SURVEYS.—

(A) IN GENERAL.—The Secretary may require such surveys as the Secretary considers necessary to determine the exact acreage and legal description of the property to be conveyed under this section.

(B) COST.—The cost of the surveys shall be borne by the City of Carlin, the City of Wells, and the Town of Jackpot, Nevada.

(c) ADDITIONAL TERMS AND CONDITIONS.—In carrying out this section, the Secretary may require such additional terms and conditions as the Secretary considers appropriate to protect the interests of the United States.

(d) WITHDRAWAL.—The public land described in subsection (b) is withdrawn from the operation of the mining and mineral leasing laws of the United States.•

By Mr. FRIST (for himself, Mr. KENNEDY, Mr. JEFFORDS, Mr. WELLSTONE, Ms. MIKULSKI, and Mr. TORRICELLI):

NATIONAL BONE MARROW REGISTRY REAUTHORIZATION ACT OF 1998

Mr. FRIST. Mr. President, I rise today to introduce the National Bone

Marrow Registry Reauthorization Act of 1998. Transplantation of bone marrow is a procedure that offers hope to patients and their families and has saved the lives of many patients with leukemia and other life threatening conditions. As a physician, I know first-hand the heartache of waiting for a donor, and how the gift of bone marrow can change a patient's life. Of patients needing bone marrow transplants, 70% do not have a family member with matching bone marrow. These patients must rely on an unrelated donor. The National Marrow Donor Registry helps patients needing a bone marrow transplant find that unrelated donor with matching bone marrow.

Since its inception in 1987, the National Marrow Donor Program has grown to include more than 3 million volunteers willing to donate bone marrow to an unrelated patient. The program has facilitated over 6,500 marrow transplants around the world. The annual number of transplants rose from 840 in 1994 to over 1,280 in 1997.

This bill is companion legislation to H.R. 2202, introduced by Congressman BILL YOUNG which has 218 co-sponsors. Congressman BILL YOUNG helped found the National Marrow Donor Program and has long been a champion of bone marrow transplantation. The companion House bill was unanimously voice voted out of the House Commerce Committee on May 14 and was unanimously passed by the House of Representatives on May 19, 1998. This kind of bipartisan support stems from the enormous need for this program. In this short legislative year, it is a must-pass bill.

The statutory authority for the legislation expired in 1994. An Act reauthorizing both the solid organ and bone marrow programs passed the Senate in 1996, but failed to pass the House.

This bill is the result of a collaborative effort by the House and Senate to reauthorize the National Bone Marrow Registry. In April, during National Organ and Tissue Donor Awareness Week, the Senate Labor Subcommittee on Public Health and Safety and the House Commerce Subcommittee on Health and Environment held a joint hearing on increasing bone marrow donation and transplantation. During the hearing, we heard from patients and their families, including testimony from Robert Wedge, a young man who continues to wait for a matching donor to be found. Robert's brother, Cornell, is a member of my staff. Our office has partnered with his loving family and the Congressional Black Caucus to hold a bone marrow drive here in Congress. We also heard from a father whose son's life was saved by a bone marrow transplant. We heard from professionals involved in the operation of the program, and the message throughout the hearing was consistent. The need for bone marrow donation is urgent, and we must continue to address the unique issues surrounding recruitment and transplantation of bone marrow among minorities.

The National Bone Marrow Registry clearly helps save lives. However, there is room for improvement in recruitment of donors and in the services provided to patients needing transplant.

Racial and ethnic minority populations are underrepresented in the Registry. The registry is working to increase the number of racial and ethnic minority donors. Today, the Registry includes more than 700,000 minority volunteers, a growth of almost 150%. However, more potential donors are needed before the probability of a match for a minority patient is comparable to that of a patient who is not a minority. This bill addresses the need for increasing the number and availability of minority donors. By directing special attention to informational and educational activities to recruit minority donors, including African Americans, Hispanics, Asians, Native Americans, and those of mixed racial heritage, the registry will increase the number of potential donors and help save lives.

To help patients and their families with the search for a bone marrow donor, the bill also establishes an Office of Patient Advocacy. The office will provide information to patients about the search process, the costs of the transplants, and patient outcomes at different transplant centers, and will also help resolve difficulties with the transplant process.

To facilitate donation, the bill will provide services for those volunteering as potential donors. Activities will help keep the registry of donors up-to-date, and case-management services will be provided to those donors who may be suitably matched to a patient needing bone marrow.

Bone marrow transplantation is a proven life-saving procedure. In recent years, the same type of blood cells used in transplants have been found in the umbilical cord after a baby is delivered. Using cells from umbilical cords may provide an alternative source of cells, but many questions, including those of ethics and safety, need to be answered. In 1996, the National Institutes of Health began a five-year, multi-center study to see if the use of umbilical cord blood cells is a safe and effective alternative to bone marrow transplantation for children and adults with a variety of cancers, blood diseases, and genetic disorders. The ongoing study includes a review of the data throughout the investigation.

The current bill does not include the use of umbilical cord blood cells, but the report language for the House bill includes a request that the Secretary of Health and Human Services keep the appropriate Congressional Subcommittees informed of advances in knowledge about the uses of blood cells from umbilical cords. If the study addresses the concerns about the use of blood cells from umbilical cords, we can then proceed to address possible expansion of the Registry to include this source of blood cells.

The bill also proposes a significant increase in funds to carry out the activities for recruitment and retention of potential donors, and for the patients needing transplants and their families. As I noted earlier, the current authorization expired in 1994. The bill proposes authorization of the program at $18 million (an increase from $15.27 million appropriated in fiscal year 1998).

Mr. President, I am pleased to introduce legislation today and encourage my fellow Senators to support this life-saving program. I hope my colleagues will pass this legislation quickly, so that we can send it to the President for signature this year. I also want to note that this bill has unanimous support from the National Institutes of Health, the Health Resources Services Administration, the Food and Drug Administration, the National Marrow Donor Program, the Red Cross, and the American Association of Blood Banks. Others have voiced their support as well, and this simply underscores the importance of this program, and this legislation. Thank you, Mr. President, and 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. 2150

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 "National Bone Marrow Registry Reauthorization Act of 1998".

SEC. 2. REAUTHORIZATION.

(a) ESTABLISHMENT OF REGISTRY.—Section 379(a) of the Public Health Service Act (42 U.S.C. 274k(a)) is amended—

(1) by striking "(referred to in this part as the 'Registry') that meets" and inserting "(referred to in this part as the 'Registry') that has the purpose of increasing the number of transplants for recipients suitably matched to biologically unrelated donors of bone marrow, and that meets";

(2) by striking "under the direction of a board of directors that shall include representatives of" and all that follows and inserting the following: "under the direction of a board of directors meeting the following requirements:

"(1) Each member of the board shall serve for a term of two years, and each such member may serve as many as three consecutive two-year terms, except that such limitations shall not apply to the Chair of the board (or the Chair-elect) or to the member of the board who most recently served as the Chair.

"(2) A member of the board may continue to serve after the expiration of the term of such member until a successor is appointed.

"(3) In order to ensure the continuity of the board, the board shall be appointed so

that each year the terms of approximately ⅓ of the members of the board expire.

"(4) The membership of the board shall include representatives of marrow donor centers and marrow transplant centers; recipients of a bone marrow transplant; persons who require or have required such a transplant; family members of such a recipient or family members of a patient who has requested the assistance of the Registry in searching for an unrelated donor of bone marrow; persons with expertise in the social sciences; and members of the general public; and in addition nonvoting representatives from the Naval Medical Research and Development Command and from the Division of Organ Transplantation of the Health Resources and Services Administration.".

(b) PROGRAM FOR UNRELATED MARROW TRANSPLANTS.—

(1) IN GENERAL.—Section 379(b) of the Public Health Service Act (42 U.S.C. 274k(b)) is amended by redesignating paragraph (7) as paragraph (8), and by striking paragraphs (2) through (6) and inserting the following:

"(2) carry out a program for the recruitment of bone marrow donors in accordance with subsection (c), including with respect to increasing the representation of racial and ethnic minority groups (including persons of mixed ancestry) in the enrollment of the Registry;

"(3) carry out informational and educational activities in accordance with subsection (c);

"(4) annually update information to account for changes in the status of individuals as potential donors of bone marrow;

"(5) provide for a system of patient advocacy through the office established under subsection (d);

"(6) provide case management services for any potential donor of bone marrow to whom the Registry has provided a notice that the potential donor may be suitably matched to a particular patient (which services shall be provided through a mechanism other than the system of patient advocacy under subsection (d)), and conduct surveys of donors and potential donors to determine the extent of satisfaction with such services and to identify ways in which the services can be improved;

"(7) with respect to searches for unrelated donors of bone marrow that are conducted through the system under paragraph (1), collect and analyze and publish data on the number and percentage of patients at each of the various stages of the search process, including data regarding the furthest stage reached; the number and percentage of patients who are unable to complete the search process, and the reasons underlying such circumstances; and comparisons of transplant centers regarding search and other costs that prior to transplantation are charged to patients by transplant centers; and".

(2) REPORT OF INSPECTOR GENERAL; PLAN REGARDING RELATIONSHIP BETWEEN REGISTRY AND DONOR CENTERS.—The Secretary of Health and Human Services shall ensure that, not later than one year after the date of the enactment of this Act, the National Bone Marrow Donor Registry (under section 379 of the Public Health Service Act) develops, evaluates, and implements a plan to effectuate efficiencies in the relationship between such Registry and donor centers. The plan shall incorporate, to the extent practicable, the findings and recommendations made in the inspection conducted by the Office of the Inspector General (Department of Health and Human Services) as of January 1997 and known as the Bone Marrow Program Inspection.

(c) PROGRAM FOR INFORMATION AND EDUCATION.—Section 379 of the Public Health Service Act (42 U.S.C. 274k) is amended by striking subsection (j), by redesignating subsections (c) through (i) as subsections (e) through (k), respectively, and by inserting after subsection (b) the following subsection:

"(c) RECRUITMENT; PRIORITIES; INFORMATION AND EDUCATION.—

"(1) RECRUITMENT; PRIORITIES.—The Registry shall carry out a program for the recruitment of bone marrow donors. Such program shall identify populations that are underrepresented among potential donors enrolled with the Registry. In the case of populations that are identified under the preceding sentence:

"(A) The Registry shall give priority to carrying out activities under this part to increase representation for such populations in order to enable a member of such a population, to the extent practicable, to have a probability of finding a suitable unrelated donor that is comparable to the probability that an individual who is not a member of an underrepresented population would have.

"(B) The Registry shall consider racial and ethnic minority groups (including persons of mixed ancestry) to be populations that have been identified for purposes of this paragraph, and shall carry out subparagraph (A) with respect to such populations.

"(2) INFORMATION AND EDUCATION REGARDING RECRUITMENT; TESTING AND ENROLLMENT.—

"(A) IN GENERAL.—In carrying out the program under paragraph (1), the Registry shall carry out informational and educational activities for purposes of recruiting individuals to serve as donors of bone marrow, and shall test and enroll with the Registry potential donors. Such information and educational activities shall include the following:

"(i) Making information available to the general public, including information describing the needs of patients with respect to donors of bone marrow.

"(ii) Educating and providing information to individuals who are willing to serve as potential donors, including providing updates.

"(iii) Training individuals in requesting individuals to serve as potential donors.

"(B) PRIORITIES.—In carrying out informational and educational activities under subparagraph (A), the Registry shall give priority to recruiting individuals to serve as donors of bone marrow for populations that are identified under paragraph (1).

"(3) TRANSPLANTATION AS TREATMENT OPTION.—In addition to activities regarding recruitment, the program under paragraph (1) shall provide information to physicians, other health care professionals, and the public regarding the availability, as a potential treatment option, of receiving a transplant of bone marrow from an unrelated donor.".

(d) PATIENT ADVOCACY AND CASE MANAGEMENT.—Section 379 of the Public Health Service Act (42 U.S.C. 274k), as amended by subsection (c) of this section, is amended by inserting after subsection (c) the following subsection:

"(d) PATIENT ADVOCACY; CASE MANAGEMENT.—

"(1) IN GENERAL.—The Registry shall establish and maintain an office of patient advocacy (in this subsection referred to as the 'Office').

"(2) GENERAL FUNCTIONS.—The Office shall meet the following requirements:

"(A) The Office shall be headed by a director.

"(B) The Office shall operate a system for patient advocacy, which shall be separate from mechanisms for donor advocacy, and which shall serve patients for whom the Registry is conducting, or has been requested to conduct, a search for an unrelated donor of bone marrow.

"(C) In the case of such a patient, the Office shall serve as an advocate for the patient by directly providing to the patient (or family members, physicians, or other individuals acting on behalf of the patient) individualized services with respect to efficiently utilizing the system under subsection (b)(1) to conduct an ongoing search for a donor.

"(D) In carrying out subparagraph (C), the Office shall monitor the system under subsection (b)(1) to determine whether the search needs of the patient involved are being met, including with respect to the following:

"(i) Periodically providing to the patient (or an individual acting on behalf of the patient) information regarding donors who are suitability matched to the patient, and other information regarding the progress being made in the search.

"(ii) Informing the patient (or such other individual) if the search has been interrupted or discontinued.

"(iii) Identifying and resolving problems in the search, to the extent practicable.

"(E) In carrying out subparagraph (C), the Office shall monitor the system under subsection (b)(1) to determine whether the Registry, donor centers, transplant centers, and other entities participating in the Registry program are complying with standards issued under subsection (e)(4) for the system for patient advocacy under this subsection.

"(F) The Office shall ensure that the following data are made available to patients:

"(i) The resources available through the Registry.

"(ii) A comparison of transplant centers regarding search and other costs that prior to transplantation are charged to patients by transplant centers.

"(iii) A list of donor registries, transplant centers, and other entities that meet the applicable standards, criteria, and procedures under subsection (e).

"(iv) The posttransplant outcomes for individual transplant centers.

"(v) Such other information as the Registry determines to be appropriate.

"(G) The Office shall conduct surveys of patients (or family members, physicians, or other individuals acting on behalf of patients) to determine the extent of satisfaction with the system for patient advocacy under this subsection, and to identify ways in which the system can be improved.

"(3) CASE MANAGEMENT.—

"(A) IN GENERAL.—In serving as an advocate for a patient under paragraph (2), the Office shall provide individualized case management services directly to the patient (or family members, physicians, or other individuals acting on behalf of the patient), including—

"(i) individualized case assessment; and

"(ii) the functions described in paragraph (2)(D) (relating to progress in the search process).

"(B) POSTSEARCH FUNCTIONS.—In addition to the case management services described in paragraph (1) for patients, the Office may, on behalf of patients who have completed the search for an unrelated donor, provide information and education on the process of receiving a transplant of bone marrow, including the posttransplant process.".

(e) CRITERIA, STANDARDS, AND PROCEDURES.—Section 379(e) of the Public Health

Service Act (42 U.S.C. 274k), as redesignated by subsection (c) of this section, is amended by striking paragraph (4) and inserting the following:

"(4) standards for the system for patient advocacy operated under subsection (d), including standards requiring the provision of appropriate information (at the start of the search process and throughout the process) to patients and their families and physicians;".

(f) REPORT.—Section 379 of the Public Health Service Act, as amended by subsection (c) of this section, is amended by adding at the end the following subsection:

"(l) ANNUAL REPORT REGARDING PRETRANSPLANT COSTS.—The Registry shall annually submit to the Secretary the data collected under subsection (b)(7) on comparisons of transplant centers regarding search and other costs that prior to transplantation are charged to patients by transplant centers. The data shall be submitted to the Secretary through inclusion in the annual report required in section 379A(c).".

(g) CONFORMING AMENDMENTS.—Section 379 of the Public Health Service Act, as amended by subsection (c) of this section, is amended—

(1) in subsection (f), by striking "subsection (c)" and inserting "subsection (e)"; and

(2) in subsection (k), by striking "subsection (c)(5)(A)" and inserting "subsection (e)(5)(A)" and by striking "subsection (c)(5)(B)" and inserting "subsection (e)(5)(B)".

SEC. 3. RECIPIENT REGISTRY.

Part I of title III of the Public Health Service Act (42 U.S.C. 274k et seq.) is amended by striking section 379A and inserting the following:

"SEC. 379A. BONE MARROW SCIENTIFIC REGISTRY.

"(a) ESTABLISHMENT OF RECIPIENT REGISTRY.—The Secretary, acting through the Registry under section 379 (in this section referred to as the 'Registry'), shall establish and maintain a scientific registry of information relating to patients who have been recipients of a transplant of bone marrow from a biologically unrelated donor.

"(b) INFORMATION.—The scientific registry under subsection (a) shall include information with respect to patients described in subsection (a), transplant procedures, and such other information as the Secretary determines to be appropriate to conduct an ongoing evaluation of the scientific and clinical status of transplantation involving recipients of bone marrow from biologically unrelated donors.

"(c) ANNUAL REPORT ON PATIENT OUTCOMES.—The Registry shall annually submit to the Secretary a report concerning patient outcomes with respect to each transplant center. Each such report shall use data collected and maintained by the scientific registry under subsection (a). Each such report shall in addition include the data required in section 379(l) (relating to pretransplant costs).".

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended—

(1) by transferring section 378 from the current placement of the section and inserting the section after section 377; and

(2) in part I, by inserting after section 379A the following section:

"SEC. 379B. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of carrying out this part, there are authorized to be appropriated $18,000,000 for fiscal year 1999, and such sums as may be necessary for each of the fiscal years 2000 through 2003.".

SEC. 5. STUDY BY GENERAL ACCOUNTING OFFICE.

(a) IN GENERAL.—During the period indicated pursuant to subsection (b), the Comptroller General of the United States shall conduct a study of the National Bone Marrow Donor Registry under section 379 of the Public Health Service Act for purposes of making determinations of the following:

(1) The extent to which, relative to the effective date of this Act, such Registry has increased the representation of racial and ethnic minority groups (including persons of mixed ancestry) among potential donors of bone marrow who are enrolled with the Registry, and whether the extent of increase results in a level of representation that meets the standard established in subsection (c)(1)(A) of such section 379 (as added by section 2(c) of this Act).

(2) The extent to which patients in need of a transplant of bone marrow from a biologically unrelated donor, and the physicians of such patients, have been utilizing the Registry in the search for such a donor.

(3) The number of such patients for whom the Registry began a preliminary search but for whom the full search process was not completed, and the reasons underlying such circumstances.

(4) The extent to which the plan required in section 2(b)(2) of this Act (relating to the relationship between the Registry and donor centers) has been implemented.

(5) The extent to which the Registry, donor centers, donor registries, collection centers, transplant centers, and other appropriate entities have been complying with the standards, criteria, and procedures under subsection (e) of such section 379 (as redesignated by section 2(c) of this Act).

(b) REPORT.—A report describing the findings of the study under subsection (a) shall be submitted to the Congress not later than October 1, 2001. The report may not be submitted before January 1, 2001.

SEC. 6. COMPLIANCE WITH NEW REQUIREMENTS FOR OFFICE OF PATIENT ADVOCACY.

With respect to requirements for the office of patient advocacy under section 379(d) of the Public Health Service Act, the Secretary of Health and Human Services shall ensure that, not later than 180 days after the effective date of this Act, such office is in compliance with all requirements (established pursuant to the amendment made by section 2(d)) that are additional to the requirements that under section 379 of such Act were in effect with respect to patient advocacy on the day before the date of the enactment of this Act.

SEC. 7. EFFECTIVE DATE.

This Act takes effect October 1, 1998, or upon the date of the enactment of this Act, whichever occurs later.

Mr. KENNEDY. Mr. President, it is a privilege to join Senator FRIST on this important legislation, which is strongly supported by the Clinton Administration, patient groups, and the American Association of Blood Banks.

The National Marrow Donor Program was established in 1986 to meet the need for a single large, nationwide registry of bone marrow donors. For those facing the diagnosis of leukemia or other life-threatening diseases, the registry can literally save their lives.

Of particular importance is the need for identifying potential donors for African Americans, Asian/Pacific Islanders, Hispanics, and Native Americans, since each individual's likelihood of finding a matching donor, apart from family members, is higher in the individual's racial or ethnic group. By cooperation with international registries and targeted campaigns to increase the representation of minorities, the NMDP has made remarkable progress in improving the likelihood that patients of every racial and ethnic group can find suitable donors.

Through skillful work and commitment, the NMDP has grown rapidly in recent years. It now maintains a registry of over three million volunteer bone marrow donors. The very important work of the registry must be continued. Its success in identifying matching donors and recipients is bringing the miracle of better health to families across the country. Congress has a responsibility to support this critical work.

In fact, this reauthorization is long overdue, and I hope that Congress will act expeditiously so that the National Marrow Donor Program can continue its life-saving work.

By Mr. NICKLES (for himself, Mr. LOTT, Mr. COATS, Mr. INHOFE, Mr. HELMS, Mr. MURKOWSKI, Mr. GRAMS, Mr. FAIRCLOTH, Mr. BOND, Mr. ENZI, Mr. SESSIONS, Mr. HAGEL, and Mr. COVERDELL):

S. 2151. A bill to clarify Federal law to prohibit the dispensing or distribution of a controlled substance for the purpose of causing, or assisting in causing, the suicide, euthanasia, or mercy killing of any individual; to the Committee on the Judiciary.

LETHAL DRUG ABUSE PREVENTION ACT OF 1998

Mr. NICKLES. Mr. President, today I rise, along with Senators LOTT, COATS, INHOFE, HELMS, MURKOWSKI, GRAMS of Minnesota, FAIRCLOTH, BOND, ENZI, SESSIONS, HAGEL, and COVERDELL to introduce the Lethal Drug Abuse Prevention Act of 1998. This legislation will clarify that physicians entrusted by the Federal Government with the authority to prescribe and dispense controlled substances may not abuse that authority by using them in assisted suicides. It also strongly reaffirms that physicians should use federally controlled substances for the legitimate medical purpose of relieving pain and discomfort.

Last year, Congress passed the Assisted Suicide Funding Restriction Act of 1997 without a dissenting vote in the Senate and by an overwhelming margin of 398–16 in the House. The President signed the bill, saying it "will allow the Federal Government to speak with a clear voice in opposing these practices," and warning that "to endorse assisted suicide would set us on a disturbing and perhaps dangerous path."

The distribution of narcotics and other dangerous drugs is prohibited by

federal law under the Controlled Substances Act. Under this law physicians may get a special federal license from the Drug Enforcement Administration (DEA), called a DEA registration, that allows them to prescribe these federally controlled drugs for "legitimate medical purposes." This was confirmed last November in a letter by Thomas Constantine, Administrator of the DEA, who concluded that "delivering, dispensing or prescribing a controlled substance with the intent of assisting a suicide would not be under any current definition a legitimate medical purpose."

It is important to understand that while physicians receive their license to practice medicine from state medical boards, they receive this separate DEA registration to prescribe controlled substances from the federal DEA. Each time a doctor orders a controlled substance they must fill our a form in triplicate and one copy goes to the DEA. Physicians must be prepared to explain to DEA officials their use of these drugs, and they lose their registration and even risk criminal penalties if they prescribe such drugs for any reason but "Legitimate medical purposes."

On June 5, Attorney General Janet Reno issued a decision which overturned the DEA ruling. According to the Attorney General, the Controlled Substances Act does not restrict the use of federally controlled dangerous drugs for the purpose of assisted suicide. It is for this reason I am introducing this legislation.

I have long been a strong advocate of states' rights and the limited role of the Federal Government, so let me make clear what this legislation does. It simply clarifies that the dispensing of controlled substances for the purpose of assisted suicide is prohibited under longstanding federal law, the Controlled Substance Act.

This is not the first time the Federal Government has acted to ensure that federally regulated drugs are not used for purposes that violate federal law. The current Administration is committed to enforcing federal prohibitions on the use of marijuana, despite state referenda that seeks to legitimize such use for what some see as medicinal use. By the same token, one state's referendum rescinding local criminal penalties for assisting a suicide does not magically transform a lethal act into a legitimate medical practice within the meaning of federal law.

Congress cannot remain silent now. Congress acted with one voice to ensure that no federal program, facility or employee is involved in assisted suicide. Enactment of the Lethal Drug Abuse Prevention Act of 1998 will ensure that federal authorization to prescribe DEA-regulated drugs does not include the authority to prescribe such drugs to cause a patient's death.

I urge my colleagues to support and swiftly enact this urgently needed legislation.

Mr President, 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. 2151

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 "Lethal Drug Abuse Prevention Act of 1998".

SEC. 2. FINDINGS; PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the use of certain narcotics and other dangerous drugs is generally prohibited under the Controlled Substances Act;

(2) under the Controlled Substances Act and implementing regulations, an exception to this general prohibition permits the dispensing and distribution of certain controlled substances by properly registered physicians for legitimate medical purposes;

(3) the dispensing or distribution of controlled substances to assist suicide is not a legitimate medical purpose and should not be construed to be permissible under the Controlled Substances Act;

(4) the dispensing or distribution of certain controlled substances for the purpose of relieving pain and discomfort is a legitimate medical purpose under the Controlled Substances Act and physicians should not hesitate to dispense or distribute them for that purpose when medically indicated; and

(5) for the reasons set forth in section 101 of the Controlled Substances Act (21 U.S.C. 801), the dispensing and distribution of controlled substances for any purpose, including that of assisting suicide, affects interstate commerce.

(b) PURPOSES.—The purposes of this Act are—

(1) to provide explicitly that Federal law is not intended to license the dispensing or distribution of a controlled substance with a purpose of causing, or assisting in causing, the suicide, euthanasia, or mercy killing of any individual; and

(2) to encourage physicians to prescribe controlled substances as medically appropriate in order to relieve pain and discomfort, by reducing unwarranted concerns that their registration to prescribe controlled substances will thereby be put at risk, if there is no intent to cause a patient's death.

SEC. 3. LETHAL DRUG ABUSE PREVENTION.

(a) DENIAL OF REGISTRATION.—Section 303 of the Controlled Substances Act (21 U.S.C. 823) is amended by adding at the end the following:

"(i) DENIAL OF REGISTRATION.—The Attorney General shall determine that registration of an applicant under this section is inconsistent with the public interest if—

"(1) during the 5-year period immediately preceding the date on which the application is submitted under this section, the registration of the applicant under this section was revoked under section 304(a)(4); or

"(2) the Attorney General determines, based on clear and convincing evidence, that the applicant is applying for the registration with the intention of using the registration to take any action that would constitute a violation of section 304(a)(4).".

(b) SUSPENSION OR REVOCATION OF REGISTRATION.—

(1) IN GENERAL.—Section 304(a) of the Controlled Substances Act (21 U.S.C. 824(a)) is amended—

(A) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and

(B) by inserting after paragraph (3) the following:

"(4) has intentionally dispensed or distributed a controlled substance with a purpose of causing, or assisting in causing, the suicide, euthanasia, or mercy killing of any individual, except that this paragraph does not apply to the dispensing or distribution of a controlled substance for the purpose of relieving pain or discomfort (even if the use of the controlled substance may increase the risk of death), so long as the controlled substance is not also dispensed or distributed for the purpose of causing, or assisting in causing, the death of an individual for any reason;".

(2) CONFORMING AMENDMENT.—Section 304(a)(5) of the Controlled Substances Act (21 U.S.C. 824(a)(5)) (as redesignated by paragraph (1) of this subsection) is amended by inserting "other" after "such".

(c) PAIN RELIEF.—Section 304(c) of the Controlled Substances Act (21 U.S.C. 824(c)) is amended—

(1) by striking "(c) Before" and inserting the following:

"(c) PROCEDURES.—

"(1) ORDER TO SHOW CAUSE.—After any hearing under paragraph (2), and before"; and

(2) by adding at the end the following:

"(2) MEDICAL REVIEW BOARD ON PAIN RELIEF.—

"(A) IN GENERAL.—The Attorney General shall by regulation establish a board to be known as the Medical Review Board on Pain Relief (referred to in this subsection as the 'Board').

"(B) MEMBERSHIP.—The Attorney General shall appoint the members of the Board—

"(i) from among individuals who, by reason of specialized education or substantial relevant experience in pain management, are clinical experts with knowledge regarding standards, practices, and guidelines concerning pain relief; and

"(ii) after consultation with the American Medical Association, the American Academy of Hospice and Palliative Medicine, the National Hospice Organization, the American Geriatrics Society, and such other entities with relevant expertise concerning pain relief, as the Attorney General determines to be appropriate.

"(C) DUTIES OF BOARD.—

"(i) HEARING.—If an applicant or registrant claims that any action (or, in the case of a proposed denial under section 303(i)(2), any potential action) that is a basis of a proposed denial under section 303(i), or a proposed revocation or suspension under subsection (a)(4) of this section, is an appropriate means to relieve pain that does not constitute a violation of subsection (a)(4) of this section, the applicant or registrant may seek a hearing before the Board on that issue.

"(ii) FINDINGS.—Based on a hearing under clause (i), the Board shall make findings regarding whether the action at issue is an appropriate means to relieve pain that does not constitute a violation of subsection (a)(4). The findings of the Board under this clause shall be admissible in any hearing pursuant to an order to show cause under paragraph (1).".

SEC. 4. CONSTRUCTION.

(a) IN GENERAL.—Nothing in this Act or the amendments made by this Act shall be construed to imply that the dispensing or

distribution of a controlled substance before the date of enactment of this Act for the purpose of causing, or assisting in causing, the suicide, euthanasia, or mercy killing of any individual is not a violation of the Controlled Substances Act (21 U.S.C. 801 et seq.).

(b) INCORPORATED DEFINITIONS.—In this section, the terms "controlled substance", "dispense", and "distribute" have the meanings given those terms in section 102 of the Controlled Substances Act (21 U.S.C. 802).

ADDITIONAL COSPONSORS

S. 268

At the request of Mr. MCCAIN, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 268, a bill to regulate flights over national parks, and for other purposes.

S. 507

At the request of Mr. LEAHY, the name of the Senator from California [Mrs. BOXER] was added as a cosponsor of S. 507, a bill to establish the United States Patent and Trademark Organization as a Government corporation, to amend the provisions of title 35, United States Code, relating to procedures for patent applications, commercial use of patents, reexamination reform, and for other purposes.

S. 773

At the request of Mr. DURBIN, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 773, a bill to designate certain Federal lands in the State of Utah as wilderness, and for other purposes.

S. 831

At the request of Mr. SHELBY, the names of the Senator from Colorado [Mr. ALLARD] and the Senator from Texas [Mr. GRAMM] were added as cosponsors of S. 831, a bill to amend chapter 8 of title 5, United States Code, to provide for congressional review of any rule promulgated by the Internal Revenue Service that increases Federal revenue, and for other purposes.

S. 852

At the request of Mr. LOTT, the names of the Senator from Idaho [Mr. KEMPTHORNE] and the Senator from Montana [Mr. BURNS] were added as cosponsors of S. 852, a bill to establish nationally uniform requirements regarding the titling and registration of salvage, nonrepairable, and rebuilt vehicles.

S. 1092

At the request of Mr. STEVENS, his name was added as a cosponsor of S. 1092, a bill to provide for a transfer of land interests in order to facilitate surface transportation between the cities of Cold Bay, Alaska, and King Cove, Alaska, and for other purposes.

S. 1251

At the request of Mr. D'AMATO, the names of the Senator from Florida [Mr. MACK] and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of S. 1251, a bill to amend the Internal Revenue Code of 1986 to increase the amount of private activity bonds which may be issued in each State, and to index such amount for inflation.

S. 1252

At the request of Mr. D'AMATO, the names of the Senator from Florida [Mr. MACK], the Senator from North Dakota [Mr. CONRAD], and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of S. 1252, a bill to amend the Internal Revenue Code of 1986 to increase the amount of low-income housing credits which may be allocated in each State, and to index such amount for inflation.

S. 1305

At the request of Mr. GRAMM, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 1305, a bill to invest in the future of the United States by doubling the amount authorized for basic scientific, medical, and pre-competitive engineering research.

S. 1423

At the request of Mr. HAGEL, the name of the Senator from Kansas [Mr. ROBERTS] was added as a cosponsor of S. 1423, a bill to modernize and improve the Federal Home Loan Bank System.

S. 1531

At the request of Ms. SNOWE, the name of the Senator from Maine [Ms. COLLINS] was added as a cosponsor of S. 1531, a bill to deauthorize certain portions of the project for navigation, Bass Harbor, Maine.

S. 1532

At the request of Ms. SNOWE, the name of the Senator from Maine [Ms. COLLINS] was added as a cosponsor of S. 1532, a bill to amend the Water Resources Development Act of 1996 to deauthorize the remainder of the project at East Boothbay Harbor, Maine.

S. 1686

At the request of Mr. HUTCHINSON, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 1686, a bill to amend the National Labor Relations Act to determine the appropriateness of certain bargaining units in the absence of a stipulation or consent.

S. 1890

At the request of Mr. DASCHLE, the name of the Senator from West Virginia [Mr. BYRD] was added as a cosponsor of S. 1890, a bill to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage.

S. 1891

At the request of Mr. DASCHLE, the name of the Senator from West Virginia [Mr. BYRD] was added as a cosponsor of S. 1891, a bill to amend the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage.

S. 1924

At the request of Mr. MACK, the names of the Senator from Kansas [Mr. ROBERTS] and the Senator from Colorado [Mr. ALLARD] were added as cosponsors of S. 1924, a bill to restore the standards used for determining whether technical workers are not employees as in effect before the Tax Reform Act of 1986.

S. 1993

At the request of Ms. COLLINS, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of S. 1993, a bill to amend title XVIII of the Social Security Act to adjust the formula used to determine costs limits for home health agencies under medicare program, and for other purposes.

S. 2064

At the request of Ms. MIKULSKI, the names of the Senator from New York [Mr. MOYNIHAN] and the Senator from Kentucky [Mr. FORD] were added as cosponsors of S. 2064, a bill to prohibit the sale of naval vessels and Maritime Administration vessels for purposes of scrapping abroad, to establish a demonstration program relating to the breaking up of such vessels in United States shipyards, and for other purposes.

S. 2077

At the request of Mr. FORD, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 2077, a bill to maximize the national security of the United States and minimize the cost by providing for increased use of the capabilities of the National Guard and other reserve components of the United States; to improve the readiness of the reserve components; to ensure that adequate resources are provided for the reserve components; and for other purposes.

S. 2085

At the request of Mr. HUTCHINSON, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 2085, a bill to assist small businesses and labor organizations in defending themselves against Government bureaucracy; to protect the right of employers to have a hearing to present their case in certain representation cases; and to prevent the use of the National Labor Relations Act for the purpose of disrupting or inflicting economic harm on employers.

S. 2112

At the request of Mr. ENZI, the name of the Senator from Ohio [Mr. DEWINE] was added as a cosponsor of S. 2112, a bill to make the Occupational Safety and Health Act of 1970 applicable to the United States Postal Service in the same manner as any other employer.

S. 2118

At the request of Mr. CHAFEE, the names of the Senator from Colorado [Mr. ALLARD] and the Senator from Florida [Mr. GRAHAM] were added as cosponsors of S. 2118, a bill to amend

the Internal Revenue Code of 1986 to reduce the tax on vaccines to 25 cents per dose.

S. 2128

At the request of Mr. STEVENS, the names of the Senator from Tennessee [Mr. FRIST], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of S. 2128, a bill to clarify the authority of the Director of the Federal Bureau of Investigation regarding the collection of fees to process certain identification records and name checks, and for other purposes.

SENATE CONCURRENT RESOLUTION 94

At the request of Mr. LIEBERMAN, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of Senate Concurrent Resolution 94, a concurrent resolution supporting the religious tolerance toward Muslims.

SENATE CONCURRENT RESOLUTION 101

At the request of Mr. ABRAHAM, the name of the Senator from Colorado [Mr. ALLARD] was added as a cosponsor of Senate Concurrent Resolution 101, a concurrent resolution expressing the sense of the Congress that the President of the United States should reconsider his decision to be formally received in Tiananmen Square by the Government of the People's Republic of China.

SENATE RESOLUTION 235

At the request of Mr. AKAKA, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of Senate Resolution 235, a resolution commemorating 100 years of relations between the people of the United States and the people of the Philippines.

AMENDMENT NO. 2446

At the request of Mr. JOHNSON, his name was added as a cosponsor of Amendment No. 2446 proposed to S. 1415, a bill 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.

SENATE RESOLUTION 245—EXPRESSING THE SENSE OF THE SENATE THAT THE UNITED STATES AND THE REPUBLIC OF KOREA SHOULD CONTINUE TO ADVANCE ALREADY CLOSE BILATERAL SECURITY, ECONOMIC AND POLITICAL TIES FOR THE MUTUAL BENEFIT OF BOTH COUNTRIES

Mr. ROTH (for himself and Mr. THOMAS) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 245

Whereas, the United States maintains a close, critical and robust bilateral partnership with the Republic of Korea, and has a profound interest in furthering that relationship;

Whereas, the U.S. security relationship with the ROK, based on the 1953 Mutual Defense Treaty, bilateral consultations and combined military forces, is one of our most important, and it is in both countries' interest, as well as in the interest of the countries of the Asia Pacific region for that relationship to be maintained;

Whereas, the ROK is the United States' seventh largest trading partner, fifth largest export market and fourth largest market for U.S. agricultural products;

Whereas, the recent presidential election of Kim Dae Jung, formerly one of his country's most prominent dissidents, further demonstrates the strength and vibrancy of democracy in the ROK;

Whereas, the ROK has already made significant strides in reforming, restructuring and opening its economy in response to the Asian financial crisis;

Whereas, President Kim has committed his administration to making an array of further structural reforms that over the medium- to long-term, will produce a more open, competitive and dynamic Korea, benefiting the Korean people, U.S.-ROK relations and the global economy:

Resolved, That it is the sense of the Senate that:

(1) The United States and the Republic of Korea should continue to advance already close bilateral security, economic and political ties for the mutual benefit of both countries, and for the maintenance of peace, stability and prosperity in the Asia Pacific region; and

(2) Commends President Kim Dae Jung and the Republic of Korea for the measures already implemented and those measures it has committed to implement to resolve the country's economic and financial problems.

AMENDMENTS SUBMITTED

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

ABRAHAM (AND COVERDELL) AMENDMENT NO. 2569

(Ordered to lie on the table.)

Mr. ABRAHAM (for himself and Mr. COVERDELL) submitted an amendment intended to be proposed by them 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 154, between lines 5 and 6, insert the following:

"SUBPART III—ANTI-DRUG COUNTER-ADVERTISING, EDUCATION, AND PREVENTION PROGRAMS.

"SEC. 1983. ANTI-DRUG ACTIVITIES UNDER SUBPARTS I AND II.

"In carrying out the programs authorized by subparts I and II of this part, the Secretary shall incorporate, or carry out parallel programs, with respect to the illicit use of drugs.

On page 195, strike lines 5 through 9, and insert the following:

(i) smoking prevention activities under subpart I, and anti-drug activities authorized by subpart III, of part D of title XIX of the Public Health Service Act, as added by section 261 of this Act;

(ii) counter-advertising under subpart II, and anti-drug activities authorized by subpart III, of such part as so added;

FEDERAL REPORTS ELIMINATION ACT OF 1998

LEVIN (AND McCAIN) AMENDMENT NO. 2570

(Ordered to lie on the table.)

Mr. LEVIN (for himself and Mr. McCAIN) submitted an amendment intended to be proposed by them to the bill (S. 1364) to eliminate unnecessary and wasteful Federal reports; as follows:

At the end of section 601 add the following:

(d) NIH.—

(1) ANNUAL REPORT ON DISEASE PREVENTION.—Section 402(f) of the Public Health Service Act (42 U.S.C. 282(f)) is amended—

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

(B) in paragraph (2), by striking "; and" and inserting a period; and

(C) by striking paragraph (3).

(2) REPORT OF NICHD ASSOCIATE DIRECTOR FOR PREVENTION.—Section 451 of the Public Health Service Act (42 U.S.C. 285g-3) is amended—

(A) in subsection (a), by striking "(a) There" and inserting "There"; and

(B) by striking subsection (b).

(3) REPORT OF COUNCIL ON ALZHEIMER'S DISEASE.—The Alzheimer's Disease Research, Training, and Education Amendments of 1992 is amended by striking sections 911 and 912 (42 U.S.C. 11211 and 11212).

(4) INTERNATIONAL HEALTH RESEARCH.—The International Health Research Act of 1960 (Public Law 86-610) is amended by striking section 5(h).

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

D'AMATO AMENDMENT NO. 2571

(Ordered to lie on the table.)

Mr. D'AMATO submitted an amendment intended to be proposed by him to amendment No. 2443 proposed by Mrs. FEINSTEIN to the bill, S. 1415, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

(4) FUNDS FOR LOCAL GOVERNMENTAL ENTITIES.—To be eligible to receive funds under this subsection, a State shall have adopted procedures to provide an equitable portion of such funds to local governmental entities within the State that can demonstrate that such entities incurred tobacco-related health costs through—

(A) contributions to the program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.); or

(B) the provision of indigent care.

SMITH AMENDMENT NO. 2572

(Ordered to lie on the table.)

Mr. SMITH of Oregon submitted an amendment intended to be proposed by

him to amendment No. 2435 proposed by him to the bill, S. 1415, supra; as follows:

Beginning on page 1 of the amendment strike line 1 and all that follows through line 15 on page 2.

WELLSTONE AMENDMENT NO. 2573

(Ordered to lie on the table.)

Mr. WELLSTONE submitted an amendment intended to be proposed by him to amendment No. 2508 proposed by Mr. CRAIG to the bill, S. 1415, supra; as follows:

Add the following at the end of the amendment:

(C) SET-OFF PAYMENTS FROM STATE LITIGATION.—

(i) IN GENERAL.—For any State which has entered into a settlement agreement prior to the date of enactment of this Act, that resolves litigation by the State against a tobacco manufacturer or a group of tobacco manufacturers for expenditures of the State for tobacco related diseases or conditions, to be eligible to receive any funds from the State Litigation Settlement Account, the amount of any payment due in any year under the settlement agreement must first be received by the State after which the amount actually received will be set-off against any amount which the State is entitled to receive from the State Litigation Settlement Account. The failure of a State to receive any payment due under the settlement agreement will not prohibit the State from receiving any amount which the State is entitled to receive from the State Litigation Settlement Account.

(ii) REDISTRIBUTION OF SET-OFF PAYMENTS.—Any payments out of the State Litigation Settlement Account which would otherwise have been made to such State but for the set-off in subparagraph (i) shall be reallocated to all other States receiving such payments for such calendar year in the same proportion as the payments received by any State bear to all such payments.

WELLSTONE AMENDMENT NO. 2574

(Ordered to lie on the table.)

Mr. WELLSTONE submitted an amendment intended to be proposed by him to amendment No. 2512 proposed by Mr. ROTH to the bill, S. 1415, supra; as follows:

Delete Section (4)(A)(ii) and Section (5) and insert in lieu thereof the following:

Section (4)(A)(ii) "the aggregate payments which are due to be received by such State for such calendar year under the settlement, judgement, or other agreement."

and

SEC. 5. SET-OFF PAYMENTS FROM STATE LITIGATION.

(A) IN GENERAL.—For any State which has entered into a settlement agreement prior to the date of enactment of this Act, that resolves litigation by the State against a tobacco manufacturer or a group of tobacco manufacturers for expenditures of the State for tobacco related diseases or conditions, to be eligible to receive any funds from the State Litigation Settlement Account, the amount of any payment due in any year under the settlement agreement must first be received by the State after which the amount actually received will be set-off against any amount which the State is entitled to receive from the State Litigation Settlement Account. The failure of a State to receive any payment due under the settlement agreement will not prohibit the State from receiving any amount which the State is entitled to receive from the State Litigation Settlement Account.

(B) REDISTRIBUTION OF SET-OFF PAYMENTS.—Any payments out of the State Litigation Settlement Account which would otherwise have been made to such State but for the set-off in paragraph (A) shall be reallocated to all other States receiving such payments for such calendar year in the same proportion as the payments received by any State bear to all such payments.

DURBIN AMENDMENT NO. 2575

(Ordered to lie on the table.)

Mr. DURBIN submitted an amendment intended to be proposed by him to the bill, S. 1415, supra; as follows:

On page 216, line 9, insert before the period the following: ",except that, with respect to public facilities owned by or leased to an entity of the legislative branch of the United States Government, the provisions of this title shall take effect on January 1, 1999".

FORD AMENDMENTS NOS. 2576–2615

(Ordered to lie on the table.)

Mr. FORD submitted 40 amendments intended to be proposed by him to the bill, S. 1415, supra; as follows:

AMENDMENT NO. 2576

On page 19, after line 10, insert the following new subsection and renumber all subsequent sections accordingly:

"(1) BLACK MARKET TOBACCO PRODUCT.—The term "black market tobacco product" means any tobacco product sold or distributed in the United States without payment of all applicable State or Federal excise taxes."

AMDNEDMENT NO. 2577

On page 24, line 6, after "increasing" insert "materially".

AMENDMENT NO. 2578

On page 44, on line 23 change "60" to "90".

AMENDMENT NO. 2579

On page 44, on line 24 change "90" to "120".

AMENDMENT NO. 2580

On page 47, beginning on line 15 insert the following new subparagraph (i) and renumber the subsequent subparagraphs accordingly:

"(i) before issuing any regulation under subparagraph (A), consult with the Secretary of Labor, the United States Trade Representative and the Secretary of Agriculture to determine what effect that any proposed regulation shall have upon domestic employment within the United States and, in consultation with each of these other agencies, issue a joint finding that the regulation to be issued under subparagraph (A) shall not adversely affect agricultural employment or manufacturing employment in the United States."

AMENDMENT NO. 2581

On page 47, at line 23, delete ";" and insert the following after "hearing":

",and all tobacco manufacturers shall have at least 120 days notice of such hearing and shall be extended an opportunity to appear at an oral hearing."

AMENDMENT NO. 2582

On page 49, line 15 change "may" to "shall".

AMENDMENT NO. 2583

On page 55, after line 10 insert a new paragraph (5) as follows:

"(5) CONSULATION WITH UNITED STATES TRADE REPRESENTATIVE AND SECRETARY OF AGRICULTURE.—Prior to issuing any regulations under this section, the Secretary shall consult with the United States Trade Representative and the Secretary of Agriculture. Before any regulation issued under this section may become final—

"(A) the Secretary shall issue a joint finding with the United States Trade Representative which certifies that the regulation does not violate any treaty or international obligation to which the United States is a party; and

"(B) the Secretary shall issue a joint finding with the Secretary of Agriculture which certifies that the proposed regulation shall not have an adverse effect on the domestic or international competitiveness of tobacco growers in the United States."

AMENDMENT NO. 2584

On page 57, line 5 delete "60" and insert in lieu thereof "180".

AMENDMENT NO. 2585

On page 58, line 21 delete "2" and insert in lieu thereof "5".

AMENDMENT NO. 2586

On page 58, line 17 delete "to zero" and insert in lieu thereof "by fifty percent or more".

AMENDMENT NO. 2587

On page 59, strike lines 1 through 13 and insert in lieu thereof the following:

"By regulation promulgated after a period of notice and comment of at least 180 days, the Secretary may amend or revoke a performance standard. The Secretary shall be prohibited from issuing any regulation under this section that accelerates the effective date of a performance standard."

AMENDMENT NO. 2588

On page 60, line 24 after "substantial" insert "immediate".

AMENDMENT NO. 2589

On page 62, line 3 before "harm" insert "and immediate".

AMENDMENT NO. 2590

On page 72, line 10 delete "180" and insert in lieu thereof "90".

AMENDMENT NO. 2591

On page 82, line 8 insert the following new subsection:

"(a) IMPLEMENTING REGULATIONS.—The Secretary shall not institute any requirements under this section unless and until the Secretary has issued final regulations, after proposing such regulations for a public comment period of at least 120 days. In no event shall the Secretary issue interim regulations within an effective date that precedes the expiration of the 120-day public comment period."

AMENDMENT NO. 2592

On page 102, line 9 insert "product" immediately following "tobacco".

AMENDMENT NO. 2593

On page 102, line 11 immediately after "private sector," insert the following: "including

representatives from tobacco manufacturers, distributors, retailers and growers,"

AMENDMENT NO. 2594

On page 104, line 2 insert the following sentence after "percentages.":

"The Secretary shall also determine the percent incidence of underage use of black market tobacco products using the same calculations, the same categories, and the same years as used to determine the percentage incidence of underage use of cigarettes and smokeless tobacco products."

AMENDMENT NO. 2595

On page 122, line 22 insert the following and renumber accordingly:

"iii the extent to which underage youth are using black market tobacco products within the State and the activity that the State has undertaken to reduce the teenage use of black market activities;"

AMENDMENT NO. 2596

On page 141 after line 12, insert the following new subsection:

"(f) INFORMATION RELATED TO BLACK MARKET TOBACCO PRODUCTS.—The Secretary shall require any grant recipient that administers a smoking cessation program under this section to survey all participants of such cessation programs. This purpose of this survey shall be to determine the attitudes among program participants concerning the general awareness of black market tobacco products, the frequency of use of black market tobacco products, and the demographic characteristics of users of black market tobacco products."

AMENDMENT NO. 2597

On page 165, line 8, delete "January 1, 2000" and insert in lieu thereof "January 1, 2002".

AMENDMENT NO. 2598

On page 168 on line 20 insert the following at the end of paragraph (3):

"Any rulemaking conducted under this section shall be conducted to a notice and comment period which shall be at least 180 days and, in no event, shall the Secretary issue regulations which take effect sooner than 180 days after publication in the Federal Register."

AMENDMENT NO. 2599

On page 175 on line 23 insert the following immediately after "products.":

"Any rulemaking conducted under this section shall be conducted under a notice and comment period which shall be at least 180 days and, in no event, shall the Secretary issue regulations which take effect sooner than 180 days after publication in the Federal Register."

AMENDMENT NO. 2600

On page 177, after line 20 insert the following new subsection (D):

"(D) Any rulemaking conducted under this section shall be conducted under a notice and comment period which shall be at least 180 days and, in no event, shall the Secretary issue regulations which take effect sooner than 180 days after publication in the Federal Register."

AMENDMENT NO. 2601

On page 178, on line 6, delete "later than 24 months" and insert in lieu thereof "sooner than 36 months.'

AMENDMENT NO. 2602

On page 179 after line 4 insert the following new subsection (d):

"(d) Any rulemaking conducted under this section shall be conducted under a notice and comment period which shall be at least 180 days and, in no event, shall the Secretary issue regulations which take effect sooner than 180 days after publication in the Federal Register."

AMENDMENT NO. 2603

On page 188, after line 11, insert the following new subsection:

"(g) ADJUSTMENT FOR INCORRECT PAYMENTS.—The Secretary of the Treasury may order an adjustment for prior year payments, other than the first annual payment, upon a showing by a participating manufacturer that any payment in a previous year has been made on the basis of an incorrect annual apportionment. If the Secretary of the Treasury determines that prior payments must be adjusted, the Secretary of the Treasury shall then reapportion the annual payments for the previous year in dispute, and make adjustments as follows—

(1) Any participating manufacturer found to have made an overpayment shall receive a credit toward future payments due under this section. The credit shall include the amount of the overpayment, together with interest computed as provided for in subsection (a). Interest shall accrue from the date of the overpayment until the date upon which the next payment is due under this section.

(2) If the Secretary of the Treasury finds that a participating manfacturer must make additional payments because of an adjustment under this subsection, the payment shall include the amount of the underpayment, together with interest computed as provided for in subsection (a). The payments shall be due no later than 30 days after the Secretary of the Treasury notifies the participating manufacturers of the underpayment. Interest shall accrue from the date of the underpayment until the date on which the payment is received."

AMENDMENT NO. 2604

On page 214, on line 7, delete "Citizen Actions" and insert "Enforcement and Penalties".

AMENDMENT NO. 2605

On page 214, lines 9 and 10, delete "any aggrieved person, or any State or local agency," and insert "or any State or local agency".

AMENDMENT NO. 2606

On page 211, on lines 7 and 8, delete "10 or more individuals at least 1 day per week" and insert in lieu thereof "50 or more individuals at least 4 days per week".

AMENDMENT NO. 2607

On page 211, on lines 7 and 8, delete "10 or more individuals at least 1 day per week" and insert in lieu thereof "10 or more individuals at least 4 days per week".

AMENDMENT NO. 2608

On page 214, line 22, delete "60" and insert "180".

AMENDMENT NO. 2609

On page 215, line 2, delete "60-day" and insert "120-day".

AMENDMENT NO. 2610

On page 215, delete lines 3 through 7 and reletter the next subsection.

AMENDMENT NO. 2611

On page 216, on line 2, insert the following at the end of section 505:

"Any rulemaking conducted under this section shall provide a notice and comment period which shall be at least 180 days and, in no event, shall the Assistant Secretary issue any regulations which take effect sooner than 180 days after publication in the Federal Register."

AMENDMENT NO. 2612

On page 216, delete lines 11 through 18 and insert in lieu thereof:

"This title shall not apply to any State, unless that State adopts a law that applies this title within its jurisdiction."

AMENDMENT NO. 2613

On page 217, after line 13 insert a new paragraph and renumber subsequent paragraphs accordingly:

"(3) recognize the potential for this Act to create a black market for tobacco products on Indian lands and ensure that tribal governments, the Federal government and state and local governments cooperate to the maximum extent possible to reduce the potential for the manufacture, distribution, sale, and use of black market tobacco products on Indian lands;"

AMENDMENT NO. 2614

On page 227, after line 3, insert a new subsection (h) as follows:

"(h) REDUCTION OF BLACK MARKET.—Each Indian tribe shall establish a program to monitor the manufacture, distribution, sale and use of black market tobacco products on Indian lands and designate a government official to work with officials from the Federal, State and local governments to the fullest extent possible to minimize the manufacture, distribution, sale, and use of black market tobacco products on Indian lands. Within 60 days of the effective date of this Act, and no later than January 1 of each year thereafter, each Indian tribe shall submit the name, title and address of this responsible government official to the Secretary. The Secretary shall compile and update annually a list of these Tribal officials and make this list available to any Federal, State and local officials who request the information."

AMENDMENT NO. 2615

On page 233, after line 25, insert the following new section:

"SEC. 703. IMMUNITY FOR TOBACCO GROWERS, COOPERATIVES OR WAREHOUSES.

(a) GENERAL PURPOSE.—This section is intended to provide tobacco growers, tobacco cooperatives, and tobacco warehouses immunity from any Federal or State, civil or criminal actions arising out of health-related claims concerning the use of tobacco products.

(b) GENERAL PREEMPTION.—No civil action or criminal action in any court of the United States or in any State asserting a tobacco claim shall be brought against any tobacco grower, tobacco association or cooperative or owner or employee of such association or cooperative, or tobacco warehouse or owner or employee of such warehouse, if such claim arises out of actions or failures to act during the cultivation, harvesting, marketing, distribution or sale of tobacco leaf.

(c) DEFINITIONS.—For purposes of this section—

(1) CIVIL ACTION.—The term "civil action" means any Federal or State action, lawsuit or proceeding that is not a criminal action.

(2) TOBACCO CLAIM.—The term "tobacco claim" means a claim directly or indirectly arising out of, based on, or related to the health-related effects of tobacco products, including without limitation a claim arising out of, based on, or related to allegations regarding any conduct, statement or omission respecting the health-related effects of such products. Tobacco claim also means any State or Federal action for relief which is predicated upon claims of addictions to, or dependence on, tobacco products, even if such claims are not based upon the manifestation of tobacco-related diseases.

(3) TOBACCO GROWER.—The term "tobacco grower" means any individual or entity that owns or has owned a farm for which tobacco farm marketing quota or farm acreage allotment was established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.), as well as any tobacco farmer that leases or has leased such a quota or allotment or procedures or has produced tobacco under such quota or allotment pursuant to a lease, transfer, or tenant or sharecropping arrangement.

(4) TOBACCO PRODUCT.—The term "tobacco product" means cigarettes, cigarette tobacco, smokeless tobacco, little cigars, roll-your-own tobacco, and fine cut tobacco products.

(d) RELATIONSHIP TO OTHER LAWS.—This section shall supersede Federal and State laws only to the extent that Federal and State laws are inconsistent with this section.

FORD AMENDMENTS NOS. 2616–2620

(Ordered to lie on the table.)

Mr. FORD submitted five amendments intended to be proposed by him to the bill, S. 1415, supra; as follows:

AMENDMENT NO. 2616

Strike page 107, line 5 through page 182, line 21, and insert the following: "a surcharge on cigarette manufacturers as follows:"

If the non-attainment percentage is	The surcharge is
Not more than 5 percent	$160,000,000 multiplied by the non-attainment percentage.
More than 5% but not more than 10%.	$800,000,000, plus $320,000,000 multiplied by the non-attainment percentage in excess of 5% but not in excess of 10%.
More than 10%	$2,400,000,000, plus $480,000,000 multiplied by the non-attainment percentage in excess of 10%.
More than 21.6%	$8,000,000,000.

(3) NON-ATTAINMENT SURCHARGE FOR SMOKELESS TOBACCO.—For each year in which the percentage reduction in underage use required by section 203(c) is not attained, the Secretary shall assess a surcharge on smokeless tobacco product manufacturers as follows:

If the non-attainment percentage is	The surcharge is
Not more than 5 percent	$16,000,000 multiplied by the non-attainment percentage.
More than 5% but not more than 10%.	$80,000,000, plus $32,000,000 multiplied by the non-attainment percentage in excess of 5% but not in excess of 10%.
More than 10%	$240,000,000, plus $48,000,000 multiplied by the non-attainment percentage in excess of 10%.
More than 21.6%	$800,000,000.

(4) STRICT LIABILITY; JOINT AND SEVERAL LIABILITY.—Liability for any surcharge imposed under subsection (e) shall be—

(A) strict liability; and

(B) joint and several liability—

(i) among all cigarette manufacturers for surcharges imposed under subsection (e)(2); and

(ii) among all smokeless tobacco manufacturers for surcharges imposed under subsection (e)(3).

(5) SURCHARGE LIABILITY AMONG MANUFACTURERS.—A tobacco product manufacturer shall be liable under this subsection to one or more other manufacturers if the plaintiff tobacco product manufacturer establishes by a preponderance of the evidence that the defendant tobacco product manufacturer, through its acts or omissions, was responsible for a disproportionate share of the non-attainment surcharge as compared to the responsibility of the plaintiff manufacturer.

(6) EXEMPTIONS FOR SMALL MANUFACTURERS.—

(A) ALLOCATION BY MARKET SHARE.—The Secretary shall make such allocations according to each manufacturer's share of the domestic cigarette or domestic smokeless tobacco market, as appropriate, in the year for which the surcharge is being assessed, based on actual Federal excise tax payments.

(B) EXEMPTION.—In any year in which a surcharge is being assessed, the Secretary shall exempt from payment any tobacco product manufacturer with less than 1 percent of the domestic market share for a specific category of tobacco product unless the Secretary finds that the manufacturer's products are used by underage individuals at a rate equal to or greater than the manufacturer's total market share for the type of tobacco product.

(f) MANUFACTURER-SPECIFIC SURCHARGES.—

(1) REQUIRED PERCENTAGE REDUCTIONS.—Each manufacturer which manufactured a brand or brands of tobacco product on or before the date of the enactment of this Act shall reduce the percentage of young individuals who use such manufacturer's brand or brands as their usual brand in accordance with the required percentage reductions described under subsections (b) (with respect to cigarettes) and (c) (with respect to smokeless tobacco).

(2) APPLICATION TO LESS POPULAR BRANDS.—Each manufacturer which manufactured a brand or brands of tobacco product on or before the date of the enactment of this Act for which the base incidence percentage is equal to or less than the *de minimis* level shall ensure that the percent prevalence of young individuals who use the manufacturer's tobacco products as their usual brand remains equal to or less than the *de minimis* level described in paragraph (4).

(3) NEW ENTRANTS.—Each manufacturer of a tobacco product which begins to manufacture a tobacco product after the date of the enactment of this Act shall ensure that the percent prevalence of young individuals who use the manufacturer's tobacco products as their usual brand is equal to or less than the *de minimis* level.

(4) DE MINIMIS LEVEL DEFINED.—The *de minimis* level is equal to 1 percent prevalence of the use of each manufacturer's brands of tobacco product by young individuals (as determined on the basis of the annual performance survey conducted by the Secretary) for a year.

(5) TARGET REDUCTION LEVELS.—

(A) EXISTING MANUFACTURERS.—For purposes of this section, the target reduction level for each type of tobacco product for a year for a manufacturer is the product of the required percentage reduction for a type of tobacco product for a year and the manufacturers base incidence percentage for such tobacco product.

(B) NEW MANUFACTURERS; MANUFACTURERS WITH LOW BASE INCIDENCE PERCENTAGES.—With respect to a manufacturer which begins to manufacture a tobacco product after the date of the enactment of this Act or a manufacturer for which the baseline level as measured by the annual performance survey is equal to or less than the *de minimis* level described in paragraph (4), the base incidence percentage is the *de minimis* level, and the required percentage reduction in underage use for a type of tobacco product with respect to a manufacturer for a year shall be deemed to be the number of percentage points necessary to reduce the actual percent prevalence of young individuals identifying a brand of such tobacco product of such manufacturer as the usual brand smoked or used for such year to the *de minimis* level.

(6) SURCHARGE AMOUNT.—

(A) IN GENERAL.—If the Secretary determines that the required percentage reduction in use of a type of tobacco product has not been achieved by such manufacturer for a year, the Secretary shall impose a surcharge on such manufacturer under this paragraph.

(B) AMOUNT.—The amount of the manufacturer-specific surcharge for a type of tobacco product for a year under this paragraph is $1,000, multiplied by the number of young individuals for which such firm is in noncompliance with respect to its target reduction level.

(C) DETERMINATION OF NUMBER OF YOUNG INDIVIDUALS.—For purposes of subparagraph (B) the number of young individuals for which a manufacturer is in noncompliance for a year shall be determined by the Secretary from the annual performance survey and shall be calculated based on the estimated total number of young individuals in such year and the actual percentage prevalence of young individuals identifying a brand of such tobacco product of such manufacturer as the usual brand smoked or used in such year as compared to such manufacturer's target reduction level for the year.

(7) DE MINIMIS RULE.—The Secretary may not impose a surcharge on a manufacturer for a type of tobacco product for a year if the Secretary determines that actual percent prevalence of young individuals identifying that manufacturer's brands of such tobacco product as the usual products smoked or used for such year is less than 1 percent.

(g) SURCHARGES TO BE ADJUSTED FOR INFLATION.—

(1) IN GENERAL.—Beginning with the fourth calendar year after the date of enactment of this Act, each dollar amount in the tables in subsections (e)(2), (e)(3), and (f)(6)(B) shall be increased by the inflation adjustment.

(2) INFLATION ADJUSTMENT.—For purposes of paragraph (1), the inflation adjustment for any calendar year is the percentage (if any) by which—

(A) the CPI for the preceding calendar year, exceeds

(B) the CPI for the calendar year 1998.

(3) CPI.—For purposes of paragraph (2), the CPI for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor.

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

(h) METHOD OF SURCHARGE ASSESSMENT.—The Secretary shall assess a surcharge for a specific calendar year on or before May 1 of the subsequent calendar year. Surcharge payments shall be paid on or before July 1 of the year in which they are assessed. The Secretary may establish, by regulation, interest at a rate up to 3 times the prevailing prime

rate at the time the surcharge is assessed, and additional charges in an amount up to 3 times the surcharge, for late payment of the surcharge.

(i) BUSINESS EXPENSE DEDUCTION.—Any surcharge paid by a tobacco product manufacturer under this section shall not be deductible as an ordinary and necessary business expense or otherwise under the Internal Revenue Code of 1986.

(j) APPEAL RIGHTS.—The amount of any surcharge is committed to the sound discretion of the Secretary and shall be subject to judicial review by the United States Court of Appeals for the District of Columbia Circuit, based on the arbitrary and capricious standard of section 706(2)(A) of title 5, United States Code. Notwithstanding any other provisions of law, no court shall have authority to stay any surcharge payments due the Secretary under this Act pending judicial review.

(k) RESPONSIBILITY FOR AGENTS.—In any action brought under this subsection, a tobacco product manufacturer shall be held responsible for any act or omission of its attorneys, advertising agencies, or other agents that contributed to that manufacturer's responsibility for the surcharge assessed under this section.

SEC. 205. DEFINITIONS.

In this subtitle:

(1) BASE INCIDENCE PERCENTAGE.—The term "base incidence percentage" means, with respect to each type of tobacco product, the percentage of young individuals determined to have used such tobacco product in the first annual performance survey for 1999.

(2) MANUFACTURERS BASE INCIDENCE PERCENTAGE.—The term "manufacturers base incidence percentage" is, with respect to each type of tobacco product, the percentage of young individuals determined to have identified a brand of such tobacco product of such manufacturer as the usual brand smoked or used in the first annual performance survey for 1999.

(3) YOUNG INDIVIDUALS.—The term "young individuals" means individuals who are over 11 years of age and under 18 years of age.

(4) CIGARETTE MANUFACTURERS.—The term "cigarette manufacturers" means manufacturers of cigarettes sold in the United States.

(5) NON-ATTAINMENT PERCENTAGE FOR CIGARETTES.—The term "non-attainment percentage for cigarettes" means the number of percentage points yielded—

(A) for a calendar year in which the percent incidence of underage use of cigarettes is less than the base incidence percentage, by subtracting—

(i) the percentage by which the percent incidence of underage use of cigarettes in that year is less than the base incidence percentage, from

(ii) the required percentage reduction applicable in that year; and

(B) for a calendar year in which the percent incidence of underage use of cigarettes is greater than the base incidence percentage, adding—

(i) the percentage by which the percent incidence of underage use of cigarettes in that year is greater than the base incidence percentage; and

(ii) the required percentage reduction applicable in that year.

(6) NON-ATTAINMENT PERCENTAGE FOR SMOKELESS TOBACCO PRODUCTS.—The term "non-attainment percentage for smokeless tobacco products" means the number of percentage points yielded—

(A) for a calendar year in which the percent incidence of underage use of smokeless tobacco products is less than the base incidence percentage, by subtracting—

(i) the percentage by which the percent incidence of underage use of smokeless tobacco products in that year is less than the base incidence percentage, from

(ii) the required percentage reduction applicable in that year; and

(B) for a calendar year in which the percent incidence of underage use of smokeless tobacco products is greater than the base incidence percentage, by adding—

(i) the percentage by which the percent incidence of underage use of smokeless tobacco products in that year is greater than the base incidence percentage; and

(ii) the required percentage reduction applicable in that year.

(7) SMOKELESS TOBACCO PRODUCT MANUFACTURERS.—The term "smokeless tobacco product manufacturers" means manufacturers of smokeless tobacco products sold in the United States.

Subtitle B—State Retail Licensing and Enforcement Incentives

SEC. 231. STATE RETAIL LICENSING AND ENFORCEMENT BLOCK GRANTS.

(a) IN GENERAL.—The Secretary shall make State retail licensing and enforcement block grants in accordance with the provisions of this section. There are authorized to be appropriated to the Secretary from the National Tobacco Trust Fund $200,000,000 for each fiscal year to carry out the provisions of this section.

(b) REQUIREMENTS.—

(1) ESTABLISHMENT.—The Secretary shall provide a block grant, based on population, under this subtitle to each State that has in effect a law that—

(A) provides for the licensing of entities engaged in the sale or distribution of tobacco products directly to consumers;

(B) makes it illegal to sell or distribute tobacco products to individuals under 18 years of age; and

(C) meets the standards described in this section.

(2) STATE AGREEMENT REQUIRED.—In order to receive a block grant under this section, a State—

(A) shall enter into an agreement with the Secretary to assume responsibilities for the implementation and enforcement of a tobacco retailer licensing program;

(B) shall prohibit retailers from selling or otherwise distributing tobacco products to individuals under 18 years of age in accordance with the Youth Access Restrictions regulations promulgated by the Secretary (21 C.F.R. 897.14(a) and (b));

(C) shall make available to appropriate Federal agencies designated by the Secretary requested information concerning retail establishments involved in the sale or distribution of tobacco products to consumers; and

(D) shall establish to the satisfaction of the Secretary that it has a law or regulation that includes the following:

(i) LICENSURE; SOURCES; AND NOTICE.—A requirement for a State license for each retail establishment involved in the sale or distribution of tobacco products to consumers. A requirement that a retail establishment may purchase tobacco products only from Federally-licensed manufacturers, importers, or wholesalers. A program under which notice is provided to such establishments and their employees of all licensing requirements and responsibilities under State and Federal law relating to the retail distribution of tobacco products.

(ii) PENALTIES.—

(I) CRIMINAL.—Criminal penalties for the sale or distribution of tobacco products to a consumer without a license.

(II) CIVIL.—Civil penalties for the sale or distribution of tobacco products in violation of State law, including graduated fines and suspension or revocation of licenses for repeated violations.

(III) OTHER.—Other programs, including such measures as fines, suspension of driver's license privileges, or community service requirements, for underage youths who possess, purchase, or attempt to purchase tobacco products.

(iii) JUDICIAL REVIEW.—Judicial review procedures for an action of the State suspending, revoking, denying, or refusing to renew any license under its program.

(c) ENFORCEMENT.—

(1) UNDERTAKING.—Each State that receives a grant under this subtitle shall undertake to enforce compliance with its tobacco retailing licensing program in a manner that can reasonably be expected to reduce the sale and distribution of tobacco products to individuals under 18 years of age. If the Secretary determines that a State is not enforcing the law in accordance with such an undertaking, the Secretary may withhold a portion of any unobligated funds under this section otherwise payable to that State.

(2) ACTIVITIES AND REPORTS REGARDING ENFORCEMENT.—A State that receives a grant under this subtitle shall—

(A) conduct monthly random, unannounced inspections of sales or distribution outlets in the State to ensure compliance with a law prohibiting sales of tobacco products to individuals under 18 years of age;

(B) annually submit to the Secretary a report describing in detail—

(i) the activities carried out by the State to enforce underage access laws during the fiscal year;

(ii) the extent of success the State has achieved in reducing the availability of tobacco products to individuals under the age of 18 years;

(iii) how the inspections described in subparagraph (A) were conducted and the methods used to identify outlets, with appropriate protection for the confidentiality of information regarding the timing of inspections and other investigative techniques whose effectiveness depends on continued confidentiality; and

(iv) the identity of the single State agency designated by the Governor of the State to be responsible for the implementation of the requirements of this section.

(3) MINIMUM INSPECTION STANDARDS.—Inspections conducted by the State shall be conducted by the State in such a way as to ensure a scientifically sound estimate (with a 95 percent confidence interval that such estimates are accurate to within plus or minus 3 percentage points), using an accurate list of retail establishments throughout the State. Such inspections shall cover a range of outlets (not preselected on the basis of prior violations) to measure overall levels of compliance as well as to identify violations. The sample must reflect the distribution of the population under the age of 18 years throughout the State and the distribution of the outlets throughout the State accessible to youth. Except as provided in this paragraph, any reports required by this paragraph shall be made public. As used in this paragraph, the term "outlet" refers to any location that sells at retail or otherwise distributes tobacco products to consumers, including to locations that sell such products over-the-counter.

(d) NONCOMPLIANCE.—

(1) INSPECTIONS.—The Secretary shall withhold from any State that fails to meet the requirements of subsection (b) in any calendar year an amount equal to 5 percent of the amount otherwise payable under this subtitle to that State for the next fiscal year.

(2) COMPLIANCE RATE.—The Secretary shall withhold from any State that fails to demonstrate a compliance rate of—

(A) at least the annual compliance targets that were negotiated with the Secretary under section 1926 of the Public Health Service Act (42 U.S.C. 300x—26) as such section was in effect before its repeal by this Act through the third fiscal year after the date of enactment of this Act;

(B) at least 80 percent in the fourth fiscal year after such date;

(C) at least 85 percent in the fifth and sixth fiscal years after such date; and

(D) at least 90 percent in every fiscal year beginning with the seventh fiscal year after such date,

an amount equal to one percentage point for each percentage point by which the State failed to meet the percentage set forth in this subsection for that year from the amount otherwise payable under this subtitle for that fiscal year.

(e) RELEASE AND DISBURSEMENT.—

(1) Upon notice from the Secretary that an amount payable under this section has been ordered withheld under subsection (d), a State may petition the Secretary for a release and disbursement of up to 75 percent of the amount withheld, and shall give timely written notice of such petition to the attorney general of that State and to all tobacco product manufacturers.

(2) The agency shall conduct a hearing on such a petition, in which the attorney general of the State may participate and be heard.

(3) The burden shall be on the State to prove, by a preponderance of the evidence, that the release and disbursement should be made. The Secretary's decision on whether to grant such a release, and the amount of any such disbursement, shall be based on whether—

(A) the State presents scientifically sound survey data showing that the State is making significant progress toward reducing the use of tobacco products by individuals who have not attained the age of 18 years;

(B) the State presents scientifically-based data showing that it has progressively decreased the availability of tobacco products to such individuals;

(C) the State has acted in good faith and in full compliance with this Act, and any rules or regulations promulgated under this Act;

(D) the State provides evidence that it plans to improve enforcement of these laws in the next fiscal year; and

(E) any other relevant evidence.

(4) A State is entitled to interest on any withheld amount released at the average United States 52-Week Treasury Bill rate for the period between the withholding of the amount and its release.

(5) Any State attorney general or tobacco product manufacturer aggrieved by a final decision on a petition filed under this subsection may seek judicial review of such decision within 30 days in the United States Court of Appeals for the District of Columbia Circuit. Unless otherwise specified in this Act, judicial review under this section shall be governed by sections 701 through 706 of title 5, United States Code.

(6) No stay or other injunctive relief enjoining a reduction in a State's allotment pending appeal or otherwise may be granted by the Secretary or any court.

(f) NON-PARTICIPATING STATES LICENSING REQUIREMENTS.—For retailers in States which have not established a licensing program under subsection (a), the Secretary shall promulgate regulations establishing Federal retail licensing for retailers engaged in tobacco sales to consumers in those States. The Secretary may enter into agreements with States for the enforcement of those regulations. A State that enters into such an agreement shall receive a grant under this section to reimburse it for costs incurred in carrying out that agreement.

(g) DEFINITION.—For the purposes of this section, the term "first applicable fiscal year" means the first fiscal year beginning after the fiscal year in which funding is made available to the States under this section.

SEC. 232. BLOCK GRANTS FOR COMPLIANCE BONUSES.

(a) IN GENERAL.—The Secretary shall make block grants to States determined to be eligible under subsection (b) in accordance with the provisions of this section. There are authorized to be appropriated to the Secretary from the National Tobacco Trust Fund $100,000,000 for each fiscal year to carry out the provisions of this section.

(b) ELIGIBLE STATES.—To be eligible to receive a grant under subsection (a), a State shall—

(1) prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require; and

(2) with respect to the year involved, demonstrate to the satisfaction of the Secretary that fewer than 5 percent of all individuals under 18 years of age who attempt to purchase tobacco products in the State in such year are successful in such purchase.

(c) PAYOUT.—

(1) PAYMENT TO STATE.—If one or more States are eligible to receive a grant under this section for any fiscal year, the amount payable for that fiscal year shall be apportioned among such eligible States on the basis of population.

(2) YEAR IN WHICH NO STATE RECEIVES GRANT.—If in any fiscal year no State is eligible to receive a grant under this section, then the Secretary may use not more than 25 percent of the amount appropriated to carry out this section for that fiscal year to support efforts to improve State and local enforcement of laws regulating the use, sale, and distribution of tobacco products to individuals under the age of 18 years.

(3) AMOUNTS AVAILABLE WITHOUT FISCAL YEAR LIMITATION.—Any amount appropriated under this section remaining unexpended and unobligated at the end of a fiscal year shall remain available for obligation and expenditure in the following fiscal year.

SEC. 233. CONFORMING CHANGE.

Section 1926 of the Public Health Service Act (42 U.S.C. 300x—26) is hereby repealed.

Subtitle C—Tobacco Use Prevention and Cessation Initiatives

SEC. 261. TOBACCO USE PREVENTION AND CESSATION INITIATIVES.

Title XIX of the Public Health Service Act (42 U.S.C. 300w et seq.) is amended by adding at the end the following:

"PART D—TOBACCO USE PREVENTION AND CESSATION INITIATIVES

"SUBPART I—CESSATION AND COMMUNITY-BASED PREVENTION BLOCK GRANTS

"SEC. 1981. FUNDING FROM TOBACCO SETTLEMENT TRUST FUND.

"(a) IN GENERAL.—From amounts contained in the Public Health Allocation Account under section 451(b)(2)(A) and (C) of the National Tobacco Policy and Youth Smoking Reduction Act for a fiscal year, there are authorized to be appropriated (under subsection (d) of such section) to carry out this subpart—

(1) for cessation activities, the amounts appropriated under section 451 (b)(2)(A); and

(2) for prevention and education activities, the amounts appropriated under section 451 (b)(2)(C).

"(b) NATIONAL ACTIVITIES.—

"(1) Not more than 10 percent of the amount made available for any fiscal year under subsection (a) shall be made available to the Secretary to carry out activities under section 1981B and 1981D(d).

"(2) Not more than 10 percent of the amount available for any fiscal year under subsection (a)(1) shall be available to the Secretary to carry out activities under section 1981D(d).

"SEC. 1981A. ALLOTMENTS.

"(a) AMOUNT.—

"(1) IN GENERAL.—From the amount made available under section 1981 for any fiscal year the Secretary, acting through the Director of the Centers for Disease Control and Prevention (referred to in this subpart as the 'Director'), shall allot to each State an amount based on a formula to be developed by the Secretary that is based on the tobacco prevention and cessation needs of each State including the needs of the State's minority populations.

"(2) MINIMUM AMOUNT.—In determining the amount of allotments under paragraph (1), the Secretary shall ensure that no State receives less than ½ of 1 percent of the amount available under section 1981(a) for the fiscal year involved.

"(b) REALLOTMENT.—To the extent that amounts made available under section 1981 for a fiscal year are not otherwise allotted to States because—

"(1) 1 or more States have not submitted an application or description of activities in accordance with section 1981D for the fiscal year;

"(2) 1 or more States have notified the Secretary that they do not intend to use the full amount of their allotment; or

"(3) the Secretary has determined that the State is not in compliance with this subpart, and therefore is subject to penalties under section 1981D(g);

such excess amount shall be reallotted among each of the remaining States in proportion to the amount otherwise allotted to such States for the fiscal year involved without regard to this subsection.

"(c) PAYMENTS.—

"(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall utilize the funds made available under this section to make payments to States under allotments under this subpart as provided for under section 203 of the Intergovernmental Cooperation Act of 1968.

"(2) FEDERAL GRANTEES.—From amounts available under section 1981(b)(2), the Secretary may make grants, or supplement existing grants, to entities eligible for funds under the programs described in section

1981C(d)(1) and (10) to enable such entities to carry out smoking cessation activities under this subpart, except not less than 25 percent of this amount shall be used for the program described in 1981C(d)(6).

"(3) AVAILABILITY OF FUNDS.—Any amount paid to a State for a fiscal year under this subpart and remaining unobligated at the end of such year shall remain available to such State for the next fiscal year for the purposes for which such payment was made.

"(d) REGULATIONS.—Not later than 9 months after the date of enactment of this part, the Secretary shall promulgate regulations to implement this subpart. This subpart shall take effect regardless of the date on which such regulations are promulgated.

"SEC. 1981B. TECHNICAL ASSISTANCE AND PROVISION OF SUPPLIES AND SERVICES IN LIEU OF FUNDS.

"(a) TECHNICAL ASSISTANCE.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall, without charge to a State receiving an allotment under section 1981A, provide to such State (or to any public or nonprofit private entity within the State) technical assistance and training with respect to the planning, development, operation, and evaluation of any program or service carried out pursuant to the program involved. The Secretary may provide such technical assistance or training directly, through contract, or through grants.

"(b) PROVISION OF SUPPLIES AND SERVICE IN LIEU OF GRANT FUNDS.—The Secretary, at the request of a State, may reduce the amount of payments to the State under section 1981A(c) by—

"(1) the fair market value of any supplies or equipment furnished by the Secretary to the State; and

"(2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Federal Government when detailed to the State and the amount of any other costs incurred in connection with the detail of such officer or employee;

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of the State and for the purpose of conducting activities described in section 1981C. The amount by which any payment is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment or in detailing the personnel, on which reduction of the payment is based, and the amount shall be deemed to be part of the payment and shall be deemed to have been paid to the State.

"SEC. 1981C. PERMITTED USERS OF CESSATION BLOCK GRANTS AND OF COMMUNITY-BASED PREVENTION BLOCK GRANTS.

"(a) TOBACCO USE CESSATION ACTIVITIES.—Except as provided in subsections (d) and (e), amounts described in subsection (a)(1) may be used for the following:

"(1) Evidence-based cessation activities described in the plan of the State, submitted in accordance with section 1981D, including—

"(A) evidence-based programs designed to assist individuals, especially young people and minorities who have been targeted by tobacco product manufacturers, to quit their use of tobacco products;

"(B) training in cessation intervention methods for health plans and health professionals, including physicians, nurses, dentists, health educators, public health professionals, and other health care providers;

"(C) programs to encourage health insurers and health plans to provide coverage for evidence-based tobacco use cessation interventions and therapies, except that the use of any funds under this clause to offset the cost of providing a smoking cessation benefit shall be on a temporary demonstration basis only;

"(D) culturally and linguistically appropriate programs targeted toward minority and low-income individuals, individuals residing in medically underserved areas, uninsured individuals, and pregnant women;

"(E) programs to encourage employer-based wellness programs to provide evidence-based tobacco use cessation intervention and therapies; and

"(F) programs that target populations whose smoking rate is disproportionately high in comparison to the smoking rate population-wide in the State.

"(2) Planning, administration, and educational activities related to the activities described in paragraph (1).

"(3) The monitoring and evaluation of activities carried out under paragraphs (1) and (2), and reporting and disseminating resulting information to health professionals and the public.

"(4) Targeted pilot programs with evaluation components to encourage innovation and experimentation with new methodologies.

"(b) STATE AND COMMUNITY ACTION ACTIVITIES.—Except as provided in subsections (d) and (e), amounts described in subsection (a)(2) may be used for the following:

"(1) Evidence-based activities for tobacco use prevention and control described in the plan of the State, submitted in accordance with section 1981D, including—

"(A) State and community initiatives;

"(B) community-based prevention programs, similar to programs currently funded by NIH;

"(C) programs focused on those populations within the community that are most at risk to use tobacco products or that have been targeted by tobacco advertising or marketing;

"(D) school programs to prevent and reduce tobacco use and addiction, including school programs focused in those regions of the State with high smoking rates and targeted at populations most at risk to start smoking;

"(E) culturally and linguistically appropriate initiatives targeted towards minority and low-income individuals, individuals residing in medically underserved areas, and women of child-bearing age;

"(F) the development and implementation of tobacco-related public health and health promotion campaigns and public policy initiatives;

"(G) assistance to local governmental entities within the State to conduct appropriate anti-tobacco activities.

"(H) strategies to ensure that the State's smoking prevention activities include minority, low-income, and other undeserved populations; and

"(I) programs that target populations whose smoking rate is disproportionately high in comparison to the smoking rate population-wide in the State.

"(2) Planning, administration, and educational activities related to the activities described in paragraph (1).

"(3) The monitoring and evaluation of activities carried out under paragraphs (1) and (2), and reporting and disseminating resulting information to health professionals and the public.

"(4) Targeted pilot programs with evaluation components to encourage innovation and experimentation with new methodologies.

"(c) COORDINATION.—Tobacco use cessation and community-based prevention activities permitted under subsections (b) and (c) may be conducted in conjunction with recipients of other Federally—funded programs within the State, including—

"(1) the special supplemental food program under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786);

"(2) the Maternal and Child Health Services Block Grant program under title V of the Social Security Act (42 U.S.C. 701 et seq.);

"(3) the State Children's Health Insurance Program of the State under title XXI of the Social Security Act (42 U.S.C. 13397aa et seq.);

"(4) the school lunch program under the National School Lunch Act (42 U.S.C. 1751 et seq.);

"(5) an Indian Health Service Program;

"(6) the community, migrant, and homeless health centers program under section 330 of the Public Health Service Act (42 U.S.C. 254b);

"(7) state-initiated smoking cessation programs that include provisions for reimbursing individuals for medications or therapeutic techniques;

"(8) the substance abuse and mental health services block grant program, and the preventive health services block grant program, under title XIX of the Public Health Service Act (42 U.S.C. 300w et seq.);

"(9) the Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.); and

"(10) programs administered by the Department of Defense and the Department of Veterans Affairs.

"(d) LIMITATION.—A State may not use amounts paid to the State under section 1981A(c) to—

"(1) make cash payments except with appropriate documentation to intended recipients of tobacco use cessation services;

"(2) fund educational, recreational, or health activities not based on scientific evidence that the activity will prevent smoking or lead to success of cessation efforts

"(3) purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment;

"(4) satisfy any requirement for the expenditure of non-Federal funds as a condition of the receipt of Federal funds; or

"(5) provide financial assistance to any entity other than a public or nonprofit private entity or a private entity consistent with subsection (b)(1)(C).

This subsection shall not apply to the support of targeted pilot programs that use innovative and experimental new methodologies and include an evaluation component.

"(e) ADMINISTRATION.—Not more than 5 percent of the allotment of a State for a fiscal year under this subpart may be used by the State to administer the funds paid to the State under section 1981A(c). The State shall pay from non-Federal sources the remaining costs of administering such funds.

"SEC. 1981D. ADMINISTRATIVE PROVISIONS.

"(a) APPLICATION.—The Secretary may make payments under section 1981A(c) to a State for a fiscal year only if—

"(1) the State submits to the Secretary an application, in such form and by such date as the Secretary may require, for such payments;

"(2) the application contains a State plan prepared in a manner consistent with section

1905(b) and in accordance with tobacco-related guidelines promulgated by the Secretary;

"(3) the application contains a certification that is consistent with the certification required under section 1905(c); and

"(4) the application contains such assurances as the Secretary may require regarding the compliance of the State with the requirements of this subpart (including assurances regarding compliance with the agreements described in subsection (c)).

"(b) STATE PLAN.—A State plan under subsection (a)(2) shall be developed in a manner consistent with the plan developed under section 1905(b) except that such plan—

"(1) with respect to activities described in section 1981C(b)—

"(A) shall provide for tobacco use cessation intervention and treatment consistent with the tobacco use cessation guidelines issued by the Agency for Health Care Policy and Research, or another evidence-based guideline approved by the Secretary, or treatments using drugs, human biological products, or medical devices approved by the Food and Drug Administration, or otherwise legally marketed under the Federal Food, Drug and Cosmetic Act for use as tobacco use cessation therapies or aids;

"(B) may, to encourage innovation and experimentation with new methodologies, provide for or may include a targeted pilot program with an evaluation component;

"(C) shall provide for training in tobacco use cessation intervention methods for health plans and health professionals, including physicians, nurses, dentists, health educators, public health professionals, and other health care providers;

"(D) shall ensure access to tobacco use cessation programs for rural and underserved populations;

"(E) shall recognize that some individuals may require more than one attempt for successful cessation; and

"(F) shall be tailored to the needs of specific populations, including minority populations; and

"(2) with respect to State and community-based prevention activities described in section 1981C(c), shall specify the activities authorized under such section that the State intends to carry out.

"(c) CERTIFICATION.—The certification referred to in subsection (a)(3) shall be consistent with the certification required under section 1905(c), except that

"(1) the State shall agree to expend payments under section 1981A(c) only for the activities authorized in section 1981C;

"(2) paragraphs (9) and (10) of such section shall not apply; and

"(3) the State is encouraged to establish an advisory committee in accordance with section 1981E.

"(d) REPORTS, DATA, AND AUDITS.—The provisions of section 1906 shall apply with respect to a State that receives payments under section 1981A(c) and be applied in a manner consistent with the manner in which such provisions are applied to a State under part, except that the data sets referred to in section 1905(a)(2) shall be developed for uniformly defining levels of youth and adult use of tobacco products, including uniform data for racial and ethnic groups, for use in the reports required under this subpart.

"(e) WITHHOLDING.—The provisions of 1907 shall apply with respect to a State that receives payments under section 1981A(c) and be applied in a manner consistent with the manner in which such provisions are applied to a State under part A.

"(f) NONDISCRIMINATION.—The provisions of 1908 shall apply with respect to a State that receives payments under section 1981A(c) and be applied in a manner consistent with the manner in which such provisions are applied to a State under part A.

"(g) CRIMINAL PENALTIES.—The provisions of 1909 shall apply with respect to a State that receives payments under section 1981A(c) and be applied in a manner consistent with the manner in which such provisions are applied to a State under part A.

"SEC. 1981E. STATE ADVISORY COMMITTEE.

"(a) IN GENERAL.—For purposes of sections 1981D(c)(3), an advisory committee is in accordance with this section if such committee meets the conditions described in this subsection.

"(b) DUTIES.—The recommended duties of the committee are—

"(1) to hold public hearings on the State plans required under sections 1981D; and

"(2) to make recommendations under this subpart regarding the development and implementation of such plans, including recommendations on—

"(A) the conduct of assessments under the plans;

"(B) which of the activities authorized in section 1981C should be carried out in the State;

"(C) the allocation of payments made to the State under section 1981A(c);

"(D) the coordination of activities carried out under such plans with relevant programs of other entities; and

"(E) the collection and reporting of data in accordance with section 1981D.

"(c) COMPOSITION.—

"(1) IN GENERAL.—The recommended composition of the advisory committee is members of the general public, such officials of the health departments of political subdivisions of the State, public health professionals, teenagers, minorities, and such experts in tobacco product research as may be necessary to provide adequate representation of the general public and of such health departments, and that members of the committee shall be subject to the provisions of sections 201, 202, and 203 of title 18, United States Code.

"(2) REPRESENTATIVES.—With respect to compliance with paragraph (1), the membership of the advisory committee may include representatives of community-based organizations (including minority community-based organizations), schools of public health, and entities to which the State involved awards grants or contracts to carry out activities authorized under section 1981C.

"SUBPART II—TOBACCO-FREE COUNTER-ADVERTISING PROGRAMS

"SEC. 1982. FEDERAL-STATE COUNTER-ADVERTISING PROGRAMS.

"(a) NATIONAL CAMPAIGN.—

"(1) IN GENERAL.—The Secretary shall conduct a national campaign to reduce tobacco usage through media-based (such as counter-advertising campaigns) and nonmedia-based education, prevention and cessation campaigns designed to discourage the use of tobacco products by individuals, to encourage those who use such products to quit, and to educate the public about the hazards of exposure to environmental tobacco smoke.

"(2) REQUIREMENTS.—The national campaign under paragraph (1) shall—

"(A) target those populations that have been targeted by tobacco industry advertising using culturally and linguistically appropriate means;

"(B) include a research and evaluation component; and

"(C) be designed in a manner that permits the campaign to be modified for use at the State or local level.

"(b) ESTABLISHMENT OF AN ADVISORY BOARD.—

"(1) IN GENERAL.—The Secretary shall establish a board to be known as the 'National Tobacco Free Education Advisory Board' (referred to in this section as the 'Board') to evaluate and provide long range planning for the development and effective dissemination of public informational and educational campaigns and other activities that are part of the campaign under subsection (a).

"(2) COMPOSITION.—The Board shall be composed of—

"(A) 9 non-Federal members to be appointed by the President, after consultation and agreement with the Majority and Minority Leaders of the Senate and the Speaker and Minority Leader of the House of Representatives, of which—

"(i) at least 3 such members shall be individuals who are widely recognized by the general public for cultural, educational, behavioral science or medical achievement;

"(ii) at least 3 of whom shall be individuals who hold positions of leadership in major public health organizations, including minority public health organizations; and

"(iii) at least 3 of whom shall be individuals recognized as experts in the field of advertising and marketing, of which—

"(I) 1 member shall have specific expertise in advertising and marketing to children and teens; and

"(II) 1 member shall have expertise in marketing research and evaluation; and

"(B) the Surgeon General, the Director of the Centers for Disease Control and Prevention, or their designees, shall serve as an ex officio members of the Board.

"(3) TERMS AND VACANCIES.—The members of the Board shall serve for a term of 3 years. Such terms shall be staggered as determined appropriate at the time of appointment by the Secretary. Any vacancy in the Board shall not affect its powers, but shall be filled in the same manner as the original appointment.

"(4) TRAVEL EXPENSES.—The members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.

"(5) AWARDS.—In carrying out subsection (a), the Secretary may—

"(A) enter into contracts with or award grants to eligible entities to develop messages and campaigns designed to prevent and reduce the use of tobacco products that are based on effective strategies to affect behavioral changes in children and other targeted populations, including minority populations;

"(B) enter into contracts with or award grants to eligible entities to carry out public informational and educational activities designed to reduce the use of tobacco products;

"(6) POWERS AND DUTIES.—The Board may—

"(A) hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Board considers advisable to carry out the purposes of this section; and

"(B) secure directly from any Federal department or agency such information as the Board considers necessary to carry out the provisions of this section.

"(c) ELIGIBILITY.—To be eligible to receive funding under this section an entity shall—

"(1) be a—

"(A) public entity or a State health department; or

"(B) private or nonprofit private entity that—

"(i)(I) is not affiliated with a tobacco product manufacturer or importer;

"(II) has a demonstrated record of working effectively to reduce tobacco product use; or

"(III) has expertise in conducting a multimedia communications campaign; and

"(ii) has expertise in developing strategies that affect behavioral changes in children and other targeted populations, including minority populations;

"(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a description of the activities to be conducted using amounts received under the grant or contract;

"(3) provide assurances that amounts received under this section will be used in accordance with subsection (c); and

"(4) meet any other requirements determined appropriate by the Secretary.

"(d) USE OF FUNDS.—An entity that receives funds under this section shall use amounts provided under the grant or contract to conduct multi-media and non-media public educational, informational, marketing and promotional campaigns that are designed to discourage and de-glamorize the use of tobacco products, encourage those using such products to quit, and educate the public about the hazards of exposure to environmental tobacco smoke. Such amounts may be used to design and implement such activities and shall be used to conduct research concerning the effectiveness of such programs.

"(e) NEEDS OF CERTAIN POPULATIONS.—In awarding grants and contracts under this section, the Secretary shall take into consideration the needs of particular populations, including minority populations, and use methods that are culturally and linguistically appropriate.

"(f) COORDINATION.—The Secretary shall ensure that programs and activities under this section are coordinated with programs and activities carried out under this title.

"(g) ALLOCATION OF FUNDS.—Not to exceed—

"(1) 25 percent of the amount made available under subsection (h) for each fiscal year shall be provided to States for State and local media-based and nonmedia-based education, prevention and cessation campaigns;

"(2) no more than 20 percent of the amount made available under subsection (h) for each fiscal year shall be used specifically for the development of new messages and campaigns;

"(3) the remainder shall be used specifically to place media messages and carry out other dissemination activities described in subsection (d); and

"(4) half of 1 percent for administrative costs and expenses.

"(h) TRIGGER.—No expenditures shall be made under this section during any fiscal year in which the annual amount appropriated for the Centers for Disease Control and Prevention is less than the amount so appropriated for the prior fiscal year.".

"PART E—REDUCING YOUTH SMOKING AND TOBACCO-RELATED DISEASES THROUGH RESEARCH

"SEC. 1991. FUNDING FROM TOBACCO SETTLEMENT TRUST FUND.

No expenditures shall be made under sections 451(b) or (c)—

"(1) for the National Institutes of Health during any fiscal year in which the annual amount appropriated for such Institutes is less than the amount so appropriated for the prior fiscal year;

"(2) for the Centers for Disease Control and Prevention during any fiscal year in which the annual amount appropriated for such Centers is less than the amount so appropriated for the prior fiscal year; or

"(3) for the Agency for Health Care Policy and Research during any fiscal year in which the annual amount appropriated for such Agency is less than the amount so appropriated for the prior fiscal year.

"SEC. 1991A. STUDY BY THE INSTITUTE OF MEDICINE.

"(a) CONTRACT.—Not later than 60 days after the date of enactment of this title, the Secretary shall enter into a contract with the Institute of Medicine for the conduct of a study on the framework for a research agenda and research priorities to be used under this part.

"(b) CONSIDERATIONS.—

"(1) IN GENERAL.—In developing the framework for the research agenda and research priorities under subsection (a) the Institute of Medicine shall focus on increasing knowledge concerning the biological, social, behavioral, public health, and community factors involved in the prevention of tobacco use, reduction of tobacco use, and health consequences of tobacco use.

"(2) SPECIFIC CONSIDERATIONS.—In the study conducted under subsection (a), the Institute of Medicine shall specifically include research on—

"(A) public health and community research relating to tobacco use prevention methods, including public education, media, community strategies;

"(B) behavioral research relating to addiction, tobacco use, and patterns of smoking, including risk factors for tobacco use by children, women, and racial and ethnic minorities;

"(C) health services research relating to tobacco product prevention and cessation treatment methodologies;

"(D) surveillance and epidemiology research relating to tobacco;

"(E) biomedical, including clinical, research relating to prevention and treatment of tobacco-related diseases, including a focus on minorities, including racial and ethnic minorities;

"(F) the effects of tobacco products, ingredients of tobacco products, and tobacco smoke on the human body and methods of reducing any negative effects, including the development of non-addictive, reduced risk tobacco products;

"(G) differentials between brands of tobacco products with respect to health effects or addiction;

"(H) risks associated with environmental exposure to tobacco smoke, including a focus on children and infants;

"(I) effects of tobacco use by pregnant women; and

"(J) other matters determined appropriate by the Institute.

"(c) REPORT.—Not later than 10 months after the date on which the Secretary enters into the contract under subsection (a), the Institute of Medicine shall prepare and submit to the Secretary, the Committee on Labor and Human Resources, and the Committee on Appropriations of the Senate, and the Committee on Commerce of the House of Representatives, a report that shall contain the findings and recommendations of the Institute for the purposes described in subsection (b).

"SEC. 1991B. RESEARCH COORDINATION.

"(a) IN GENERAL.—The Secretary shall foster coordination among Federal research agencies, public health agencies, academic bodies, and community groups that conduct or support tobacco-related biomedical, clinical, behavioral, health services, public health and community, and surveillance and epidemiology research activities.

"(b) REPORT.—The Secretary shall prepare and submit a report on a biennial basis to the Committee on Labor and Human Resources, and the Committee on Appropriations of the Senate, and the Committee on Commerce of the House of Representatives on the current and planned tobacco-related research activities of participating Federal agencies.

"SEC. 1991C. RESEARCH ACTIVITIES OF THE CENTERS FOR DISEASE CONTROL AND PREVENTION.

"(a) DUTIES.—The Director of the Centers for Disease Control and Prevention shall, from amounts provided under section 451(c), and after review of the study of the Institute of Medicine, carry out tobacco-related surveillance and epidemiologic studies and develop tobacco control and prevention strategies; and

"(b) YOUTH SURVEILLANCE SYSTEMS.—From amounts provided under section 451(b), the Director of the Centers for Disease Control and Prevention shall provide for the use of youth surveillance systems to monitor the use of all tobacco products by individuals under the age of 18, including brands-used to enable determinations to be made of company-specific youth market share.

"SEC. 1991D. RESEARCH ACTIVITIES OF THE NATIONAL INSTITUTES OF HEALTH.

"(a) FUNDING.—There are authorized to be appropriated, from amounts in the National Tobacco Settlement Trust Fund established by section 401 of the National Tobacco Policy and Youth Smoking Reduction Act.

"(b) EXPENDITURE OF FUNDS.—The Director of the National Institutes of Health shall provide funds to conduct or support epidemiological, behavioral, biomedical, and social science research, including research related to the prevention and treatment of tobacco addiction, and the prevention and treatment of diseases associated with tobacco use.

"(c) GUARANTEED MINIMUM.—Of the funds made available to the National Institutes of Health under this section, such sums as may be necessary, may be used to support epidemiological, behavioral, and social science research related to the prevention and treatment of tobacco addiction.

"(d) NATURE OF RESEARCH.—Funds made available under subsection (d) may be used to conduct or support research with respect to one or more of the following—

"(1) the epidemiology of tobacco use;

"(2) the etiology of tobacco use;

"(3) risk factors for tobacco use by children;

"(4) prevention of tobacco use by children, including school and community-based programs, and alternative activities;

"(5) the relationship between tobacco use, alcohol abuse and illicit drug abuse;

"(6) behavioral and pharmacological smoking cessation methods and technologies, including relapse prevention;

"(7) the toxicity of tobacco products and their ingredients;

"(8) the relative harmfulness of different tobacco products;

"(9) environmental exposure to tobacco smoke;

"(10) the impact of tobacco use by pregnant women on their fetuses;

"(11) the redesign of tobacco products to reduce risks to public health and safety; and

"(12) other appropriate epidemiological, behavioral, and social science research.

"(e) COORDINATION.—In carrying out tobacco-related research under this section, the Director of the National Institutes of Health shall ensure appropriate coordination with the research of other agencies, and shall avoid duplicative efforts through all appropriate means.

"(h) ADMINISTRATION.—The director of the NIH Office of Behavioral and Social Sciences Research may—

"(1) identify tobacco-related research initiatives that should be conducted or supported by the research institutes, and develop such projects in cooperation with such institutes;

"(2) coordinate tobacco-related research that is conducted or supported by the National Institutes of Health;

"(3) annually recommend to Congress the allocation of anti-tobacco research funds among the national research institutes; and

"(4) establish a clearinghouse for information about tobacco-related research conducted by governmental and non-governmental bodies.

"(f) TRIGGER.—No expenditure shall be made under subsection (a) during any fiscal year in which the annual amount appropriated for the National Institutes of Health is less than the amount so appropriated for the prior fiscal year.

"(g) REPORT.—The Director of the NIH shall every 2 years prepare and submit to the Congress a report ——— research activities, including funding levels, for research made available under subsection (c).

(b) MEDICAID COVERAGE OF OUTPATIENT SMOKING CESSATION AGENTS.—Paragraph (2) of section 1927(d) of the Public Health Service Act (42 U.S.C. 1396r-8(d)) is amended—

(1) by striking subparagraph (E) and redesignating subparagraphs (F) through (J) as subparagraphs (E) through (I); and

(2) by striking "drugs." in subparagraph (F), as redesignated, and inserting "drugs, except agents, approved by the Food and Drug Administration, when used to promote smoking cessation.".

"SEC. 1991E. RESEARCH ACTIVITIES OF THE AGENCY FOR HEALTH CARE POLICY AND RESEARCH.

"(a) IN GENERAL.—The Administrator of the Agency for Health Care Policy and Research shall carry out outcomes, effectiveness, cost-effectiveness, and other health services research related to effective interventions for the prevention and cessation of tobacco use and appropriate strategies for implementing those services, the outcomes and delivery of care for diseases related to tobacco use, and the development of quality measures for evaluating the provision of those services.

"(b) ANALYSES AND SPECIAL PROGRAMS.—The Secretary, acting through the Administrator of the Agency for Health Care Policy and Research, shall support—

"(1) and conduct periodic analyses and evaluations of the best scientific information in the area of smoking and other tobacco product use cessation; and

"(2) the development and dissemination of special programs in cessation intervention for health plans and national health professional societies.".

TITLE III—TOBACCO PRODUCT WARNINGS AND SMOKE CONSTITUENT DISCLOSURE

Subtitle A—Product Warnings, Labeling and Packaging

SEC. 301. CIGARETTE LABEL AND ADVERTISING WARNINGS.

(a) IN GENERAL.—Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333) is amended to read as follows:

"SEC. 4. LABELING.

"(a) LABEL REQUIREMENTS.—

"(1) IN GENERAL.—It shall be unlawful for any person to manufacture, package, or import for sale or distribution within the United States any cigarettes the package of which fails to bear, in accordance with the requirements of this section, one of the following labels:

"WARNING: Cigarettes are addictive"

"WARNING: Tobacco smoke can harm your children"

"WARNING: Cigarettes cause fatal lung disease"

"WARNING: Cigarettes cause cancer"

"WARNING: Cigarettes cause strokes and heart disease"

"WARNING: Smoking during pregnancy can harm your baby"

"WARNING: Smoking can kill you"

"WARNING: Tobacco smoke causes fatal lung disease in non-smokers"

"WARNING: Quitting smoking now greatly reduces serious risks to your health"

"(2) PLACEMENT; TYPOGRAPHY; ETC..—

"(A) IN GENERAL.—Each label statement required by paragraph (1) shall be located in the upper portion of the front and rear panels of the package, directly on the package underneath the cellophane or other clear wrapping. Except as provided in subparagraph (B), each label statement shall comprise at least the top 25 percent of the front and rear panels of the package. The word "WARNING" shall appear in capital letters and all text shall be in conspicuous and legible 17-point type, unless the text of the label statement would occupy more than 70 percent of such area, in which case the text may be in a smaller conspicuous and legible type size, provided that at least 60 percent of such area is occupied by required text. The text shall be black on a white background, or white on a black background, in a manner that contrasts, by typography, layout, or color, with all other printed material on the package, in an alternating fashion under the plan submitted under subsection (b)(4).

"(B) FLIP-TOP BOXES.—For any cigarette brand package manufactured or distributed before January 1, 2000, which employs a flip-top style (if such packaging was used for that brand in commerce prior to June 21, 1997), the label statement required by paragraph (1) shall be located on the flip-top area of the package, even if such area is less than 25 percent of the area of the front panel. Except as provided in this paragraph, the provisions of this subsection shall apply to such packages.

"(3) DOES NOT APPLY TO FOREIGN DISTRIBUTION.—The provisions of this subsection do not apply to a tobacco product manufacturer or distributor of cigarettes which does not manufacture, package, or import cigarettes for sale or distribution within the United States.

"(b) ADVERTISING REQUIREMENTS.—

"(1) IN GENERAL.—It shall be unlawful for any tobacco product manufacturer, importer, distributor, or retailer of cigarettes to advertise or cause to be advertised within the United States any cigarette unless its advertising bears, in accordance with the requirements of this section, one of the labels specified in subsection (a) of this section.

"(2) TYPOGRAPHY, ETC.—Each label statement required by subsection (a) of this section in cigarette advertising shall comply with the standards set forth in this paragraph. For press and poster advertisements, each such statement and (where applicable) any required statement relating to tar, nicotine, or other constituent yield shall comprise at least 20 percent of the area of the advertisement and shall appear in a conspicuous and prominent format and location at the top of each advertisement within the trim area. The Secretary may revise the required type sizes in such area in such manner as the Secretary determines appropriate. The word "WARNING" shall appear in capital letters, and each label statement shall appear in conspicuous and legible type. The text of the label statement shall be black if the background is white and white if the background is black, under the plan submitted under paragraph (4) of this subsection. The label statements shall be enclosed by a rectangular border that is the same color as the letters of the statements and that is the width of the first downstroke of the capital "W" of the word "WARNING" in the label statements. The text of such label statements shall be in a typeface pro rata to the following requirements: 45-point type for a whole-page broadsheet newspaper advertisement; 39-point type for a half-page broadsheet newspaper advertisement; 39-point type for a whole-page tabloid newspaper advertisement; 27-point type for a half-page tabloid newspaper advertisement; 31.5-point type for a double page spread magazine or whole-page magazine advertisement; 22.5-point type for a 28 centimeter by 3 column advertisement; and 15-point type for a 20 centimeter by 2 column advertisement. The label statements shall be in English, except that in the case of—

"(A) an advertisement that appears in a newspaper, magazine, periodical, or other publication that is not in English, the statements shall appear in the predominant language of the publication; and

"(B) in the case of any other advertisement that is not in English, the statements shall appear in the same language as that principally used in the advertisement.

"(3) ADJUSTMENT BY SECRETARY.—The Secretary may, through a rulemaking under section 553 of title 5, United States Code, adjust the format and type sizes for the label statements required by this section or the text, format, and type sizes of any required tar, nicotine yield, or other constituent disclosures, or to establish the text, format, and type sizes for any other disclosures required under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et. seq.). The text of any such label statements or disclosures shall be required to appear only within the 20 percent area of cigarette advertisements provided by paragraph (2) of this subsection. The Secretary shall promulgate regulations which provide for adjustments in the format and type sizes of any text required to appear in such area to ensure that the total text required to appear by law will fit within such area.

"(4) MARKETING REQUIREMENTS.—

"(A) The label statements specified in subsection (a)(1) shall be randomly displayed in each 12-month period, in as equal a number of times as is possible on each brand of the product and be randomly distributed in all areas of the United States in which the product is marketed in accordance with a plan

submitted by the tobacco product manufacturer, importer, distributor, or retailer and approved by the Secretary.

"(B) The label statements specified in subsection (a)(1) shall be rotated quarterly in alternating sequence in advertisements for each brand of cigarettes in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer to, and approved by, the Secretary.

"(C) The Secretary shall review each plan submitted under subparagraph (B) and approve it if the plan—

"(i) will provide for the equal distribution and display on packaging and the rotation required in advertising under this subsection; and

"(ii) assures that all of the labels required under this section will be displayed by the tobacco product manufacturer, importer, distributor, or retailer at the same time.".

(b) REPEAL OF PROHIBITION ON STATE RESTRICTION.—Section 5 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1334) is amended—

(1) by striking "(a) ADDITIONAL STATEMENTS.—" IN SUBSECTION (A); AND

(2) by striking subsection (b).

SEC. 302. AUTHORITY TO REVISE CIGARETTE WARNING LABEL STATEMENTS.

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

"(c) CHANGE IN REQUIRED 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. 303. SMOKELESS TOBACCO LABELS AND ADVERTISING WARNINGS.

Section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402) is amended to read as follows:

"SEC. 3. SMOKELESS TOBACCO WARNING.

"(a) GENERAL RULE.—

"(1) It shall be unlawful for any person to manufacture, package, or import for sale or distribution within the United States any smokeless tobacco product unless the product package bears, in accordance with the requirements of this Act, one of the following labels:

"WARNING: This product can cause mouth cancer"

"WARNING: This product can cause gum disease and tooth loss"

"WARNING: This product is not a safe alternative to cigarettes"

"WARNING: Smokeless tobacco is addictive"

"(2) Each label statement required by paragraph (1) shall be—

"(A) located on the 2 principal display panels of the package, and each label statement shall comprise at least 25 percent of each such display panel; and

"(B) in 17-point conspicuous and legible type and in black text on a white background, or white text on a black background, in a manner that contrasts by typography, layout, or color, with all other printed material on the package, in an alternating fashion under the plan submitted under subsection (b)(3), except that if the text of a label statement would occupy more than 70 percent of the area specified by subparagraph (A), such text may appear in a smaller type size, so long as at least 60 percent of such warning area is occupied by the label statement.

"(3) The label statements required by paragraph (1) shall be introduced by each tobacco product manufacturer, packager, importer, distributor, or retailer of smokeless tobacco products concurrently into the distribution chain of such products.

"(4) The provisions of this subsection do not apply to a tobacco product manufacturer or distributor of any smokeless tobacco product that does not manufacture, package, or import smokeless tobacco products for sale or distribution within the United States.

"(b) REQUIRED LABELS.—

"(1) It shall be unlawful for any tobacco product manufacturer, packager, importer, distributor, or retailer of smokeless tobacco products to advertise or cause to be advertised within the United States any smokeless tobacco product unless its advertising bears, in accordance with the requirements of this section, one of the labels specified in subsection (a).

"(2) Each label statement required by subsection (a) in smokeless tobacco advertising shall comply with the standards set forth in this paragraph. For press and poster advertisements, each such statement and (where applicable) any required statement relating to tar, nicotine, or other constituent yield shall—

"(A) comprise at least 20 percent of the area of the advertisement, and the warning area shall be delineated by a dividing line of contrasting color from the advertisement; and

"(B) the word "WARNING" shall appear in capital letters and each label statement shall appear in conspicuous and legible type. The text of the label statement shall be black on a white background, or white on a black background, in an alternating fashion under the plan submitted under paragraph (3).

"(3)(A) The label statements specified in subsection (a)(1) shall be randomly displayed in each 12-month period, in as equal a number of times as is possible on each brand of the product and be randomly distributed in all areas of the United States in which the product is marketed in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer and approved by the Secretary.

"(B) The label statements specified in subsection (a)(1) shall be rotated quarterly in alternating sequence in advertisements for each brand of smokeless tobacco product in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer to, and approved by, the Secretary.

"(C) The Secretary shall review each plan submitted under subparagraph (B) and approve it if the plan—

"(i) will provide for the equal distribution and display on packaging and the rotation required in advertising under this subsection; and

"(ii) assures that all of the labels required under this section will be displayed by the 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—$7,200,000,000.

(2) year 2—$7,700,000,000.

(3) year 3—$8,850,000,000.

(4) year 4—$10,700,000,000.

(5) year 5—$11,800,000,000.

AMENDMENT NO. 2617

In lieu of the matter proposed to be inserted, strike page 107, line 5 through page 182, line 21, and insert the following: "a surcharge on cigarette manufacturers as follows:"

If the non-attainment percentage is	The surcharge is
Not more than 5 percent	$160,000,000 multiplied by the non-attainment percentage.
More than 5% but not more than 10%.	$800,000,000, plus $320,000,000 multiplied by the non-attainment percentage in excess of 5% but not in excess of 10%.
More than 10%	$2,400,000,000, plus $480,000,000 multiplied by the non-attainment percentage in excess of 10%.
More than 21.6%	$8,000,000,000.

(3) NON-ATTAINMENT SURCHARGE FOR SMOKELESS TOBACCO.—For each year in which the percentage reduction in underage use required by section 203(c) is not attained, the Secretary shall assess a surcharge on smokeless tobacco product manufacturers as follows:

If the non-attainment percentage is	The surcharge is
Not more than 5 percent	$16,000,000 multiplied by the non-attainment percentage.
More than 5% but not more than 10%.	$80,000,000, plus $32,000,000 multiplied by the non-attainment percentage in excess of 5% but not in excess of 10%.
More than 10%	$240,000,000, plus $48,000,000 multiplied by the non-attainment percentage in excess of 10%.
More than 21.6%	$800,000,000.

(4) STRICT LIABILITY; JOINT AND SEVERAL LIABILITY.—Liability for any surcharge imposed under subsection (e) shall be—

(A) strict liability; and

(B) joint and several liability—

(i) among all cigarette manufacturers for surcharges imposed under subsection (e)(2); and

(ii) among all smokeless tobacco manufacturers for surcharges imposed under subsection (e)(3).

(5) SURCHARGE LIABILITY AMONG MANUFACTURERS.—A tobacco product manufacturer shall be liable under this subsection to one or more other manufacturers if the plaintiff tobacco product manufacturer establishes by a preponderance of the evidence that the defendant tobacco product manufacturer, through its acts or omissions, was responsible for a disproportionate share of the non-attainment surcharge as compared to the responsibility of the plaintiff manufacturer.

(6) EXEMPTIONS FOR SMALL MANUFACTURERS.—

(A) ALLOCATION BY MARKET SHARE.—The Secretary shall make such allocations according to each manufacturer's share of the domestic cigarette or domestic smokeless tobacco market, as appropriate, in the year for which the surcharge is being assessed, based on actual Federal excise tax payments.

(B) EXEMPTION.—In any year in which a surcharge is being assessed, the Secretary shall exempt from payment any tobacco product manufacturer with less than 1 percent of the domestic market share for a specific category of tobacco product unless the Secretary finds that the manufacturer's products are used by underage individuals at a rate equal to or greater than the manufacturer's total market share for the type of tobacco product.

(f) MANUFACTURER-SPECIFIC SURCHARGES.—

(1) REQUIRED PERCENTAGE REDUCTIONS.—Each manufacturer which manufactured a brand or brands of tobacco product on or before the date of the enactment of this Act shall reduce the percentage of young individuals who use such manufacturer's brand or brands as their usual brand in accordance with the required percentage reductions described under subsections (b) (with respect to cigarettes) and (c) (with respect to smokeless tobacco).

(2) APPLICATION TO LESS POPULAR BRANDS.—Each manufacturer which manufactured a brand or brands of tobacco product on or before the date of the enactment of this Act for which the base incidence percentage is equal to or less than the *de minimis* level shall ensure that the percent prevalence of young individuals who use the manufacturer's tobacco products as their usual brand remains equal to or less than the *de minimis* level described in paragraph (4).

(3) NEW ENTRANTS.—Each manufacturer of a tobacco product which begins to manufacture a tobacco product after the date of the enactment of this Act shall ensure that the percent prevalence of young individuals who use the manufacturer's tobacco products as their usual brand is equal to or less than the *de minimis* level.

(4) DE MINIMIS LEVEL DEFINED.—The *de minimis* level is equal to 1 percent prevalence of the use of each manufacturer's brands of tobacco product by young individuals (as determined on the basis of the annual performance survey conducted by the Secretary) for a year.

(5) TARGET REDUCTION LEVELS.—

(A) EXISTING MANUFACTURERS.—For purposes of this section, the target reduction level for each type of tobacco product for a

year for a manufacturer is the product of the required percentage reduction for a type of tobacco product for a year and the manufacturers base incidence percentage for such tobacco product.

(B) NEW MANUFACTURERS; MANUFACTURERS WITH LOW BASE INCIDENCE PERCENTAGES.—With respect to a manufacturer which begins to manufacture a tobacco product after the date of the enactment of this Act or a manufacturer for which the baseline level as measured by the annual performance survey is equal to or less than the *de minimis* level described in paragraph (4), the base incidence percentage is the *de minimis* level, and the required percentage reduction in underage use for a type of tobacco product with respect to a manufacturer for a year shall be deemed to be the number of percentage points necessary to reduce the actual percent prevalence of young individuals identifying a brand of such tobacco product of such manufacturer as the usual brand smoked or used for such year to the *de minimis* level.

(6) SURCHARGE AMOUNT.—

(A) IN GENERAL.—If the Secretary determines that the required percentage reduction in use of a type of tobacco product has not been achieved by such manufacturer for a year, the Secretary shall impose a surcharge on such manufacturer under this paragraph.

(B) AMOUNT.—The amount of the manufacturer-specific surcharge for a type of tobacco product for a year under this paragraph is $1,000, multiplied by the number of young individuals for which such firm is in noncompliance with respect to its target reduction level.

(C) DETERMINATION OF NUMBER OF YOUNG INDIVIDUALS.—For purposes of subparagraph (B) the number of young individuals for which a manufacturer is in noncompliance for a year shall be determined by the Secretary from the annual performance survey and shall be calculated based on the estimated total number of young individuals in such year and the actual percentage prevalence of young individuals identifying a brand of such tobacco product of such manufacturer as the usual brand smoked or used in such year as compared to such manufacturer's target reduction level for the year.

(7) DE MINIMIS RULE.—The Secretary may not impose a surcharge on a manufacturer for a type of tobacco product for a year if the Secretary determines that actual percent prevalence of young individuals identifying that manufacturer's brands of such tobacco product as the usual products smoked or used for such year is less than 1 percent.

(g) SURCHARGES TO BE ADJUSTED FOR INFLATION.—

(1) IN GENERAL.—Beginning with the fourth calendar year after the date of enactment of this Act, each dollar amount in the tables in subsections (e)(2), (e)(3), and (f)(6)(B) shall be increased by the inflation adjustment.

(2) INFLATION ADJUSTMENT.—For purposes of paragraph (1), the inflation adjustment for any calendar year is the percentage (if any) by which—

(A) the CPI for the preceding calendar year, exceeds

(B) the CPI for the calendar year 1998.

(3) CPI.—For purposes of paragraph (2), the CPI for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor.

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

(h) METHOD OF SURCHARGE ASSESSMENT.—The Secretary shall assess a surcharge for a specific calendar year on or before May 1 of the subsequent calendar year. Surcharge payments shall be paid on or before July 1 of the year in which they are assessed. The Secretary may establish, by regulation, interest at a rate up to 3 times the prevailing prime rate at the time the surcharge is assessed, and additional charges in an amount up to 3 times the surcharge, for late payment of the surcharge.

(i) BUSINESS EXPENSE DEDUCTION.—Any surcharge paid by a tobacco product manufacturer under this section shall not be deductible as an ordinary and necessary business expense or otherwise under the Internal Revenue Code of 1986.

(j) APPEAL RIGHTS.—The amount of any surcharge is committed to the sound discretion of the Secretary and shall be subject to judicial review by the United States Court of Appeals for the District of Columbia Circuit, based on the arbitrary and capricious standard of section 706(2)(A) of title 5, United States Code. Notwithstanding any other provisions of law, no court shall have authority to stay any surcharge payments due the Secretary under this Act pending judicial review.

(k) RESPONSIBILITY FOR AGENTS.—In any action brought under this subsection, a tobacco product manufacturer shall be held responsible for any act or omission of its attorneys, advertising agencies, or other agents that contributed to that manufacturer's responsibility for the surcharge assessed under this section.

SEC. 205. DEFINITIONS.

In this subtitle:

(1) BASE INCIDENCE PERCENTAGE.—The term "base incidence percentage" means, with respect to each type of tobacco product, the percentage of young individuals determined to have used such tobacco product in the first annual performance survey for 1999.

(2) MANUFACTURERS BASE INCIDENCE PERCENTAGE.—The term "manufacturers base incidence percentage" is, with respect to each type of tobacco product, the percentage of young individuals determined to have identified a brand of such tobacco product of such manufacturer as the usual brand smoked or used in the first annual performance survey for 1999.

(3) YOUNG INDIVIDUALS.—The term "young individuals" means individuals who are over 11 years of age and under 18 years of age.

(4) CIGARETTE MANUFACTURERS.—The term "cigarette manufacturers" means manufacturers of cigarettes sold in the United States.

(5) NON-ATTAINMENT PERCENTAGE FOR CIGARETTES.—The term "non-attainment percentage for cigarettes" means the number of percentage points yielded—

(A) for a calendar year in which the percent incidence of underage use of cigarettes is less than the base incidence percentage, by subtracting—

(i) the percentage by which the percent incidence of underage use of cigarettes in that year is less than the base incidence percentage, from

(ii) the required percentage reduction applicable in that year; and

(B) for a calendar year in which the percent incidence of underage use of cigarettes is greater than the base incidence percentage, adding—

(i) the percentage by which the percent incidence of underage use of cigarettes in that year is greater than the base incidence percentage; and

(ii) the required percentage reduction applicable in that year.

(6) NON-ATTAINMENT PERCENTAGE FOR SMOKELESS TOBACCO PRODUCTS.—The term "non-attainment percentage for smokeless tobacco products" means the number of percentage points yielded—

(A) for a calendar year in which the percent incidence of underage use of smokeless tobacco products is less than the base incidence percentage, by subtracting—

(i) the percentage by which the percent incidence of underage use of smokeless tobacco products in that year is less than the base incidence percentage, from

(ii) the required percentage reduction applicable in that year; and

(B) for a calendar year in which the percent incidence of underage use of smokeless tobacco products is greater than the base incidence percentage, by adding—

(i) the percentage by which the percent incidence of underage use of smokeless tobacco products in that year is greater than the base incidence percentage; and

(ii) the required percentage reduction applicable in that year.

(7) SMOKELESS TOBACCO PRODUCT MANUFACTURERS.—The term "smokeless tobacco product manufacturers" means manufacturers of smokeless tobacco products sold in the United States.

Subtitle B—State Retail Licensing and Enforcement Incentives

SEC. 231. STATE RETAIL LICENSING AND ENFORCEMENT BLOCK GRANTS.

(a) IN GENERAL.—The Secretary shall make State retail licensing and enforcement block grants in accordance with the provisions of this section. There are authorized to be appropriated to the Secretary from the National Tobacco Trust Fund $200,000,000 for each fiscal year to carry out the provisions of this section.

(b) REQUIREMENTS.—

(1) ESTABLISHMENT.—The Secretary shall provide a block grant, based on population, under this subtitle to each State that has in effect a law that—

(A) provides for the licensing of entities engaged in the sale or distribution of tobacco products directly to consumers;

(B) makes it illegal to sell or distribute tobacco products to individuals under 18 years of age; and

(C) meets the standards described in this section.

(2) STATE AGREEMENT REQUIRED.—In order to receive a block grant under this section, a State—

(A) shall enter into an agreement with the Secretary to assume responsibilities for the implementation and enforcement of a tobacco retailer licensing program;

(B) shall prohibit retailers from selling or otherwise distributing tobacco products to individuals under 18 years of age in accordance with the Youth Access Restrictions regulations promulgated by the Secretary (21 C.F.R. 897.14(a) and (b));

(C) shall make available to appropriate Federal agencies designated by the Secretary requested information concerning retail establishments involved in the sale or distribution of tobacco products to consumers; and

(D) shall establish to the satisfaction of the Secretary that it has a law or regulation that includes the following:

(i) LICENSURE; SOURCES; AND NOTICE.—A requirement for a State license for each retail establishment involved in the sale or distribution of tobacco products to consumers. A requirement that a retail establishment

may purchase tobacco products only from Federally-licensed manufacturers, importers, or wholesalers. A program under which notice is provided to such establishments and their employees of all licensing requirements and responsibilities under State and Federal law relating to the retail distribution of tobacco products.

(ii) PENALTIES.—

(I) CRIMINAL.—Criminal penalties for the sale or distribution of tobacco products to a consumer without a license.

(II) CIVIL.—Civil penalties for the sale or distribution of tobacco products in violation of State law, including graduated fines and suspension or revocation of licenses for repeated violations.

(III) OTHER.—Other programs, including such measures as fines, suspension of driver's license privileges, or community service requirements, for underage youths who possess, purchase, or attempt to purchase tobacco products.

(iii) JUDICIAL REVIEW.—Judicial review procedures for an action of the State suspending, revoking, denying, or refusing to renew any license under its program.

(c) ENFORCEMENT.—

(1) UNDERTAKING.—Each State that receives a grant under this subtitle shall undertake to enforce compliance with its tobacco retailing licensing program in a manner that can reasonably be expected to reduce the sale and distribution of tobacco products to individuals under 18 years of age. If the Secretary determines that a State is not enforcing the law in accordance with such an undertaking, the Secretary may withhold a portion of any unobligated funds under this section otherwise payable to that State.

(2) ACTIVITIES AND REPORTS REGARDING ENFORCEMENT.—A State that receives a grant under this subtitle shall—

(A) conduct monthly random, unannounced inspections of sales or distribution outlets in the State to ensure compliance with a law prohibiting sales of tobacco products to individuals under 18 years of age;

(B) annually submit to the Secretary a report describing in detail—

(i) the activities carried out by the State to enforce underage access laws during the fiscal year;

(ii) the extent of success the State has achieved in reducing the availability of tobacco products to individuals under the age of 18 years;

(iii) how the inspections described in subparagraph (A) were conducted and the methods used to identify outlets, with appropriate protection for the confidentiality of information regarding the timing of inspections and other investigative techniques whose effectiveness depends on continued confidentiality; and

(iv) the identity of the single State agency designated by the Governor of the State to be responsible for the implementation of the requirements of this section.

(3) MINIMUM INSPECTION STANDARDS.—Inspections conducted by the State shall be conducted by the State in such a way as to ensure a scientifically sound estimate (with a 95 percent confidence interval that such estimates are accurate to within plus or minus 3 percentage points), using an accurate list of retail establishments throughout the State. Such inspections shall cover a range of outlets (not preselected on the basis of prior violations) to measure overall levels of compliance as well as to identify violations. The sample must reflect the distribution of the population under the age of 18 years throughout the State and the distribution of the outlets throughout the State accessible to youth. Except as provided in this paragraph, any reports required by this paragraph shall be made public. As used in this paragraph, the term "outlet" refers to any location that sells at retail or otherwise distributes tobacco products to consumers, including to locations that sell such products over-the-counter.

(d) NONCOMPLIANCE.—

(1) INSPECTIONS.—The Secretary shall withhold from any State that fails to meet the requirements of subsection (b) in any calendar year an amount equal to 5 percent of the amount otherwise payable under this subtitle to that State for the next fiscal year.

(2) COMPLIANCE RATE.—The Secretary shall withhold from any State that fails to demonstrate a compliance rate of—

(A) at least the annual compliance targets that were negotiated with the Secretary under section 1926 of the Public Health Service Act (42 U.S.C. 300x—26) as such section was in effect before its repeal by this Act through the third fiscal year after the date of enactment of this Act;

(B) at least 80 percent in the fourth fiscal year after such date;

(C) at least 85 percent in the fifth and sixth fiscal years after such date; and

(D) at least 90 percent in every fiscal year beginning with the seventh fiscal year after such date,

an amount equal to one percentage point for each percentage point by which the State failed to meet the percentage set forth in this subsection for that year from the amount otherwise payable under this subtitle for that fiscal year.

(e) RELEASE AND DISBURSEMENT.—

(1) Upon notice from the Secretary that an amount payable under this section has been ordered withheld under subsection (d), a State may petition the Secretary for a release and disbursement of up to 75 percent of the amount withheld, and shall give timely written notice of such petition to the attorney general of that State and to all tobacco product manufacturers.

(2) The agency shall conduct a hearing on such a petition, in which the attorney general of the State may participate and be heard.

(3) The burden shall be on the State to prove, by a preponderance of the evidence, that the release and disbursement should be made. The Secretary's decision on whether to grant such a release, and the amount of any such disbursement, shall be based on whether—

(A) the State presents scientifically sound survey data showing that the State is making significant progress toward reducing the use of tobacco products by individuals who have not attained the age of 18 years;

(B) the State presents scientifically-based data showing that it has progressively decreased the availability of tobacco products to such individuals;

(C) the State has acted in good faith and in full compliance with this Act, and any rules or regulations promulgated under this Act;

(D) the State provides evidence that it plans to improve enforcement of these laws in the next fiscal year; and

(E) any other relevant evidence.

(4) A State is entitled to interest on any withheld amount released at the average United States 52-Week Treasury Bill rate for the period between the withholding of the amount and its release.

(5) Any State attorney general or tobacco product manufacturer aggrieved by a final decision on a petition filed under this subsection may seek judicial review of such decision within 30 days in the United States Court of Appeals for the District of Columbia Circuit. Unless otherwise specified in this Act, judicial review under this section shall be governed by sections 701 through 706 of title 5, United States Code.

(6) No stay or other injunctive relief enjoining a reduction in a State's allotment pending appeal or otherwise may be granted by the Secretary or any court.

(f) NON-PARTICIPATING STATES LICENSING REQUIREMENTS.—For retailers in States which have not established a licensing program under subsection (a), the Secretary shall promulgate regulations establishing Federal retail licensing for retailers engaged in tobacco sales to consumers in those States. The Secretary may enter into agreements with States for the enforcement of those regulations. A State that enters into such an agreement shall receive a grant under this section to reimburse it for costs incurred in carrying out that agreement.

(g) DEFINITION.—For the purposes of this section, the term "first applicable fiscal year" means the first fiscal year beginning after the fiscal year in which funding is made available to the States under this section.

SEC. 232. BLOCK GRANTS FOR COMPLIANCE BONUSES.

(a) IN GENERAL.—The Secretary shall make block grants to States determined to be eligible under subsection (b) in accordance with the provisions of this section. There are authorized to be appropriated to the Secretary from the National Tobacco Trust Fund $100,000,000 for each fiscal year to carry out the provisions of this section.

(b) ELIGIBLE STATES.—To be eligible to receive a grant under subsection (a), a State shall—

(1) prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require; and

(2) with respect to the year involved, demonstrate to the satisfaction of the Secretary that fewer than 5 percent of all individuals under 18 years of age who attempt to purchase tobacco products in the State in such year are successful in such purchase.

(c) PAYOUT.—

(1) PAYMENT TO STATE.—If one or more States are eligible to receive a grant under this section for any fiscal year, the amount payable for that fiscal year shall be apportioned among such eligible States on the basis of population.

(2) YEAR IN WHICH NO STATE RECEIVES GRANT.—If in any fiscal year no State is eligible to receive a grant under this section, then the Secretary may use not more than 25 percent of the amount appropriated to carry out this section for that fiscal year to support efforts to improve State and local enforcement of laws regulating the use, sale, and distribution of tobacco products to individuals under the age of 18 years.

(3) AMOUNTS AVAILABLE WITHOUT FISCAL YEAR LIMITATION.—Any amount appropriated under this section remaining unexpended and unobligated at the end of a fiscal year shall remain available for obligation and expenditure in the following fiscal year.

SEC. 233. CONFORMING CHANGE.

Section 1926 of the Public Health Service Act (42 U.S.C. 300x—26) is hereby repealed.

Subtitle C—Tobacco Use Prevention and Cessation Initiatives

SEC. 261. TOBACCO USE PREVENTION AND CESSATION INITIATIVES.

Title XIX of the Public Health Service Act (42 U.S.C. 300w et seq.) is amended by adding at the end the following:

"PART D—TOBACCO USE PREVENTION AND CESSATION INITIATIVES

"SUBPART I—CESSATION AND COMMUNITY-BASED PREVENTION BLOCK GRANTS

"SEC. 1981. FUNDING FROM TOBACCO SETTLEMENT TRUST FUND.

"(a) IN GENERAL.—From amounts contained in the Public Health Allocation Account under section 451(b)(2)(A) and (C) of the National Tobacco Policy and Youth Smoking Reduction Act for a fiscal year, there are authorized to be appropriated (under subsection (d) of such section) to carry out this subpart—

(1) for cessation activities, the amounts appropriated under section 451 (b)(2)(A); and

(2) for prevention and education activities, the amounts appropriated under section 451 (b)(2)(C).

"(b) NATIONAL ACTIVITIES.—

"(1) Not more than 10 percent of the amount made available for any fiscal year under subsection (a) shall be made available to the Secretary to carry out activities under section 1981B and 1981D(d).

"(2) Not more than 10 percent of the amount available for any fiscal year under subsection (a)(1) shall be available to the Secretary to carry out activities under section 1981D(d).

"SEC. 1981A. ALLOTMENTS.

"(a) AMOUNT.—

"(1) IN GENERAL.—From the amount made available under section 1981 for any fiscal year the Secretary, acting through the Director of the Centers for Disease Control and Prevention (referred to in this subpart as the 'Director'), shall allot to each State an amount based on a formula to be developed by the Secretary that is based on the tobacco prevention and cessation needs of each State including the needs of the State's minority populations.

"(2) MINIMUM AMOUNT.—In determining the amount of allotments under paragraph (1), the Secretary shall ensure that no State receives less than ½ of 1 percent of the amount available under section 1981(a) for the fiscal year involved.

"(b) REALLOTMENT.—To the extent that amounts made available under section 1981 for a fiscal year are not otherwise allotted to States because—

"(1) 1 or more States have not submitted an application or description of activities in accordance with section 1981D for the fiscal year;

"(2) 1 or more States have notified the Secretary that they do not intend to use the full amount of their allotment; or

"(3) the Secretary has determined that the State is not in compliance with this subpart, and therefore is subject to penalties under section 1981D(g);

such excess amount shall be reallotted among each of the remaining States in proportion to the amount otherwise allotted to such States for the fiscal year involved without regard to this subsection.

"(c) PAYMENTS.—

"(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall utilize the funds made available under this section to make payments to States under allotments under this subpart as provided for under section 203 of the Intergovernmental Cooperation Act of 1968.

"(2) FEDERAL GRANTEES.—From amounts available under section 1981(b)(2), the Secretary may make grants, or supplement existing grants, to entities eligible for funds under the programs described in section 1981C(d)(1) and (10) to enable such entities to carry out smoking cessation activities under this subpart, except not less than 25 percent of this amount shall be used for the program described in 1981C(d)(6).

"(3) AVAILABILITY OF FUNDS.—Any amount paid to a State for a fiscal year under this subpart and remaining unobligated at the end of such year shall remain available to such State for the next fiscal year for the purposes for which such payment was made.

"(d) REGULATIONS.—Not later than 9 months after the date of enactment of this part, the Secretary shall promulgate regulations to implement this subpart. This subpart shall take effect regardless of the date on which such regulations are promulgated.

"SEC. 1981B. TECHNICAL ASSISTANCE AND PROVISION OF SUPPLIES AND SERVICES IN LIEU OF FUNDS.

"(a) TECHNICAL ASSISTANCE.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall, without charge to a State receiving an allotment under section 1981A, provide to such State (or to any public or nonprofit private entity within the State) technical assistance and training with respect to the planning, development, operation, and evaluation of any program or service carried out pursuant to the program involved. The Secretary may provide such technical assistance or training directly, through contract, or through grants.

"(b) PROVISION OF SUPPLIES AND SERVICE IN LIEU OF GRANT FUNDS.—The Secretary, at the request of a State, may reduce the amount of payments to the State under section 1981A(c) by—

"(1) the fair market value of any supplies or equipment furnished by the Secretary to the State; and

"(2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Federal Government when detailed to the State and the amount of any other costs incurred in connection with the detail of such officer or employee;

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of the State and for the purpose of conducting activities described in section 1981C. The amount by which any payment is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment or in detailing the personnel, on which reduction of the payment is based, and the amount shall be deemed to be part of the payment and shall be deemed to have been paid to the State.

"SEC. 1981C. PERMITTED USERS OF CESSATION BLOCK GRANTS AND OF COMMUNITY-BASED PREVENTION BLOCK GRANTS.

"(a) TOBACCO USE CESSATION ACTIVITIES.—Except as provided in subsections (d) and (e), amounts described in subsection (a)(1) may be used for the following:

"(1) Evidence-based cessation activities described in the plan of the State, submitted in accordance with section 1981D, including—

"(A) evidence-based programs designed to assist individuals, especially young people and minorities who have been targeted by tobacco product manufacturers, to quit their use of tobacco products;

"(B) training in cessation intervention methods for health plans and health professionals, including physicians, nurses, dentists, health educators, public health professionals, and other health care providers;

"(C) programs to encourage health insurers and health plans to provide coverage for evidence-based tobacco use cessation interventions and therapies, except that the use of any funds under this clause to offset the cost of providing a smoking cessation benefit shall be on a temporary demonstration basis only;

"(D) culturally and linguistically appropriate programs targeted toward minority and low-income individuals, individuals residing in medically underserved areas, uninsured individuals, and pregnant women;

"(E) programs to encourage employer-based wellness programs to provide evidence-based tobacco use cessation intervention and therapies; and

"(F) programs that target populations whose smoking rate is disproportionately high in comparison to the smoking rate population-wide in the State.

"(2) Planning, administration, and educational activities related to the activities described in paragraph (1).

"(3) The monitoring and evaluation of activities carried out under paragraphs (1) and (2), and reporting and disseminating resulting information to health professionals and the public.

"(4) Targeted pilot programs with evaluation components to encourage innovation and experimentation with new methodologies.

"(b) STATE AND COMMUNITY ACTION ACTIVITIES.—Except as provided in subsections (d) and (e), amounts described in subsection (a)(2) may be used for the following:

"(1) Evidence-based activities for tobacco use prevention and control described in the plan of the State, submitted in accordance with section 1981D, including—

"(A) State and community initiatives;

"(B) community-based prevention programs, similar to programs currently funded by NIH;

"(C) programs focused on those populations within the community that are most at risk to use tobacco products or that have been targeted by tobacco advertising or marketing;

"(D) school programs to prevent and reduce tobacco use and addiction, including school programs focused in those regions of the State with high smoking rates and targeted at populations most at risk to start smoking;

"(E) culturally and linguistically appropriate initiatives targeted towards minority and low-income individuals, individuals residing in medically underserved areas, and women of child-bearing age;

"(F) the development and implementation of tobacco-related public health and health promotion campaigns and public policy initiatives;

"(G) assistance to local governmental entities within the State to conduct appropriate anti-tobacco activities.

"(H) strategies to ensure that the State's smoking prevention activities include minority, low-income, and other undeserved populations; and

"(I) programs that target populations whose smoking rate is disproportionately high in comparison to the smoking rate population-wide in the State.

"(2) Planning, administration, and educational activities related to the activities described in paragraph (1).

"(3) The monitoring and evaluation of activities carried out under paragraphs (1) and (2), and reporting and disseminating resulting information to health professionals and the public.

"(4) Targeted pilot programs with evaluation components to encourage innovation and experimentation with new methodologies.

"(c) COORDINATION.—Tobacco use cessation and community-based prevention activities permitted under subsections (b) and (c) may be conducted in conjunction with recipients of other Federally—funded programs within the State, including—

"(1) the special supplemental food program under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786);

"(2) the Maternal and Child Health Services Block Grant program under title V of the Social Security Act (42 U.S.C. 701 et seq.);

"(3) the State Children's Health Insurance Program of the State under title XXI of the Social Security Act (42 U.S.C. 13397aa et seq.);

"(4) the school lunch program under the National School Lunch Act (42 U.S.C. 1751 et seq.);

"(5) an Indian Health Service Program;

"(6) the community, migrant, and homeless health centers program under section 330 of the Public Health Service Act (42 U.S.C. 254b);

"(7) state-initiated smoking cessation programs that include provisions for reimbursing individuals for medications or therapeutic techniques;

"(8) the substance abuse and mental health services block grant program, and the preventive health services block grant program, under title XIX of the Public Health Service Act (42 U.S.C. 300w et seq.);

"(9) the Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.); and

"(10) programs administered by the Department of Defense and the Department of Veterans Affairs.

"(d) LIMITATION.—A State may not use amounts paid to the State under section 1981A(c) to—

"(1) make cash payments except with appropriate documentation to intended recipients of tobacco use cessation services;

"(2) fund educational, recreational, or health activities not based on scientific evidence that the activity will prevent smoking or lead to success of cessation efforts

"(3) purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment;

"(4) satisfy any requirement for the expenditure of non-Federal funds as a condition of the receipt of Federal funds; or

"(5) provide financial assistance to any entity other than a public or nonprofit private entity or a private entity consistent with subsection (b)(1)(C).

This subsection shall not apply to the support of targeted pilot programs that use innovative and experimental new methodologies and include an evaluation component.

"(e) ADMINISTRATION.—Not more than 5 percent of the allotment of a State for a fiscal year under this subpart may be used by the State to administer the funds paid to the State under section 1981A(c). The State shall pay from non-Federal sources the remaining costs of administering such funds.

"SEC. 1981D. ADMINISTRATIVE PROVISIONS.

"(a) APPLICATION.—The Secretary may make payments under section 1981A(c) to a State for a fiscal year only if—

"(1) the State submits to the Secretary an application, in such form and by such date as the Secretary may require, for such payments;

"(2) the application contains a State plan prepared in a manner consistent with section 1905(b) and in accordance with tobacco-related guidelines promulgated by the Secretary;

"(3) the application contains a certification that is consistent with the certification required under section 1905(c); and

"(4) the application contains such assurances as the Secretary may require regarding the compliance of the State with the requirements of this subpart (including assurances regarding compliance with the agreements described in subsection (c)).

"(b) STATE PLAN.—A State plan under subsection (a)(2) shall be developed in a manner consistent with the plan developed under section 1905(b) except that such plan—

"(1) with respect to activities described in section 1981C(b)—

"(A) shall provide for tobacco use cessation intervention and treatment consistent with the tobacco use cessation guidelines issued by the Agency for Health Care Policy and Research, or another evidence-based guideline approved by the Secretary, or treatments using drugs, human biological products, or medical devices approved by the Food and Drug Administration, or otherwise legally marketed under the Federal Food, Drug and Cosmetic Act for use as tobacco use cessation therapies or aids;

"(B) may, to encourage innovation and experimentation with new methodologies, provide for or may include a targeted pilot program with an evaluation component;

"(C) shall provide for training in tobacco use cessation intervention methods for health plans and health professionals, including physicians, nurses, dentists, health educators, public health professionals, and other health care providers;

"(D) shall ensure access to tobacco use cessation programs for rural and underserved populations;

"(E) shall recognize that some individuals may require more than one attempt for successful cessation; and

"(F) shall be tailored to the needs of specific populations, including minority populations; and

"(2) with respect to State and community-based prevention activities described in section 1981C(c), shall specify the activities authorized under such section that the State intends to carry out.

"(c) CERTIFICATION.—The certification referred to in subsection (a)(3) shall be consistent with the certification required under section 1905(c), except that

"(1) the State shall agree to expend payments under section 1981A(c) only for the activities authorized in section 1981C;

"(2) paragraphs (9) and (10) of such section shall not apply; and

"(3) the State is encouraged to establish an advisory committee in accordance with section 1981E.

"(d) REPORTS, DATA, AND AUDITS.—The provisions of section 1906 shall apply with respect to a State that receives payments under section 1981A(c) and be applied in a manner consistent with the manner in which such provisions are applied to a State under part, except that the data sets referred to in section 1905(a)(2) shall be developed for uniformly defining levels of youth and adult use of tobacco products, including uniform data for racial and ethnic groups, for use in the reports required under this subpart.

"(e) WITHHOLDING.—The provisions of 1907 shall apply with respect to a State that receives payments under section 1981A(c) and be applied in a manner consistent with the manner in which such provisions are applied to a State under part A.

"(f) NONDISCRIMINATION.—The provisions of 1908 shall apply with respect to a State that receives payments under section 1981A(c) and be applied in a manner consistent with the manner in which such provisions are applied to a State under part A.

"(g) CRIMINAL PENALTIES.—The provisions of 1909 shall apply with respect to a State that receives payments under section 1981A(c) and be applied in a manner consistent with the manner in which such provisions are applied to a State under part A.

"SEC. 1981E. STATE ADVISORY COMMITTEE.

"(a) IN GENERAL.—For purposes of sections 1981D(c)(3), an advisory committee is in accordance with this section if such committee meets the conditions described in this subsection.

"(b) DUTIES.—The recommended duties of the committee are—

"(1) to hold public hearings on the State plans required under sections 1981D; and

"(2) to make recommendations under this subpart regarding the development and implementation of such plans, including recommendations on—

"(A) the conduct of assessments under the plans;

"(B) which of the activities authorized in section 1981C should be carried out in the State;

"(C) the allocation of payments made to the State under section 1981A(c);

"(D) the coordination of activities carried out under such plans with relevant programs of other entities; and

"(E) the collection and reporting of data in accordance with section 1981D.

"(c) COMPOSITION.—

"(1) IN GENERAL.—The recommended composition of the advisory committee is members of the general public, such officials of the health departments of political subdivisions of the State, public health professionals, teenagers, minorities, and such experts in tobacco product research as may be necessary to provide adequate representation of the general public and of such health departments, and that members of the committee shall be subject to the provisions of sections 201, 202, and 203 of title 18, United States Code.

"(2) REPRESENTATIVES.—With respect to compliance with paragraph (1), the membership of the advisory committee may include representatives of community-based organizations (including minority community-based organizations), schools of public health, and entities to which the State involved awards grants or contracts to carry out activities authorized under section 1981C.

"SUBPART II—TOBACCO-FREE COUNTER-ADVERTISING PROGRAMS

"SEC. 1982. FEDERAL-STATE COUNTER-ADVERTISING PROGRAMS.

"(a) NATIONAL CAMPAIGN.—

"(1) IN GENERAL.—The Secretary shall conduct a national campaign to reduce tobacco usage through media-based (such as counter-advertising campaigns) and nonmedia-based education, prevention and cessation campaigns designed to discourage the use of tobacco products by individuals, to encourage those who use such products to quit, and to

educate the public about the hazards of exposure to environmental tobacco smoke.

"(2) REQUIREMENTS.—The national campaign under paragraph (1) shall—

"(A) target those populations that have been targeted by tobacco industry advertising using culturally and linguistically appropriate means;

"(B) include a research and evaluation component; and

"(C) be designed in a manner that permits the campaign to be modified for use at the State or local level.

"(b) ESTABLISHMENT OF AN ADVISORY BOARD.—

"(1) IN GENERAL.—The Secretary shall establish a board to be known as the 'National Tobacco Free Education Advisory Board' (referred to in this section as the 'Board') to evaluate and provide long range planning for the development and effective dissemination of public informational and educational campaigns and other activities that are part of the campaign under subsection (a).

"(2) COMPOSITION.—The Board shall be composed of—

"(A) 9 non-Federal members to be appointed by the President, after consultation and agreement with the Majority and Minority Leaders of the Senate and the Speaker and Minority Leader of the House of Representatives, of which—

"(i) at least 3 such members shall be individuals who are widely recognized by the general public for cultural, educational, behavioral science or medical achievement;

"(ii) at least 3 of whom shall be individuals who hold positions of leadership in major public health organizations, including minority public health organizations; and

"(iii) at least 3 of whom shall be individuals recognized as experts in the field of advertising and marketing, of which—

"(I) 1 member shall have specific expertise in advertising and marketing to children and teens; and

"(II) 1 member shall have expertise in marketing research and evaluation; and

"(B) the Surgeon General, the Director of the Centers for Disease Control and Prevention, or their designees, shall serve as an ex officio members of the Board.

"(3) TERMS AND VACANCIES.—The members of the Board shall serve for a term of 3 years. Such terms shall be staggered as determined appropriate at the time of appointment by the Secretary. Any vacancy in the Board shall not affect its powers, but shall be filled in the same manner as the original appointment.

"(4) TRAVEL EXPENSES.—The members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.

"(5) AWARDS.—In carrying out subsection (a), the Secretary may—

"(A) enter into contracts with or award grants to eligible entities to develop messages and campaigns designed to prevent and reduce the use of tobacco products that are based on effective strategies to affect behavioral changes in children and other targeted populations, including minority populations;

"(B) enter into contracts with or award grants to eligible entities to carry out public informational and educational activities designed to reduce the use of tobacco products;

"(6) POWERS AND DUTIES.—The Board may—

"(A) hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Board considers advisable to carry out the purposes of this section; and

"(B) secure directly from any Federal department or agency such information as the Board considers necessary to carry out the provisions of this section.

"(c) ELIGIBILITY.—To be eligible to receive funding under this section an entity shall—

"(1) be a—

"(A) public entity or a State health department; or

"(B) private or nonprofit private entity that—

"(i)(I) is not affiliated with a tobacco product manufacturer or importer;

"(II) has a demonstrated record of working effectively to reduce tobacco product use; or

"(III) has expertise in conducting a multimedia communications campaign; and

"(ii) has expertise in developing strategies that affect behavioral changes in children and other targeted populations, including minority populations;

"(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a description of the activities to be conducted using amounts received under the grant or contract;

"(3) provide assurances that amounts received under this section will be used in accordance with subsection (c); and

"(4) meet any other requirements determined appropriate by the Secretary.

"(d) USE OF FUNDS.—An entity that receives funds under this section shall use amounts provided under the grant or contract to conduct multi-media and non-media public educational, informational, marketing and promotional campaigns that are designed to discourage and de-glamorize the use of tobacco products, encourage those using such products to quit, and educate the public about the hazards of exposure to environmental tobacco smoke. Such amounts may be used to design and implement such activities and shall be used to conduct research concerning the effectiveness of such programs.

"(e) NEEDS OF CERTAIN POPULATIONS.—In awarding grants and contracts under this section, the Secretary shall take into consideration the needs of particular populations, including minority populations, and use methods that are culturally and linguistically appropriate.

"(f) COORDINATION.—The Secretary shall ensure that programs and activities under this section are coordinated with programs and activities carried out under this title.

"(g) ALLOCATION OF FUNDS.—Not to exceed—

"(1) 25 percent of the amount made available under subsection (h) for each fiscal year shall be provided to States for State and local media-based and nonmedia-based education, prevention and cessation campaigns;

"(2) no more than 20 percent of the amount made available under subsection (h) for each fiscal year shall be used specifically for the development of new messages and campaigns;

"(3) the remainder shall be used specifically to place media messages and carry out other dissemination activities described in subsection (d); and

"(4) half of 1 percent for administrative costs and expenses.

"(h) TRIGGER.—No expenditures shall be made under this section during any fiscal year in which the annual amount appropriated for the Centers for Disease Control and Prevention is less than the amount so appropriated for the prior fiscal year.".

"PART E—REDUCING YOUTH SMOKING AND TOBACCO-RELATED DISEASES THROUGH RESEARCH

"SEC. 1991. FUNDING FROM TOBACCO SETTLEMENT TRUST FUND.

No expenditures shall be made under sections 451(b) or (c)—

"(1) for the National Institutes of Health during any fiscal year in which the annual amount appropriated for such Institutes is less than the amount so appropriated for the prior fiscal year;

"(2) for the Centers for Disease Control and Prevention during any fiscal year in which the annual amount appropriated for such Centers is less than the amount so appropriated for the prior fiscal year; or

"(3) for the Agency for Health Care Policy and Research during any fiscal year in which the annual amount appropriated for such Agency is less than the amount so appropriated for the prior fiscal year.

"SEC. 1991A. STUDY BY THE INSTITUTE OF MEDICINE.

"(a) CONTRACT.—Not later than 60 days after the date of enactment of this title, the Secretary shall enter into a contract with the Institute of Medicine for the conduct of a study on the framework for a research agenda and research priorities to be used under this part.

"(b) CONSIDERATIONS.—

"(1) IN GENERAL.—In developing the framework for the research agenda and research priorities under subsection (a) the Institute of Medicine shall focus on increasing knowledge concerning the biological, social, behavioral, public health, and community factors involved in the prevention of tobacco use, reduction of tobacco use, and health consequences of tobacco use.

"(2) SPECIFIC CONSIDERATIONS.—In the study conducted under subsection (a), the Institute of Medicine shall specifically include research on—

"(A) public health and community research relating to tobacco use prevention methods, including public education, media, community strategies;

"(B) behavioral research relating to addiction, tobacco use, and patterns of smoking, including risk factors for tobacco use by children, women, and racial and ethnic minorities;

"(C) health services research relating to tobacco product prevention and cessation treatment methodologies;

"(D) surveillance and epidemiology research relating to tobacco;

"(E) biomedical, including clinical, research relating to prevention and treatment of tobacco-related diseases, including a focus on minorities, including racial and ethnic minorities;

"(F) the effects of tobacco products, ingredients of tobacco products, and tobacco smoke on the human body and methods of reducing any negative effects, including the development of non-addictive, reduced risk tobacco products;

"(G) differentials between brands of tobacco products with respect to health effects or addiction;

"(H) risks associated with environmental exposure to tobacco smoke, including a focus on children and infants;

"(I) effects of tobacco use by pregnant women; and

"(J) other matters determined appropriate by the Institute.

"(c) REPORT.—Not later than 10 months after the date on which the Secretary enters

into the contract under subsection (a), the Institute of Medicine shall prepare and submit to the Secretary, the Committee on Labor and Human Resources, and the Committee on Appropriations of the Senate, and the Committee on Commerce of the House of Representatives, a report that shall contain the findings and recommendations of the Institute for the purposes described in subsection (b).

"SEC. 1991B. RESEARCH COORDINATION.

"(a) IN GENERAL.—The Secretary shall foster coordination among Federal research agencies, public health agencies, academic bodies, and community groups that conduct or support tobacco-related biomedical, clinical, behavioral, health services, public health and community, and surveillance and epidemiology research activities.

"(b) REPORT.—The Secretary shall prepare and submit a report on a biennial basis to the Committee on Labor and Human Resources, and the Committee on Appropriations of the Senate, and the Committee on Commerce of the House of Representatives on the current and planned tobacco-related research activities of participating Federal agencies.

"SEC. 1991C. RESEARCH ACTIVITIES OF THE CENTERS FOR DISEASE CONTROL AND PREVENTION.

"(a) DUTIES.—The Director of the Centers for Disease Control and Prevention shall, from amounts provided under section 451(c), and after review of the study of the Institute of Medicine, carry out tobacco-related surveillance and epidemiologic studies and develop tobacco control and prevention strategies; and

"(b) YOUTH SURVEILLANCE SYSTEMS.—From amounts provided under section 451(b), the Director of the Centers for Disease Control and Prevention shall provide for the use of youth surveillance systems to monitor the use of all tobacco products by individuals under the age of 18, including brands-used to enable determinations to be made of company-specific youth market share.

"SEC. 1991D. RESEARCH ACTIVITIES OF THE NATIONAL INSTITUTES OF HEALTH.

"(a) FUNDING.—There are authorized to be appropriated, from amounts in the National Tobacco Settlement Trust Fund established by section 401 of the National Tobacco Policy and Youth Smoking Reduction Act.

"(b) EXPENDITURE OF FUNDS.—The Director of the National Institutes of Health shall provide funds to conduct or support epidemiological, behavioral, biomedical, and social science research, including research related to the prevention and treatment of tobacco addiction, and the prevention and treatment of diseases associated with tobacco use.

"(c) GUARANTEED MINIMUM.—Of the funds made available to the National Institutes of Health under this section, such sums as may be necessary, may be used to support epidemiological, behavioral, and social science research related to the prevention and treatment of tobacco addiction.

"(d) NATURE OF RESEARCH.—Funds made available under subsection (d) may be used to conduct or support research with respect to one or more of the following—

"(1) the epidemiology of tobacco use;

"(2) the etiology of tobacco use;

"(3) risk factors for tobacco use by children;

"(4) prevention of tobacco use by children, including school and community-based programs, and alternative activities;

"(5) the relationship between tobacco use, alcohol abuse and illicit drug abuse;

"(6) behavioral and pharmacological smoking cessation methods and technologies, including relapse prevention;

"(7) the toxicity of tobacco products and their ingredients;

"(8) the relative harmfulness of different tobacco products;

"(9) environmental exposure to tobacco smoke;

"(10) the impact of tobacco use by pregnant women on their fetuses;

"(11) the redesign of tobacco products to reduce risks to public health and safety; and

"(12) other appropriate epidemiological, behavioral, and social science research.

"(e) COORDINATION.—In carrying out tobacco-related research under this section, the Director of the National Institutes of Health shall ensure appropriate coordination with the research of other agencies, and shall avoid duplicative efforts through all appropriate means.

"(h) ADMINISTRATION.—The director of the NIH Office of Behavioral and Social Sciences Research may—

"(1) identify tobacco-related research initiatives that should be conducted or supported by the research institutes, and develop such projects in cooperation with such institutes;

"(2) coordinate tobacco-related research that is conducted or supported by the National Institutes of Health;

"(3) annually recommend to Congress the allocation of anti-tobacco research funds among the national research institutes; and

"(4) establish a clearinghouse for information about tobacco-related research conducted by governmental and non-governmental bodies.

"(f) TRIGGER.—No expenditure shall be made under subsection (a) during any fiscal year in which the annual amount appropriated for the National Institutes of Health is less than the amount so appropriated for the prior fiscal year.

"(g) REPORT.—The Director of the NIH shall every 2 years prepare and submit to the Congress a report ——— research activities, including funding levels, for research made available under subsection (c).

(b) MEDICAID COVERAGE OF OUTPATIENT SMOKING CESSATION AGENTS.—Paragraph (2) of section 1927(d) of the Public Health Service Act (42 U.S.C. 1396r-8(d)) is amended—

(1) by striking subparagraph (E) and redesignating subparagraphs (F) through (J) as subparagraphs (E) through (I); and

(2) by striking "drugs." in subparagraph (F), as redesignated, and inserting "drugs, except agents, approved by the Food and Drug Administration, when used to promote smoking cessation.".

"SEC. 1991E. RESEARCH ACTIVITIES OF THE AGENCY FOR HEALTH CARE POLICY AND RESEARCH.

"(a) IN GENERAL.—The Administrator of the Agency for Health Care Policy and Research shall carry out outcomes, effectiveness, cost-effectiveness, and other health services research related to effective interventions for the prevention and cessation of tobacco use and appropriate strategies for implementing those services, the outcomes and delivery of care for diseases related to tobacco use, and the development of quality measures for evaluating the provision of those services.

"(b) ANALYSES AND SPECIAL PROGRAMS.—The Secretary, acting through the Administrator of the Agency for Health Care Policy and Research, shall support—

"(1) and conduct periodic analyses and evaluations of the best scientific information in the area of smoking and other tobacco product use cessation; and

"(2) the development and dissemination of special programs in cessation intervention for health plans and national health professional societies.".

TITLE III—TOBACCO PRODUCT WARNINGS AND SMOKE CONSTITUENT DISCLOSURE

Subtitle A—Product Warnings, Labeling and Packaging

SEC. 301. CIGARETTE LABEL AND ADVERTISING WARNINGS.

(a) IN GENERAL.—Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333) is amended to read as follows:

"SEC. 4. LABELING.

"(a) LABEL REQUIREMENTS.—

"(1) IN GENERAL.—It shall be unlawful for any person to manufacture, package, or import for sale or distribution within the United States any cigarettes the package of which fails to bear, in accordance with the requirements of this section, one of the following labels:

"WARNING: Cigarettes are addictive"

"WARNING: Tobacco smoke can harm your children"

"WARNING: Cigarettes cause fatal lung disease"

"WARNING: Cigarettes cause cancer"

"WARNING: Cigarettes cause strokes and heart disease"

"WARNING: Smoking during pregnancy can harm your baby"

"WARNING: Smoking can kill you"

"WARNING: Tobacco smoke causes fatal lung disease in non-smokers"

"WARNING: Quitting smoking now greatly reduces serious risks to your health"

"(2) PLACEMENT; TYPOGRAPHY; ETC.—

"(A) IN GENERAL.—Each label statement required by paragraph (1) shall be located in the upper portion of the front and rear panels of the package, directly on the package underneath the cellophane or other clear wrapping. Except as provided in subparagraph (B), each label statement shall comprise at least the top 25 percent of the front and rear panels of the package. The word "WARNING" shall appear in capital letters and all text shall be in conspicuous and legible 17-point type, unless the text of the label statement would occupy more than 70 percent of such area, in which case the text may be in a smaller conspicuous and legible type size, provided that at least 60 percent of such area is occupied by required text. The text shall be black on a white background, or white on a black background, in a manner that contrasts, by typography, layout, or color, with all other printed material on the package, in an alternating fashion under the plan submitted under subsection (b)(4).

"(B) FLIP-TOP BOXES.—For any cigarette brand package manufactured or distributed before January 1, 2000, which employs a flip-top style (if such packaging was used for that brand in commerce prior to June 21, 1997), the label statement required by paragraph (1) shall be located on the flip-top area of the package, even if such area is less than 25 percent of the area of the front panel. Except as provided in this paragraph, the provisions of this subsection shall apply to such packages.

"(3) DOES NOT APPLY TO FOREIGN DISTRIBUTION.—The provisions of this subsection do not apply to a tobacco product manufacturer or distributor of cigarettes which does not manufacture, package, or import cigarettes for sale or distribution within the United States.

"(b) ADVERTISING REQUIREMENTS.—

"(1) IN GENERAL.—It shall be unlawful for any tobacco product manufacturer, importer, distributor, or retailer of cigarettes to advertise or cause to be advertised within the United States any cigarette unless its advertising bears, in accordance with the requirements of this section, one of the labels specified in subsection (a) of this section.

"(2) TYPOGRAPHY, ETC.—Each label statement required by subsection (a) of this section in cigarette advertising shall comply with the standards set forth in this paragraph. For press and poster advertisements, each such statement and (where applicable) any required statement relating to tar, nicotine, or other constituent yield shall comprise at least 20 percent of the area of the advertisement and shall appear in a conspicuous and prominent format and location at the top of each advertisement within the trim area. The Secretary may revise the required type sizes in such area in such manner as the Secretary determines appropriate. The word "WARNING" shall appear in capital letters, and each label statement shall appear in conspicuous and legible type. The text of the label statement shall be black if the background is white and white if the background is black, under the plan submitted under paragraph (4) of this subsection. The label statements shall be enclosed by a rectangular border that is the same color as the letters of the statements and that is the width of the first downstroke of the capital "W" of the word "WARNING" in the label statements. The text of such label statements shall be in a typeface pro rata to the following requirements: 45-point type for a whole-page broadsheet newspaper advertisement; 39-point type for a half-page broadsheet newspaper advertisement; 39-point type for a whole-page tabloid newspaper advertisement; 27-point type for a half-page tabloid newspaper advertisement; 31.5-point type for a double page spread magazine or whole-page magazine advertisement; 22.5-point type for a 28 centimeter by 3 column advertisement; and 15-point type for a 20 centimeter by 2 column advertisement. The label statements shall be in English, except that in the case of—

"(A) an advertisement that appears in a newspaper, magazine, periodical, or other publication that is not in English, the statements shall appear in the predominant language of the publication; and

"(B) in the case of any other advertisement that is not in English, the statements shall appear in the same language as that principally used in the advertisement.

"(3) ADJUSTMENT BY SECRETARY.—The Secretary may, through a rulemaking under section 553 of title 5, United States Code, adjust the format and type sizes for the label statements required by this section or the text, format, and type sizes of any required tar, nicotine yield, or other constituent disclosures, or to establish the text, format, and type sizes for any other disclosures required under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et. seq.). The text of any such label statements or disclosures shall be required to appear only within the 20 percent area of cigarette advertisements provided by paragraph (2) of this subsection. The Secretary shall promulgate regulations which provide for adjustments in the format and type sizes of any text required to appear in such area to ensure that the total text required to appear by law will fit within such area.

"(4) MARKETING REQUIREMENTS.—

"(A) The label statements specified in subsection (a)(1) shall be randomly displayed in each 12-month period, in as equal a number of times as is possible on each brand of the product and be randomly distributed in all areas of the United States in which the product is marketed in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer and approved by the Secretary.

"(B) The label statements specified in subsection (a)(1) shall be rotated quarterly in alternating sequence in advertisements for each brand of cigarettes in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer to, and approved by, the Secretary.

"(C) The Secretary shall review each plan submitted under subparagraph (B) and approve it if the plan—

"(i) will provide for the equal distribution and display on packaging and the rotation required in advertising under this subsection; and

"(ii) assures that all of the labels required under this section will be displayed by the tobacco product manufacturer, importer, distributor, or retailer at the same time.".

(b) REPEAL OF PROHIBITION ON STATE RESTRICTION.—Section 5 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1334) is amended—

(1) by striking "(a) ADDITIONAL STATEMENTS.—" IN SUBSECTION (A); AND

(2) by striking subsection (b).

SEC. 302. AUTHORITY TO REVISE CIGARETTE WARNING LABEL STATEMENTS.

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

"(c) CHANGE IN REQUIRED 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. 303. SMOKELESS TOBACCO LABELS AND ADVERTISING WARNINGS.

Section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402) is amended to read as follows:

"SEC. 3. SMOKELESS TOBACCO WARNING.

"(a) GENERAL RULE.—

"(1) It shall be unlawful for any person to manufacture, package, or import for sale or distribution within the United States any smokeless tobacco product unless the product package bears, in accordance with the requirements of this Act, one of the following labels:

"WARNING: This product can cause mouth cancer"

"WARNING: This product can cause gum disease and tooth loss"

"WARNING: This product is not a safe alternative to cigarettes"

"WARNING: Smokeless tobacco is addictive"

"(2) Each label statement required by paragraph (1) shall be—

"(A) located on the 2 principal display panels of the package, and each label statement shall comprise at least 25 percent of each such display panel; and

"(B) in 17-point conspicuous and legible type and in black text on a white background, or white text on a black background, in a manner that contrasts by typography, layout, or color, with all other printed material on the package, in an alternating fashion under the plan submitted under subsection (b)(3), except that if the text of a label statement would occupy more than 70 percent of the area specified by subparagraph (A), such text may appear in a smaller type size, so long as at least 60 percent of such warning area is occupied by the label statement.

"(3) The label statements required by paragraph (1) shall be introduced by each tobacco product manufacturer, packager, importer, distributor, or retailer of smokeless tobacco products concurrently into the distribution chain of such products.

"(4) The provisions of this subsection do not apply to a tobacco product manufacturer or distributor of any smokeless tobacco product that does not manufacture, package, or import smokeless tobacco products for sale or distribution within the United States.

"(b) REQUIRED LABELS.—

"(1) It shall be unlawful for any tobacco product manufacturer, packager, importer, distributor, or retailer of smokeless tobacco products to advertise or cause to be advertised within the United States any smokeless tobacco product unless its advertising bears, in accordance with the requirements of this section, one of the labels specified in subsection (a).

"(2) Each label statement required by subsection (a) in smokeless tobacco advertising shall comply with the standards set forth in this paragraph. For press and poster advertisements, each such statement and (where applicable) any required statement relating to tar, nicotine, or other constituent yield shall—

"(A) comprise at least 20 percent of the area of the advertisement, and the warning area shall be delineated by a dividing line of contrasting color from the advertisement; and

"(B) the word "WARNING" shall appear in capital letters and each label statement shall appear in conspicuous and legible type. The text of the label statement shall be black on a white background, or white on a black background, in an alternating fashion under the plan submitted under paragraph (3).

"(3)(A) The label statements specified in subsection (a)(1) shall be randomly displayed in each 12-month period, in as equal a number of times as is possible on each brand of the product and be randomly distributed in all areas of the United States in which the product is marketed in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer and approved by the Secretary.

"(B) The label statements specified in subsection (a)(1) shall be rotated quarterly in alternating sequence in advertisements for each brand of smokeless tobacco product in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer to, and approved by, the Secretary.

"(C) The Secretary shall review each plan submitted under subparagraph (B) and approve it if the plan—

"(i) will provide for the equal distribution and display on packaging and the rotation required in advertising under this subsection; and

"(ii) assures that all of the labels required under this section will be displayed by the 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—$7,200,000,000.
(2) year 2—$7,700,000,000.
(3) year 3—$8,850,000,000.
(4) year 4—$10,700,000,000.
(5) year 5—$11,800,000,000.

AMENDMENT NO. 2618

Strike all beginning with page 25, line 1, and insert the following:

TITLE I—REGULATION OF THE TOBACCO INDUSTRY

SEC. 101. AMENDMENT OF FEDERAL FOOD, DRUG, AND COSMETIC ACT OF 1938.

(a) DEFINITION OF TOBACCO PRODUCTS.—Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) is amended by adding at the end the following:

"(kk) The term 'tobacco product' means any product made or derived from tobacco that is intended for human consumption, including any component, part, or accessory of a tobacco product (except for raw materials other than tobacco used in manufacturing a component, part, or accessory of a tobacco product).".

(b) FDA AUTHORITY OVER TOBACCO PRODUCTS.—The Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) is amended—

(1) by redesignating chapter IX as chapter X;

(2) by redesignating sections 901 through 907 as sections 1001 through 1007; and

(3) by inserting after section 803 the following:

"CHAPTER IX—TOBACCO PRODUCTS

"SEC. 901. FDA AUTHORITY OVER TOBACCO PRODUCTS

"(a) IN GENERAL.—Tobacco products shall be regulated by the Secretary under this chapter and shall not be subject to the provisions of chapter V, unless—

"(1) such products are intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease (within the meaning of section 201(g)(1)(B) or section 201(h)(2)); or

"(2) a health claim is made for such products under section 201(g)(1)(C) or 201(h)(3).

"(b) APPLICABILITY.—This chapter shall apply to all tobacco products subject to the provisions of part 897 of title 21, Code of Federal Regulations, and to any other tobacco products that the Secretary by regulation deems to be subject to this chapter.

"(c) SCOPE.—

"(1) Nothing in this chapter, any policy issued or regulation promulgated thereunder, or the National Tobacco Policy and Youth Smoking Reduction Act, shall be construed to affect the Secretary's authority over, or the regulation of, products under this Act that are not tobacco products under chapter V of the Federal Food, Drug and Cosmetic Act or any other chapter of that Act.

"(2) The provisions of this chapter shall not apply to tobacco leaf that is not in the possession of the manufacturer, or to the producers of tobacco leaf, including tobacco growers, tobacco warehouses, and tobacco grower cooperatives, nor shall any employee of the Food and Drug Administration have any authority whatsoever to enter onto a farm owned by a producer of tobacco leaf without the written consent of such producer. Notwithstanding any other provision of this subparagraph, if a producer of tobacco leaf is also a tobacco product manufacturer or controlled by a tobacco product manufacturer, the producer shall be subject to this chapter in the producer's capacity as a manufacturer. Nothing in this chapter shall be construed to grant the Secretary authority to promulgate regulations on any matter that involves the production of tobacco leaf or a producer thereof, other than activities by a manufacturer affecting production. For purposes of the preceding sentence, the term 'controlled by' means a member of the same controlled group of corporations as that term is used in section 52(a) of the Internal Revenue Code of 1986, or under common control within the meaning of the regulations promulgated under section 52(b) of such Code.

"SEC. 902. ADULTERATED TOBACCO PRODUCTS.

"A tobacco product shall be deemed to be adulterated if—

"(1) it consists in whole or in part of any filthy, putrid, or decomposed substance, or is otherwise contaminated by any poisonous or deleterious substance that may render the product injurious to health;

"(2) it has been prepared, packed, or held under insanitary conditions whereby it may have been contaminated with filth, or whereby it may have been rendered injurious to health;

"(3) its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;

"(4) it is, or purports to be or is represented as, a tobacco product which is subject to a performance standard established under section 907 unless such tobacco product is in all respects in conformity with such standard;

"(5) it is required by section 910(a) to have premarket approval, is not exempt under section 906(f), and does not have an approved application in effect;

"(6) the methods used in, or the facilities or controls used for, its manufacture, packing or storage are not in conformity with applicable requirements under section 906(e)(1) or an applicable condition prescribed by an order under section 906(e)(2); or

"(7) it is a tobacco product for which an exemption has been granted under section 906(f) for investigational use and the person who was granted such exemption or any investigator who uses such tobacco product under such exemption fails to comply with a requirement prescribed by or under such section.

"SEC. 903. MISBRANDED TOBACCO PRODUCTS.

"(a) IN GENERAL.—A tobacco product shall be deemed to be misbranded—

"(1) if its labeling is false or misleading in any particular;

"(2) if in package form unless it bears a label containing—

"(A) the name and place of business of the tobacco product manufacturer, packer, or distributor; and

"(B) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count,

except that under subparagraph (B) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Secretary;

"(3) if any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements or designs in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

"(4) if it has an established name, unless its label bears, to the exclusion of any other nonproprietary name, its established name prominently printed in type as required by the Secretary by regulation;

"(5) if the Secretary has issued regulations requiring that its labeling bear adequate directions for use, or adequate warnings against use by children, that are necessary for the protection of users unless its labeling conforms in all respects to such regulations;

"(6) if it was manufactured, prepared, propagated, compounded, or processed in any State in an establishment not duly registered under section 905(b), if it was not included in a list required by section 905(i), if a notice or other information respecting it was not provided as required by such section or section 905(j), or if it does not bear such symbols from the uniform system for identification of tobacco products prescribed under section 905(e) as the Secretary by regulation requires;

"(7) if, in the case of any tobacco product distributed or offered for sale in any State—

"(A) its advertising is false or misleading in any particular; or

"(B) it is sold, distributed, or used in violation of regulations prescribed under section 906(d);

"(8) unless, in the case of any tobacco product distributed or offered for sale in any State, the manufacturer, packer, or distributor thereof includes in all advertisements and other descriptive printed matter issued or caused to be issued by the manufacturer, packer, or distributor with respect to that tobacco product—

"(A) a true statement of the tobacco product's established name as defined in paragraph (4) of this subsection, printed prominently; and

"(B) a brief statement of—

"(i) the uses of the tobacco product and relevant warnings, precautions, side effects, and contraindications; and

"(ii) in the case of specific tobacco products made subject to a finding by the Secretary after notice and opportunity for comment that such action is necessary to protect the public health, a full description of the components of such tobacco product or the formula showing quantitatively each ingredient of such tobacco product to the extent required in regulations which shall be issued by the Secretary after an opportunity for a hearing;

"(9) if it is a tobacco product subject to a performance standard established under section 907, unless it bears such labeling as may be prescribed in such performance standard; or

"(10) if there was a failure or refusal—

"(A) to comply with any requirement prescribed under section 904 or 908;

"(B) to furnish any material or information required by or under section 909; or

"(C) to comply with a requirement under section 912.

"(b) PRIOR APPROVAL OF STATEMENTS ON LABEL.—The Secretary may, by regulation, require prior approval of statements made on the label of a tobacco product. No regulation issued under this subsection may require prior approval by the Secretary of the content of any advertisement and no advertisement of a tobacco product, published after the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act shall, with respect to the matters specified in this section or covered by regulations issued hereunder, be subject to the provisions of sections 12 through 15 of the Federal Trade Commission Act (15 U.S.C. 52 through 55). This subsection does not apply to any printed matter which the Secretary determines to be labeling as defined in section 201(m).

"SEC. 904. SUBMISSION OF HEALTH INFORMATION TO THE SECRETARY.

"(a) REQUIREMENT.—Not later than 6 months after the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act, each tobacco product manufacturer or importer of tobacco products, or agents thereof, shall submit to the Secretary the following information:

"(1) A listing of all tobacco ingredients, substances and compounds that are, on such date, added by the manufacturer to the tobacco, paper, filter, or other component of each tobacco product by brand and by quantity in each brand and subbrand.

"(2) A description of the content, delivery, and form of nicotine in each tobacco product measured in milligrams of nicotine.

"(3) All documents (including underlying scientific information) relating to research activities, and research findings, conducted, supported, or possessed by the manufacturer (or agents thereof) on the health, behavioral, or physiologic effects of tobacco products, their constituents, ingredients, and components, and tobacco additives, described in paragraph (1).

"(4) All documents (including underlying scientific information) relating to research activities, and research findings, conducted, supported, or possessed by the manufacturer (or agents thereof) that relate to the issue of whether a reduction in risk to health from

tobacco products can occur upon the employment of technology available or known to the manufacturer.

"(5) All documents (including underlying scientific information) relating to marketing research involving the use of tobacco products.

An importer of a tobacco product not manufactured in the United States shall supply the information required of a tobacco product manufacturer under this subsection.

"(b) ANNUAL SUBMISSION.—A tobacco product manufacturer or importer that is required to submit information under subsection (a) shall update such information on an annual basis under a schedule determined by the Secretary.

"(c) TIME FOR SUBMISSION.—

"(1) NEW PRODUCTS.—At least 90 days prior to the delivery for introduction into interstate commerce of a tobacco product not on the market on the date of enactment of this chapter, the manufacturer of such product shall provide the information required under subsection (a) and such product shall be subject to the annual submission under subsection (b).

"(2) MODIFICATION OF EXISTING PRODUCTS.—If at any time a tobacco product manufacturer adds to its tobacco products a new tobacco additive, increases or decreases the quantity of an existing tobacco additive or the nicotine content, delivery, or form, or eliminates a tobacco additive from any tobacco product, the manufacturer shall within 60 days of such action so advise the Secretary in writing and reference such modification in submissions made under subsection (b).

"SEC. 905. ANNUAL REGISTRATION.

"(a) DEFINITIONS.—As used in this section—

"(1) the term 'manufacture, preparation, compounding, or processing' shall include repackaging or otherwise changing the container, wrapper, or labeling of any tobacco product package in furtherance of the distribution of the tobacco product from the original place of manufacture to the person who makes final delivery or sale to the ultimate consumer or user; and

"(2) the term 'name' shall include in the case of a partnership the name of each partner and, in the case of a corporation, the name of each corporate officer and director, and the State of incorporation.

"(b) REGISTRATION BY OWNERS AND OPERATORS.—On or before December 31 of each year every person who owns or operates any establishment in any State engaged in the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products shall register with the Secretary the name, places of business, and all such establishments of that person.

"(c) REGISTRATION OF NEW OWNERS AND OPERATORS.—Every person upon first engaging in the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products in any establishment owned or operated in any State by that person shall immediately register with the Secretary that person's name, place of business, and such establishment.

"(d) REGISTRATION OF ADDED ESTABLISHMENTS.—Every person required to register under subsection (b) or (c) shall immediately register with the Secretary any additional establishment which that person owns or operates in any State and in which that person begins the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products.

"(e) UNIFORM PRODUCT IDENTIFICATION SYSTEM.—The Secretary may by regulation prescribe a uniform system for the identification of tobacco products and may require that persons who are required to list such tobacco products under subsection (i) of this section shall list such tobacco products in accordance with such system.

"(f) PUBLIC ACCESS TO REGISTRATION INFORMATION.—The Secretary shall make available for inspection, to any person so requesting, any registration filed under this section.

"(g) BIENNIAL INSPECTION OF REGISTERED ESTABLISHMENTS.—Every establishment in any State registered with the Secretary under this section shall be subject to inspection under section 704, and every such establishment engaged in the manufacture, compounding, or processing of a tobacco product or tobacco products shall be so inspected by one or more officers or employees duly designated by the Secretary at least once in the 2-year period beginning with the date of registration of such establishment under this section and at least once in every successive 2-year period thereafter.

"(h) FOREIGN ESTABLISHMENTS MAY REGISTER.—Any establishment within any foreign country engaged in the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products, may register under this section under regulations promulgated by the Secretary. Such regulations shall require such establishment to provide the information required by subsection (i) of this section and shall include provisions for registration of any such establishment upon condition that adequate and effective means are available, by arrangement with the government of such foreign country or otherwise, to enable the Secretary to determine from time to time whether tobacco products manufactured, prepared, compounded, or processed in such establishment, if imported or offered for import into the United States, shall be refused admission on any of the grounds set forth in section 801(a).

"(i) REGISTRATION INFORMATION.—

"(1) PRODUCT LIST.—Every person who registers with the Secretary under subsection (b), (c), or (d) of this section shall, at the time of registration under any such subsection, file with the Secretary a list of all tobacco products which are being manufactured, prepared, compounded, or processed by that person for commercial distribution and which has not been included in any list of tobacco products filed by that person with the Secretary under this paragraph or paragraph (2) before such time of registration. Such list shall be prepared in such form and manner as the Secretary may prescribe and shall be accompanied by—

"(A) in the case of a tobacco product contained in the applicable list with respect to which a performance standard has been established under section 907 or which is subject to section 910, a reference to the authority for the marketing of such tobacco product and a copy of all labeling for such tobacco product;

"(B) in the case of any other tobacco product contained in an applicable list, a copy of all consumer information and other labeling for such tobacco product, a representative sampling of advertisements for such tobacco product, and, upon request made by the Secretary for good cause, a copy of all advertisements for a particular tobacco product; and

"(C) if the registrant filing a list has determined that a tobacco product contained in such list is not subject to a performance standard established under section 907, a brief statement of the basis upon which the registrant made such determination if the Secretary requests such a statement with respect to that particular tobacco product.

"(2) BIANNUAL REPORT OF ANY CHANGE IN PRODUCT LIST.—Each person who registers with the Secretary under this section shall report to the Secretary once during the month of June of each year and once during the month of December of each year the following:

"(A) A list of each tobacco product introduced by the registrant for commercial distribution which has not been included in any list previously filed by that person with the Secretary under this subparagraph or paragraph (1) of this subsection. A list under this subparagraph shall list a tobacco product by its established name and shall be accompanied by the other information required by paragraph (1).

"(B) If since the date the registrant last made a report under this paragraph that person has discontinued the manufacture, preparation, compounding, or processing for commercial distribution of a tobacco product included in a list filed under subparagraph (A) or paragraph (1), notice of such discontinuance, the date of such discontinuance, and the identity of its established name.

"(C) If since the date the registrant reported under subparagraph (B) a notice of discontinuance that person has resumed the manufacture, preparation, compounding, or processing for commercial distribution of the tobacco product with respect to which such notice of discontinuance was reported, notice of such resumption, the date of such resumption, the identity of such tobacco product by established name, and other information required by paragraph (1), unless the registrant has previously reported such resumption to the Secretary under this subparagraph.

"(D) Any material change in any information previously submitted under this paragraph or paragraph (1).

"(j) REPORT PRECEDING INTRODUCTION OF CERTAIN SUBSTANTIALLY-EQUIVALENT PRODUCTS INTO INTERSTATE COMMERCE.—

"(1) IN GENERAL.—Each person who is required to register under this section and who proposes to begin the introduction or delivery for introduction into interstate commerce for commercial distribution of a tobacco product intended for human use that was not commercially marketed (other than for test marketing) in the United States as of August 11, 1995, as defined by the Secretary by regulation shall, at least 90 days before making such introduction or delivery, report to the Secretary (in such form and manner as the Secretary shall by regulation prescribe)—

"(A) the basis for such person's determination that the tobacco product is substantially equivalent, within the meaning of section 910, to a tobacco product commercially marketed (other than for test marketing) in the United States as of August 11, 1995, that is in compliance with the requirements of this Act; and

"(B) action taken by such person to comply with the requirements under section 907 that are applicable to the tobacco product.

"(2) APPLICATION TO CERTAIN POST-AUGUST 11TH PRODUCTS.—A report under this subsection for a tobacco product that was first introduced or delivered for introduction into interstate commerce for commercial distribution in the United States after August 11, 1995, and before the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act shall be submitted to the Secretary within 6 months after the date of enactment of that Act.

"SEC. 906. GENERAL PROVISIONS RESPECTING CONTROL OF TOBACCO PRODUCTS.

"(a) IN GENERAL.—Any requirement established by or under section 902, 903, 905, or 909 applicable to a tobacco product shall apply to such tobacco product until the applicability of the requirement to the tobacco product has been changed by action taken under section 907, section 910, or subsection (d) of this section, and any requirement established by or under section 902, 903, 905, or 909 which is inconsistent with a requirement imposed on such tobacco product under section 907, section 910, or subsection (d) of this section shall not apply to such tobacco product.

"(b) INFORMATION ON PUBLIC ACCESS AND COMMENT.—Each notice of proposed rulemaking under section 907, 908, 909, or 910, or under this section, any other notice which is published in the Federal Register with respect to any other action taken under any such section and which states the reasons for such action, and each publication of findings required to be made in connection with rulemaking under any such section shall set forth—

"(1) the manner in which interested persons may examine data and other information on which the notice or findings is based; and

"(2) the period within which interested persons may present their comments on the notice or findings (including the need therefor) orally or in writing, which period shall be at least 60 days but may not exceed 90 days unless the time is extended by the Secretary by a notice published in the Federal Register stating good cause therefor.

"(c) LIMITED CONFIDENTIALITY OF INFORMATION.—Any information reported to or otherwise obtained by the Secretary or the Secretary's representative under section 904, 907, 908, 909, or 910 or 704, or under subsection (e) or (f) of this section, which is exempt from disclosure under subsection (a) of section 552 of title 5, United States Code, by reason of subsection (b)(4) of that section shall be considered confidential and shall not be disclosed, except that the information may be disclosed to other officers or employees concerned with carrying out this chapter, or when relevant in any proceeding under this chapter.

"(d) RESTRICTIONS.—

"(1) The Secretary may by regulation require that a tobacco product be restricted to sale, distribution, or use upon such conditions, including restrictions on the access to, and the advertising and promotion of, the tobacco product, as the Secretary may prescribe in such regulation if, because of its potentiality for harmful effect or the collateral measures necessary to its use, the Secretary determines that such regulation would be appropriate for the protection of the public health. The finding as to whether such regulation would be appropriate for the protection of the public health shall be determined with respect to the risks and benefits to the population as a whole, including users and non-users of the tobacco product, and taking into account—

"(A) the increased or decreased likelihood that existing users of tobacco products will stop using such products; and

"(B) the increased or decreased likelihood that those who do not use tobacco products will start using such products.

No such condition may require that the sale or distribution of a tobacco product be limited to the written or oral authorization of a practitioner licensed by law to prescribe medical products.

"(2) The label of a tobacco product shall bear such appropriate statements of the restrictions required by a regulation under subsection (a) as the Secretary may in such regulation prescribe.

"(3) No restriction under paragraph (1) may prohibit the sale of any tobacco product in face-to face transactions by a specific category of retail outlets.

"(e) GOOD MANUFACTURING PRACTICE REQUIREMENTS.—

"(1) METHODS, FACILITIES, AND CONTROLS TO CONFORM.—

"(A) The Secretary may, in accordance with subparagraph (B), prescribe regulations requiring that the methods used in, and the facilities and controls used for, the manufacture, pre-production design validation (including a process to assess the performance of a tobacco product), packing and storage of a tobacco product, conform to current good manufacturing practice, as prescribed in such regulations, to assure that the public health is protected and that the tobacco product is in compliance with this chapter.

"(B) The Secretary shall—

"(i) before promulgating any regulation under subparagraph (A), afford an advisory committee an opportunity to submit recommendations with respect to the regulation proposed to be promulgated;

"(ii) before promulgating any regulation under subparagraph (A), afford opportunity for an oral hearing;

"(iii) provide the advisory committee a reasonable time to make its recommendation with respect to proposed regulations under subparagraph (A); and

"(iv) in establishing the effective date of a regulation promulgated under this subsection, take into account the differences in the manner in which the different types of tobacco products have historically been produced, the financial resources of the different tobacco product manufacturers, and the state of their existing manufacturing facilities; and shall provide for a reasonable period of time for such manufacturers to conform to good manufacturing practices.

"(2) EXEMPTIONS; VARIANCES.—

"(A) Any person subject to any requirement prescribed under paragraph (1) may petition the Secretary for a permanent or temporary exemption or variance from such requirement. Such a petition shall be submitted to the Secretary in such form and manner as the Secretary shall prescribe and shall—

"(i) in the case of a petition for an exemption from a requirement, set forth the basis for the petitioner's determination that compliance with the requirement is not required to assure that the tobacco product will be in compliance with this chapter;

"(ii) in the case of a petition for a variance from a requirement, set forth the methods proposed to be used in, and the facilities and controls proposed to be used for, the manufacture, packing, and storage of the tobacco product in lieu of the methods, facilities, and controls prescribed by the requirement; and

"(iii) contain such other information as the Secretary shall prescribe.

"(B) The Secretary may refer to an advisory committee any petition submitted under subparagraph (A). The advisory committee shall report its recommendations to the Secretary with respect to a petition referred to it within 60 days after the date of the petition's referral. Within 60 days after—

"(i) the date the petition was submitted to the Secretary under subparagraph (A); or

"(ii) the day after the petition was referred to an advisory committee,

whichever occurs later, the Secretary shall by order either deny the petition or approve it.

"(C) The Secretary may approve—

"(i) a petition for an exemption for a tobacco product from a requirement if the Secretary determines that compliance with such requirement is not required to assure that the tobacco product will be in compliance with this chapter; and

"(ii) a petition for a variance for a tobacco product from a requirement if the Secretary determines that the methods to be used in, and the facilities and controls to be used for, the manufacture, packing, and storage of the tobacco product in lieu of the methods, controls, and facilities prescribed by the requirement are sufficient to assure that the tobacco product will be in compliance with this chapter.

"(D) An order of the Secretary approving a petition for a variance shall prescribe such conditions respecting the methods used in, and the facilities and controls used for, the manufacture, packing, and storage of the tobacco product to be granted the variance under the petition as may be necessary to assure that the tobacco product will be in compliance with this chapter.

"(E) After the issuance of an order under subparagraph (B) respecting a petition, the petitioner shall have an opportunity for an informal hearing on such order.

"(3) Compliance with requirements under this subsection shall not be required before the period ending 3 years after the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act.

"(f) EXEMPTION FOR INVESTIGATIONAL USE.—The Secretary may exempt tobacco products intended for investigational use from this chapter under such conditions as the Secretary may prescribe by regulation .

"(g) RESEARCH AND DEVELOPMENT.—The Secretary may enter into contracts for research, testing, and demonstrations respecting tobacco products and may obtain tobacco products for research, testing, and demonstration purposes without regard to section 3324(a) and (b) of title 31, United States Code, and section 5 of title 41, United States Code.

"SEC. 907. PERFORMANCE STANDARDS.

"(a) IN GENERAL.—

"(1) FINDING REQUIRED.—The Secretary may adopt performance standards for a tobacco product if the Secretary finds that a performance standard is appropriate for the protection of the public health. This finding shall be determined with respect to the risks and benefits to the population as a whole, including users and non-users of the tobacco product, and taking into account—

"(A) the increased or decreased likelihood that existing users of tobacco products will stop using such products; and

"(B) the increased or decreased likelihood that those who do not use tobacco products will start using such products.

"(2) CONTENT OF PERFORMANCE STANDARDS.—A performance standard established under this section for a tobacco product—

"(A) shall include provisions to provide performance that is appropriate for the protection of the public health, including provisions, where appropriate—

"(i) for the reduction or elimination of nicotine yields of the product;

"(ii) for the reduction or elimination of other constituents or harmful components of the product; or

"(iii) relating to any other requirement under (B);

"(B) shall, where necessary to be appropriate for the protection of the public health, include—

"(i) provisions respecting the construction, components, ingredients, and properties of the tobacco product;

"(ii) provisions for the testing (on a sample basis or, if necessary, on an individual basis) of the tobacco product;

"(iii) provisions for the measurement of the performance characteristics of the tobacco product;

"(iv) provisions requiring that the results of each or of certain of the tests of the tobacco product required to be made under clause (ii) show that the tobacco product is in conformity with the portions of the standard for which the test or tests were required; and

"(v) a provision requiring that the sale and distribution of the tobacco product be restricted but only to the extent that the sale and distribution of a tobacco product may be restricted under a regulation under section 906(d); and

"(C) shall, where appropriate, require the use and prescribe the form and content of labeling for the proper use of the tobacco product.

"(3) PERIODIC RE-EVALUATION OF PERFORMANCE STANDARDS.—The Secretary shall provide for periodic evaluation of performance standards established under this section to determine whether such standards should be changed to reflect new medical, scientific, or other technological data. The Secretary may provide for testing under paragraph (2) by any person.

"(4) INVOLVEMENT OF OTHER AGENCIES; INFORMED PERSONS.—In carrying out duties under this section, the Secretary shall, to the maximum extent practicable—

"(A) use personnel, facilities, and other technical support available in other Federal agencies;

"(B) consult with other Federal agencies concerned with standard-setting and other nationally or internationally recognized standard-setting entities; and

"(C) invite appropriate participation, through joint or other conferences, workshops, or other means, by informed persons representative of scientific, professional, industry, or consumer organizations who in the Secretary's judgment can make a significant contribution.

"(b) ESTABLISHMENT OF STANDARDS.—

"(1) NOTICE.—

(A) The Secretary shall publish in the Federal Register a notice of proposed rulemaking for the establishment, amendment, or revocation of any performance standard for a tobacco product.

"(B) A notice of proposed rulemaking for the establishment or amendment of a performance standard for a tobacco product shall—

"(i) set forth a finding with supporting justification that the performance standard is appropriate for the protection of the public health;

"(ii) set forth proposed findings with respect to the risk of illness or injury that the performance standard is intended to reduce or eliminate; and

"(iii) invite interested persons to submit an existing performance standard for the tobacco product, including a draft or proposed performance standard, for consideration by the Secretary.

"(C) A notice of proposed rulemaking for the revocation of a performance standard shall set forth a finding with supporting justification that the performance standard is no longer necessary to be appropriate for the protection of the public health.

"(D) The Secretary shall consider all information submitted in connection with a proposed standard, including information concerning the countervailing effects of the performance standard on the health of adolescent tobacco users, adult tobacco users, or non-tobacco users, such as the creation of a significant demand for contraband or other tobacco products that do not meet the requirements of this chapter and the significance of such demand, and shall issue the standard if the Secretary determines that the standard would be appropriate for the protection of the public health.

"(E) The Secretary shall provide for a comment period of not less than 60 days.

"(2) PROMULGATION.—

"(A) After the expiration of the period for comment on a notice of proposed rulemaking published under paragraph (1) respecting a performance standard and after consideration of such comments and any report from an advisory committee, the Secretary shall—

"(i) promulgate a regulation establishing a performance standard and publish in the Federal Register findings on the matters referred to in paragraph (1); or

"(ii) publish a notice terminating the proceeding for the development of the standard together with the reasons for such termination.

"(B) A regulation establishing a performance standard shall set forth the date or dates upon which the standard shall take effect, but no such regulation may take effect before one year after the date of its publication unless the Secretary determines that an earlier effective date is necessary for the protection of the public health. Such date or dates shall be established so as to minimize, consistent with the public health, economic loss to, and disruption or dislocation of, domestic and international trade.

"(3) SPECIAL RULE FOR STANDARD BANNING CLASS OF PRODUCT OR ELIMINATING NICOTINE CONTENT.—Because of the importance of a decision of the Secretary to issue a regulation establishing a performance standard—

"(A) eliminating all cigarettes, all smokeless tobacco products, or any similar class of tobacco products, or

"(B) requiring the reduction of nicotine yields of a tobacco product to zero,

it is appropriate for the Congress to have the opportunity to review such a decision. Therefore, any such standard may not take effect before a date that is 2 years after the President notifies the Congress that a final regulation imposing the restriction has been issued.

"(4) AMENDMENT; REVOCATION.—

"(A) The Secretary, upon the Secretary's own initiative or upon petition of an interested person may by a regulation, promulgated in accordance with the requirements of paragraphs (1) and (2)(B) of this subsection, amend or revoke a performance standard.

"(B) The Secretary may declare a proposed amendment of a performance standard to be effective on and after its publication in the Federal Register and until the effective date of any final action taken on such amendment if the Secretary determines that making it so effective is in the public interest.

"(5) REFERENCE TO ADVISORY COMMITTEE.—The Secretary—

"(A) may, on the Secretary's own initiative, refer a proposed regulation for the establishment, amendment, or revocation of a performance standard; or

"(B) shall, upon the request of an interested person which demonstrates good cause for referral and which is made before the expiration of the period for submission of comments on such proposed regulation,

refer such proposed regulation to an advisory committee, for a report and recommendation with respect to any matter involved in the proposed regulation which requires the exercise of scientific judgment. If a proposed regulation is referred under this subparagraph to the advisory committee, the Secretary shall provide the advisory committee with the data and information on which such proposed regulation is based. The advisory committee shall, within 60 days after the referral of a proposed regulation and after independent study of the data and information furnished to it by the Secretary and other data and information before it, submit to the Secretary a report and recommendation respecting such regulation, together with all underlying data and information and a statement of the reason or basis for the recommendation. A copy of such report and recommendation shall be made public by the Secretary.

"SEC. 908. NOTIFICATION AND OTHER REMEDIES.

"(a) NOTIFICATION.—If the Secretary determines that—

"(1) a tobacco product which is introduced or delivered for introduction into interstate commerce for commercial distribution presents an unreasonable risk of substantial harm to the public health; and

"(2) notification under this subsection is necessary to eliminate the unreasonable risk of such harm and no more practicable means is available under the provisions of this chapter (other than this section) to eliminate such risk,

the Secretary may issue such order as may be necessary to assure that adequate notification is provided in an appropriate form, by the persons and means best suited under the circumstances involved, to all persons who should properly receive such notification in order to eliminate such risk. The Secretary may order notification by any appropriate means, including public service announcements. Before issuing an order under this subsection, the Secretary shall consult with the persons who are to give notice under the order.

"(b) NO EXEMPTION FROM OTHER LIABILITY.—Compliance with an order issued under this section shall not relieve any person from liability under Federal or State law. In awarding damages for economic loss in an action brought for the enforcement of any such liability, the value to the plaintiff in such action of any remedy provided under such order shall be taken into account.

"(c) RECALL AUTHORITY.—

"(1) IN GENERAL.—If the Secretary finds that there is a reasonable probability that a tobacco product contains a manufacturing or other defect not ordinarily contained in tobacco products on the market that would cause serious, adverse health consequences or death, the Secretary shall issue an order requiring the appropriate person (including the manufacturers, importers, distributors, or retailers of the tobacco product) to immediately cease distribution of such tobacco product. The order shall provide the person subject to the order with an opportunity for an informal hearing, to be held not later than 10 days after the date of the issuance of the order, on the actions required by the order and on whether the order should be amended to require a recall of such tobacco product. If, after providing an opportunity for such a hearing, the Secretary determines that inadequate grounds exist to support the actions required by the order, the Secretary shall vacate the order.

"(2) AMENDMENT OF ORDER TO REQUIRE RECALL.—

"(A) If, after providing an opportunity for an informal hearing under paragraph (1), the Secretary determines that the order should be amended to include a recall of the tobacco product with respect to which the order was issued, the Secretary shall, except as provided in subparagraph (B), amend the order to require a recall. The Secretary shall specify a timetable in which the tobacco product recall will occur and shall require periodic reports to the Secretary describing the progress of the recall.

"(B) An amended order under subparagraph (A)—

"(i) shall not include recall of a tobacco product from individuals; and

"(ii) shall provide for notice to persons subject to the risks associated with the use of such tobacco product.

In providing the notice required by clause (ii), the Secretary may use the assistance of retailers and other persons who distributed such tobacco product. If a significant number of such persons cannot be identified, the Secretary shall notify such persons under section 705(b).

"(3) REMEDY NOT EXCLUSIVE.—The remedy provided by this subsection shall be in addition to remedies provided by subsection (a) of this section.

"SEC. 909. RECORDS AND REPORTS ON TOBACCO PRODUCTS.

"(a) IN GENERAL.—Every person who is a tobacco product manufacturer or importer of a tobacco product shall establish and maintain such records, make such reports, and provide such information, as the Secretary may by regulation reasonably require to assure that such tobacco product is not adulterated or misbranded and to otherwise protect public health. Regulations prescribed under the preceding sentence—

"(1) may require a tobacco product manufacturer or importer to report to the Secretary whenever the manufacturer or importer receives or otherwise becomes aware of information that reasonably suggests that one of its marketed tobacco products may have caused or contributed to a serious unexpected adverse experience associated with the use of the product or any significant increase in the frequency of a serious, expected adverse product experience;

"(2) shall require reporting of other significant adverse tobacco product experiences as determined by the Secretary to be necessary to be reported;

"(3) shall not impose requirements unduly burdensome to a tobacco product manufacturer or importer, taking into account the cost of complying with such requirements and the need for the protection of the public health and the implementation of this chapter;

"(4) when prescribing the procedure for making requests for reports or information, shall require that each request made under such regulations for submission of a report or information to the Secretary state the reason or purpose for such request and identify to the fullest extent practicable such report or information;

"(5) when requiring submission of a report or information to the Secretary, shall state the reason or purpose for the submission of such report or information and identify to the fullest extent practicable such report or information; and

"(6) may not require that the identity of any patient or user be disclosed in records, reports, or information required under this subsection unless required for the medical welfare of an individual, to determine risks to public health of a tobacco product, or to verify a record, report, or information submitted under this chapter.

In prescribing regulations under this subsection, the Secretary shall have due regard for the professional ethics of the medical profession and the interests of patients. The prohibitions of paragraph (6) of this subsection continue to apply to records, reports, and information concerning any individual who has been a patient, irrespective of whether or when he ceases to be a patient.

"(b) REPORTS OF REMOVALS AND CORRECTIONS.—

(1) Except as provided in paragraph (3), the Secretary shall by regulation require a tobacco product manufacturer or importer of a tobacco product to report promptly to the Secretary any corrective action taken or removal from the market of a tobacco product undertaken by such manufacturer or importer if the removal or correction was undertaken—

"(A) to reduce a risk to health posed by the tobacco product; or

"(B) to remedy a violation of this chapter caused by the tobacco product which may present a risk to health.

A tobacco product manufacturer or importer of a tobacco product who undertakes a corrective action or removal from the market of a tobacco product which is not required to be reported under this subsection shall keep a record of such correction or removal.

"(2) No report of the corrective action or removal of a tobacco product may be required under paragraph (1) if a report of the corrective action or removal is required and has been submitted under subsection (a) of this section.

"SEC. 910. PREMARKET REVIEW OF CERTAIN TOBACCO PRODUCTS.

"(a) IN GENERAL.—

"(1) PREMARKET APPROVAL REQUIRED.—

"(A) NEW PRODUCTS.—Approval under this section of an application for premarket approval for any tobacco product that is not commercially marketed (other than for test marketing) in the United States as of August 11, 1995, is required unless the manufacturer has submitted a report under section 905(j), and the Secretary has issued an order that the tobacco product is substantially equivalent to a tobacco product commercially marketed (other than for test marketing) in the United States as of August 11, 1995, that is in compliance with the requirements of this Act.

"(B) PRODUCTS INTRODUCED BETWEEN AUGUST 11, 1995, AND ENACTMENT OF THIS CHAPTER.—Subparagraph (A) does not apply to a tobacco product that—

"(i) was first introduced or delivered for introduction into interstate commerce for commercial distribution in the United States after August 11, 1995, and before the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act; and

"(ii) for which a report was submitted under section 905(j) within 6 months after such date,

until the Secretary issues an order that the tobacco product is substantially equivalent for purposes of this section or requires premarket approval.

"(2) SUBSTANTIALLY EQUIVALENT DEFINED.—

"(A) For purposes of this section and section 905(j), the term 'substantially equivalent' or 'substantial equivalence' mean, with respect to the tobacco product being compared to the predicate tobacco product, that the Secretary by order has found that the tobacco product—

"(i) has the same characteristics as the predicate tobacco product; or

"(ii) has different characteristics and the information submitted contains information, including clinical data if deemed necessary by the Secretary, that demonstrates that it is not appropriate to regulate the product under this section because the product does not raise different questions of public health.

"(B) For purposes of subparagraph (A), the term 'characteristics' means the materials, ingredients, design, composition, heating source, or other features of a tobacco product.

"(C) A tobacco product may not be found to be substantially equivalent to a predicate tobacco product that has been removed from the market at the initiative of the Secretary or that has been determined by a judicial order to be misbranded or adulterated.

"(3) HEALTH INFORMATION.—

"(A) As part of a submission under section 905(j) respecting a tobacco product, the person required to file a premarket notification under such section shall provide an adequate summary of any health information related to the tobacco product or state that such information will be made available upon request by any person.

"(B) Any summary under subparagraph (A) respecting a tobacco product shall contain detailed information regarding data concerning adverse health effects and shall be made available to the public by the Secretary within 30 days of the issuance of a determination that such tobacco product is substantially equivalent to another tobacco product.

"(b) APPLICATION.—

"(1) CONTENTS.—An application for premarket approval shall contain—

"(A) full reports of all information, published or known to or which should reasonably be known to the applicant, concerning investigations which have been made to show the health risks of such tobacco product and whether such tobacco product presents less risk than other tobacco products;

"(B) a full statement of the components, ingredients, and properties, and of the principle or principles of operation, of such tobacco product;

"(C) a full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and, when relevant, packing and installation of, such tobacco product;

"(D) an identifying reference to any performance standard under section 907 which would be applicable to any aspect of such tobacco product, and either adequate information to show that such aspect of such tobacco product fully meets such performance standard or adequate information to justify any deviation from such standard;

"(E) such samples of such tobacco product and of components thereof as the Secretary may reasonably require;

"(F) specimens of the labeling proposed to be used for such tobacco product; and

"(G) such other information relevant to the subject matter of the application as the Secretary may require.

"(2) REFERENCE TO ADVISORY COMMITTEE.—Upon receipt of an application meeting the requirements set forth in paragraph (1), the Secretary—

"(A) may, on the Secretary's own initiative; or

"(B) shall, upon the request of an applicant,

refer such application to an advisory committee and for submission (within such period as the Secretary may establish) of a report and recommendation respecting approval of the application, together with all underlying data and the reasons or basis for the recommendation.

"(c) ACTION ON APPLICATION.—

"(1) DEADLINE.—

"(A) As promptly as possible, but in no event later than 180 days after the receipt of an application under subsection (b) of this section, the Secretary, after considering the report and recommendation submitted under paragraph (2) of such subsection, shall—

"(i) issue an order approving the application if the Secretary finds that none of the grounds for denying approval specified in paragraph (2) of this subsection applies; or

"(ii) deny approval of the application if the Secretary finds (and sets forth the basis for such finding as part of or accompanying such denial) that one or more grounds for denial specified in paragraph (2) of this subsection apply.

"(B) An order approving an application for a tobacco product may require as a condition to such approval that the sale and distribution of the tobacco product be restricted but only to the extent that the sale and distribution of a tobacco product may be restricted under a regulation under section 906(d).

"(2) DENIAL OF APPROVAL.—The Secretary shall deny approval of an application for a tobacco product if, upon the basis of the information submitted to the Secretary as part of the application and any other information before the Secretary with respect to such tobacco product, the Secretary finds that—

"(A) there is a lack of a showing that permitting such tobacco product to be marketed would be appropriate for the protection of the public health;

"(B) the methods used in, or the facilities or controls used for, the manufacture, processing, or packing of such tobacco product do not conform to the requirements of section 906(e);

"(C) based on a fair evaluation of all material facts, the proposed labeling is false or misleading in any particular; or

"(D) such tobacco product is not shown to conform in all respects to a performance standard in effect under section 907, compliance with which is a condition to approval of the application, and there is a lack of adequate information to justify the deviation from such standard.

"(3) DENIAL INFORMATION.—Any denial of an application shall, insofar as the Secretary determines to be practicable, be accompanied by a statement informing the applicant of the measures required to place such application in approvable form (which measures may include further research by the applicant in accordance with one or more protocols prescribed by the Secretary).

"(4) BASIS FOR FINDING.—For purposes of this section, the finding as to whether approval of a tobacco product is appropriate for the protection of the public health shall be determined with respect to the risks and benefits to the population as a whole, including users and non-users of the tobacco product, and taking into account—

"(A) the increased or decreased likelihood that existing users of tobacco products will stop using such products; and

"(B) the increased or decreased likelihood that those who do not use tobacco products will start using such products.

"(5) BASIS FOR ACTION.—

"(A) For purposes of paragraph (2)(A), whether permitting a tobacco product to be marketed would be appropriate for the protection of the public health shall, when appropriate, be determined on the basis of well-controlled investigations, which may include one or more clinical investigations by experts qualified by training and experience to evaluate the tobacco product.

"(B) If the Secretary determines that there exists valid scientific evidence (other than evidence derived from investigations described in subparagraph (A)) which is sufficient to evaluate the tobacco product the Secretary may authorize that the determination for purposes of paragraph (2)(A) be made on the basis of such evidence.

"(d) WITHDRAWAL AND TEMPORARY SUSPENSION.—

"(1) IN GENERAL.—The Secretary shall, upon obtaining, where appropriate, advice on scientific matters from an advisory committee, and after due notice and opportunity for informal hearing to the holder of an approved application for a tobacco product, issue an order withdrawing approval of the application if the Secretary finds—

"(A) that the continued marketing of such tobacco product no longer is appropriate for the protection of the public health;

"(B) that the application contained or was accompanied by an untrue statement of a material fact;

"(C) that the applicant—

"(i) has failed to establish a system for maintaining records, or has repeatedly or deliberately failed to maintain records or to make reports, required by an applicable regulation under section 909;

"(ii) has refused to permit access to, or copying or verification of, such records as required by section 704; or

"(iii) has not complied with the requirements of section 905;

"(D) on the basis of new information before the Secretary with respect to such tobacco product, evaluated together with the evidence before the Secretary when the application was approved, that the methods used in, or the facilities and controls used for, the manufacture, processing, packing, or installation of such tobacco product do not conform with the requirements of section 906(e) and were not brought into conformity with such requirements within a reasonable time after receipt of written notice from the Secretary of nonconformity;

"(E) on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when the application was approved, that the labeling of such tobacco product, based on a fair evaluation of all material facts, is false or misleading in any particular and was not corrected within a reasonable time after receipt of written notice from the Secretary of such fact; or

"(F) on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when the application was approved, that such tobacco product is not shown to conform in all respects to a performance standard which is in effect under section 907, compliance with which was a condition to approval of the application, and that there is a lack of adequate information to justify the deviation from such standard.

"(2) APPEAL.—The holder of an application subject to an order issued under paragraph (1) withdrawing approval of the application may, by petition filed on or before the thirtieth day after the date upon which he receives notice of such withdrawal, obtain review thereof in accordance with subsection (e) of this section.

"(3) TEMPORARY SUSPENSION.—If, after providing an opportunity for an informal hearing, the Secretary determines there is reasonable probability that the continuation of distribution of a tobacco product under an approved application would cause serious, adverse health consequences or death, that is greater than ordinarily caused by tobacco products on the market, the Secretary shall by order temporarily suspend the approval of the application approved under this section. If the Secretary issues such an order, the Secretary shall proceed expeditiously under paragraph (1) to withdraw such application.

"(e) SERVICE OF ORDER.—An order issued by the Secretary under this section shall be served—

"(1) in person by any officer or employee of the department designated by the Secretary; or

"(2) by mailing the order by registered mail or certified mail addressed to the applicant at the applicant's last known address in the records of the Secretary.

"SEC. 911. JUDICIAL REVIEW.

"(a) IN GENERAL.—Not later than 30 days after—

"(1) the promulgation of a regulation under section 907 establishing, amending, or revoking a performance standard for a tobacco product; or

"(2) a denial of an application for approval under section 910(c),

any person adversely affected by such regulation or order may file a petition with the United States Court of Appeals for the District of Columbia or for the circuit wherein such person resides or has his principal place of business for judicial review of such regulation or order. A copy of the petition shall be transmitted by the clerk of the court to the Secretary or other officer designated by the Secretary for that purpose. The Secretary shall file in the court the record of the proceedings on which the Secretary based the Secretary's regulation or order and each record or order shall contain a statement of the reasons for its issuance and the basis, on the record, for its issuance. For purposes of this section, the term 'record' means all notices and other matter published in the Federal Register with respect to the regulation or order reviewed, all information submitted to the Secretary with respect to such regulation or order, proceedings of any panel or advisory committee with respect to such regulation or order, any hearing held with respect to such regulation or order, and any other information identified by the Secretary, in the administrative proceeding held with respect to such regulation or order, as being relevant to such regulation or order.

"(b) COURT MAY ORDER SECRETARY TO MAKE ADDITIONAL FINDINGS.—If the petitioner applies to the court for leave to adduce additional data, views, or arguments respecting the regulation or order being reviewed and shows to the satisfaction of the court that such additional data, views, or arguments are material and that there were reasonable grounds for the petitioner's failure to adduce such data, views, or arguments in the proceedings before the Secretary, the court may order the Secretary to provide additional opportunity for the oral presentation of data, views, or arguments and for written submissions. The Secretary may modify the Secretary's findings, or make new findings by reason of the additional data, views, or arguments so taken and shall file with the court such modified or new findings, and the Secretary's recommendation, if any, for the modification or setting aside of the regulation or order being reviewed, with

the return of such additional data, views, or arguments.

"(c) STANDARD OF REVIEW.—Upon the filing of the petition under subsection (a) of this section for judicial review of a regulation or order, the court shall have jurisdiction to review the regulation or order in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief, including interim relief, as provided in such chapter. A regulation or order described in paragraph (1) or (2) of subsection (a) of this section shall not be affirmed if it is found to be unsupported by substantial evidence on the record taken as a whole.

"(d) FINALITY OF JUDGMENT.—The judgment of the court affirming or setting aside, in whole or in part, any regulation or order shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28, United States Code.

"(e) OTHER REMEDIES.—The remedies provided for in this section shall be in addition to and not in lieu of any other remedies provided by law.

"(f) REGULATIONS AND ORDERS MUST RECITE BASIS IN RECORD.—To facilitate judicial review under this section or under any other provision of law of a regulation or order issued under section 906, 907, 908, 909, 910, or 914, each such regulation or order shall contain a statement of the reasons for its issuance and the basis, in the record of the proceedings held in connection with its issuance, for its issuance.

"SEC. 912. POSTMARKET SURVEILLANCE

"(a) DISCRETIONARY SURVEILLANCE.—The Secretary may require a tobacco product manufacturer to conduct postmarket surveillance for a tobacco product of the manufacturer if the Secretary determines that postmarket surveillance of the tobacco product is necessary to protect the public health or is necessary to provide information regarding the health risks and other safety issues involving the tobacco product.

"(b) SURVEILLANCE APPROVAL.—Each tobacco product manufacturer required to conduct a surveillance of a tobacco product under subsection (a) of this section shall, within 30 days after receiving notice that the manufacturer is required to conduct such surveillance, submit, for the approval of the Secretary, a protocol for the required surveillance. The Secretary, within 60 days of the receipt of such protocol, shall determine if the principal investigator proposed to be used in the surveillance has sufficient qualifications and experience to conduct such surveillance and if such protocol will result in collection of useful data or other information necessary to protect the public health. The Secretary may not approve such a protocol until it has been reviewed by an appropriately qualified scientific and technical review committee established by the Secretary.

"SEC. 913. REDUCED RISK TOBACCO PRODUCTS.

"(a) REQUIREMENTS.—

"(1) IN GENERAL.—For purposes of this section, the term 'reduced risk tobacco product' means a tobacco product designated by the Secretary under paragraph (2).

"(2) DESIGNATION.—

"(A) IN GENERAL.—A product may be designated by the Secretary as a reduced risk tobacco product if the Secretary finds that the product will significantly reduce harm to individuals caused by a tobacco product and is otherwise appropriate to protect public health, based on an application submitted by the manufacturer of the product (or other responsible person) that—

"(i) demonstrates through testing on animals and short-term human testing that use of such product results in ingestion or inhalation of a substantially lower yield of toxic substances than use of conventional tobacco products in the same category as the proposed reduced risk product; and

"(ii) if required by the Secretary, includes studies of the long-term health effects of the product.

If such studies are required, the manufacturer may consult with the Secretary regarding protocols for conducting the studies.

"(B) BASIS FOR FINDING.—In making the finding under subparagraph (A), the Secretary shall take into account—

"(i) the risks and benefits to the population as a whole, including both users of tobacco products and non-users of tobacco products;

"(ii) the increased or decreased likelihood that existing users of tobacco products will stop using such products including reduced risk tobacco products;

"(iii) the increased or decreased likelihood that those who do not use tobacco products will start to use such products, including reduced risk tobacco products; and

"(iv) the risks and benefits to consumers from the use of a reduced risk tobacco product as compared to the use of products approved under chapter V to reduce exposure to tobacco.

"(3) MARKETING REQUIREMENTS.—A tobacco product may be marketed and labeled as a reduced risk tobacco product if it—

"(A) has been designated as a reduced risk tobacco product by the Secretary under paragraph (2);

"(B) bears a label prescribed by the Secretary concerning the product's contribution to reducing harm to health; and

"(C) complies with requirements prescribed by the Secretary relating to marketing and advertising of the product, and other provisions of this chapter as prescribed by the Secretary.

"(b) REVOCATION OF DESIGNATION.—At any time after the date on which a tobacco product is designated as a reduced risk tobacco product under this section the Secretary may, after providing an opportunity for an informal hearing, revoke such designation if the Secretary determines, based on information not available at the time of the designation, that—

"(1) the finding made under subsection (a)(2) is no longer valid; or

"(2) the product is being marketed in violation of subsection (a)(3).

"(c) LIMITATION.—A tobacco product that is designated as a reduced risk tobacco product that is in compliance with subsection (a) shall not be regulated as a drug or device.

"(d) DEVELOPMENT OF REDUCED RISK TOBACCO PRODUCT TECHNOLOGY.—A tobacco product manufacturer shall provide written notice to the Secretary upon the development or acquisition by the manufacturer of any technology that would reduce the risk of a tobacco product to the health of the user for which the manufacturer is not seeking designation as a 'reduced risk tobacco product' under subsection (a).

"SEC. 914. PRESERVATION OF STATE AND LOCAL AUTHORITY.

"(a) ADDITIONAL REQUIREMENTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), nothing in this Act shall be construed as prohibiting a State or political subdivision thereof from adopting or enforcing a requirement applicable to a tobacco product that is in addition to, or more stringent than, requirements established under this chapter.

"(2) PREEMPTION OF CERTAIN STATE AND LOCAL REQUIREMENTS.—

"(A) Except as provided in subparagraph (B), no State or political subdivision of a State may establish or continue in effect with respect to a tobacco product any requirement which is different from, or in addition to, any requirement applicable under the provisions of this chapter relating to performance standards, premarket approval, adulteration, misbranding, registration, reporting, good manufacturing standards, or reduced risk products.

"(B) Subparagraph (A) does not apply to requirements relating to the sale, use, or distribution of a tobacco product including requirements related to the access to, and the advertising and promotion of, a tobacco product.

"(b) RULE OF CONSTRUCTION REGARDING PRODUCT LIABILITY.—No provision of this chapter relating to a tobacco product shall be construed to modify or otherwise affect any action or the liability of any person under the product liability law of any State.

"(c) WAIVERS.—Upon the application of a State or political subdivision thereof, the Secretary may, by regulation promulgated after notice and an opportunity for an oral hearing, exempt from subsection (a), under such conditions as may be prescribed in such regulation, a requirement of such State or political subdivision applicable to a tobacco product if—

"(1) the requirement is more stringent than a requirement applicable under the provisions described in subsection (a)(3) which would be applicable to the tobacco product if an exemption were not in effect under this subsection; or

"(2) the requirement—

"(A) is required by compelling local conditions; and

"(B) compliance with the requirement would not cause the tobacco product to be in violation of any applicable requirement of this chapter.

"SEC. 915. EQUAL TREATMENT OF RETAIL OUTLETS.

–"The Secretary shall issue regulations to require that retail establishments for which the predominant business is the sale of tobacco products comply with any advertising restrictions applicable to retail establishments accessible to individuals under the age of 18.".

SEC. 102. CONFORMING AND OTHER AMENDMENTS TO GENERAL PROVISIONS.

(a) AMENDMENT OF FEDERAL FOOD, DRUG, AND COSMETIC ACT.—Except as otherwise expressly provided, whenever in this section an amendment is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference is to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

(b) SECTION 301.—Section 301 (21 U.S.C. 331) is amended—

(1) by inserting "tobacco product," in subsection (a) after "device,";

(2) by inserting "tobacco product," in subsection (b) after "device,";

(3) by inserting "tobacco product," in subsection (c) after "device,";

(4) by striking "515(f), or 519" in subsection (e) and inserting "515(f), 519, or 909";

(5) by inserting "tobacco product," in subsection (g) after "device,";

(6) by inserting "tobacco product," in subsection (h) after "device,";

(7) by striking "708, or 721" in subsection (j) and inserting "708, 721, 904, 905, 906, 907, 908, or 909";

(8) by inserting "tobacco product," in subsection (k) after "device,";

(9) by striking subsection (p) and inserting the following:

"(p) The failure to register in accordance with section 510 or 905, the failure to provide any information required by section 510(j), 510(k), 905(i), or 905(j), or the failure to provide a notice required by section 510(j)(2) or 905(J)(2).";

(10) by striking subsection (q)(1) and inserting the following:

"(q)(1) The failure or refusal—

"(A) to comply with any requirement prescribed under section 518, 520(g), 906(f), or 908;

"(B) to furnish any notification or other material or information required by or under section 519, 520(g), 904, 906(f), or 909; or

"(C) to comply with a requirement under section 522 or 912.";

(11) by striking "device," in subsection (q)(2) and inserting "device or tobacco product,";

(12) by inserting "or tobacco product" in subsection (r) after "device" each time that it appears; and

(13) by adding at the end thereof the following:

"(aa) The sale of tobacco products in violation of a no-tobacco-sale order issued under section 303(f).".

(c) Section 303.—Section 303(f) (21 U.S.C. 333(f)) is amended—

(1) by amending the caption to read as follows:

"(f) CIVIL PENALTIES; NO-TOBACCO-SALE ORDERS.—";

(2) by inserting "or tobacco products" after "devices" in paragraph (1)(A);

(3) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), and inserting after paragraph (2) the following:

"(3) If the Secretary finds that a person has committed repeated violations of restrictions promulgated under section 906(d) at a particular retail outlet then the Secretary may impose a no-tobacco-sale order on that person prohibiting the sale of tobacco products in that outlet. A no-tobacco-sale order may be imposed with a civil penalty under paragraph (1).";

(4) by striking "assessed" the first time it appears in subparagraph (A) of paragraph (4), as redesignated, and inserting "assessed, or a no-tobacco-sale order may be imposed,";

(5) by striking "penalty" in such subparagraph and inserting "penalty, or upon whom a no-tobacco-order is to be imposed,";

(6) by inserting after "penalty," in subparagraph (B) of paragraph (4), as redesignated, the following: "or the period to be covered by a no-tobacco-sale order,";

(7) by adding at the end of such subparagraph the following: "A no-tobacco-sale order permanently prohibiting an individual retail outlet from selling tobacco products shall include provisions that allow the outlet, after a specified period of time, to request that the Secretary compromise, modify, or terminate the order.";

(8) by adding at the end of paragraph (4), as redesignated, the following:

"(D) The Secretary may compromise, modify, or terminate, with or without conditions, any no-tobacco-sale order.";

(9) by striking "(3)(A)" in paragraph (5), as resdesignated, and inserting "(4)(A)";

(10) by inserting "or the imposition of a no-tobacco-sale order" after "penalty" the first 2 places it appears in such paragraph;

(11) by striking "issued." in such paragraph and inserting "issued, or on which the no-tobacco-sale order was imposed, as the case may be."; and

(12) by striking "paragraph (4)" each place it appears in paragraph (6), as redesignated, and inserting "paragraph (5)".

(d) SECTION 304.—Section 304 (21 U.S.C. 334) is amended—

(1) by striking "and" before "(D)" in subsection (a)(2);

(2) by striking "device." in subsection (a)(2) and inserting a comma and "(E) Any adulterated or misbranded tobacco product.";

(3) by inserting "tobacco product," in subsection (d)(1) after "device,";

(4) by inserting "or tobacco product" in subsection (g)(1) after "device" each place it appears; and

(5) by inserting "or tobacco product" in subsection (g)(2)(A) after "device" each place it appears.

(e) SECTION 702.—Section 702(a) (21 U.S.C. 372(a)) is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end thereof the following:

"(2) For a tobacco product, to the extent feasible, the Secretary shall contract with the States in accordance with paragraph (1) to carry out inspections of retailers in connection with the enforcement of this Act.".

(f) SECTION 703.—Section 703 (21 U.S.C. 373) is amended—

(1) by inserting "tobacco product," after "device," each place it appears; and

(2) by inserting "tobacco products," after "devices," each place it appears.

(g) SECTION 704.—Section 704 (21 U.S.C. 374) is amended—

(1) by inserting "tobacco products," in subsection (a)(1)(A) after "devices," each place it appears;

(2) by inserting "or tobacco products" in subsection (a)(1)(B) after "restricted devices" each place it appears; and

(3) by inserting "tobacco product," in subsection (b) after "device,".

(h) SECTION 705.—Section 705(b) (21 U.S.C. 375(b)) is amended by inserting "tobacco products," after "devices,".

(i) SECTION 709.—Section 709 (21 U.S. C. 379) is amended by inserting "or tobacco product" after "device".

(j) SECTION 801.—Section 801 (21 U.S.C. 381) is amended—

(1) by inserting "tobacco products," after "devices," in subsection (a) the first time it appears;

(2) by inserting "or subsection (j) of section 905" in subsection (a) after "section 510"; and

(3) by striking "drugs or devices" each time it appears in subsection (a) and inserting "drugs, devices, or tobacco products";

(4) by inserting "tobacco product," in subsection (e)(1) after "device,";

(2) by redesignating paragraph (4) of subsection (e) as paragraph (5) and inserting after paragraph (3), the following:

"(4) Paragraph (1) does not apply to any tobacco product—

"(A) which does not comply with an applicable requirement of section 907 or 910; or

"(B) which under section 906(f) is exempt from either such section.

This paragraph does not apply if the Secretary has determined that the exportation of the tobacco product is not contrary to the public health and safety and has the approval of the country to which it is intended for export or the tobacco product is eligible for export under section 802.".

(k) SECTION 802.—Section 802 (21 U.S.C. 382) is amended—

(1) by striking "device—" in subsection (a) and inserting "device or tobacco product—";

(2) by striking "and" after the semicolon in subsection (a)(1)(C);

(3) by striking subparagraph (C) of subsection (a)(2) and all that follows in that subsection and inserting the following:

"(C) is a banned device under section 516; or

"(3) which, in the case of a tobacco product—

"(A) does not comply with an applicable requirement of section 907 or 910; or

"(B) under section 906(f) is exempt from either such section,

is adulterated, misbranded, and in violation of such sections or Act unless the export of the drug, device, or tobacco product is, except as provided in subsection (f), authorized under subsection (b), (c), (d), or (e) of this section or section 801(e)(2) or 801(e)(4). If a drug, device, or tobacco product described in paragraph (1), (2), or (3) may be exported under subsection (b) and if an application for such drug or device under section 505, 515, or 910 of this Act or section 351 of the Public Health Service Act (42 U.S.C. 262) was disapproved, the Secretary shall notify the appropriate public health official of the country to which such drug, device, or tobacco product will be exported of such disapproval.";

(4) by inserting "or tobacco product" in subsection (b)(1)(A) after "device" each time it appears;

(5) by inserting "or tobacco product" in subsection (c) after "device" and inserting "or section 906(f)" after "520(g).";

(6) by inserting "or tobacco product" in subsection (f) after "device" each time it appears; and

(7) by inserting "or tobacco product" in subsection (g) after "device" each time it appears.

(l) SECTION 1003.—Section 1003(d)(2)(C) (as redesignated by section 101(a)) is amended—

(1) by striking "and" after "cosmetics,"; and

(2) inserting a comma and "and tobacco products" after "devices".

(m) EFFECTIVE DATE FOR NO-TOBACCO-SALE ORDER AMENDMENTS.—The amendments made by subsection (c), other than the amendment made by paragraph (2) thereof, shall take effect only upon the promulgation of final regulations by the Secretary—

(1) defining the term "repeated violation", as used in section 303(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333(f)) as amended by subsection (c), by identifying the number of violations of particular requirements over a specified period of time that constitute a repeated violation;

(2) providing for notice to the retailer of each violation at a particular retail outlet;

(3) providing that a person may not be charged with a violation at a particular retail outlet unless the Secretary has provided notice to the retailer of all previous violations at that outlet;

(4) establishing a period of time during which, if there are no violations by a particular retail outlet, that outlet will not considered to have been the site of repeated violations when the next violation occurs; and

(5) providing that good faith reliance on false identification does not constitute a violation of any minimum age requirement for the sale of tobacco products.

SEC. 103. CONSTRUCTION OF CURRENT REGULATIONS.

(a) IN GENERAL.—The final regulations promulgated by the Secretary in the August 28, 1996, issue of the Federal Register (62 Red. Reg. 44615-44618) and codified at part 897 of title 21, Code of Federal Regulations, are hereby deemed to be lawful and to have been

lawfully promulgated by the Secretary under chapter IX and section 701 of the Federal Food, Drug, and Cosmetic Act, as amended by this Act, and not under chapter V of the Federal Food, Drug, and Cosmetic Act. The provisions of part 897 that are not in effect on the date of enactment of this Act shall take effect as in such part or upon such later date as determined by the Secretary by order. The Secretary shall amend the designation of authority in such regulations in accordance with this subsection.

(b) LIMITATION ON ADVISORY OPINIONS.—As of the date of enactment of this Act, the following documents issued by the Food and Drug Administration shall not constitute advisory opinions under section 10.85(d)(1) of title 21, Code of Federal Regulations, except as they apply to tobacco products, and shall not be cited by the Secretary or the Food and Drug Administration as binding precedent.

(1) The preamble to the proposed rule in the document entitled "Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco Products to Protect Children and Adolescents" (60 Fed. Reg. 41314-41372 (August 11, 1995)).

(2) The document entitled "Nicotine in Cigarettes and Smokeless Tobacco Products is a Drug and These Products Are Nicotine Delivery Devices Under the Federal Food, Drug, and Cosmetic Act" (60 Fed. Reg. 41453-41787 (August 11, 1995)).

(3) The preamble to the final rule in the document entitled "Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco to Protect Children and Adolescents" (61 Fed. Reg. 44396-44615 (August 28, 1996)).

(4) The document entitled "Nicotine in Cigarettes and Smokeless Tobacco is a Drug and These Products are Nicotine Delivery Devices Under the Federal Food, Drug, and Cosmetic Act; Jurisdictional Determination" (61 Fed. Reg. 44619-45318 (August 28, 1996)).

TITLE II—REDUCTIONS IN UNDERAGE TOBACCO USE

Subtitle A—Underage Use

SEC. 201. FINDINGS.

The Congress finds the following:

(1) Reductions in the underage use of tobacco products are critically important to the public health.

(2) Achieving this critical public health goal can be substantially furthered by increasing the price of tobacco products to discourage underage use if reduction targets are not achieved and by creating financial incentives for manufacturers to discourage youth from using their tobacco products.

(3) When reduction targets in underage use are not achieved on an industry-wide basis, the price increases that will result from an industry-wide assessment will provide an additional deterrence to youth tobacco use.

(4) Manufacturer-specific incentives that will be imposed if reduction targets are not met by a manufacturer provide a strong incentive for each manufacturer to make all efforts to discourage youth use of its brands and ensure the effectiveness of the industry-wide assessments.

SEC. 202. PURPOSE.

This title is intended to ensure that, in the event that other measures contained in this Act prove to be inadequate to produce substantial reductions in tobacco use by minors, tobacco companies will pay additional assessments. These additional assessments are designed to lower youth tobacco consumption in a variety of ways: by triggering further increases in the price of tobacco products, by encouraging tobacco companies to work to meet statutory targets for reductions in youth tobacco consumption, and providing support for further reduction efforts.

SEC. 203. GOALS FOR REDUCING UNDERAGE TOBACCO USE.

(a) GOALS.—As part of a comprehensive national tobacco control policy, the Secretary, working in cooperation with State, Tribal, and local governments and the private sector, shall take all actions under this Act necessary to ensure that the required percentage reductions in underage use of tobacco products set forth in this title are achieved.

(b) REQUIRED REDUCTIONS FOR CIGARETTES.—With respect to cigarettes, the required percentage reduction in underage use, as set forth in section 204, means—

Calendar Year After Date of Enactment	Required Percentage Reduction as a Percentage of Base Incidence Percentage in Underage Cigarette Use
Years 3 and 4	15 percent
Years 5 and 6	30 percent
Years 7, 8, and 9	50 percent
Year 10 and thereafter	60 percent

(c) REQUIRED REDUCTIONS FOR SMOKELESS TOBACCO.—With respect to smokeless tobacco products, the required percentage reduction in underage use, as set forth in section 204, means—

Calendar Year After Date of Enactment	Required Percentage Reduction as a Percentage of Base Incidence Percentage in Underage Smokeless Tobacco Use
Years 3 and 4	12.5 percent
Years 5 and 6	25 percent
Years 7, 8, and 9	35 percent
Year 10 and thereafter	45 percent

SEC. 204. LOOK-BACK ASSESSMENT.

(a) ANNUAL PERFORMANCE SURVEY.—Beginning no later than 1999 and annually thereafter the Secretary shall conduct a survey, in accordance with the methodology in subsection (d)(1), to determine—

(1) the percentage of all young individuals who used a type of tobacco product within the past 30 days; and

(2) the percentage of young individuals who identify each brand of each type of tobacco product as the usual brand of that type smoked or used within the past 30 days.

(b) ANNUAL DETERMINATION.—The Secretary shall make an annual determination, based on the annual performance survey conducted under subsection (a), of whether the required percentage reductions in underage use of tobacco products for a year have been achieved for the year involved. The determination shall be based on the annual percent prevalence of the use of tobacco products, for the industry as a whole and of particular manufacturers, by young individuals (as determined by the surveys conducted by the Secretary) for the year involved as compared to the base incidence percentages.

(c) CONFIDENTIALITY OF DATA.—The Secretary may conduct a survey relating to tobacco use involving minors. If the information collected in the course of conducting the annual performance survey results in the individual supplying the information or described in it to be identifiable, the information may not be used for any purpose other than the purpose for which it was supplied unless that individual (or that individual's guardian) consents to its use for such other purpose. The information may not be published or released in any other form if the individual supplying the information or described in it is identifiable unless that individual (or that individual's guardian) consents to its publication or release in other form.

(d) METHODOLOGY.—

(1) IN GENERAL.—The survey required by subsection (a) shall—

(A) be based on a nationally representative sample of young individuals;

(B) be a household-based, in person survey (which may include computer-assisted technology);

(C) measure use of each type of tobacco product within the past 30 days;

(D) identify the usual brand of each type of tobacco product used within the past 30 days; and

(E) permit the calculation of the actual percentage reductions in underage use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of tobacco product of a manufacturer) based on the point estimates of the percentage of young individuals reporting use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of tobacco product of a manufacturer) from the annual performance survey.

(2) CRITERIA FOR DEEMING POINT ESTIMATES CORRECT.—Point estimates under paragraph (1)(E) are deemed conclusively to be correct and accurate for calculating actual percentage reductions in underage use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of tobacco product of a particular manufacturer) for the purpose of measuring compliance with percent reduction targets and calculating surcharges provided that the precision of estimates (based on sampling error) of the percentage of young individuals reporting use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of tobacco product of a manufacturer) is such that the 95-percent confidence interval around such point estimates is no more than plus or minus 1 percent.

(3) SURVEY DEEMED CORRECT, PROPER, AND ACCURATE.—A survey using the methodology required by this subsection is deemed conclusively to be proper, correct, and accurate for purposes of this Act.

(4) SECRETARY MAY ADOPT DIFFERENT METHODOLOGY.—The Secretary by notice and comment rulemaking may adopt a survey methodology that is different than the methodology described in paragraph (1) if the different methodology is at least as statistically precise as that methodology.

(e) INDUSTRY-WIDE NON-ATTAINMENT SURCHARGES.—

(1) SECRETARY TO DETERMINE INDUSTRY-WIDE NON-ATTAINMENT PERCENTAGE.—The Secretary shall determine the industry-wide non-attainment percentage for cigarettes and for smokeless tobacco for each calendar year.

(2) NON-ATTAINMENT SURCHARGE FOR CIGARETTES.—For each calendar year in which the percentage reduction in underage use required by section 203(b) is not attained, the Secretary shall assess a surcharge on cigarette manufacturers as follows:

If the non-attainment percentage is:	The surcharge is:
Not more than 5 percent	$80,000,000 multiplied by the non-attainment percentage
More than 5% but not more than 10%	$400,000,000, plus $160,000,000 multiplied by the non-attainment percentage in excess of 5% but not in excess of 10%
More than 10%	$1,200,000,000, plus $240,000,000 multiplied by the non-attainment percentage in excess of 10%
More than 21.6%	$4,000,000,000

(3) NON-ATTAINMENT SURCHARGE FOR SMOKELESS TOBACCO.—For each year in which the percentage reduction in underage use required by section 203(c) is not attained, the Secretary shall assess a surcharge on smokeless tobacco product manufacturers as follows:

If the non-attainment percentage is:	The surcharge is:
Not more than 5 percent	$8,000,000 multiplied by the non-attainment percentage
More than 5% but not more than 10%	$40,000,000, plus $16,000,000 multiplied by the non-attainment percentage in excess of 5% but not in excess of 10%
More than 10%	$120,000,000, plus $24,000,000 multiplied by the non-attainment percentage in excess of 10%
More than 21.6%	$400,000,000

(4) STRICT LIABILITY; JOINT AND SEVERAL LIABILITY.—Liability for any surcharge imposed under subsection (e) shall be—

(A) strict liability; and

(B) joint and several liability—

(i) among all cigarette manufacturers for surcharges imposed under subsection (e)(2); and

(ii) among all smokeless tobacco manufacturers for surcharges imposed under subsection (e)(3).

(5) SURCHARGE LIABILITY AMONG MANUFACTURERS.—A tobacco product manufacturer shall be liable under this subsection to one or more other manufacturers if the plaintiff tobacco product manufacturer establishes by a preponderance of the evidence that the defendant tobacco product manufacturer, through its acts or omissions, was responsible for a disproportionate share of the non-attainment surcharge as compared to the responsibility of the plaintiff manufacturer.

(6) EXEMPTIONS FOR SMALL MANUFACTURERS.—

(A) ALLOCATION BY MARKET SHARE.—The Secretary shall make such allocations according to each manufacturer's share of the domestic cigarette or domestic smokeless tobacco market, as appropriate, in the year for which the surcharge is being assessed, based on actual Federal excise tax payments.

(B) EXEMPTION.—In any year in which a surcharge is being assessed, the Secretary shall exempt from payment any tobacco product manufacturer with less than 1 percent of the domestic market share for a specific category of tobacco product unless the Secretary finds that the manufacturer's products are used by underage individuals at a rate equal to or greater than the manufacturer's total market share for the type of tobacco product.

(f) MANUFACTURER-SPECIFIC SURCHARGES.—

(1) REQUIRED PERCENTAGE REDUCTIONS.—Each manufacturer which manufactured a brand or brands of tobacco product on or before the date of the enactment of this Act shall reduce the percentage of young individuals who use such manufacturer's brand or brands as their usual brand in accordance with the required percentage reductions described under subsections (b) (with respect to cigarettes) and (c) (with respect to smokeless tobacco).

(2) APPLICATION TO LESS POPULAR BRANDS.—Each manufacturer which manufactured a brand or brands of tobacco product on or before the date of the enactment of this Act for which the base incidence percentage is equal to or less than the *de minimis* level shall ensure that the percent prevalence of young individuals who use the manufacturer's tobacco products as their usual brand remains equal to or less than the *de minimis* level described in paragraph (4).

(3) NEW ENTRANTS.—Each manufacturer of a tobacco product which begins to manufacture a tobacco product after the date of the enactment of this Act shall ensure that the percent prevalence of young individuals who use the manufacturer's tobacco products as their usual brand is equal to or less than the *de minimis* level.

(4) DE MINIMIS LEVEL DEFINED.—The *de minimis* level is equal to 1 percent prevalence of the use of each manufacturer's brands of tobacco product by young individuals (as determined on the basis of the annual performance survey conducted by the Secretary) for a year.

(5) TARGET REDUCTION LEVELS.—

(A) EXISTING MANUFACTURERS.— For purposes of this section, the target reduction level for each type of tobacco product for a year for a manufacturer is the product of the required percentage reduction for a type of tobacco product for a year and the manufacturers base incidence percentage for such tobacco product.

(B) NEW MANUFACTURERS; MANUFACTURERS WITH LOW BASE INCIDENCE PERCENTAGES.—With respect to a manufacturer which begins to manufacture a tobacco product after the date of the enactment of this Act or a manufacturer for which the baseline level as measured by the annual performance survey is equal to or less than the *de minimis* level described in paragraph (4), the base incidence percentage is the *de minimis* level, and the required percentage reduction in underage use for a type of tobacco product with respect to a manufacturer for a year shall be deemed to be the number of percentage points necessary to reduce the actual percent prevalence of young individuals identifying a brand of such tobacco product of such manufacturer as the usual brand smoked or used for such year to the *de minimis* level.

(6) SURCHARGE AMOUNT.—

(A) IN GENERAL.—If the Secretary determines that the required percentage reduction in use of a type of tobacco product has not been achieved by such manufacturer for a year, the Secretary shall impose a surcharge on such manufacturer under this paragraph.

(B) AMOUNT.—The amount of the manufacturer-specific surcharge for a type of tobacco product for a year under this paragraph is $1,000, multiplied by the number of young individuals for which such firm is in noncompliance with respect to its target reduction level.

(C) DETERMINATION OF NUMBER OF YOUNG INDIVIDUALS.—For purposes of subparagraph (B) the number of young individuals for which a manufacturer is in noncompliance for a year shall be determined by the Secretary from the annual performance survey and shall be calculated based on the estimated total number of young individuals in such year and the actual percentage prevalence of young individuals identifying a brand of such tobacco product of such manufacturer as the usual brand smoked or used in such year as compared to such manufacturer's target reduction level for the year.

(7) DE MINIMIS RULE.—The Secretary may not impose a surcharge on a manufacturer for a type of tobacco product for a year if the Secretary determines that actual percent prevalence of young individuals identifying that manufacturer's brands of such tobacco product as the usual products smoked or used for such year is less than 1 percent.

(g) SURCHARGES TO BE ADJUSTED FOR INFLATION.—

(1) IN GENERAL.—Beginning with the fourth calendar year after the date of enactment of this Act, each dollar amount in the tables in subsections (e)(2), (e)(3), and (f)(6)(B) shall be increased by the inflation adjustment.

(2) INFLATION ADJUSTMENT.—For purposes of paragraph (1), the inflation adjustment for any calendar year is the percentage (if any) by which—

(A) the CPI for the preceding calendar year, exceeds

(B) the CPI for the calendar year 1998.

(3) CPI.—For purposes of paragraph (2), the CPI for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor.

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

(h) METHOD OF SURCHARGE ASSESSMENT.—The Secretary shall assess a surcharge for a specific calendar year on or before May 1 of the subsequent calendar year. Surcharge payments shall be paid on or before July 1 of the year in which they are assessed. The Secretary may establish, by regulation, interest at a rate up to 3 times the prevailing prime rate at the time the surcharge is assessed, and additional charges in an amount up to 3 times the surcharge, for late payment of the surcharge.

(i) BUSINESS EXPENSE DEDUCTION.—Any surcharge paid by a tobacco product manufacturer under this section shall not be deductible as an ordinary and necessary business expense or otherwise under the Internal Revenue Code of 1986.

(j) APPEAL RIGHTS.—The amount of any surcharge is committed to the sound discretion of the Secretary and shall be subject to judicial review by the United States Court of Appeals for the District of Columbia Circuit, based on the arbitrary and capricious standard of section 706(2)(A) of title 5, United States Code. Notwithstanding any other provisions of law, no court shall have authority to stay any surcharge payments due the Secretary under this Act pending judicial review.

(k) RESPONSIBILITY FOR AGENTS.—In any action brought under this subsection, a tobacco product manufacturer shall be held responsible for any act or omission of its attorneys, advertising agencies, or other agents that contributed to that manufacturer's responsibility for the surcharge assessed under this section.

SEC. 205. DEFINITIONS.

In this subtitle:

(1) BASE INCIDENCE PERCENTAGE.—The term "base incidence percentage" means, with respect to each type of tobacco product, the percentage of young individuals determined to have used such tobacco product in the first annual performance survey for 1999.

(2) MANUFACTURERS BASE INCIDENCE PERCENTAGE.—The term "manufacturers base incidence percentage" is, with respect to each type of tobacco product, the percentage of young individuals determined to have identified a brand of such tobacco product of such manufacturer as the usual brand smoked or used in the first annual performance survey for 1999.

(3) YOUNG INDIVIDUALS.—The term "young individuals" means individuals who are over 11 years of age and under 18 years of age.

(4) CIGARETTE MANUFACTURERS.—The term "cigarette manufacturers" means manufacturers of cigarettes sold in the United States.

(5) NON-ATTAINMENT PERCENTAGE FOR CIGARETTES.—The term "non-attainment percentage for cigarettes" means the number of percentage points yielded—

(A) for a calendar year in which the percent incidence of underage use of cigarettes

is less than the base incidence percentage, by subtracting—

(i) the percentage by which the percent incidence of underage use of cigarettes in that year is less than the base incidence percentage, from

(ii) the required percentage reduction applicable in that year; and

(B) for a calendar year in which the percent incidence of underage use of cigarettes is greater than the base incidence percentage, adding—

(i) the percentage by which the percent incidence of underage use of cigarettes in that year is greater than the base incidence percentage; and

(ii) the required percentage reduction applicable in that year.

(6) NON-ATTAINMENT PERCENTAGE FOR SMOKELESS TOBACCO PRODUCTS.—The term "non-attainment percentage for smokeless tobacco products" means the number of percentage points yielded—

(A) for a calendar year in which the percent incidence of underage use of smokeless tobacco products is less than the base incidence percentage, by subtracting—

(i) the percentage by which the percent incidence of underage use of smokeless tobacco products in that year is less than the base incidence percentage, from

(ii) the required percentage reduction applicable in that year; and

(B) for a calendar year in which the percent incidence of underage use of smokeless tobacco products is greater than the base incidence percentage, by adding—

(i) the percentage by which the percent incidence of underage use of smokeless tobacco products in that year is greater than the base incidence percentage; and

(ii) the required percentage reduction applicable in that year.

(7) SMOKELESS TOBACCO PRODUCT MANUFACTURERS.—The term "smokeless tobacco product manufacturers" means manufacturers of smokeless tobacco products sold in the United States.

Subtitle B—State Retail Licensing and Enforcement Incentives

SEC. 231. STATE RETAIL LICENSING AND ENFORCEMENT BLOCK GRANTS.

(a) IN GENERAL.—The Secretary shall make State retail licensing and enforcement block grants in accordance with the provisions of this section. There are authorized to be appropriated to the Secretary from the National Tobacco Trust Fund $200,000,000 for each fiscal year to carry out the provisions of this section.

(b) REQUIREMENTS.—

(1) ESTABLISHMENT.—The Secretary shall provide a block grant, based on population, under this subtitle to each State that has in effect a law that—

(A) provides for the licensing of entities engaged in the sale or distribution of tobacco products directly to consumers;

(B) makes it illegal to sell or distribute tobacco products to individuals under 18 years of age; and

(C) meets the standards described in this section.

(2) STATE AGREEMENT REQUIRED.—In order to receive a block grant under this section, a State—

(A) shall enter into an agreement with the Secretary to assume responsibilities for the implementation and enforcement of a tobacco retailer licensing program;

(B) shall prohibit retailers from selling or otherwise distributing tobacco products to individuals under 18 years of age in accordance with the Youth Access Restrictions regulations promulgated by the Secretary (21 C.F.R. 897.14(a) and (b));

(C) shall make available to appropriate Federal agencies designated by the Secretary requested information concerning retail establishments involved in the sale or distribution of tobacco products to consumers; and

(D) shall establish to the satisfaction of the Secretary that it has a law or regulation that includes the following:

(i) LICENSURE; SOURCES; AND NOTICE.—A requirement for a State license for each retail establishment involved in the sale or distribution of tobacco products to consumers. A requirement that a retail establishment may purchase tobacco products only from Federally-licensed manufacturers, importers, or wholesalers. A program under which notice is provided to such establishments and their employees of all licensing requirements and responsibilities under State and Federal law relating to the retail distribution of tobacco products.

(ii) PENALTIES.—

(I) CRIMINAL.—Criminal penalties for the sale or distribution of tobacco products to a consumer without a license.

(II) CIVIL.—Civil penalties for the sale or distribution of tobacco products in violation of State law, including graduated fines and suspension or revocation of licenses for repeated violations.

(III) OTHER.—Other programs, including such measures as fines, suspension of driver's license privileges, or community service requirements, for underage youths who possess, purchase, or attempt to purchase tobacco products.

(iii) JUDICIAL REVIEW.—Judicial review procedures for an action of the State suspending, revoking, denying, or refusing to renew any license under its program.

(c) ENFORCEMENT.—

(1) UNDERTAKING.—Each State that receives a grant under this subtitle shall undertake to enforce compliance with its tobacco retailing licensing program in a manner that can reasonably be expected to reduce the sale and distribution of tobacco products to individuals under 18 years of age. If the Secretary determines that a State is not enforcing the law in accordance with such an undertaking, the Secretary may withhold a portion of any unobligated funds under this section otherwise payable to that State.

(2) ACTIVITIES AND REPORTS REGARDING ENFORCEMENT.—A State that receives a grant under this subtitle shall—

(A) conduct monthly random, unannounced inspections of sales or distribution outlets in the State to ensure compliance with a law prohibiting sales of tobacco products to individuals under 18 years of age;

(B) annually submit to the Secretary a report describing in detail—

(i) the activities carried out by the State to enforce underage access laws during the fiscal year;

(ii) the extent of success the State has achieved in reducing the availability of tobacco products to individuals under the age of 18 years;

(iii) how the inspections described in subparagraph (A) were conducted and the methods used to identify outlets, with appropriate protection for the confidentiality of information regarding the timing of inspections and other investigative techniques whose effectiveness depends on continued confidentiality; and

(iv) the identity of the single State agency designated by the Governor of the State to be responsible for the implementation of the requirements of this section.

(3) MINIMUM INSPECTION STANDARDS.—Inspections conducted by the State shall be conducted by the State in such a way as to ensure a scientifically sound estimate (with a 95 percent confidence interval that such estimates are accurate to within plus or minus 3 percentage points), using an accurate list of retail establishments throughout the State. Such inspections shall cover a range of outlets (not preselected on the basis of prior violations) to measure overall levels of compliance as well as to identify violations. The sample must reflect the distribution of the population under the age of 18 years throughout the State and the distribution of the outlets throughout the State accessible to youth. Except as provided in this paragraph, any reports required by this paragraph shall be made public. As used in this paragraph, the term "outlet" refers to any location that sells at retail or otherwise distributes tobacco products to consumers, including to locations that sell such products over-the-counter.

(d) NONCOMPLIANCE.—

(1) INSPECTIONS.—The Secretary shall withhold from any State that fails to meet the requirements of subsection (b) in any calendar year an amount equal to 5 percent of the amount otherwise payable under this subtitle to that State for the next fiscal year.

(2) COMPLIANCE RATE.—The Secretary shall withhold from any State that fails to demonstrate a compliance rate of—

(A) at least the annual compliance targets that were negotiated with the Secretary under section 1926 of the Public Health Service Act (42 U.S.C. 300x—26) as such section was in effect before its repeal by this Act through the third fiscal year after the date of enactment of this Act;

(B) at least 80 percent in the fourth fiscal year after such date;

(C) at least 85 percent in the fifth and sixth fiscal years after such date; and

(D) at least 90 percent in every fiscal year beginning with the seventh fiscal year after such date,

an amount equal to one percentage point for each percentage point by which the State failed to meet the percentage set forth in this subsection for that year from the amount otherwise payable under this subtitle for that fiscal year.

(e) RELEASE AND DISBURSEMENT.—

(1) Upon notice from the Secretary that an amount payable under this section has been ordered withheld under subsection (d), a State may petition the Secretary for a release and disbursement of up to 75 percent of the amount withheld, and shall give timely written notice of such petition to the attorney general of that State and to all tobacco product manufacturers.

(2) The agency shall conduct a hearing on such a petition, in which the attorney general of the State may participate and be heard.

(3) The burden shall be on the State to prove, by a preponderance of the evidence, that the release and disbursement should be made. The Secretary's decision on whether to grant such a release, and the amount of any such disbursement, shall be based on whether—

(A) the State presents scientifically sound survey data showing that the State is making significant progress toward reducing the use of tobacco products by individuals who have not attained the age of 18 years;

(B) the State presents scientifically-based data showing that it has progressively decreased the availability of tobacco products to such individuals;

(C) the State has acted in good faith and in full compliance with this Act, and any rules or regulations promulgated under this Act;

(D) the State provides evidence that it plans to improve enforcement of these laws in the next fiscal year; and

(E) any other relevant evidence.

(4) A State is entitled to interest on any withheld amount released at the average United States 52-Week Treasury Bill rate for the period between the withholding of the amount and its release.

(5) Any State attorney general or tobacco product manufacturer aggrieved by a final decision on a petition filed under this subsection may seek judicial review of such decision within 30 days in the United States Court of Appeals for the District of Columbia Circuit. Unless otherwise specified in this Act, judicial review under this section shall be governed by sections 701 through 706 of title 5, United States Code.

(6) No stay or other injunctive relief enjoining a reduction in a State's allotment pending appeal or otherwise may be granted by the Secretary or any court.

(f) NON-PARTICIPATING STATES LICENSING REQUIREMENTS.—For retailers in States which have not established a licensing program under subsection (a), the Secretary shall promulgate regulations establishing Federal retail licensing for retailers engaged in tobacco sales to consumers in those States. The Secretary may enter into agreements with States for the enforcement of those regulations. A State that enters into such an agreement shall receive a grant under this section to reimburse it for costs incurred in carrying out that agreement.

(g) DEFINITION.—For the purposes of this section, the term "first applicable fiscal year" means the first fiscal year beginning after the fiscal year in which funding is made available to the States under this section.

SEC. 232. BLOCK GRANTS FOR COMPLIANCE BONUSES.

(a) IN GENERAL.—The Secretary shall make block grants to States determined to be eligible under subsection (b) in accordance with the provisions of this section. There are authorized to be appropriated to the Secretary from the National Tobacco Trust Fund $100,000,000 for each fiscal year to carry out the provisions of this section.

(b) ELIGIBLE STATES.—To be eligible to receive a grant under subsection (a), a State shall—

(1) prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require; and

(2) with respect to the year involved, demonstrate to the satisfaction of the Secretary that fewer than 5 percent of all individuals under 18 years of age who attempt to purchase tobacco products in the State in such year are successful in such purchase.

(c) PAYOUT.—

(1) PAYMENT TO STATE.—If one or more States are eligible to receive a grant under this section for any fiscal year, the amount payable for that fiscal year shall be apportioned among such eligible States on the basis of population.

(2) YEAR IN WHICH NO STATE RECEIVES GRANT.—If in any fiscal year no State is eligible to receive a grant under this section, then the Secretary may use not more than 25 percent of the amount appropriated to carry out this section for that fiscal year to support efforts to improve State and local enforcement of laws regulating the use, sale, and distribution of tobacco products to individuals under the age of 18 years.

(3) AMOUNTS AVAILABLE WITHOUT FISCAL YEAR LIMITATION.—Any amount appropriated under this section remaining unexpended and unobligated at the end of a fiscal year shall remain available for obligation and expenditure in the following fiscal year.

SEC. 233. CONFORMING CHANGE.

Section 1926 of the Public Health Service Act (42 U.S.C. 300x—26) is hereby repealed.

Subtitle C—Tobacco Use Prevention and Cessation Initiatives

SEC. 261. TOBACCO USE PREVENTION AND CESSATION INITIATIVES.

Title XIX of the Public Health Service Act (42 U.S.C. 300w et seq.) is amended by adding at the end the following:

"PART D—TOBACCO USE PREVENTION AND CESSATION INITIATIVES

"SUBPART I—CESSATION AND COMMUNITY-BASED PREVENTION BLOCK GRANTS

"SEC. 1981. FUNDING FROM TOBACCO SETTLEMENT TRUST FUND.

"(a) IN GENERAL.—From amounts contained in the Public Health Allocation Account under section 451(b)(2)(A) and (C) of the National Tobacco Policy and Youth Smoking Reduction Act for a fiscal year, there are authorized to be appropriated (under subsection (d) of such section) to carry out this subpart—

(1) for cessation activities, the amounts appropriated under section 451 (b)(2)(A); and

(2) for prevention and education activities, the amounts appropriated under section 451 (b)(2)(C).

"(b) NATIONAL ACTIVITIES.—

"(1) Not more than 10 percent of the amount made available for any fiscal year under subsection (a) shall be made available to the Secretary to carry out activities under section 1981B and 1981D(d).

"(2) Not more than 10 percent of the amount available for any fiscal year under subsection (a)(1) shall be available to the Secretary to carry out activities under section 1981D(d).

"SEC. 1981A. ALLOTMENTS.

"(a) AMOUNT.—

"(1) IN GENERAL.—From the amount made available under section 1981 for any fiscal year the Secretary, acting through the Director of the Centers for Disease Control and Prevention (referred to in this subpart as the 'Director'), shall allot to each State an amount based on a formula to be developed by the Secretary that is based on the tobacco prevention and cessation needs of each State including the needs of the State's minority populations.

"(2) MINIMUM AMOUNT.—In determining the amount of allotments under paragraph (1), the Secretary shall ensure that no State receives less than ½ of 1 percent of the amount available under section 1981(a) for the fiscal year involved.

"(b) REALLOTMENT.—To the extent that amounts made available under section 1981 for a fiscal year are not otherwise allotted to States because—

"(1) 1 or more States have not submitted an application or description of activities in accordance with section 1981D for the fiscal year;

"(2) 1 or more States have notified the Secretary that they do not intend to use the full amount of their allotment; or

"(3) the Secretary has determined that the State is not in compliance with this subpart, and therefore is subject to penalties under section 1981D(g);

such excess amount shall be reallotted among each of the remaining States in proportion to the amount otherwise allotted to such States for the fiscal year involved without regard to this subsection.

"(c) PAYMENTS.—

"(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall utilize the funds made available under this section to make payments to States under allotments under this subpart as provided for under section 203 of the Intergovernmental Cooperation Act of 1968.

"(2) FEDERAL GRANTEES.—From amounts available under section 1981(b)(2), the Secretary may make grants, or supplement existing grants, to entities eligible for funds under the programs described in section 1981C(d)(1) and (10) to enable such entities to carry out smoking cessation activities under this subpart, except not less than 25 percent of this amount shall be used for the program described in 1981C(d)(6).

"(3) AVAILABILITY OF FUNDS.—Any amount paid to a State for a fiscal year under this subpart and remaining unobligated at the end of such year shall remain available to such State for the next fiscal year for the purposes for which such payment was made.

"(d) REGULATIONS.—Not later than 9 months after the date of enactment of this part, the Secretary shall promulgate regulations to implement this subpart. This subpart shall take effect regardless of the date on which such regulations are promulgated.

"SEC. 1981B. TECHNICAL ASSISTANCE AND PROVISION OF SUPPLIES AND SERVICES IN LIEU OF FUNDS.

"(a) TECHNICAL ASSISTANCE.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall, without charge to a State receiving an allotment under section 1981A, provide to such State (or to any public or nonprofit private entity within the State) technical assistance and training with respect to the planning, development, operation, and evaluation of any program or service carried out pursuant to the program involved. The Secretary may provide such technical assistance or training directly, through contract, or through grants.

"(b) PROVISION OF SUPPLIES AND SERVICE IN LIEU OF GRANT FUNDS.—The Secretary, at the request of a State, may reduce the amount of payments to the State under section 1981A(c) by—

"(1) the fair market value of any supplies or equipment furnished by the Secretary to the State; and

"(2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Federal Government when detailed to the State and the amount of any other costs incurred in connection with the detail of such officer or employee;

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of the State and for the purpose of conducting activities described in section 1981C. The amount by which any payment is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment or in detailing the personnel, on which reduction of the payment is based, and the amount shall be deemed to be part of the payment and shall be deemed to have been paid to the State.

"SEC. 1981C. PERMITTED USERS OF CESSATION BLOCK GRANTS AND OF COMMUNITY-BASED PREVENTION BLOCK GRANTS.

"(a) TOBACCO USE CESSATION ACTIVITIES.—Except as provided in subsections (d) and (e), amounts described in subsection (a)(1) may be used for the following:

"(1) Evidence-based cessation activities described in the plan of the State, submitted in accordance with section 1981D, including—

"(A) evidence-based programs designed to assist individuals, especially young people and minorities who have been targeted by tobacco product manufacturers, to quit their use of tobacco products;

"(B) training in cessation intervention methods for health plans and health professionals, including physicians, nurses, dentists, health educators, public health professionals, and other health care providers;

"(C) programs to encourage health insurers and health plans to provide coverage for evidence-based tobacco use cessation interventions and therapies, except that the use of any funds under this clause to offset the cost of providing a smoking cessation benefit shall be on a temporary demonstration basis only;

"(D) culturally and linguistically appropriate programs targeted toward minority and low-income individuals, individuals residing in medically underserved areas, uninsured individuals, and pregnant women;

"(E) programs to encourage employer-based wellness programs to provide evidence-based tobacco use cessation intervention and therapies; and

"(F) programs that target populations whose smoking rate is disproportionately high in comparison to the smoking rate population-wide in the State.

"(2) Planning, administration, and educational activities related to the activities described in paragraph (1).

"(3) The monitoring and evaluation of activities carried out under paragraphs (1) and (2), and reporting and disseminating resulting information to health professionals and the public.

"(4) Targeted pilot programs with evaluation components to encourage innovation and experimentation with new methodologies.

"(b) STATE AND COMMUNITY ACTION ACTIVITIES.—Except as provided in subsections (d) and (e), amounts described in subsection (a)(2) may be used for the following:

"(1) Evidence-based activities for tobacco use prevention and control described in the plan of the State, submitted in accordance with section 1981D, including—

"(A) State and community initiatives;

"(B) community-based prevention programs, similar to programs currently funded by NIH;

"(C) programs focused on those populations within the community that are most at risk to use tobacco products or that have been targeted by tobacco advertising or marketing;

"(D) school programs to prevent and reduce tobacco use and addiction, including school programs focused in those regions of the State with high smoking rates and targeted at populations most at risk to start smoking;

"(E) culturally and linguistically appropriate initiatives targeted towards minority and low-income individuals, individuals residing in medically underserved areas, and women of child-bearing age;

"(F) the development and implementation of tobacco-related public health and health promotion campaigns and public policy initiatives;

"(G) assistance to local governmental entities within the State to conduct appropriate anti-tobacco activities.

"(H) strategies to ensure that the State's smoking prevention activities include minority, low-income, and other undeserved populations; and

"(I) programs that target populations whose smoking rate is disproportionately high in comparison to the smoking rate population-wide in the State.

"(2) Planning, administration, and educational activities related to the activities described in paragraph (1).

"(3) The monitoring and evaluation of activities carried out under paragraphs (1) and (2), and reporting and disseminating resulting information to health professionals and the public.

"(4) Targeted pilot programs with evaluation components to encourage innovation and experimentation with new methodologies.

"(c) COORDINATION.—Tobacco use cessation and community-based prevention activities permitted under subsections (b) and (c) may be conducted in conjunction with recipients of other Federally—funded programs within the State, including—

"(1) the special supplemental food program under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786);

"(2) the Maternal and Child Health Services Block Grant program under title V of the Social Security Act (42 U.S.C. 701 et seq.);

"(3) the State Children's Health Insurance Program of the State under title XXI of the Social Security Act (42 U.S.C. 13397aa et seq.);

"(4) the school lunch program under the National School Lunch Act (42 U.S.C. 1751 et seq.);

"(5) an Indian Health Service Program;

"(6) the community, migrant, and homeless health centers program under section 330 of the Public Health Service Act (42 U.S.C. 254b);

"(7) state-initiated smoking cessation programs that include provisions for reimbursing individuals for medications or therapeutic techniques;

"(8) the substance abuse and mental health services block grant program, and the preventive health services block grant program, under title XIX of the Public Health Service Act (42 U.S.C. 300w et seq.);

"(9) the Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.); and

"(10) programs administered by the Department of Defense and the Department of Veterans Affairs.

"(d) LIMITATION.—A State may not use amounts paid to the State under section 1981A(c) to—

"(1) make cash payments except with appropriate documentation to intended recipients of tobacco use cessation services;

"(2) fund educational, recreational, or health activities not based on scientific evidence that the activity will prevent smoking or lead to success of cessation efforts

"(3) purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment;

"(4) satisfy any requirement for the expenditure of non-Federal funds as a condition of the receipt of Federal funds; or

"(5) provide financial assistance to any entity other than a public or nonprofit private entity or a private entity consistent with subsection (b)(1)(C).

This subsection shall not apply to the support of targeted pilot programs that use innovative and experimental new methodologies and include an evaluation component.

"(e) ADMINISTRATION.—Not more than 5 percent of the allotment of a State for a fiscal year under this subpart may be used by the State to administer the funds paid to the State under section 1981A(c). The State shall pay from non-Federal sources the remaining costs of administering such funds.

"SEC. 1981D. ADMINISTRATIVE PROVISIONS.

"(a) APPLICATION.—The Secretary may make payments under section 1981A(c) to a State for a fiscal year only if—

"(1) the State submits to the Secretary an application, in such form and by such date as the Secretary may require, for such payments;

"(2) the application contains a State plan prepared in a manner consistent with section 1905(b) and in accordance with tobacco-related guidelines promulgated by the Secretary;

"(3) the application contains a certification that is consistent with the certification required under section 1905(c); and

"(4) the application contains such assurances as the Secretary may require regarding the compliance of the State with the requirements of this subpart (including assurances regarding compliance with the agreements described in subsection (c)).

"(b) STATE PLAN.—A State plan under subsection (a)(2) shall be developed in a manner consistent with the plan developed under section 1905(b) except that such plan—

"(1) with respect to activities described in section 1981C(b)—

"(A) shall provide for tobacco use cessation intervention and treatment consistent with the tobacco use cessation guidelines issued by the Agency for Health Care Policy and Research, or another evidence-based guideline approved by the Secretary, or treatments using drugs, human biological products, or medical devices approved by the Food and Drug Administration, or otherwise legally marketed under the Federal Food, Drug and Cosmetic Act for use as tobacco use cessation therapies or aids;

"(B) may, to encourage innovation and experimentation with new methodologies, provide for or may include a targeted pilot program with an evaluation component;

"(C) shall provide for training in tobacco use cessation intervention methods for health plans and health professionals, including physicians, nurses, dentists, health educators, public health professionals, and other health care providers;

"(D) shall ensure access to tobacco use cessation programs for rural and underserved populations;

"(E) shall recognize that some individuals may require more than one attempt for successful cessation; and

"(F) shall be tailored to the needs of specific populations, including minority populations; and

"(2) with respect to State and community-based prevention activities described in section 1981C(c), shall specify the activities authorized under such section that the State intends to carry out.

"(c) CERTIFICATION.—The certification referred to in subsection (a)(3) shall be consistent with the certification required under section 1905(c), except that

"(1) the State shall agree to expend payments under section 1981A(c) only for the activities authorized in section 1981C;

"(2) paragraphs (9) and (10) of such section shall not apply; and

"(3) the State is encouraged to establish an advisory committee in accordance with section 1981E.

"(d) REPORTS, DATA, AND AUDITS.—The provisions of section 1906 shall apply with respect to a State that receives payments under section 1981A(c) and be applied in a manner consistent with the manner in which such provisions are applied to a State under part, except that the data sets referred to in section 1905(a)(2) shall be developed for uniformly defining levels of youth and adult use of tobacco products, including uniform data for racial and ethnic groups, for use in the reports required under this subpart.

"(e) WITHHOLDING.—The provisions of 1907 shall apply with respect to a State that receives payments under section 1981A(c) and be applied in a manner consistent with the manner in which such provisions are applied to a State under part A.

"(f) NONDISCRIMINATION.—The provisions of 1908 shall apply with respect to a State that receives payments under section 1981A(c) and be applied in a manner consistent with the manner in which such provisions are applied to a State under part A.

"(g) CRIMINAL PENALTIES.—The provisions of 1909 shall apply with respect to a State that receives payments under section 1981A(c) and be applied in a manner consistent with the manner in which such provisions are applied to a State under part A.

"SEC. 1981E. STATE ADVISORY COMMITTEE.

"(a) IN GENERAL.—For purposes of sections 1981D(c)(3), an advisory committee is in accordance with this section if such committee meets the conditions described in this subsection.

"(b) DUTIES.—The recommended duties of the committee are—

"(1) to hold public hearings on the State plans required under sections 1981D; and

"(2) to make recommendations under this subpart regarding the development and implementation of such plans, including recommendations on—

"(A) the conduct of assessments under the plans;

"(B) which of the activities authorized in section 1981C should be carried out in the State;

"(C) the allocation of payments made to the State under section 1981A(c);

"(D) the coordination of activities carried out under such plans with relevant programs of other entities; and

"(E) the collection and reporting of data in accordance with section 1981D.

"(c) COMPOSITION.—

"(1) IN GENERAL.—The recommended composition of the advisory committee is members of the general public, such officials of the health departments of political subdivisions of the State, public health professionals, teenagers, minorities, and such experts in tobacco product research as may be necessary to provide adequate representation of the general public and of such health departments, and that members of the committee shall be subject to the provisions of sections 201, 202, and 203 of title 18, United States Code.

"(2) REPRESENTATIVES.—With respect to compliance with paragraph (1), the membership of the advisory committee may include representatives of community-based organizations (including minority community-based organizations), schools of public health, and entities to which the State involved awards grants or contracts to carry out activities authorized under section 1981C.

"Subpart II—Tobacco-Free Counter-Advertising Programs

"SEC. 1982. FEDERAL-STATE COUNTER-ADVERTISING PROGRAMS.

"(a) NATIONAL CAMPAIGN.—

"(1) IN GENERAL.—The Secretary shall conduct a national campaign to reduce tobacco usage through media-based (such as counter-advertising campaigns) and nonmedia-based education, prevention and cessation campaigns designed to discourage the use of tobacco products by individuals, to encourage those who use such products to quit, and to educate the public about the hazards of exposure to environmental tobacco smoke.

"(2) REQUIREMENTS.—The national campaign under paragraph (1) shall—

"(A) target those populations that have been targeted by tobacco industry advertising using culturally and linguistically appropriate means;

"(B) include a research and evaluation component; and

"(C) be designed in a manner that permits the campaign to be modified for use at the State or local level.

"(b) ESTABLISHMENT OF AN ADVISORY BOARD.—

"(1) IN GENERAL.—The Secretary shall establish a board to be known as the 'National Tobacco Free Education Advisory Board' (referred to in this section as the 'Board') to evaluate and provide long range planning for the development and effective dissemination of public informational and educational campaigns and other activities that are part of the campaign under subsection (a).

"(2) COMPOSITION.—The Board shall be composed of—

"(A) 9 non-Federal members to be appointed by the President, after consultation and agreement with the Majority and Minority Leaders of the Senate and the Speaker and Minority Leader of the House of Representatives, of which—

"(i) at least 3 such members shall be individuals who are widely recognized by the general public for cultural, educational, behavioral science or medical achievement;

"(ii) at least 3 of whom shall be individuals who hold positions of leadership in major public health organizations, including minority public health organizations; and

"(iii) at least 3 of whom shall be individuals recognized as experts in the field of advertising and marketing, of which—

"(I) 1 member shall have specific expertise in advertising and marketing to children and teens; and

"(II) 1 member shall have expertise in marketing research and evaluation; and

"(B) the Surgeon General, the Director of the Centers for Disease Control and Prevention, or their designees, shall serve as an ex officio members of the Board.

"(3) TERMS AND VACANCIES.—The members of the Board shall serve for a term of 3 years. Such terms shall be staggered as determined appropriate at the time of appointment by the Secretary. Any vacancy in the Board shall not affect its powers, but shall be filled in the same manner as the original appointment.

"(4) TRAVEL EXPENSES.—The members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.

"(5) AWARDS.—In carrying out subsection (a), the Secretary may—

"(A) enter into contracts with or award grants to eligible entities to develop messages and campaigns designed to prevent and reduce the use of tobacco products that are based on effective strategies to affect behavioral changes in children and other targeted populations, including minority populations;

"(B) enter into contracts with or award grants to eligible entities to carry out public informational and educational activities designed to reduce the use of tobacco products;

"(6) POWERS AND DUTIES.—The Board may—

"(A) hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Board considers advisable to carry out the purposes of this section; and

"(B) secure directly from any Federal department or agency such information as the Board considers necessary to carry out the provisions of this section.

"(c) ELIGIBILITY.—To be eligible to receive funding under this section an entity shall—

"(1) be a—

"(A) public entity or a State health department; or

"(B) private or nonprofit private entity that—

"(i)(I) is not affiliated with a tobacco product manufacturer or importer;

"(II) has a demonstrated record of working effectively to reduce tobacco product use; or

"(III) has expertise in conducting a multimedia communications campaign; and

"(ii) has expertise in developing strategies that affect behavioral changes in children and other targeted populations, including minority populations;

"(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a description of the activities to be conducted using amounts received under the grant or contract;

"(3) provide assurances that amounts received under this section will be used in accordance with subsection (c); and

"(4) meet any other requirements determined appropriate by the Secretary.

"(d) USE OF FUNDS.—An entity that receives funds under this section shall use amounts provided under the grant or contract to conduct multi-media and non-media public educational, informational, marketing and promotional campaigns that are designed to discourage and de-glamorize the use of tobacco products, encourage those using such products to quit, and educate the public about the hazards of exposure to environmental tobacco smoke. Such amounts may be used to design and implement such activities and shall be used to conduct research concerning the effectiveness of such programs.

"(e) NEEDS OF CERTAIN POPULATIONS.—In awarding grants and contracts under this section, the Secretary shall take into consideration the needs of particular populations, including minority populations, and use methods that are culturally and linguistically appropriate.

"(f) COORDINATION.—The Secretary shall ensure that programs and activities under this section are coordinated with programs and activities carried out under this title.

"(g) ALLOCATION OF FUNDS.—Not to exceed—

"(1) 25 percent of the amount made available under subsection (h) for each fiscal year shall be provided to States for State and local media-based and nonmedia-based education, prevention and cessation campaigns;

"(2) no more than 20 percent of the amount made available under subsection (h) for each fiscal year shall be used specifically for the

development of new messages and campaigns;

"(3) the remainder shall be used specifically to place media messages and carry out other dissemination activities described in subsection (d); and

"(4) half of 1 percent for administrative costs and expenses.

"(h) TRIGGER.—No expenditures shall be made under this section during any fiscal year in which the annual amount appropriated for the Centers for Disease Control and Prevention is less than the amount so appropriated for the prior fiscal year.".

"PART E—REDUCING YOUTH SMOKING AND TOBACCO-RELATED DISEASES THROUGH RESEARCH

"SEC. 1991. FUNDING FROM TOBACCO SETTLEMENT TRUST FUND.

No expenditures shall be made under sections 451(b) or (c)—

"(1) for the National Institutes of Health during any fiscal year in which the annual amount appropriated for such Institutes is less than the amount so appropriated for the prior fiscal year;

"(2) for the Centers for Disease Control and Prevention during any fiscal year in which the annual amount appropriated for such Centers is less than the amount so appropriated for the prior fiscal year; or

"(3) for the Agency for Health Care Policy and Research during any fiscal year in which the annual amount appropriated for such Agency is less than the amount so appropriated for the prior fiscal year.

"SEC. 1991A. STUDY BY THE INSTITUTE OF MEDICINE.

"(a) CONTRACT.—Not later than 60 days after the date of enactment of this title, the Secretary shall enter into a contract with the Institute of Medicine for the conduct of a study on the framework for a research agenda and research priorities to be used under this part.

"(b) CONSIDERATIONS.—

"(1) IN GENERAL.—In developing the framework for the research agenda and research priorities under subsection (a) the Institute of Medicine shall focus on increasing knowledge concerning the biological, social, behavioral, public health, and community factors involved in the prevention of tobacco use, reduction of tobacco use, and health consequences of tobacco use.

"(2) SPECIFIC CONSIDERATIONS.—In the study conducted under subsection (a), the Institute of Medicine shall specifically include research on—

"(A) public health and community research relating to tobacco use prevention methods, including public education, media, community strategies;

"(B) behavioral research relating to addiction, tobacco use, and patterns of smoking, including risk factors for tobacco use by children, women, and racial and ethnic minorities;

"(C) health services research relating to tobacco product prevention and cessation treatment methodologies;

"(D) surveillance and epidemiology research relating to tobacco;

"(E) biomedical, including clinical, research relating to prevention and treatment of tobacco-related diseases, including a focus on minorities, including racial and ethnic minorities;

"(F) the effects of tobacco products, ingredients of tobacco products, and tobacco smoke on the human body and methods of reducing any negative effects, including the development of non-addictive, reduced risk tobacco products;

"(G) differentials between brands of tobacco products with respect to health effects or addiction;

"(H) risks associated with environmental exposure to tobacco smoke, including a focus on children and infants;

"(I) effects of tobacco use by pregnant women; and

"(J) other matters determined appropriate by the Institute.

"(c) REPORT.—Not later than 10 months after the date on which the Secretary enters into the contract under subsection (a), the Institute of Medicine shall prepare and submit to the Secretary, the Committee on Labor and Human Resources, and the Committee on Appropriations of the Senate, and the Committee on Commerce of the House of Representatives, a report that shall contain the findings and recommendations of the Institute for the purposes described in subsection (b).

"SEC. 1991B. RESEARCH COORDINATION.

"(a) IN GENERAL.—The Secretary shall foster coordination among Federal research agencies, public health agencies, academic bodies, and community groups that conduct or support tobacco-related biomedical, clinical, behavioral, health services, public health and community, and surveillance and epidemiology research activities.

"(b) REPORT.—The Secretary shall prepare and submit a report on a biennial basis to the Committee on Labor and Human Resources, and the Committee on Appropriations of the Senate, and the Committee on Commerce of the House of Representatives on the current and planned tobacco-related research activities of participating Federal agencies.

"SEC. 1991C. RESEARCH ACTIVITIES OF THE CENTERS FOR DISEASE CONTROL AND PREVENTION.

"(a) DUTIES.—The Director of the Centers for Disease Control and Prevention shall, from amounts provided under section 451(c), and after review of the study of the Institute of Medicine, carry out tobacco-related surveillance and epidemiologic studies and develop tobacco control and prevention strategies; and

"(b) YOUTH SURVEILLANCE SYSTEMS.—From amounts provided under section 451(b), the Director of the Centers for Disease Control and Prevention shall provide for the use of youth surveillance systems to monitor the use of all tobacco products by individuals under the age of 18, including brands-used to enable determinations to be made of company-specific youth market share.

"SEC. 1991D. RESEARCH ACTIVITIES OF THE NATIONAL INSTITUTES OF HEALTH.

"(a) FUNDING.—There are authorized to be appropriated, from amounts in the National Tobacco Settlement Trust Fund established by section 401 of the National Tobacco Policy and Youth Smoking Reduction Act.

"(b) EXPENDITURE OF FUNDS.—The Director of the National Institutes of Health shall provide funds to conduct or support epidemiological, behavioral, biomedical, and social science research, including research related to the prevention and treatment of tobacco addiction, and the prevention and treatment of diseases associated with tobacco use.

"(c) GUARANTEED MINIMUM.—Of the funds made available to the National Institutes of Health under this section, such sums as may be necessary, may be used to support epidemiological, behavioral, and social science research related to the prevention and treatment of tobacco addiction.

"(d) NATURE OF RESEARCH.—Funds made available under subsection (d) may be used to conduct or support research with respect to one or more of the following—

"(1) the epidemiology of tobacco use;

"(2) the etiology of tobacco use;

"(3) risk factors for tobacco use by children;

"(4) prevention of tobacco use by children, including school and community-based programs, and alternative activities;

"(5) the relationship between tobacco use, alcohol abuse and illicit drug abuse;

"(6) behavioral and pharmacological smoking cessation methods and technologies, including relapse prevention;

"(7) the toxicity of tobacco products and their ingredients;

"(8) the relative harmfulness of different tobacco products;

"(9) environmental exposure to tobacco smoke;

"(10) the impact of tobacco use by pregnant women on their fetuses;

"(11) the redesign of tobacco products to reduce risks to public health and safety; and

"(12) other appropriate epidemiological, behavioral, and social science research.

"(e) COORDINATION.—In carrying out tobacco-related research under this section, the Director of the National Institutes of Health shall ensure appropriate coordination with the research of other agencies, and shall avoid duplicative efforts through all appropriate means.

"(h) ADMINISTRATION.—The director of the NIH Office of Behavioral and Social Sciences Research may—

"(1) identify tobacco-related research initiatives that should be conducted or supported by the research institutes, and develop such projects in cooperation with such institutes;

"(2) coordinate tobacco-related research that is conducted or supported by the National Institutes of Health;

"(3) annually recommend to Congress the allocation of anti-tobacco research funds among the national research institutes; and

"(4) establish a clearinghouse for information about tobacco-related research conducted by governmental and non-governmental bodies.

"(f) TRIGGER.—No expenditure shall be made under subsection (a) during any fiscal year in which the annual amount appropriated for the National Institutes of Health is less than the amount so appropriated for the prior fiscal year.

"(g) REPORT.—The Director of the NIH shall every 2 years prepare and submit to the Congress a report ——— research activities, including funding levels, for research made available under subsection (c).

(b) MEDICAID COVERAGE OF OUTPATIENT SMOKING CESSATION AGENTS.—Paragraph (2) of section 1927(d) of the Public Health Service Act (42 U.S.C. 1396r-8(d)) is amended—

(1) by striking subparagraph (E) and redesignating subparagraphs (F) through (J) as subparagraphs (E) through (I); and

(2) by striking "drugs." in subparagraph (F), as redesignated, and inserting "drugs, except agents, approved by the Food and Drug Administration, when used to promote smoking cessation.".

"SEC. 1991E. RESEARCH ACTIVITIES OF THE AGENCY FOR HEALTH CARE POLICY AND RESEARCH.

"(a) IN GENERAL.—The Administrator of the Agency for Health Care Policy and Research shall carry out outcomes, effectiveness, cost-effectiveness, and other health services research related to effective interventions for the prevention and cessation of tobacco use and appropriate strategies for

implementing those services, the outcomes and delivery of care for diseases related to tobacco use, and the development of quality measures for evaluating the provision of those services.

"(b) ANALYSES AND SPECIAL PROGRAMS.—The Secretary, acting through the Administrator of the Agency for Health Care Policy and Research, shall support—

"(1) and conduct periodic analyses and evaluations of the best scientific information in the area of smoking and other tobacco product use cessation; and

"(2) the development and dissemination of special programs in cessation intervention for health plans and national health professional societies.".

TITLE III—TOBACCO PRODUCT WARNINGS AND SMOKE CONSTITUENT DISCLOSURE

Subtitle A—Product Warnings, Labeling and Packaging

SEC. 301. CIGARETTE LABEL AND ADVERTISING WARNINGS.

(a) IN GENERAL.—Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333) is amended to read as follows:

"SEC. 4. LABELING.

"(a) LABEL REQUIREMENTS.—

"(1) IN GENERAL.—It shall be unlawful for any person to manufacture, package, or import for sale or distribution within the United States any cigarettes the package of which fails to bear, in accordance with the requirements of this section, one of the following labels:

"WARNING: Cigarettes are addictive"

"WARNING: Tobacco smoke can harm your children"

"WARNING: Cigarettes cause fatal lung disease"

"WARNING: Cigarettes cause cancer"

"WARNING: Cigarettes cause strokes and heart disease"

"WARNING: Smoking during pregnancy can harm your baby"

"WARNING: Smoking can kill you"

"WARNING: Tobacco smoke causes fatal lung disease in non-smokers"

"WARNING: Quitting smoking now greatly reduces serious risks to your health"

"(2) PLACEMENT; TYPOGRAPHY; ETC.—

"(A) IN GENERAL.—Each label statement required by paragraph (1) shall be located in the upper portion of the front and rear panels of the package, directly on the package underneath the cellophane or other clear wrapping. Except as provided in subparagraph (B), each label statement shall comprise at least the top 25 percent of the front and rear panels of the package. The word "WARNING" shall appear in capital letters and all text shall be in conspicuous and legible 17-point type, unless the text of the label statement would occupy more than 70 percent of such area, in which case the text may be in a smaller conspicuous and legible type size, provided that at least 60 percent of such area is occupied by required text. The text shall be black on a white background, or white on a black background, in a manner that contrasts, by typography, layout, or color, with all other printed material on the package, in an alternating fashion under the plan submitted under subsection (b)(4).

"(B) FLIP-TOP BOXES.—For any cigarette brand package manufactured or distributed before January 1, 2000, which employs a flip-top style (if such packaging was used for that brand in commerce prior to June 21, 1997), the label statement required by paragraph (1) shall be located on the flip-top area of the package, even if such area is less than 25 percent of the area of the front panel. Except as provided in this paragraph, the provisions of this subsection shall apply to such packages.

"(3) DOES NOT APPLY TO FOREIGN DISTRIBUTION.—The provisions of this subsection do not apply to a tobacco product manufacturer or distributor of cigarettes which does not manufacture, package, or import cigarettes for sale or distribution within the United States.

"(b) ADVERTISING REQUIREMENTS.—

"(1) IN GENERAL.—It shall be unlawful for any tobacco product manufacturer, importer, distributor, or retailer of cigarettes to advertise or cause to be advertised within the United States any cigarette unless its advertising bears, in accordance with the requirements of this section, one of the labels specified in subsection (a) of this section.

"(2) TYPOGRAPHY, ETC.—Each label statement required by subsection (a) of this section in cigarette advertising shall comply with the standards set forth in this paragraph. For press and poster advertisements, each such statement and (where applicable) any required statement relating to tar, nicotine, or other constituent yield shall comprise at least 20 percent of the area of the advertisement and shall appear in a conspicuous and prominent format and location at the top of each advertisement within the trim area. The Secretary may revise the required type sizes in such area in such manner as the Secretary determines appropriate. The word "WARNING" shall appear in capital letters, and each label statement shall appear in conspicuous and legible type. The text of the label statement shall be black if the background is white and white if the background is black, under the plan submitted under paragraph (4) of this subsection. The label statements shall be enclosed by a rectangular border that is the same color as the letters of the statements and that is the width of the first downstroke of the capital "W" of the word "WARNING" in the label statements. The text of such label statements shall be in a typeface pro rata to the following requirements: 45-point type for a whole-page broadsheet newspaper advertisement; 39-point type for a half-page broadsheet newspaper advertisement; 39-point type for a whole-page tabloid newspaper advertisement; 27-point type for a half-page tabloid newspaper advertisement; 31.5-point type for a double page spread magazine or whole-page magazine advertisement; 22.5-point type for a 28 centimeter by 3 column advertisement; and 15-point type for a 20 centimeter by 2 column advertisement. The label statements shall be in English, except that in the case of—

"(A) an advertisement that appears in a newspaper, magazine, periodical, or other publication that is not in English, the statements shall appear in the predominant language of the publication; and

"(B) in the case of any other advertisement that is not in English, the statements shall appear in the same language as that principally used in the advertisement.

"(3) ADJUSTMENT BY SECRETARY.—The Secretary may, through a rulemaking under section 553 of title 5, United States Code, adjust the format and type sizes for the label statements required by this section or the text, format, and type sizes of any required tar, nicotine yield, or other constituent disclosures, or to establish the text, format, and type sizes for any other disclosures required under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et. seq.). The text of any such label statements or disclosures shall be required to appear only within the 20 percent area of cigarette advertisements provided by paragraph (2) of this subsection. The Secretary shall promulgate regulations which provide for adjustments in the format and type sizes of any text required to appear in such area to ensure that the total text required to appear by law will fit within such area.

"(4) MARKETING REQUIREMENTS.—

"(A) The label statements specified in subsection (a)(1) shall be randomly displayed in each 12-month period, in as equal a number of times as is possible on each brand of the product and be randomly distributed in all areas of the United States in which the product is marketed in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer and approved by the Secretary.

"(B) The label statements specified in subsection (a)(1) shall be rotated quarterly in alternating sequence in advertisements for each brand of cigarettes in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer to, and approved by, the Secretary.

"(C) The Secretary shall review each plan submitted under subparagraph (B) and approve it if the plan—

"(i) will provide for the equal distribution and display on packaging and the rotation required in advertising under this subsection; and

"(ii) assures that all of the labels required under this section will be displayed by the tobacco product manufacturer, importer, distributor, or retailer at the same time.".

(b) REPEAL OF PROHIBITION ON STATE RESTRICTION.—Section 5 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1334) is amended—

(1) by striking "(a) ADDITIONAL STATEMENTS.—" IN SUBSECTION (A); AND

(2) by striking subsection (b).

SEC. 302. AUTHORITY TO REVISE CIGARETTE WARNING LABEL STATEMENTS.

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

"(c) CHANGE IN REQUIRED 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. 303. SMOKELESS TOBACCO LABELS AND ADVERTISING WARNINGS.

Section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402) is amended to read as follows:

"SEC. 3. SMOKELESS TOBACCO WARNING.

"(a) GENERAL RULE.—

"(1) It shall be unlawful for any person to manufacture, package, or import for sale or distribution within the United States any smokeless tobacco product unless the product package bears, in accordance with the requirements of this Act, one of the following labels:

"WARNING: This product can cause mouth cancer"

"WARNING: This product can cause gum disease and tooth loss"

"WARNING: This product is not a safe alternative to cigarettes"

"WARNING: Smokeless tobacco is addictive"

"(2) Each label statement required by paragraph (1) shall be—

"(A) located on the 2 principal display panels of the package, and each label statement shall comprise at least 25 percent of each such display panel; and

"(B) in 17-point conspicuous and legible type and in black text on a white background, or white text on a black background, in a manner that contrasts by typography, layout, or color, with all other printed material on the package, in an alternating fashion under the plan submitted under subsection (b)(3), except that if the text of a label statement would occupy more than 70 percent of the area specified by subparagraph (A), such text may appear in a smaller type size, so long as at least 60 percent of such warning area is occupied by the label statement.

"(3) The label statements required by paragraph (1) shall be introduced by each tobacco product manufacturer, packager, importer, distributor, or retailer of smokeless tobacco products concurrently into the distribution chain of such products.

"(4) The provisions of this subsection do not apply to a tobacco product manufacturer or distributor of any smokeless tobacco product that does not manufacture, package, or import smokeless tobacco products for sale or distribution within the United States.

"(b) REQUIRED LABELS.—

"(1) It shall be unlawful for any tobacco product manufacturer, packager, importer, distributor, or retailer of smokeless tobacco products to advertise or cause to be advertised within the United States any smokeless tobacco product unless its advertising bears, in accordance with the requirements of this section, one of the labels specified in subsection (a).

"(2) Each label statement required by subsection (a) in smokeless tobacco advertising shall comply with the standards set forth in this paragraph. For press and poster advertisements, each such statement and (where applicable) any required statement relating to tar, nicotine, or other constituent yield shall—

"(A) comprise at least 20 percent of the area of the advertisement, and the warning area shall be delineated by a dividing line of contrasting color from the advertisement; and

"(B) the word "WARNING" shall appear in capital letters and each label statement shall appear in conspicuous and legible type. The text of the label statement shall be black on a white background, or white on a black background, in an alternating fashion under the plan submitted under paragraph (3).

"(3)(A) The label statements specified in subsection (a)(1) shall be randomly displayed in each 12-month period, in as equal a number of times as is possible on each brand of the product and be randomly distributed in all areas of the United States in which the product is marketed in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer and approved by the Secretary.

"(B) The label statements specified in subsection (a)(1) shall be rotated quarterly in alternating sequence in advertisements for each brand of smokeless tobacco product in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer to, and approved by, the Secretary.

"(C) The Secretary shall review each plan submitted under subparagraph (B) and approve it if the plan—

"(i) will provide for the equal distribution and display on packaging and the rotation required in advertising under this subsection; and

"(ii) assures that all of the labels required under this section will be displayed by the 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 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 excees 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.

(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 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.

The 95-percent maintenance-of-effort requirement in paragraph (1), and the adjustments in paragraph (2), apply to each program identified in paragraph (1) on an individual basis.

(f) OPTIONS FOR CHILDREN'S HEALTH OUTREACH.—In addition to the options for the use of grants described in this section, the following are new options to be added to States' choices for conducting children's health outreach:

(1) EXPANSION OF PRESUMPTIVE ELIGIBILITY OPTION FOR CHILDREN.—

(A) IN GENERAL.—Section 1920A(b)(3)(A)(I) of the Social Security Act (42 U.S.C. 1396r-1a(b)(3)(A)(I)) is amended—

(i) by striking "described in subsection (a) or (II) is authorized" and inserting "described in subsection (a), (II) is authorized"; and

(ii) by inserting before the semicolon ", eligibility for benefits under part A of title IV, eligibility of a child to receive benefits under the State plan under this title or title XXI, (III) is a staff member of a public school, child care resource and referral center, or agency administering a plan under part D of title IV, or (IV) is so designated by the State".

(B) TECHNICAL AMENDMENTS.—Section 1920A of that Act (42 U.S.C. 1396r-1a) is amended—

(i) in subsection (b)(3)(A)(ii), by striking "paragraph (1)(A)" and inserting "paragraph (2)(A)"; and

(ii) in subsection (c)(2), in the matter preceding subparagraph (A), by striking "subsection (b)(1)(A)" and inserting "subsection (b)(2)(A)".

(2) REMOVAL OF REQUIREMENT THAT CHILDREN'S HEALTH INSURANCE PROGRAM ALLOTMENTS BE REDUCED BY COSTS RELATED TO PRESUMPTIVE ELIGIBILITY DETERMINATIONS.—

(A) IN GENERAL.—Section 2104(d) of the Social Security Act (42 U.S.C. 1397dd(d)) is amended by striking "the sum of—" and all that follows through the paragraph designation "(2)" and merging all that remains of subsection (d) into a single sentence.

(B) EFFECTIVE DATE.—The amendment made by subsection (a) shall be deemed to have taken effect on August 5, 1997.

(3) INCREASED FUNDING FOR ADMINISTRATIVE COSTS RELATED TO OUTREACH AND ELIGIBILITY DETERMINATIONS FOR CHILDREN.—Section 1931(h) of the Social Security Act (42 U.S.C. 1396u-1(h)) is amended—

(A) by striking the subsection caption and inserting "(h) INCREASED FEDERAL MATCHING RATE FOR ADMINISTRATIVE COSTS RELATED TO OUTREACH AND ELIGIBILITY DETERMINATIONS FOR CHILDREN.—";

(B) in paragraph (2), by striking "eligibility determinations" and all that follows and inserting "determinations of the eligibility of children for benefits under the State plan under this title or title XXI, outreach to children likely to be eligible for such benefits, and such other outreach- and eligibility-related activities as the Secretary may approve.";

(C) in paragraph (3), by striking "and ending with fiscal year 2000 shall not exceed $500,000,000" and inserting "shall not exceed $525,000,000"; and

(D) by striking paragraph (4).

(g) PERIODIC REASSESSMENT OF SPENDING OPTIONS.—Spending options under subsection (b)(2) will be reassessed jointly by the States and Federal government every 5 years and be reported to the Secretary.

SEC. 453. INDIAN HEALTH SERVICE.

Amounts available under section 451(b)(2)(B) shall be provided to the Indian Health Service to be used for anti-tobacco-related consumption and cessation activities including—

(1) clinic and facility design, construction, repair, renovation, maintenance and improvement;

(2) provider services and equipment;

(3) domestic and community sanitation associated with clinic and facility construction and improvement; and

(4) other programs and service provided through the Indian Health Service or through tribal contracts, compacts, grants, or cooperative agreements with the Indian Health Service and which are deemed appropriate to raising the health status of Indians.

SEC. 454. RESEARCH AT THE NATIONAL SCIENCE FOUNDATION.

Amounts available under section 451(c)(2)(C) shall be made available for necessary expenses in carry out the National Science Foundation Act of 1950 (U.S.C. 1861-1875), and the Act to establish a National Medal of Science (42 U.S.C. 1880-1881).

SEC. 455. MEDICARE CANCER PATIENT DEMONSTRATION PROJECT; EVALUATION AND REPORT TO CONGRESS.

(a) ESTABLISHMENT.—The Secretary shall establish a 3-year demonstration project which provides for payment under the Medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) of routine patient care costs—

(1) which are provided to an individual diagnosed with cancer and enrolled in the Medicare program under such title as part of the individual's participation in an approved clinical trial program; and

(2) which are not otherwise eligible for payment under such title for individuals who are entitled to benefits under such title.

(b) APPLICATION.—The beneficiary cost sharing provisions under the Medicare program, such as deductibles, coinsurance, and copayment amounts, shall apply to any individual in a demonstration project conducted under this section.

(c) APPROVED CLINICAL TRIAL PROGRAM.—

(1) IN GENERAL.—For purposes of this section, the term "approved clinical trial program" means a clinical trial program which is approved by—

(A) the National Institutes of Health;

(B) a National Institutes of Health cooperative group or a National Institutes of Health center; and

(C) the National Cancer Institute,

with respect to programs that oversee and coordinate extramural clinical cancer research, trials sponsored by such Institute and conducted at designated cancer centers, clinical trials, and Institute grants that support clinical investigators.

(2) MODIFICATIONS IN APPROVED TRIALS.—Beginning 1 year after the date of enactment of this Act, the Secretary, in consultation with the Cancer Policy Board of the Institute of Medicine, may modify or add to the requirements of paragraph (1) with respect to an approved clinical trial program.

(d) ROUTINE PATIENT CARE COSTS.—

(1) IN GENERAL.—For purposes of this section, the term "routine patient care costs" include the costs associated with the provision of items and services that—

(A) would otherwise be covered under the Medicare program if such items and services were not provided in connection with an approved clinical trial program; and

(B) are furnished according to the design of an approved clinical trial program.

(2) EXCLUSION.—For purposes of this section, the term "routine patient care costs" does not include the costs associated with the provision of—

(A) an investigational drug or device, unless the Secretary has authorized the manufacturer of such drug or device to charge for such drug or device; or

(B) any item or service supplied without charge by the sponsor of the approved clinical trial program.

(e) STUDY.—The Secretary shall study the impact on the Medicare program under title XVIII of the Social Security Act of covering routine patient care costs for individuals with a diagnosis of cancer and other diagnoses, who are entitled to benefits under such title and who are enrolled in an approved clinical trial program.

(f) REPORT TO CONGRESS.—Not later than 30 months after the date of enactment of this Act, the Secretary shall submit a report to Congress that contains a detailed description of the results of the study conducted under subsection (e) including recommendations regarding the extension and expansion of the demonstration project conducted under this section.

TITLE V—STANDARDS TO REDUCE INVOLUNTARY EXPOSURE TO TOBACCO SMOKE

SEC. 501. DEFINITIONS.

In this title:

(1) ASSISTANT SECRETARY.—The term "Assistant Secretary" means the Assistant Secretary of the Occupational Safety and Health Administration of the Department of Labor.

(2) PUBLIC FACILITY.—

(A) IN GENERAL.—The term "public facility" means any building used for purposes that affect interstate or foreign commerce that is regularly entered by 10 or more individuals at least 1 day per week including any building owned by or leased to an agency, independent establishment, department, or the executive, legislative, or judicial branch of the United States Government.

(B) EXCLUSIONS.—The term "public facility" does not include a building or portion thereof which is used for residential purposes or as a restaurant (other than a fast food restaurant), bar, private club, hotel guest room or common area, casino, bingo parlor, tobacconist's shop, or prison.

(C) FAST FOOD RESTAURANT DEFINED.—The term "fast food restaurant" means any restaurant or chain of restaurants that primarily distributes food through a customer pick-up (either at a counter or drive-through window). The Assistant Secretary may promulgate regulations to clarify this subparagraph to ensure that the intended inclusion of establishments catering to individuals under 18 years of age is achieved.

(3) RESPONSIBLE ENTITY.—The term "responsible entity" means, with respect to any public facility, the owner of such facility except that, in the case of any such facility or portion thereof which is leased, such term means the lessee if the lessee is actively engaged in supervising day-to-day activity in the leased space.

SEC. 502. SMOKE-FREE ENVIRONMENT POLICY.

(a) POLICY REQUIRED.—In order to protect children and adults from cancer, respiratory disease, heart disease, and other adverse health effects from breathing environmental tobacco smoke, the responsible entity for each public facility shall adopt and implement at such facility a smoke-free environment policy which meets the requirements of subsection (b).

(b) ELEMENTS OF POLICY.—

(1) IN GENERAL.—The responsible entity for a public facility shall—

(A) prohibit the smoking of cigarettes, cigars, and pipes, and any other combustion of tobacco within the facility and on facility property within the immediate vicinity of the entrance to the facility; and

(B) post a clear and prominent notice of the smoking prohibition in appropriate and visible locations at the public facility.

(2) EXCEPTION.—The responsible entity for a public facility may provide an exception to the prohibition specified in paragraph (1) for 1 or more specially designated smoking areas within a public facility if such area or areas meet the requirements of subsection (c).

(c) SPECIALLY DESIGNATED SMOKING AREAS.—A specially designated smoking area meets the requirements of this subsection if—

(1) the area is ventilated in accordance with specifications promulgated by the Assistant Secretary that ensure that air from the area is directly exhausted to the outside and does not recirculate or drift to other areas within the public facility;

(2) the area is maintained at negative pressure, as compared to adjoining nonsmoking areas, as determined under regulations promulgated by the Assistant Secretary;

(3) nonsmoking individuals do not have to enter the area for any purpose while smoking is occurring in such area; and

(4) cleaning and maintenance work are conducted in such area only when no smoking is occurring in the area.

SEC. 503. CITIZEN ACTIONS.

(a) IN GENERAL.—An action may be brought to enforce the requirements of this title by any aggrieved person, any State or local government agency, or the Assistant Secretary.

(b) VENUE.—Any action to enforce this title may be brought in any United States district court for the district in which the defendant resides or is doing business to enjoin any violation of this title or to impose a civil penalty for any such violation in the amount of not more than $5,000 per day of violation. The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce this title and to impose civil penalties under this title.

(c) NOTICE.—An aggrieved person shall give any alleged violator notice at least 60 days prior to commencing an action under this section. No action may be commenced by an aggrieved person under this section if such alleged violator complies with the requirements of this title within such 60-day period and thereafter.

(d) COSTS.—The court, in issuing any final order in any action brought under this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any prevailing plaintiff, whenever the court determines such award is appropriate.

(e) PENALTIES.—The court, in any action under this section to apply civil penalties, shall have discretion to order that such civil penalties be used for projects which further the policies of this title. The court shall obtain the view of the Assistant Secretary in exercising such discretion and selecting any such projects.

(f) APPLICATION WITH OSHA.—Nothing in this section affects enforcement of the Occupational Safety and Health Act of 1970.

SEC. 504. PREEMPTION.

Nothing in this title shall preempt or otherwise affect any other Federal, State, or local law which provides greater protection from health hazards from environmental tobacco smoke.

SEC. 505. REGULATIONS.

The Assistant Secretary is authorized to promulgate such regulations, after consulting with the Administrator of the Environmental Protection Agency, as the Assistant Secretary deems necessary to carry out this title.

SEC. 506. EFFECTIVE DATE.

Except as provided in section 507, the provisions of this title shall take effect on the first day of January next following the next regularly scheduled meeting of the State legislature occurring after the date of enactment of this Act at which, under the procedural rules of that legislature, a measure under section 507 may be considered.

SEC. 507. STATE CHOICE.

Any State or local government may opt out of this title by promulgating a State or local law, subject to certification by the Assistant Secretary that the law is as or more protective of the public's health as this title, based on the best available science. Any State or local government may opt to enforce this title itself, subject to certification by the Assistant Secretary that the enforcement mechanism will effectively protect the public health.

TITLE VI—APPLICATION TO INDIAN TRIBES

SEC. 601. SHORT TITLE.

This title may be cited as the "Reduction in Tobacco Use and Regulation of Tobacco Products in Indian Country Act of 1998".

SEC. 602. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that Native Americans have used tobacco products for recreational, ceremonial, and traditional purposes for centuries.

(b) PURPOSE.—It is the purpose of this title to—

(1) provide for the implementation of this Act with respect to the regulation of tobacco products, and other tobacco-related activities on Indian lands;

(2) recognize the historic Native American traditional and ceremonial use of tobacco products, and to preserve and protect the

cultural, religious, and ceremonial uses of tobacco by members of Indian tribes;

(3) recognize and respect Indian tribal sovereignty and tribal authority to make and enforce laws regarding the regulation of tobacco distributors and tobacco products on Indian lands; and

(4) ensure that the necessary funding is made available to tribal governments for licensing and enforcement of tobacco distributors and tobacco products on Indian lands.

SEC. 603. APPLICATION OF TITLE TO INDIAN LANDS AND TO NATIVE AMERICANS.

(a) IN GENERAL.—The provisions of this Act shall apply to the manufacture, distribution, and sale of tobacco or tobacco products on Indian lands, including such activities of an Indian tribe or member of such tribe.

(b) TRADITIONAL USE EXCEPTION.—

(1) IN GENERAL.—In recognition of the religious, ceremonial, and traditional uses of tobacco and tobacco products by Indian tribes and the members of such tribes, nothing in this Act shall be construed to permit an infringement upon upon the right of such tribes or members of such tribes to acquire, possess, use, or transfer any tobacco or tobacco product for such purposes, or to infringe upon the ability of minors to participate and use tobacco products for such religious, ceremonial, or traditional purposes.

(2) APPLICATION OF PROVISIONS.—Paragraph (1) shall apply only to those quantities of tobacco or tobacco products necessary to fulfill the religious, ceremonial, or traditional purposes of an Indian tribe or the members of such tribe, and shall not be construed to permit the general manufacture, distribution, sale or use of tobacco or tobacco products in a manner that is not in compliance with this Act or the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

(c) LIMITATION.—Nothing in this Act shall be construed to permit an Indian tribe or member of such a tribe to acquire, possess, use, or transfer any tobacco or tobacco product in violation of section 2341 of title 18, United States Code, with respect to the transportation of contraband cigarettes.

(d) APPLICATION ON INDIAN LANDS.—

(1) IN GENERAL.—The Secretary, in consultation with the Secretary of Interior, shall promulgate regulations to implement this section as necessary to apply this Act and the Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) with respect to tobacco products manufactured, distributed, or sold on Indian lands.

(2) SCOPE.—This Act and the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) shall apply to the manufacture, distribution and sale of tobacco products on Indian lands, including such activities by Indian tribes and members of such tribes.

(3) TRIBAL TOBACCO RETAILER LICENSING PROGRAM.—

(A) IN GENERAL.—The requirements of this Act with respect to the licensing of tobacco retailers shall apply to all retailers that sell tobacco or tobacco products on Indian lands, including Indian tribes, and members thereof.

(B) IMPLEMENTATION.—

(i) IN GENERAL.—An Indian tribe may implement and enforce a tobacco retailer licensing and enforcement program on its Indian lands consistent with the provisions of section 231 if the tribe is eligible under subparagraph (D). For purposes of this clause, section 231 shall be applied to an Indian tribe by substituting "Indian tribe" for "State" each place it appears, and an Indian tribe shall not be ineligible for grants under that section if the Secretary applies that section to the tribe by modifying it to address tribal population, land base, and jurisdictional factors.

(ii) COOPERATION.—An Indian tribe and State with tobacco retailer licensing programs within adjacent jurisdictions should consult and confer to ensure effective implementation of their respective programs.

(C) ENFORCEMENT.—The Secretary may vest the responsibility for implementation and enforcement of a tobacco retailer licensing program in—

(i) the Indian tribe involved;

(ii) the State within which the lands of the Indian tribe are located pursuant to a voluntary cooperative agreement entered into by the State and the Indian tribe; or

(iii) the Secretary pursuant to subparagraph (F).

(D) ELIGIBILITY.—To be eligible to implement and enforce a tobacco retailer licensing program under section 231, the Secretary, in consultation with the Secretary of Interior, must find that—

(i) the Indian tribe has a governing body that has powers and carries out duties that are similar to the powers and duties of State or local governments;

(ii) the functions to be exercised relate to activities conducted on its Indian lands; and

(iii) the Indian tribe is reasonably expected to be capable of carrying out the functions required by the Secretary.

(E) DETERMINATIONS.—Not later than 90 days after the date on which an Indian tribe submits an application for authority under subparagraph (D), the Secretary shall make a determination concerning the eligibility of such tribe for such authority. Each tribe found eligible under subparagraph (D) shall be eligible to enter into agreements for block grants under section 231, to conduct a licensing and enforcement program pursuant to section 231, and for bonuses under section 232.

(F) IMPLEMENTATION BY THE SECRETARY.—If the Secretary determines that the Indian tribe is not willing or not qualified to administer a retail licensing and enforcement program, the Secretary, in consultation with the Secretary of Interior, shall promulgate regulations for a program for such tribes in the same manner as for States which have not established a tobacco retailer licensing program under section 231(f).

(G) DEFICIENT APPLICATIONS; OPPORTUNITY TO CURE.—

(i) If the Secretary determines under subparagraph (F) that a Indian tribe is not eligible to establish a tobacco retailer licensing program, the Secretary shall—

(I) submit to such tribe, in writing, a statement of the reasons for such determination of ineligibility; and

(II) shall assist such tribe in overcoming any deficiencies that resulted in the determination of ineligibility.

(ii) After an opportunity to review and cure such deficiencies, the tribe may reapply to the Secretary for assistance under this subsection.

(H) SECRETARIAL REVIEW.—The Secretary may periodically review the tribal tobacco retailer licensing program of a tribe approved pursuant to subparagraph (E), including the effectiveness of the program, the tribe's enforcement thereof, and the compatibility of the tribe's program with the program of the State in which the tribe is located. The program shall be subject to all applicable requirements of section 231.

(e) ELIGIBILITY FOR PUBLIC HEATH FUNDS.—

(1) ELIGIBILITY FOR GRANTS.—

(A) For each fiscal year the Secretary may award grants to Indian tribes from the federal Account or other federal funds, except a tribe that is not a participating tobacco product manufacturer (as defined in section 1402(a)), for the same purposes as States and local governments are eligible to receive grants from the Federal Account as provided for in this Act. Indian tribes shall have the flexibility to utilize such grants to meet the unique health care needs of their service populations consistent with the goals and purposes of Federal Indian health care law and policy.

(B) In promulgating regulations for the approval and funding of smoking cessation programs under section 221 the Secretary shall ensure that adequate funding is available to address the high rate of smoking among Native Americans.

(2) HEALTH CARE FUNDING.—

(A) INDIAN HEALTH SERVICE.—Each fiscal year the Secretary shall disburse to the Indian Health Service from the National Tobacco Settlement Trust Fund an amount determined by the Secretary in consultation with the Secretary of the Interior equal to the product of—

(i) the ratio of the total Indian health care service population relative to the total population of the United States; and

(ii) the amount allocated to the States each year from the State Litigation Trust Account.

(B) FUNDING.—The trustees of the Trust Fund shall for each fiscal year transfer to the Secretary from the State Litigation Trust Account the amount determined pursuant to paragraph (A).

(C) USE OF HEALTH CARE TRUST FUNDS.—Amounts made available to the Indian Health Service under this paragraph shall be made available to Indian tribes pursuant to the provisions of the Indian Self Determination and Education Assistance Act (25 U.S.C. 450b et seq.), shall be used to reduce tobacco consumption, promote smoking cessation, and shall be used to fund health care activities including—

(i) clinic and facility design, construction, repair, renovation, maintenance, and improvement;

(ii) health care provider services and equipment;

(iii) domestic and community sanitation associated with clinic and facility construction and improvement;

(iv) inpatient and outpatient services; and

(v) other programs and services which have as their goal raising the health status of Indians.

(f) PREEMPTION.—

(1) IN GENERAL.—Except as otherwise provided in this section, nothing in this Act shall be construed to prohibit an Indian tribe from imposing requirements, prohibitions, penalties, or other measures to further the purposes of this Act that are in addition to the requirements, prohibitions, or penalties required by this Act.

(2) PUBLIC EXPOSURE TO SMOKE.—Nothing in this title shall be construed to preempt or otherwise affect any Indian tribe rule or practice that provides greater protections from the health hazard of environmental tobacco smoke.

(g) DISCLAIMER.—Nothing in this Act shall be construed to increase or diminish tribal or State jurisdiction on Indian lands with respect to tobacco-related activities.

TITLE VII—TOBACCO CLAIMS

SEC. 701. DEFINITIONS.

In this title:

(1) AFFILIATE.—The term "affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by, or is

under common ownership or control with, another person. For purposes of this definition, ownership means ownership of an equity interest, or the equivalent thereof, of ten percent or more, and person means an individual, partnership, committee, association, corporation, or any other organization or group of persons.

(2) CIVIL ACTION.—The term "civil action" means any action, lawsuit, or proceeding that is not a criminal action.

(3) COURT.—The term "court" means any judicial or agency court, forum, or tribunal within the United States, including without limitation any Federal, State, or tribal court.

(4) FINAL JUDGMENT.—The term "final judgment" means a judgment on which all rights of appeal or discretionary review have been exhausted or waived or for which the time to appeal or seek such discretionary review has expired.

(5) FINAL SETTLEMENT.—The term "final settlement" means a settlement agreement that is executed and approved as necessary to be fully binding on all relevant parties.

(6) INDIVIDUAL.—The term "individual" means a human being and does not include a corporation, partnership, unincorporated association, trust, estate, or any other public or private entity, State or local government, or Indian tribe.

(7) TOBACCO CLAIM.—The term "tobacco claim" means a claim directly or indirectly arising out of, based on, or related to the health-related effects of tobacco products, including without limitation a claim arising out of, based on or related to allegations regarding any conduct, statement, or omission respecting the health-related effects of such products.

(8) TOBACCO PRODUCT MANUFACTURER.—The term "tobacco product manufacturer" means a person who—

(A) manufactures tobacco products for sale in the United States after the date of enactment of this Act, including tobacco products for sale in the United States through an importer;

(B) is, after the date of enactment of this Act, the first purchaser for resale in the United States of tobacco products manufactured for sale outside of the United States;

(C) engaged in activities described in subparagraph (A) or (B) prior to the date of enactment of this Act, has not engaged in such activities after the date of enactment of this Act, and was not as of June 20, 1997, an affiliate of a tobacco product manufacturer in which the tobacco product manufacturer or its other affiliates owned a 50 percent or greater interest;

(D) is a successor or assign of any of the foregoing;

(E) is an entity to which any of the foregoing directly or indirectly makes, after the date of enactment of this Act, a fraudulent conveyance or a transfer that would otherwise be voidable under part 5 of title 11 of the United States Code, but only to the extent of the interest or obligation transferred; or

(F) is an affiliate of a tobacco product manufacturer.

(9) CASTANO CIVIL ACTIONS.—The term "Castano Civil Actions" means the following civil actions: Gloria Wilkinson Lyons et al. v. American Tobacco Co., et al. (USDC Alabama 96-0881-BH; Agnes McGinty, et al. v. American Tobacco Co., et al. (USDC Arkansas LR-C-96-881); Willard R. Brown, et al. v. R.J. Reynolds Co., et al. (San Diego, California-00711400); Gray Davis & James Ellis, et al. R.J. Reynolds Tobacco Co., et al. (San Diego, California-00706458); Chester Lyons, et al. v. Brown & Williamson Tobacco Corp., et al. (Fulton County, Georgia-E-59346); Rosalyn Peterson, et al. v. American Tobacco Co., et al. (USDC Hawaii-97-00233-HG); Jean Clay , et al. v. American Tobacco Co., et al. (USDC Illinois Benton Division-97-4167-JPG); William J. Norton, et al. v. RJR Nabisco Holdings Corp., et al. (Madison County, Indiana 48D01-9605-CP-0271); Alga Emig, et al. v. American Tobacco Co., et al. (USDC Kansas-97-1121-MLB); Gloria Scott, et al. v. American Tobacco Co., et al. (Orleans Parish, Louisiana-97-1178); Vern Masepohl, et al. v. American Tobacco Co., et al. (USDC Minnesota-3-96-CV-888); Matthew Tepper, et al. v. Philip Morris Incorporated, et al (Bergen County, New Jersey-BER-L-4983-97-E); Carol A. Connor, et al. v. American Tobacco Co., et al. (Bernalillo County, New Mexico-CV96-8464); Edwin Paul Hoskins, et al. v. R.J. Reynolds Tobacco Co., et al.; Josephine Stewart-Lomantz v. Brown & Williamson Tobacco, et al.; Rose Frosina, et al. v. Philip Morris Incorporated, et al.; Catherine Zito, et al. v. American Tobacco Co., et al.; Kevin Mroczkowski, et al. v. Lorillard Tobacco Company, et al. (Supreme Court, New York County, New York-110949 thru 110953); Judith E. Chamberlain, et al. v. American Tobacco Co., et al. (USDC Ohio-1:96CV2005); Brian walls, et al. v. American Tobacco Co., et al. (USDC Oklahoma-97-CV-218-H); Steven R. Arch, et al. v. American Tobacco Co., et al. (USDC Pennsylvania-96-5903-CN); Barreras-Ruiz, et al. v. American Tobacco Co., et al. (USDC Puerto Rico-96-2300-JAF); Joanne Anderson, et al. v. American Tobacco Co., et al. (Know County, Tennessee); Carlis Cole, et al. v. The Tobacco institute, Inc., et al. (USDC Beaumont Texas Division-1:97CV0256); Carrol Jackson, et al. v. Philip Morris Incorporated, et al. (Salt Lake County, Utah-CV No. 98-0901634PI).

SEC. 702. APPLICATION; PREEMPTION.

(a) APPLICATION.—The provisions of this title govern any tobacco claim in any civil action brought in an State, Tribal, or Federal court, including any such claim that has not reached final judgment or final settlement as of the date of enactment of this Act.

(b) PREEMPTION.—This title supersedes State law only to the extent that State law applies to a matter covered by this title. Any matter that is not governed by this title, including any standard of liability applicable to a manufacturer, shall be governed by any applicable State, Tribal, or Federal law.

(c) CRIMINAL LIABILITY UNTOUCHED.—Nothing in this title shall be construed to limit the criminal liability of tobacco product manufacturers, retailers, or distributors, or their officers, directors, employees, successors, or assigns.

SEC. 703. RULES GOVERNING TOBACCO CLAIMS.

(a) GENERAL CAUSATION PRESUMPTION.—In any civil action to which this title applies brought involving a tobacco claim, there shall be an evidentiary presumption that nicotine is addictive and that the diseases identified as being caused by use of tobacco products in the Center for Disease Control and Prevention Reducing the Health Consequences of Smoking: 25 Years of Progress: A Report of the Surgeon General (United States Public Health Service 1989), The Health Consequences of Smoking: Involuntary Smoking, (USPHS 1986); and The Health Consequences of Using Smokeless Tobacco, (USPHS 1986), are caused in whole or in part by the use of tobacco products, (hereinafter referred to as the "general causation presumption"), and a jury empaneled to hear a tobacco claim shall be so instructed. In all other respects, the burden of proof as to the issue of whether a plaintiff's specific disease or injury was caused by smoking shall be governed by the law of the State or Tribe in which the tobacco claim was brought. This general causation presumption shall in no way affect the ability of the defendant to introduce evidence or argument which the defendant would otherwise be entitled to present under the law of the State or Tribe in which the tobacco claim was brought to rebut the general causation presumption, or with respect to general causation, specific causation, or alternative causation, or to introduce any other evidence or argument which the defendant would otherwise be entitled to make.

(b) ACTIONS AGAINST PARTICIPATING TOBACCO PRODUCT MANUFACTURERS.—In any civil action brought involving a tobacco claim against participating tobacco product manufacturers, as that term is defined in title XIV, the provisions of title XIV apply in conjunction with the provisions of this title.

TITLE VIII—TOBACCO INDUSTRY ACCOUNTABILITY REQUIREMENTS AND EMPLOYEE PROTECTION FROM REPRISALS

SEC. 801. ACCOUNTABILITY REQUIREMENTS AND OVERSIGHT OF THE TOBACCO INDUSTRY.

(a) ACCOUNTABILITY.—The Secretary, following regular consultation with the Commissioner of Food and Drugs, the Surgeon General, the Director of the Center for Disease Control or the Director's delegate, and the Director of the Health and Human Services Office of Minority Health shall annually issue a report as provided for in subsection (c).

(b) TOBACCO COMPANY PLAN.—Within a year after the date of enactment of this Act, each participating tobacco product manufacturer shall adopt and submit to the Secretary a plan to achieve the required percentage reductions in underage use of tobacco products set forth in section 201, and thereafter shall update its plan no less frequently than annually. The annual report of the Secretary may recommend amendment of any plan to incorporate additional measures to reduce underage tobacco use that are consistent with the provisions of this Act.

(c) ANNUAL REPORT.—The Secretary shall submit a report to the Congress by January 31 of each year, which shall be published in the Federal Register. The report shall—

(1) describe in detail each tobacco product manufacturer's compliance with the provisions of this Act and its plan submitted under subsection (b);

(2) report on whether each tobacco product manufacturer's efforts to reduce underage smoking are likely to result in attainment of smoking reduction targets under section 201;

(3) recommend, where necessary, additional measures individual tobacco companies should undertake to meet those targets; and

(4) include, where applicable, the extent to which prior panel recommendations have been adopted by each tobacco product manufacturer.

SEC. 802. TOBACCO PRODUCT MANUFACTURER EMPLOYEE PROTECTION.

(a) PROHIBITED ACTS.—No tobacco product manufacturer may discharge, demote, or otherwise discriminate against any employee with respect to compensation, terms, conditions, benefits, or privileges of employment because the employee (or any person acting under a request of the employee)—

(1) notified the manufacturer, the Commissioner of Food and Drugs, the Attorney General, or any Federal, State, or local public health or law enforcement authority of an alleged violation of this or any other Act;

(2) refused to engage in any practice made unlawful by such Acts, if the employee has identified the alleged illegality to the manufacturer;

(3) testified before Congress or at any Federal or State proceeding regarding any provision (or proposed provision) of such Acts;

(4) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under such Acts, or a proceeding for the administration or enforcement of any requirement imposed under such Acts;

(5) testified or is about to testify in any such proceeding; or

(6) assisted or participated, or is about to assist or participate, in any manner in such a proceeding or in any other manner in such a proceeding or in any other action to carry out the purposes of such Acts.

(b) EMPLOYEE COMPLAINT.—

(1) Any employee of a tobacco product manufacturer who believes that he or she has been discharged, demoted, or otherwise discriminated against by any person in violation of subsection (a) of this section may, within 180 days after such violation occurs, file (or have any person file on his or her behalf) a complaint with the Secretary alleging such discharge, demotion, or discrimination. Upon receipt of such a complaint, the Secretary shall notify the person named in the complaint of its filing.

(2)(A) Upon receipt of a complaint under paragraph (1) of this subsection, the Secretary shall conduct an investigation of the violation alleged in the complaint. Within 30 days after the receipt of such complaint, the Secretary shall complete such investigation and shall notify in writing the complainant (and any such person acting in his or her behalf) and the person alleged to have committed such violation of the results of the investigation conducted under this paragraph. Within 90 days after the receipt of such complaint, the Secretary shall (unless the proceeding on the complaint is terminated by the Secretary on the basis of a settlement entered into by the Secretary and the person alleged to have committed such violation) issue an order either providing the relief prescribed in subparagraph (B) of this paragraph or denying the complaint. An order of the Secretary shall be made on the record after notice and the opportunity for a hearing in accordance with sections 554 and 556 of title 5, United States Code. Upon the conclusion of such a hearing and the issuance of a recommended decision that the complaint has merit, the Secretary shall issue a preliminary order providing the relief prescribed in subparagraph (B) of this paragraph, but may not order compensatory damages pending a final order. The Secretary may not enter into a settlement terminating a proceeding on a complaint without the participation and consent of the complainant.

(B) If, in response to a complaint under paragraph (1) of this subsection, the Secretary determines that a violation of this paragraph has occurred, the Secretary shall order the person who committed such violation to (i) take affirmative action to abate the violation, and (ii) reinstate the complainant to his or her former position together with compensation (including back pay), terms, conditions, and privileges of his or her employment. The Secretary may order such person to provide compensatory damages to the complainant. If an order is issued under this subparagraph, the Secretary, at the request of the complainant, shall assess the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys' and expert witness fees) reasonably incurred (as determined by the Secretary), by the complainant for, or in connection with, the bringing of the complaint upon which the order is issued.

(3)(A) The Secretary shall dismiss a complaint filed under paragraph (1) of this subsection, and shall not conduct the investigation required under paragraph (2) of this subsection, unless the complainant has made a *prima facie* showing that any behavior described in subsection (a) of this section was a contributing factor in the unfavorable personnel action alleged in the complaint.

(B) Notwithstanding a finding by the Secretary that the complainant has made the showing required by subparagraph (A) of this paragraph, no investigation required under paragraph (2) of this subsection shall be conducted if the manufacturer demonstrates by clear and convincing evidence that it would have taken the same unfavorable personnel action in the absence of such behavior. Relief may not be ordered under paragraph (1) of this subsection if the manufacturer demonstrates by clear and convincing evidence that it would have taken the same unfavorable personnel action in the absence of such behavior.

(C) The Secretary may determine that a violation of subsection (a) of this section has occurred only if the complainant has demonstrated that any behavior described in subsection (a) of this section was a contributing factor in unfavorable personnel action alleged in the complaint.

(c) JUDICIAL REVIEW.—

(1) Any person adversely affected or aggrieved by an order issued under subsection (a) of this section may obtain review of the order in the United States court of appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred. The petition for review must be filed within 60 days after the issuance of the Secretary's order. Judicial review shall be available as provided in chapter 7 of title 5, United States Code. The commencement of proceedings under this subsection shall not, unless ordered by the court, operate as a stay of the Secretary's order.

(2) An order of the Secretary with respect to which review could have been obtained under paragraph (1) of this subsection shall not be subject to judicial review in any criminal or civil proceeding.

(d) NONCOMPLIANCE.—Whenever a person has failed to comply with an order issued under subsection (b)(2) of this section, the Secretary may file a civil action in the United States district court for the district in which the violation occurred to enforce such order. In actions brought under this subsection, the district courts shall have jurisdiction to grant all appropriate relief, including injunctive relief and compensatory and exemplary damages.

(e) ACTION TO ENSURE COMPLIANCE.—

(1) Any person on whose behalf an order was issued under subsection (b)(2) of this section may commence a civil action to require compliance with such order against the person to whom such order was issued. The appropriate United States district court shall have jurisdiction to enforce such order, without regard to the amount in controversy or the citizenship of the parties.

(2) The court, in issuing any final order under this subsection, may award costs of litigation (including reasonable attorneys' and expert witness fees) to any party whenever the court determines such award is appropriate.

(f) ENFORCEMENT.—Any non-discretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28, United States Code.

(g) APPLICABILITY TO CERTAIN EMPLOYEES.—Subsection (a) of this section shall not apply with respect to any employee who, acting without direction from the manufacturer (or the agent of the manufacturer) deliberately causes a violation of any requirement of this Act, the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq), or any other law or regulation relating to tobacco products.

(h) EFFECT ON OTHER LAWS.—This section shall not be construed to expand, diminish, or otherwise affect any right otherwise available to an employee under Federal or State law to redress the employee's discharge or other discriminatory action taken by a tobacco product manufacturer against the employee.

(i) POSTING.—The provisions of this section shall be prominently posted in any place of employment to which this section applies.

TITLE IX—PUBLIC DISCLOSURE OF TOBACCO INDUSTRY DOCUMENTS

SEC. 901. FINDINGS.

The Congress finds that—

(1) the American tobacco industry has made claims of attorney-client privilege, attorney work product, and trade secrets to protect from public disclosure thousands of internal documents sought by civil litigants;

(2) a number of courts have found that these claims of privilege were not made in good faith; and

(3) a prompt and full exposition of tobacco documents will—

(A) promote understanding by the public of the tobacco industry's research and practices; and

(B) further the purposes of this Act.

SEC. 902. APPLICABILITY.

This title applies to all tobacco product manufacturers.

SEC. 903. DOCUMENT DISCLOSURE.

(a) DISCLOSURE TO THE FOOD AND DRUG ADMINISTRATION.—

(1) Within 60 days after the date of enactment of this Act, each tobacco product manufacturer shall submit to the Food and Drug Administration the documents identified in subsection (c), including documents for which trade secret protection is claimed, with the exception of any document for which privilege is claimed, and identified in accordance with subsection (b). Each such manufacturer shall provide the Administration with the privilege and trade secret logs identified under subsection (b).

(2) With respect to documents that are claimed to contain trade secret material, unless and until it is finally determined under this title, either through judicial review or because time for judicial review has expired, that such a document does not constitute or contain trade secret material, the Administration shall treat the document as a trade secret in accordance with section 708 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379) and the regulations promulgated thereunder. Nothing herein shall limit the authority of the Administration to obtain and use, in accordance with any provision of the Federal Food, Drug, and Cosmetic Act and the regulations promulgated thereunder, any document constituting or containing

trade secret material. Documents and materials received by the Administration under this provision shall not be obtainable by or releasable to the public through section 552 of title 5, United States Code, or any other provision of law, and the only recourse to obtain these documents shall be through the process established by section 905.

(3) If a document depository is not established under title XIV, the Secretary shall establish by regulation a procedure for making public all documents submitted under paragraph (1) except documents for which trade secret protection has been claimed and for which there has not been a final judicial determination that the document does not contain a trade secret.

(b) SEPARATE SUBMISSION OF DOCUMENTS.—

(1) (1) PRIVILEGED TRADE SECRET DOCUMENTS.—Any document required to be submitted under subsection (c) or (d) that is subject to a claim by a tobacco product manufacturer of attorney-client privilege, attorney work product, or trade secret protection shall be so marked and shall be submitted to the panel under section 904 within 30 days after its appointment. Compliance with this subsection shall not be deemed to be a waiver of any applicable claim of privilege or trade secret protection.

(2) PRIVILEGE AND TRADE SECRET LOGS.—

(A) IN GENERAL.—Within 15 days after submitting documents under paragraph (1), each tobacco product manufacturer shall submit a comprehensive log which identifies on a document-by-document basis all documents produced for which the manufacturer asserts attorney-client privilege, attorney work-product, or trade secrecy. With respect to documents for which the manufacturer previously has asserted one or more of the aforementioned privileges or trade secret protection, the manufacturer shall conduct a good faith *de novo* review of such documents to determine whether such privilege or trade secret protection is appropriate.

(B) ORGANIZATION OF LOG.—The log shall be organized in numerical order based upon the document identifier assigned to each document. For each document, the log shall contain—

(i) a description of the document, including type of document, title of document, name and position or title of each author, addressee, and other recipient who was intended to receive a copy, document date, document purpose, and general subject matter;

(ii) an explanation why the document or a portion of the document is privileged or subject to trade secret protection; and

(iii) a statement whether any previous claim of privilege or trade secret was denied and, if so, in what proceeding.

(C) PUBLIC INSPECTION.—Within 5 days of receipt of such a log, the Depository shall make it available for public inspection and review.

(3) DECLARATION OF COMPLIANCE.—Each tobacco product manufacturer shall submit to the Depository a declaration, in accordance with the requirements of section 1746 of title 28, United States Code, by an individual with responsibility for the *de novo* review of documents, preparation of the privilege log, and knowledge of its contents. The declarant shall attest to the manufacturer's compliance with the requirements of this subsection pertaining to the review of documents and preparation of a privilege log.

(c) DOCUMENT CATEGORIES.—Each tobacco product manufacturer shall submit—

(1) every existing document (including any document subject to a claim of attorney-client privilege, attorney work product, or trade secret protection) in the manufacturer's possession, custody, or control relating, referring, or pertaining to—

(A) any studies, research, or analysis of any possible health or pharmacological effects in humans or animals, including addiction, associated with the use of tobacco products or components of tobacco products;

(B) the engineering, manipulation, or control of nicotine in tobacco products;

(C) the sale or marketing of tobacco products;

(D) any research involving safer or less hazardous tobacco products;

(E) tobacco use by minors; or

(F) the relationship between advertising or promotion and the use of tobacco products;

(2) all documents produced by any tobacco product manufacturer, the Center of Tobacco Research or Tobacco Institute to the Attorney General of any State during discovery in any action brought on behalf of any State and commenced after January 1, 1994;

(3) all documents produced by any tobacco product manufacturer, Center for Tobacco Research or Tobacco Institute to the Federal Trade Commission in connection with its investigation into the "Joe Camel" advertising campaign and any underage marketing of tobacco products to minors;

(4) all documents produced by any tobacco product manufacturers, the Center for Tobacco Research or the Tobacco Institute to litigation adversaries during discovery in any private litigation matters;

(5) all documents produced by any tobacco product manufacturer, the Center for Tobacco Research, or the Tobacco Institute in any of the following private litigation matters:

(A) Philip Morris v. American Broadcasting Co., Law No. 7609CL94x00181-00 (Cir. Ct. Va. filed Mar. 26, 1994);

(B) Estate of Butler v. R.J. Reynolds Tobacco Co., Civ. A. No. 94-5-53 (Cir. Ct. Miss., filed May 12, 1994);

(C) Haines v. Liggett Group, No. 84-CV-678 (D.N.J., filed Feb. 22, 1984); and

(D) Cipollone v. Liggett Group, No. 83-CV-284 (D.N.J., filed Aug. 1, 1983);

(6) any document produced as evidence or potential evidence or submitted to the Depository by tobacco product manufacturers in any of the actions described in paragraph (5), including briefs and other pleadings, memoranda, interrogatories, transcripts of depositions, and expert witnesses and consultants materials, including correspondence, reports, and testimony;

(7) any additional documents that any tobacco product manufacturer, the Center for Tobacco Research, or the Tobacco Institute have agreed or been required by any court to produce to litigation adversaries as part of discovery in any action listed in paragraph (2), (3), (4), or (5) but have not yet completed producing as of the date of enactment of this Act;

(8) all indices of documents relating to tobacco products and health, with any such indices that are maintained in computerized form placed into the depository in both a computerized and hard-copy form;

(9) a privilege log describing each document or portion of a document otherwise subject to production in the actions enumerated in this subsection that any tobacco product manufacturer, the Center for Tobacco Research, or the Tobacco Institute maintains, based upon a good faith *de novo* re-review conducted after the date of enactment of this Act is exempt from public disclosure under this title; and

(10) a trade secrecy log describing each document or portion of a document that any tobacco product manufacturer, the Center for Tobacco Research, or the Tobacco Institute maintains is exempt from public disclosure under this title.

(d) FUTURE DOCUMENTS.—With respect to documents created after the date of enactment of this Act, the tobacco product manufacturers and their trade associations shall—

(1) place the documents in the depository; and

(2) provide a copy of the documents to the Food and Drug Administration (with the exception of documents subject to a claim of attorney-client privilege or attorney work product).

(1) Every existing document (including any document subject to a claim of attorney-client privilege, attorney work product, or trade secret protection) in the manufacturer's possession, custody, or control relating, referring, or pertaining to—

(A) any studies, research, or analysis of any possible health or pharmacological effects in humans or animals, including addiction, associated with the use of tobacco products or components of tobacco products;

(B) the engineering, manipulation, or control of nicotine in tobacco products;

(C) the sale or marketing of tobacco products;

(D) any research involving safer or less hazardous tobacco products;

(E) tobacco use by minors; or

(F) the relationship between advertising or promotion and the use of tobacco products;

(2) Every existing document (including any document subject to a claim of attorney-client privilege, attorney work product, or trade secret protection) in the manufacturer's possession, custody, or control—

(A) produced, or ordered to be produced, by the tobacco product manufacturer in any health-related civil or criminal proceeding, judicial or administrative; and

(B) that the panel established under section 906 determines is appropriate for submission.

(3) All studies conducted or funded, directly or indirectly, by any tobacco product manufacturer, relating to tobacco product use by minors.

(4) All documents discussing or referring to the relationship, if any, between advertising and promotion and the use of tobacco products by minors.

(5) A privilege log describing each document or each portion of a document otherwise subject to public disclosure under this subsection that any tobacco product manufacturer maintains is exempt from public disclosure under this title.

(6) A trade secrecy log describing each document or each portion of a document otherwise subject to public disclosure under this subsection that any tobacco product manufacturer, the Center for Tobacco Research, or the Tobacco Institute maintains is exempt from public disclosure under this Act.

(e) DOCUMENT IDENTIFICATION AND INDEX.—Documents submitted under this section shall be sequentially numbered and marked to identify the tobacco product manufacturer. Within 15 days after submission of documents, each tobacco product manufacturer shall supply the panel with a comprehensive document index which references the applicable document categories contained in subsection (b).

SEC. 904. DOCUMENT REVIEW.

(a) AJUDICATION OF PRIVILEGE CLAIMS.—An claim of attorney-client privilege, trade secret protection, or other claim of privilege

with respect to a document required to be submitted by this title shall be heard by a 3-judge panel of the United States District Court for the District of Columbia under section 2284 of title 28, United States Code. The panel may appoint special masters, employ such personnel, and establish such procedures as it deems necessary to carry out its functions under this title.

(b) PRIVILEGE.—The panel shall apply the attorney-client privilege, the attorney work-product doctrine, and the trade secret doctrine in a manner consistent with Federal law.

SEC. 905. RESOLUTION OF DISPUTED PRIVILEGE AND TRADE SECRET CLAIMS.

(a) IN GENERAL.—The panel shall determine whether to uphold or reject disputed claims of attorney client privilege, attorney work product, or trade secret protection with respect to documents submitted. Any person may petition the panel to resolve a claim that a document submitted may not be disclosed to the public. Such a determination shall be made by a majority of the panel, in writing, and shall be subject to judicial review as specified in this title. All such determinations shall be made solely on consideration of the subject document and written submissions from the person claiming that the document is privileged or protected by trade secrecy and from any person seeking disclosure of the document. The panel shall cause notice of the petition and the panel's decision to be published in the Federal Register.

(b) FINAL DECISION.—The panel may uphold a claim of privilege or protection in its entirety or, in its sole discretion, it may redact that portion of a document that it determines is protected from public disclosure under subsection (a). Any decision of the panel shall be final unless judicial review is sought under section 906. In the event that judicial review is so sought, the panel's decision shall be stayed pending a final judicial decision.

SEC. 906. APPEAL OF PANEL DECISION.

(a) PETITION; RIGHT OF APPEAL.—Any person may obtain judicial review of a final decision of the panel by filing a petition for review with the United States Court of Appeals for the Federal Circuit within 60 days after the publication of such decision in the Federal Register. A copy of the petition shall be transmitted by the Clerk of the Court to the panel. The panel shall file in the court the record of the proceedings on which the panel based its decision (including any documents reviewed by the panel in *camera*) as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have exclusive jurisdiction to affirm or set aside the panel's decision, except that until the filing of the record the panel may modify or set aside its decision.

(b) ADDITIONAL EVIDENCE AND ARGUMENTS.—If the any party applies to the court for leave to adduce additional evidence respecting the decision being reviewed and shows to the satisfaction of the court that such additional evidence or arguments are material and that there were reasonable grounds for the failure to adduce such evidence or arguments in the proceedings before the panel, the court may order the panel to provide additional opportunity for the presentation of evidence or arguments in such manner and upon such terms as the court deems proper. The panel may modify its findings or make new findings by reason of the additional evidence or arguments and shall file with the court such modified or new findings, and its recommendation, if any, for the modification or setting aside of the decision being reviewed.

(c) STANDARD OF REVIEW; FINALITY OF JUDGMENTS.—The panel's findings of fact, if supported by substantial evidence on the record taken as a whole, shall be conclusive. The court shall review the panel's legal conclusions *de novo*. The judgment of the court affirming or setting aside the panel's decision shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28, United States Code.

(d) PUBLIC DISCLOSURE AFTER FINAL DECISION.—Within 30 days after a final decision that a document, as redacted by the panel or in its entirety, is not protected from disclosure by a claim of attorney-client privilege, attorney work product, or trade secret protection, the panel shall direct that the document be made available to the Commissioner of Food and Drugs under section 903(a). No Federal, Tribal, or State court shall have jurisdiction to review a claim of attorney-client privilege, attorney work product, or trade secret protection for a document that has lawfully been made available to the public under this subsection.

(e) EFFECT OF NON-DISCLOSURE DECISION ON JUDICIAL PROCEEDINGS.—The panel's decision that a document is protected by attorney-client privilege, attorney work product, or trade secret protection is binding only for the purpose of protecting the document from disclosure by the Depository. The decision by the panel shall not be construed to prevent a document from being disclosed in a judicial proceeding or interfere with the authority of a court to determine whether a document is admissible or whether its production may be compelled.

SEC. 907. MISCELLANEOUS.

The disclosure process in this title is not intended to affect the Federal Rules of Civil or Criminal Procedure or any Federal law which requires the disclosure of documents or which deals with attorney-client privilege, attorney work product, or trade secret protection.

SEC. 908. PENALTIES.

(a) GOOD FAITH REQUIREMENT.—Each tobacco product manufacturer shall act in good faith in asserting claims of privilege or trade secret protection based on fact and law. If the panel determines that a tobacco product manufacturer has not acted in good faith with full knowledge of the truth of the facts asserted and with a reasonable basis under existing law, the manufacturer shall be assessed costs, which shall include the full administrative costs of handling the claim of privilege, and all attorneys' fees incurred by the panel and any party contesting the privilege. The panel may also impose civil penalties of up to $50,000 per violation if it determines that the manufacturer acted in bad faith in asserting a privilege, or knowingly acted with the intent to delay, frustrate, defraud, or obstruct the panel's determination of privilege, attorney work product, or trade secret protection claims.

(b) FAILURE TO PRODUCE DOCUMENT.—A failure by a tobacco product manufacturer to produce indexes and documents in compliance with the schedule set forth in this title, or with such extension as may be granted by the panel, shall be punished by a civil penalty of up to $50,000 per violation. A separate violation occurs for each document the manufacturer has failed to produce in a timely manner. The maximum penalty under this subsection for a related series of violations is $5,000,000. In determining the amount of any civil penalty, the panel shall consider the number of documents, length of delay, any history of prior violations, the ability to pay, and such other matters as justice requires. Nothing in this title shall replace or supersede any criminal sanction under title 18, United States Code, or any other provision of law.

SEC. 909. DEFINITIONS.

For the purposes of this title—

(1) DOCUMENT.—The term "document" includes originals and drafts of any kind of written or graphic matter, regardless of the manner of production or reproduction, of any kind or description, whether sent or received or neither, and all copies thereof that are different in any way from the original (whether by interlineation, receipt stamp, notation, indication of copies sent or received or otherwise) regardless of whether confidential, privileged, or otherwise, including any paper, book, account, photograph, blueprint, drawing, agreement, contract, memorandum, advertising material, letter, telegram, object, report, record, transcript, study, note, notation, working paper, intra-office communication, intra-department communication, chart, minute, index sheet, routing sheet, computer software, computer data, delivery ticket, flow sheet, price list, quotation, bulletin, circular, manual, summary, recording of telephone or other conversation or of interviews, or of conferences, or any other written, recorded, transcribed, punched, taped, filmed, or graphic matter, regardless of the manner produced or reproduced. Such term also includes any tape, recording, videotape, computerization, or other electronic recording, whether digital or analog or a combination thereof.

(2) TRADE SECRET.—The term "trade secret" means any commercially valuable plan, formula, process, or device that is used for making, compounding, processing, or preparing trade commodities and that can be said to be the end-product of either innovation or substantial effort, for which there is a direct relationship between the plan, formula, process, or device and the productive process.

(3) CERTAIN ACTIONS DEEMED TO BE PROCEEDINGS.—Any action undertaken under this title, including the search, indexing, and production of documents, is deemed to be a "proceeding" before the executive branch of the United States.

(4) OTHER TERMS.—Any term used in this title that is defined in section 701 has the meaning given to it by that section.

TITLE X—LONG-TERM ECONOMIC ASSISTANCE FOR FARMERS

SEC. 1001. SHORT TITLE.

This title may be cited as the "Long-Term Economic Assistance for Farmers Act" or the "LEAF Act".

SEC. 1002. DEFINITIONS.

In this title:

(1) PARTICIPATING TOBACCO PRODUCER.—The term "participating tobacco producer" means a quota holder, quota lessee, or quota tenant.

(2) QUOTA HOLDER.—The term "quota holder" means an owner of a farm on January 1, 1998, for which a tobacco farm marketing quota or farm acreage allotment was established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.).

(3) QUOTA LESSEE.—The term "quota lessee" means—

(A) a producer that owns a farm that produced tobacco pursuant to a lease and transfer to that farm of all or part of a tobacco

farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years; or

(B) a producer that rented land from a farm operator to produce tobacco under a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years.

(4) QUOTA TENANT.—The term "quota tenant" means a producer that—

(A) is the principal producer, as determined by the Secretary, of tobacco on a farm where tobacco is produced pursuant to a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years; and

(B) is not a quota holder or quota lessee.

(5) SECRETARY.—The term "Secretary" means—

(A) in subtitles A and B, the Secretary of Agriculture; and

(B) in section 1031, the Secretary of Labor.

(6) TOBACCO PRODUCT IMPORTER.—The term "tobacco product importer" has the meaning given the term "importer" in section 5702 of the Internal Revenue Code of 1986.

(7) TOBACCO PRODUCT MANUFACTURER.—

(A) IN GENERAL.—The term "tobacco product manufacturer" has the meaning given the term "manufacturer of tobacco products" in section 5702 of the Internal Revenue Code of 1986.

(B) EXCLUSION.—The term "tobacco product manufacturer" does not include a person that manufactures cigars or pipe tobacco.

(8) TOBACCO WAREHOUSE OWNER.—The term "tobacco warehouse owner" means a warehouseman that participated in an auction market (as defined in the first section of the Tobacco Inspection Act (7 U.S.C. 511)) during the 1998 marketing year.

(9) FLUE-CURED TOBACCO.—The term "flue-cured tobacco" includes type 21 and type 37 tobacco.

Subtitle A—Tobacco Community Revitalization

SEC. 1011. AUTHORIZATION OF APPROPRIATIONS.

There are appropriated and transferred to the Secretary for each fiscal year such amounts from the National Tobacco Trust Fund established by section 401, other than from amounts in the State Litigation Settlement Account, as may be necessary to carry out the provisions of this title.

SEC. 1012. EXPENDITURES.

The Secretary is authorized, subject to appropriations, to make payments under—

(1) section 1021 for payments for lost tobacco quota for each of fiscal years 1999 through 2023, but not to exceed $1,650,000,000 for any fiscal year except to the extent the payments are made in accordance with subsection (d)(12) or (e)(9) of section 1021;

(2) section 1022 for industry payments for all costs of the Department of Agriculture associated with the production of tobacco;

(3) section 1023 for tobacco community economic development grants, but not to exceed—

(A) $375,000,000 for each of fiscal years 1999 through 2008, less any amount required to be paid under section 1022 for the fiscal year; and

(B) $450,000,000 for each of fiscal year 2009 through 2023, less any amount required to be paid under section 1022 during the fiscal year;

(4) section 1031 for assistance provided under the tobacco worker transition program, but not to exceed $25,000,000 for any fiscal year; and

(5) subpart 9 of part A of title IV of the Higher Education Act of 1965 for farmer opportunity grants, but not to exceed—

(A) $42,500,000 for each of the academic years 1999–2000 through 2003–2004;

(B) $50,000,000 for each of the academic years 2004–2005 through 2008–2009;

(C) $57,500,000 for each of the academic years 2009–2010 through 2013–2014;

(D) $65,000,000 for each of the academic years 2014–2015 through 2018–2019; and

(E) $72,500,000 for each of the academic years 2019–2020 through 2023–2024.

SEC. 1013. BUDGETARY TREATMENT.

This subtitle constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide payments to States and eligible persons in accordance with this title.

Subtitle B—Tobacco Market Transition Assistance

SEC. 1021. PAYMENTS FOR LOST TOBACCO QUOTA.

(a) IN GENERAL.—Beginning with the 1999 marketing year, the Secretary shall make payments for lost tobacco quota to eligible quota holders, quota lessees, and quota tenants as reimbursement for lost tobacco quota.

(b) ELIGIBILITY.—To be eligible to receive payments under this section, a quota holder, quota lessee, or quota tenant shall—

(1) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including information sufficient to make the demonstration required under paragraph (2); and

(2) demonstrate to the satisfaction of the Secretary that, with respect to the 1997 marketing year—

(A) the producer was a quota holder and realized income (or would have realized income, as determined by the Secretary, but for a medical hardship or crop disaster during the 1997 marketing year) from the production of tobacco through—

(i) the active production of tobacco;

(ii) the lease and transfer of tobacco quota to another farm;

(iii) the rental of all or part of the farm of the quota holder, including the right to produce tobacco, to another tobacco producer; or

(iv) the hiring of a quota tenant to produce tobacco;

(B) the producer was a quota lessee; or

(C) the producer was a quota tenant.

(c) BASE QUOTA LEVEL.—

(1) IN GENERAL.—The Secretary shall determine, for each quota holder, quota lessee, and quota tenant, the base quota level for the 1995 through 1997 marketing years.

(2) QUOTA HOLDERS.—The base quota level for a quota holder shall be equal to the average tobacco farm marketing quota established for the farm owned by the quota holder for the 1995 through 1997 marketing years.

(3) QUOTA LESSEES.—The base quota level for a quota lessee shall be equal to—

(A) 50 percent of the average number of pounds of tobacco quota established for the farm for the 1995 through 1997 marketing years—

(i) that was leased and transferred to a farm owned by the quota lessee; or

(ii) that was rented to the quota lessee for the right to produce the tobacco; less

(B) 25 percent of the average number of pounds of tobacco quota described in subparagraph (A) for which a quota tenant was the principal producer of the tobacco quota.

(4) QUOTA TENANTS.—The base quota level for a quota tenant shall be equal to the sum of—

(A) 50 percent of the average number of pounds of tobacco quota established for a farm for the 1995 through 1997 marketing years—

(i) that was owned by a quota holder; and

(ii) for which the quota tenant was the principal producer of the tobacco on the farm; and

(B) 25 percent of the average number of pounds of tobacco quota for the 1995 through 1997 marketing years—

(i)(I) that was leased and transferred to a farm owned by the quota lessee; or

(II) for which the rights to produce the tobacco were rented to the quota lessee; and

(ii) for which the quota tenant was the principal producer of the tobacco on the farm.

(5) MARKETING QUOTAS OTHER THAN POUNDAGE QUOTAS.—

(A) IN GENERAL.—For each type of tobacco for which there is a marketing quota or allotment (on an acreage basis), the base quota level for each quota holder, quota lessee, or quota tenant shall be determined in accordance with this subsection (based on a poundage conversion) by multiplying—

(i) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; and

(ii) the average yield per acre for the farm for the type of tobacco for the marketing years.

(B) YIELDS NOT AVAILABLE.—If the average yield per acre is not available for a farm, the Secretary shall calculate the base quota for the quota holder, quota lessee, or quota tenant (based on a poundage conversion) by determining the amount equal to the product obtained by multiplying—

(i) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; and

(ii) the average county yield per acre for the county in which the farm is located for the type of tobacco for the marketing years.

(d) PAYMENTS FOR LOST TOBACCO QUOTA FOR TYPES OF TOBACCO OTHER THAN FLUE-CURED TOBACCO.—

(1) ALLOCATION OF FUNDS.—Of the amounts made available under section 1011(d)(1) for payments for lost tobacco quota, the Secretary shall make available for payments under this subsection an amount that bears the same ratio to the amounts made available as—

(A) the sum of all national marketing quotas for all types of tobacco other than flue-cured tobacco during the 1995 through 1997 marketing years; bears to

(B) the sum of all national marketing quotas for all types of tobacco during the 1995 through 1997 marketing years.

(2) OPTION TO RELINQUISH QUOTA.—

(A) IN GENERAL.—Each quota holder, for types of tobacco other than flue-cured tobacco, shall be given the option to relinquish the farm marketing quota or farm acreage allotment of the quota holder in exchange for a payment made under paragraph (3).

(B) NOTIFICATION.—A quota holder shall give notification of the intention of the quota holder to exercise the option at such time and in such manner as the Secretary may require, but not later than January 15, 1999.

(3) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA HOLDERS EXERCISING OPTIONS TO RELINQUISH QUOTA.—

(A) IN GENERAL.—Subject to subparagraph (E), for each of fiscal years 1999 through 2008,

the Secretary shall make annual payments for lost tobacco quota to each quota holder that has relinquished the farm marketing quota or farm acreage allotment of the quota holder under paragraph (2).

(B) AMOUNT.—The amount of a payment made to a quota holder described in subparagraph (A) for a marketing year shall equal 1/10 of the lifetime limitation established under subparagraph (E).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the farm marketing quota or farm acreage allotment is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(E) LIFETIME LIMITATION ON PAYMENTS.—The total amount of payments made under this paragraph to a quota holder shall not exceed the product obtained by multiplying the base quota level for the quota holder by $8 per pound.

(4) REISSUANCE OF QUOTA.—

(A) REALLOCATION TO LESSEE OR TENANT.—If a quota holder exercises an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), a quota lessee or quota tenant that was the primary producer during the 1997 marketing year of tobacco pursuant to the farm marketing quota or farm acreage allotment, as determined by the Secretary, shall be given the option of having an allotment of the farm marketing quota or farm acreage allotment reallocated to a farm owned by the quota lessee or quota tenant.

(B) CONDITIONS FOR REALLOCATION.—

(i) TIMING.—A quota lessee or quota tenant that is given the option of having an allotment of a farm marketing quota or farm acreage allotment reallocated to a farm owned by the quota lessee or quota tenant under subparagraph (A) shall have 1 year from the date on which a farm marketing quota or farm acreage allotment is relinquished under paragraph (2) to exercise the option.

(ii) LIMITATION ON ACREAGE ALLOTMENT.—In the case of a farm acreage allotment, the acreage allotment determined for any farm subsequent to any reallocation under subparagraph (A) shall not exceed 50 percent of the acreage of cropland of the farm owned by the quota lessee or quota tenant.

(iii) LIMITATION ON MARKETING QUOTA.—In the case of a farm marketing quota, the marketing quota determined for any farm subsequent to any reallocation under subparagraph (A) shall not exceed an amount determined by multiplying—

(I) the average county farm yield, as determined by the Secretary; and

(II) 50 percent of the acreage of cropland of the farm owned by the quota lessee or quota tenant.

(C) ELIGIBILITY OF LESSEE OR TENANT FOR PAYMENTS.—If a farm marketing quota or farm acreage allotment is reallocated to a quota lessee or quota tenant under subparagraph (A)—

(i) the quota lessee or quota tenant shall not be eligible for any additional payments under paragraph (5) or (6) as a result of the reallocation; and

(ii) the base quota level for the quota lessee or quota tenant shall not be increased as a result of the reallocation.

(D) REALLOCATION TO QUOTA HOLDERS WITHIN SAME COUNTY OR STATE.—

(i) IN GENERAL.—Except as provided in clause (ii), if there was no quota lessee or quota tenant for the farm marketing quota or farm acreage allotment for a type of tobacco, or if no quota lessee or quota tenant exercises an option of having an allotment of the farm marketing quota or farm acreage allotment for a type of tobacco reallocated, the Secretary shall reapportion the farm marketing quota or farm acreage allotment among the remaining quota holders for the type of tobacco within the same county.

(ii) CROSS-COUNTY LEASING.—In a State in which cross-county leasing is authorized pursuant to section 319(l) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(*l*)), the Secretary shall reapportion the farm marketing quota among the remaining quota holders for the type of tobacco within the same State.

(iii) ELIGIBILITY OF QUOTA HOLDER FOR PAYMENTS.—If a farm marketing quota is reapportioned to a quota holder under this subparagraph—

(I) the quota holder shall not be eligible for any additional payments under paragraph (5) or (6) as a result of the reapportionment; and

(II) the base quota level for the quota holder shall not be increased as a result of the reapportionment.

(E) SPECIAL RULE FOR TENANT OF LEASED TOBACCO.—If a quota holder exercises an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), the farm marketing quota or farm acreage allotment shall be divided evenly between, and the option of reallocating the farm marketing quota or farm acreage allotment shall be offered in equal portions to, the quota lessee and to the quota tenant, if—

(i) during the 1997 marketing year, the farm marketing quota or farm acreage allotment was leased and transferred to a farm owned by the quota lessee; and

(ii) the quota tenant was the primary producer, as determined by the Secretary, of tobacco pursuant to the farm marketing quota or farm acreage allotment.

(5) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA HOLDERS.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for a type of tobacco is less than the average national marketing quota for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota holder, for types of tobacco other than flue-cured tobacco, that is eligible under subsection (b), and has not exercised an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), in an amount that is equal to the product obtained by multiplying—

(i) the number of pounds by which the basic farm marketing quota (or poundage conversion) is less than the base quota level for the quota holder; and

(ii) $4 per pound.

(B) POUNDAGE CONVERSION FOR MARKETING QUOTAS OTHER THAN POUNDAGE QUOTAS.—

(i) IN GENERAL.—For each type of tobacco for which there is a marketing quota or allotment (on an acreage basis), the poundage conversion for each quota holder during a marketing year shall be determined by multiplying—

(I) the basic farm acreage allotment for the farm for the marketing year; and

(II) the average yield per acre for the farm for the type of tobacco.

(ii) YIELD NOT AVAILABLE.—If the average yield per acre is not available for a farm, the Secretary shall calculate the poundage conversion for each quota holder during a marketing year by multiplying—

(I) the basic farm acreage allotment for the farm for the marketing year; and

(II) the average county yield per acre for the county in which the farm is located for the type of tobacco.

(6) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for a type of tobacco is less than the average national marketing quota for the type of tobacco for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota lessee and quota tenant, for types of tobacco other than flue-cured tobacco, that is eligible under subsection (b) in an amount that is equal to the product obtained by multiplying—

(A) the percentage by which the national marketing quota for the type of tobacco is less than the average national marketing quota for the type of tobacco for the 1995 through 1997 marketing years;

(B) the base quota level for the quota lessee or quota tenant; and

(C) $4 per pound.

(7) LIFETIME LIMITATION ON PAYMENTS.—Except as otherwise provided in this subsection, the total amount of payments made under this subsection to a quota holder, quota lessee, or quota tenant during the lifetime of the quota holder, quota lessee, or quota tenant shall not exceed the product obtained by multiplying—

(A) the base quota level for the quota holder, quota lessee, or quota tenant; and

(B) $8 per pound.

(8) LIMITATIONS ON AGGREGATE ANNUAL PAYMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the total amount payable under this subsection for any marketing year shall not exceed the amount made available under paragraph (1).

(B) ACCELERATED PAYMENTS.—Paragraph (1) shall not apply if accelerated payments for lost tobacco quota are made in accordance with paragraph (12).

(C) REDUCTIONS.—If the sum of the amounts determined under paragraphs (3), (5), and (6) for a marketing year exceeds the amount made available under paragraph (1), the Secretary shall make a pro rata reduction in the amounts payable under paragraphs (5) and (6) to quota holders, quota lessees, and quota tenants under this subsection to ensure that the total amount of payments for lost tobacco quota does not exceed the amount made available under paragraph (1).

(D) ROLLOVER OF PAYMENTS FOR LOST TOBACCO QUOTA.—Subject to subparagraph (A), if the Secretary makes a reduction in accordance with subparagraph (C), the amount of the reduction shall be applied to the next marketing year and added to the payments for lost tobacco quota for the marketing year.

(E) ADDITIONAL PAYMENTS TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTA.—If the amount made available under paragraph (1) exceeds the sum of the amounts determined under paragraphs (3), (5), and (6) for a marketing year, the Secretary shall distribute the amount of the excess pro rata to quota holders that have exercised an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2) by increasing the amount payable to each such holder under paragraph (3).

(9) SUBSEQUENT SALE AND TRANSFER OF QUOTA.—Effective beginning with the 1999

marketing year, on the sale and transfer of a farm marketing quota or farm acreage allotment under section 316(g) or 319(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(g), 1314e(g))—

(A) the person that sold and transferred the quota or allotment shall have—

(i) the base quota level attributable to the person reduced by the base quota level attributable to the quota that is sold and transferred; and

(ii) the lifetime limitation on payments established under paragraph (7) attributable to the person reduced by the product obtained by multiplying—

(I) the base quota level attributable to the quota; and

(II) $8 per pound; and

(B) if the quota or allotment has never been relinquished by a previous quota holder under paragraph (2), the person that acquired the quota shall have—

(i) the base quota level attributable to the person increased by the base quota level attributable to the quota that is sold and transferred; and

(ii) the lifetime limitation on payments established under paragraph (7) attributable to the person—

(I) increased by the product obtained by multiplying—

(aa) the base quota level attributable to the quota; and

(bb) $8 per pound; but

(II) decreased by any payments under paragraph (5) for lost tobacco quota previously made that are attributable to the quota that is sold and transferred.

(10) SALE OR TRANSFER OF FARM.—On the sale or transfer of ownership of a farm that is owned by a quota holder, the base quota level established under subsection (c), the right to payments under paragraph (5), and the lifetime limitation on payments established under paragraph (7) shall transfer to the new owner of the farm to the same extent and in the same manner as those provisions applied to the previous quota holder.

(11) DEATH OF QUOTA LESSEE OR QUOTA TENANT.—If a quota lessee or quota tenant that is entitled to payments under this subsection dies and is survived by a spouse or 1 or more dependents, the right to receive the payments shall transfer to the surviving spouse or, if there is no surviving spouse, to the surviving dependents in equal shares.

(12) ACCELERATION OF PAYMENTS.—

(A) IN GENERAL.—On the occurrence of any of the events described in subparagraph (B), the Secretary shall make an accelerated lump sum payment for lost tobacco quota as established under paragraphs (5) and (6) to each quota holder, quota lessee, and quota tenant for any affected type of tobacco in accordance with subparagraph (C).

(B) TRIGGERING EVENTS.—The Secretary shall make accelerated payments under subparagraph (A) if after the date of enactment of this Act—

(i) subject to subparagraph (D), for 3 consecutive marketing years, the national marketing quota or national acreage allotment for a type of tobacco is less than 50 percent of the national marketing quota or national acreage allotment for the type of tobacco for the 1998 marketing year; or

(ii) Congress repeals or makes ineffective, directly or indirectly, any provision of—

(I) section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b);

(II) section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e);

(III) section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445);

(IV) section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445–1); or

(V) section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2).

(C) AMOUNT.—The amount of the accelerated payments made to each quota holder, quota lessee, and quota tenant under this subsection shall be equal to—

(i) the amount of the lifetime limitation established for the quota holder, quota lessee, or quota tenant under paragraph (7); less

(ii) any payments for lost tobacco quota received by the quota holder, quota lessee, or quota tenant before the occurrence of any of the events described in subparagraph (B).

(D) REFERENDUM VOTE NOT A TRIGGERING EVENT.—A referendum vote of producers for any type of tobacco that results in the national marketing quota or national acreage allotment not being in effect for the type of tobacco shall not be considered a triggering event under this paragraph.

(13) BAN ON SUBSEQUENT SALE OR LEASING OF FARM MARKETING QUOTA OR FARM ACREAGE ALLOTMENT TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTA.—No quota holder that exercises the option to relinquish a farm marketing quota or farm acreage allotment for any type of tobacco under paragraph (2) shall be eligible to acquire a farm marketing quota or farm acreage allotment for the type of tobacco, or to obtain the lease or transfer of a farm marketing quota or farm acreage allotment for the type of tobacco, for a period of 25 crop years after the date on which the quota or allotment was relinquished.

(e) PAYMENTS FOR LOST TOBACCO QUOTA FOR FLUE-CURED TOBACCO.—

(1) ALLOCATION OF FUNDS.—Of the amounts made available under section 1011(d)(1) for payments for lost tobacco quota, the Secretary shall make available for payments under this subsection an amount that bears the same ratio to the amounts made available as—

(A) the sum of all national marketing quotas for flue-cured tobacco during the 1995 through 1997 marketing years; bears to

(B) the sum of all national marketing quotas for all types of tobacco during the 1995 through 1997 marketing years.

(2) RELINQUISHMENT OF QUOTA.—

(A) IN GENERAL.—Each quota holder of flue-cured tobacco shall relinquish the farm marketing quota or farm acreage allotment in exchange for a payment made under paragraph (3) due to the transition from farm marketing quotas as provided under section 317 of the Agricultural Adjustment Act of 1938 for flue-cured tobacco to individual tobacco production permits as provided under section 317A of the Agricultural Adjustment Act of 1938 for flue-cured tobacco.

(B) NOTIFICATION.—The Secretary shall notify the quota holders of the relinquishment of their quota or allotment at such time and in such manner as the Secretary may require, but not later than November 15, 1998.

(3) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA HOLDERS THAT RELINQUISH QUOTA.—

(A) IN GENERAL.—For each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost flue-cured tobacco to each quota holder that has relinquished the farm marketing quota or farm acreage allotment of the quota holder under paragraph (2).

(B) AMOUNT.—The amount of a payment made to a quota holder described in subparagraph (A) for a marketing year shall equal 1/10 of the lifetime limitation established under paragraph (6).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the farm marketing quota or farm acreage allotment is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(4) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS THAT HAVE NOT RELINQUISHED PERMITS.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for flue-cured tobacco is less than the average national marketing quota for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota lessee or quota tenant that—

(i) is eligible under subsection (b);

(ii) has been issued an individual tobacco production permit under section 317A(b) of the Agricultural Adjustment Act of 1938; and

(iii) has not exercised an option to relinquish the permit.

(B) AMOUNT.—The amount of a payment made to a quota lessee or quota tenant described in subparagraph (A) for a marketing year shall be equal to the product obtained by multiplying—

(i) the number of pounds by which the individual marketing limitation established for the permit is less than twice the base quota level for the quota lessee or quota tenant; and

(ii) $2 per pound.

(5) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS THAT HAVE RELINQUISHED PERMITS.—

(A) IN GENERAL.—For each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost flue-cured tobacco quota to each quota lessee and quota tenant that has relinquished an individual tobacco production permit under section 317A(b)(5) of the Agricultural Adjustment Act of 1938.

(B) AMOUNT.—The amount of a payment made to a quota lessee or quota tenant described in subparagraph (A) for a marketing year shall be equal to 1/10 of the lifetime limitation established under paragraph (6).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the individual tobacco production permit is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(E) PROHIBITION AGAINST PERMIT EXPANSION.—A quota lessee or quota tenant that receives a payment under this paragraph shall be ineligible to receive any new or increased tobacco production permit from the county production pool established under section 317A(b)(8) of the Agricultural Adjustment Act of 1938.

(6) LIFETIME LIMITATION ON PAYMENTS.—Except as otherwise provided in this subsection, the total amount of payments made under this subsection to a quota holder, quota lessee, or quota tenant during the lifetime of the quota holder, quota lessee, or quota tenant shall not exceed the product obtained by multiplying—

(A) the base quota level for the quota holder, quota lessee, or quota tenant; and

(B) $8 per pound.

(7) LIMITATIONS ON AGGREGATE ANNUAL PAYMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the total amount payable under this subsection for any marketing year shall not exceed the amount made available under paragraph (1).

(B) ACCELERATED PAYMENTS.—Paragraph (1) shall not apply if accelerated payments for lost flue-cured tobacco quota are made in accordance with paragraph (9).

(C) REDUCTIONS.—If the sum of the amounts determined under paragraphs (3), (4), and (5) for a marketing year exceeds the amount made available under paragraph (1), the Secretary shall make a pro rata reduction in the amounts payable under paragraph (4) to quota lessees and quota tenants under this subsection to ensure that the total amount of payments for lost flue-cured tobacco quota does not exceed the amount made available under paragraph (1).

(D) ROLLOVER OF PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA.—Subject to subparagraph (A), if the Secretary makes a reduction in accordance with subparagraph (C), the amount of the reduction shall be applied to the next marketing year and added to the payments for lost flue-cured tobacco quota for the marketing year.

(E) ADDITIONAL PAYMENTS TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTAS OR PERMITS, OR TO QUOTA LESSEES OR QUOTA TENANTS RELINQUISHING PERMITS.—If the amount made available under paragraph (1) exceeds the sum of the amounts determined under paragraphs (3), (4), and (5) for a marketing year, the Secretary shall distribute the amount of the excess pro rata to quota holders by increasing the amount payable to each such holder under paragraphs (3) and (5).

(8) DEATH OF QUOTA HOLDER, QUOTA LESSEE, OR QUOTA TENANT.—If a quota holder, quota lessee or quota tenant that is entitled to payments under paragraph (4) or (5) dies and is survived by a spouse or 1 or more descendants, the right to receive the payments shall transfer to the surviving spouse or, if there is no surviving spouse, to the surviving descendants in equal shares.

(9) ACCELERATION OF PAYMENTS.—

(A) IN GENERAL.—On the occurrence of any of the events described in subparagraph (B), the Secretary shall make an accelerated lump sum payment for lost flue-cured tobacco quota as established under paragraphs (3), (4), and (5) to each quota holder, quota lessee, and quota tenant for flue-cured tobacco in accordance with subparagraph (C).

(B) TRIGGERING EVENTS.—The Secretary shall make accelerated payments under subparagraph (A) if after the date of enactment of this Act—

(i) subject to subparagraph (D), for 3 consecutive marketing years, the national marketing quota or national acreage allotment for flue-cured tobacco is less than 50 percent of the national marketing quota or national acreage allotment for flue-cured tobacco for the 1998 marketing year; or

(ii) Congress repeals or makes ineffective, directly or indirectly, any provision of—

(I) section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b);

(II) section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e);

(III) section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445);

(IV) section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445–1);

(V) section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2); or

(VI) section 317A of the Agricultural Adjustment Act of 1938.

(C) AMOUNT.—The amount of the accelerated payments made to each quota holder, quota lessee, and quota tenant under this subsection shall be equal to—

(i) the amount of the lifetime limitation established for the quota holder, quota lessee, or quota tenant under paragraph (6); less

(ii) any payments for lost flue-cured tobacco quota received by the quota holder, quota lessee, or quota tenant before the occurrence of any of the events described in subparagraph (B).

(D) REFERENDUM VOTE NOT A TRIGGERING EVENT.—A referendum vote of producers for flue-cured tobacco that results in the national marketing quota or national acreage allotment not being in effect for flue-cured tobacco shall not be considered a triggering event under this paragraph.

SEC. 1022. INDUSTRY PAYMENTS FOR ALL DEPARTMENT COSTS ASSOCIATED WITH TOBACCO PRODUCTION.

(a) IN GENERAL.—The Secretary shall use such amounts remaining unspent and obligated at the end of each fiscal year to reimburse the Secretary for—

(1) costs associated with the administration of programs established under this title and amendments made by this title;

(2) costs associated with the administration of the tobacco quota and price support programs administered by the Secretary;

(3) costs to the Federal Government of carrying out crop insurance programs for tobacco;

(4) costs associated with all agricultural research, extension, or education activities associated with tobacco;

(5) costs associated with the administration of loan association and cooperative programs for tobacco producers, as approved by the Secretary; and

(6) any other costs incurred by the Department of Agriculture associated with the production of tobacco.

(b) LIMITATIONS.—Amounts made available under subsection (a) may not be used—

(1) to provide direct benefits to quota holders, quota lessees, or quota tenants; or

(2) in a manner that results in a decrease, or an increase relative to other crops, in the amount of the crop insurance premiums assessed to participating tobacco producers under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(c) DETERMINATIONS.—Not later than September 30, 1998, and each fiscal year thereafter, the Secretary shall determine—

(1) the amount of costs described in subsection (a); and

(2) the amount that will be provided under this section as reimbursement for the costs.

SEC. 1023. TOBACCO COMMUNITY ECONOMIC DEVELOPMENT GRANTS.

(a) AUTHORITY.—The Secretary shall make grants to tobacco-growing States in accordance with this section to enable the States to carry out economic development initiatives in tobacco-growing communities.

(b) APPLICATION.—To be eligible to receive payments under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

(1) a description of the activities that the State will carry out using amounts received under the grant;

(2) a designation of an appropriate State agency to administer amounts received under the grant; and

(3) a description of the steps to be taken to ensure that the funds are distributed in accordance with subsection (e).

(c) AMOUNT OF GRANT.—

(1) IN GENERAL.—From the amounts available to carry out this section for a fiscal year, the Secretary shall allot to each State an amount that bears the same ratio to the amounts available as the total farm income of the State derived from the production of tobacco during the 1995 through 1997 marketing years (as determined under paragraph (2)) bears to the total farm income of all States derived from the production of tobacco during the 1995 through 1997 marketing years.

(2) TOBACCO INCOME.—For the 1995 through 1997 marketing years, the Secretary shall determine the amount of farm income derived from the production of tobacco in each State and in all States.

(d) PAYMENTS.—

(1) IN GENERAL.—A State that has an application approved by the Secretary under subsection (b) shall be entitled to a payment under this section in an amount that is equal to its allotment under subsection (c).

(2) FORM OF PAYMENTS.—The Secretary may make payments under this section to a State in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(3) REALLOTMENTS.—Any portion of the allotment of a State under subsection (c) that the Secretary determines will not be used to carry out this section in accordance with an approved State application required under subsection (b), shall be reallotted by the Secretary to other States in proportion to the original allotments to the other States.

(e) USE AND DISTRIBUTION OF FUNDS.—

(1) IN GENERAL.—Amounts received by a State under this section shall be used to carry out economic development activities, including—

(A) rural business enterprise activities described in subsections (c) and (e) of section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932);

(B) down payment loan assistance programs that are similar to the program described in section 310E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1935);

(C) activities designed to help create productive farm or off-farm employment in rural areas to provide a more viable economic base and enhance opportunities for improved incomes, living standards, and contributions by rural individuals to the economic and social development of tobacco communities;

(D) activities that expand existing infrastructure, facilities, and services to capitalize on opportunities to diversify economies in tobacco communities and that support the development of new industries or commercial ventures;

(E) activities by agricultural organizations that provide assistance directly to participating tobacco producers to assist in developing other agricultural activities that supplement tobacco-producing activities;

(F) initiatives designed to create or expand locally owned value-added processing and marketing operations in tobacco communities;

(G) technical assistance activities by persons to support farmer-owned enterprises, or agriculture-based rural development enterprises, of the type described in section 252 or 253 of the Trade Act of 1974 (19 U.S.C. 2342, 2343); and

(H) initiatives designed to partially compensate tobacco warehouse owners for lost revenues and assist the tobacco warehouse owners in establishing successful business enterprises.

(2) TOBACCO-GROWING COUNTIES.—Assistance may be provided by a State under this section only to assist a county in the State that has been determined by the Secretary to have in excess of $100,000 in income derived from the production of tobacco during 1 or more of the 1995 through 1997 marketing years. For purposes of this section, the term "tobacco-growing county" includes a political subdivision surrounded within a State by a county that has been determined by the Secretary to have in excess of $100,000 in income derived from the production of tobacco during 1 or more of the 1995 through 1997 marketing years.

(3) DISTRIBUTION.—

(A) ECONOMIC DEVELOPMENT ACTIVITIES.—Not less than 20 percent of the amounts received by a State under this section shall be used to carry out—

(i) economic development activities described in subparagraph (E) or (F) of paragraph (1); or

(ii) agriculture-based rural development activities described in paragraph (1)(G).

(B) TECHNICAL ASSISTANCE ACTIVITIES.—Not less than 4 percent of the amounts received by a State under this section shall be used to carry out technical assistance activities described in paragraph (1)(G).

(C) TOBACCO WAREHOUSE OWNER INITIATIVES.—Not less than 6 percent of the amounts received by a State under this section during each of fiscal years 1999 through 2008 shall be used to carry out initiatives described in paragraph (1)(H).

(D) TOBACCO-GROWING COUNTIES.—To be eligible to receive payments under this section, a State shall demonstrate to the Secretary that funding will be provided, during each 5-year period for which funding is provided under this section, for activities in each county in the State that has been determined under paragraph (2) to have in excess of $100,000 in income derived from the production of tobacco, in amounts that are at least equal to the product obtained by multiplying—

(i) the ratio that the tobacco production income in the county determined under paragraph (2) bears to the total tobacco production income for the State determined under subsection (c); and

(ii) 50 percent of the total amounts received by a State under this section during the 5-year period.

(f) PREFERENCES IN HIRING.—A State may require recipients of funds under this section to provide a preference in employment to—

(1) an individual who—

(A) during the 1998 calendar year, was employed in the manufacture, processing, or warehousing of tobacco or tobacco products, or resided, in a county described in subsection (e)(2); and

(B) is eligible for assistance under the tobacco worker transition program established under section 1031; or

(2) an individual who—

(A) during the 1998 marketing year, carried out tobacco quota or relevant tobacco production activities in a county described in subsection (e)(2);

(B) is eligible for a farmer opportunity grant under subpart 9 of part A of title IV of the Higher Education Act of 1965; and

(C) has successfully completed a course of study at an institution of higher education.

(g) MAINTENANCE OF EFFORT.—

(1) IN GENERAL.—Subject to paragraph (2), a State shall provide an assurance to the Secretary that the amount of funds expended by the State and all counties in the State described in subsection (e)(2) for any activities funded under this section for a fiscal year is not less than 90 percent of the amount of funds expended by the State and counties for the activities for the preceding fiscal year.

(2) REDUCTION OF GRANT AMOUNT.—If a State does not provide an assurance described in paragraph (1), the Secretary shall reduce the amount of the grant determined under subsection (c) by an amount equal to the amount by which the amount of funds expended by the State and counties for the activities is less than 90 percent of the amount of funds expended by the State and counties for the activities for the preceding fiscal year, as determined by the Secretary.

(3) FEDERAL FUNDS.—For purposes of this subsection, the amount of funds expended by a State or county shall not include any amounts made available by the Federal Government.

SEC. 1024. FLUE-CURED TOBACCO PRODUCTION PERMITS.

The Agricultural Adjustment Act of 1938 is amended by inserting after section 317 (7 U.S.C. 1314c) the following:

"SEC. 317A. FLUE-CURED TOBACCO PRODUCTION PERMITS.

"(a) DEFINITIONS.—In this section:

"(1) INDIVIDUAL ACREAGE LIMITATION.—The term 'individual acreage limitation' means the number of acres of flue-cured tobacco that may be planted by the holder of a permit during a marketing year, calculated—

"(A) prior to—

"(i) any increase or decrease in the number due to undermarketings or overmarketings; and

"(ii) any reduction under subsection (i); and

"(B) in a manner that ensures that—

"(i) the total of all individual acreage limitations is equal to the national acreage allotment, less the reserve provided under subsection (h); and

"(ii) the individual acreage limitation for a marketing year bears the same ratio to the individual acreage limitation for the previous marketing year as the ratio that the national acreage allotment for the marketing year bears to the national acreage allotment for the previous marketing year, subject to adjustments by the Secretary to account for any reserve provided under subsection (h).

"(2) INDIVIDUAL MARKETING LIMITATION.—The term 'individual marketing limitation' means the number of pounds of flue-cured tobacco that may be marketed by the holder of a permit during a marketing year, calculated—

"(A) prior to—

"(i) any increase or decrease in the number due to undermarketings or overmarketings; and

"(ii) any reduction under subsection (i); and

"(B) in a manner that ensures that—

"(i) the total of all individual marketing limitations is equal to the national marketing quota, less the reserve provided under subsection (h); and

"(ii) the individual marketing limitation for a marketing year is obtained by multiplying the individual acreage limitation by the permit yield, prior to any adjustment for undermarketings or overmarketings.

"(3) INDIVIDUAL TOBACCO PRODUCTION PERMIT.—The term 'individual tobacco production permit' means a permit issued by the Secretary to a person authorizing the production of flue-cured tobacco for any marketing year during which this section is effective.

"(4) NATIONAL ACREAGE ALLOTMENT.—The term 'national acreage allotment' means the quantity determined by dividing—

"(A) the national marketing quota; by

"(B) the national average yield goal.

"(5) NATIONAL AVERAGE YIELD GOAL.—The term 'national average yield goal' means the national average yield for flue-cured tobacco during the 5 marketing years immediately preceding the marketing year for which the determination is being made.

"(6) NATIONAL MARKETING QUOTA.—For the 1999 and each subsequent crop of flue-cured tobacco, the term 'national marketing quota' for a marketing year means the quantity of flue-cured tobacco, as determined by the Secretary, that is not more than 103 percent nor less than 97 percent of the total of—

"(A) the aggregate of the quantities of flue-cured tobacco that domestic manufacturers of cigarettes estimate that the manufacturers intend to purchase on the United States auction markets or from producers during the marketing year, as compiled and determined under section 320A;

"(B) the average annual quantity of flue-cured tobacco exported from the United States during the 3 marketing years immediately preceding the marketing year for which the determination is being made; and

"(C) the quantity, if any, of flue-cured tobacco that the Secretary, in the discretion of the Secretary, determines is necessary to increase or decrease the inventory of the producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of flue-cured tobacco to establish or maintain the inventory at the reserve stock level for flue-cured tobacco.

"(7) PERMIT YIELD.—The term 'permit yield' means the yield of tobacco per acre for an individual tobacco production permit holder that is—

"(A) based on a preliminary permit yield that is equal to the average yield during the 5 marketing years immediately preceding the marketing year for which the determination is made in the county where the holder of the permit is authorized to plant flue-cured tobacco, as determined by the Secretary, on the basis of actual yields of farms in the county; and

"(B) adjusted by a weighted national yield factor calculated by—

"(i) multiplying each preliminary permit yield by the individual acreage limitation, prior to adjustments for overmarketings, undermarketings, or reductions required under subsection (i); and

"(ii) dividing the sum of the products under clause (i) for all flue-cured individual tobacco production permit holders by the national acreage allotment.

"(b) INITIAL ISSUANCE OF PERMITS.—

"(1) TERMINATION OF FLUE-CURED MARKETING QUOTAS.—On the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act, farm marketing quotas as provided under section 317 shall no longer be in effect for flue-cured tobacco.

"(2) ISSUANCE OF PERMITS TO QUOTA HOLDERS THAT WERE PRINCIPAL PRODUCERS.—

"(A) IN GENERAL.—By January 15, 1999, each individual quota holder under section 317 that was a principal producer of flue-cured tobacco during the 1998 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

"(B) NOTIFICATION.—The Secretary shall notify the holder of each permit of the individual acreage limitation and the individual

marketing limitation applicable to the holder for each marketing year.

"(C) INDIVIDUAL ACREAGE LIMITATION FOR 1999 MARKETING YEAR.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

"(D) INDIVIDUAL MARKETING LIMITATION FOR 1999 MARKETING YEAR.—In establishing the individual marketing limitation for the 1999 marketing year under this section, the farm marketing quota that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual marketing limitation for the previous marketing year.

"(3) QUOTA HOLDERS THAT WERE NOT PRINCIPAL PRODUCERS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), on approval through a referendum under subsection (c)—

"(i) each person that was a quota holder under section 317 but that was not a principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall not be eligible to own a permit; and

"(ii) the Secretary shall not issue any permit during the 25-year period beginning on the date of enactment of this Act to any person that was a quota holder and was not the principal producer of flue-cured tobacco during the 1997 marketing year.

"(B) MEDICAL HARDSHIPS AND CROP DISASTERS.—Subparagraph (A) shall not apply to a person that would have been the principal producer of flue-cured tobacco during the 1997 marketing year but for a medical hardship or crop disaster that occurred during the 1997 marketing year.

"(C) ADMINISTRATION.—The Secretary shall issue regulations—

"(i) defining the term 'person' for the purpose of this paragraph; and

"(ii) prescribing such rules as the Secretary determines are necessary to ensure a fair and reasonable application of the prohibition established under this paragraph.

"(4) ISSUANCE OF PERMITS TO PRINCIPAL PRODUCERS OF FLUE-CURED TOBACCO.—

"(A) IN GENERAL.—By January 15, 1999, each individual quota lessee or quota tenant (as defined in section 1002 of the LEAF Act) that was the principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

"(B) INDIVIDUAL ACREAGE LIMITATIONS.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by a quota holder for whom the quota lessee or quota tenant was the principal producer of flue-cured tobacco during the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

"(C) INDIVIDUAL MARKETING LIMITATIONS.—In establishing the individual marketing limitation for the 1999 marketing year under this section, the individual marketing limitation for the previous year for an individual described in this paragraph shall be calculated by multiplying—

"(i) the farm marketing quota that was allotted to a farm owned by a quota holder for whom the quota lessee or quota holder was the principal producer of flue-cured tobacco during the 1997 marketing year, by

"(ii) the ratio that—

"(I) the sum of all flue-cured tobacco farm marketing quotas for the 1997 marketing year prior to adjusting for undermarketing and overmarketing; bears to

"(II) the sum of all flue-cured tobacco farm marketing quotas for the 1998 marketing year, after adjusting for undermarketing and overmarketing.

"(D) SPECIAL RULE FOR TENANT OF LEASED FLUE-CURED TOBACCO.—If the farm marketing quota or farm acreage allotment of a quota holder was produced pursuant to an agreement under which a quota lessee rented land from a quota holder and a quota tenant was the primary producer, as determined by the Secretary, of flue-cured tobacco pursuant to the farm marketing quota or farm acreage allotment, the farm marketing quota or farm acreage allotment shall be divided proportionately between the quota lessee and quota tenant for purposes of issuing individual tobacco production permits under this paragraph.

"(5) OPTION OF QUOTA LESSEE OR QUOTA TENANT TO RELINQUISH PERMIT.—

"(A) IN GENERAL.—Each quota lessee or quota tenant that is issued an individual tobacco production permit under paragraph (4) shall be given the option of relinquishing the permit in exchange for payments made under section 1021(e)(5) of the LEAF Act.

"(B) NOTIFICATION.—A quota lessee or quota tenant that is issued an individual tobacco production permit shall give notification of the intention to exercise the option at such time and in such manner as the Secretary may require, but not later than 45 days after the permit is issued.

"(C) REALLOCATION OF PERMIT.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit relinquished under this paragraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

"(6) ACTIVE PRODUCER REQUIREMENT.—

"(A) REQUIREMENT FOR SHARING RISK.—No individual tobacco production permit shall be issued to, or maintained by, a person that does not fully share in the risk of producing a crop of flue-cured tobacco.

"(B) CRITERIA FOR SHARING RISK.—For purposes of this paragraph, a person shall be considered to have fully shared in the risk of production of a crop if—

"(i) the investment of the person in the production of the crop is not less than 100 percent of the costs of production associated with the crop;

"(ii) the amount of the person's return on the investment is dependent solely on the sale price of the crop; and

"(iii) the person may not receive any of the return before the sale of the crop.

"(C) PERSONS NOT SHARING RISK.—

"(i) FORFEITURE.—Any person that fails to fully share in the risks of production under this paragraph shall forfeit an individual tobacco production permit if, after notice and opportunity for a hearing, the appropriate county committee determines that the conditions for forfeiture exist.

"(ii) REALLOCATION.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit forfeited under this subparagraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

"(D) NOTICE.—Notice of any determination made by a county committee under subparagraph (C) shall be mailed, as soon as practicable, to the person involved.

"(E) REVIEW.—If the person is dissatisfied with the determination, the person may request, not later than 15 days after notice of the determination is received, a review of the determination by a local review committee under the procedures established under section 363 for farm marketing quotas.

"(7) COUNTY OF ORIGIN REQUIREMENT.—For the 1999 and each subsequent crop of flue-cured tobacco, all tobacco produced pursuant to an individual tobacco production permit shall be produced in the same county in which was produced the tobacco produced during the 1997 marketing year pursuant to the farm marketing quota or farm acreage allotment on which the individual tobacco production permit is based.

"(8) COUNTY PRODUCTION POOL.—

"(A) IN GENERAL.—The authority to produce flue-cured tobacco under an individual tobacco production permit that is forfeited, relinquished, or surrendered within a county may be reallocated by the appropriate county committee to tobacco producers located in the same county that apply to the committee to produce flue-cured tobacco under the authority.

"(B) PRIORITY.—In reallocating individual tobacco production permits under this paragraph, a county committee shall provide a priority to—

"(i) an active tobacco producer that controls the authority to produce a quantity of flue-cured tobacco under an individual tobacco production permit that is equal to or less than the average number of pounds of flue-cured tobacco that was produced by the producer during each of the 1995 through 1997 marketing years, as determined by the Secretary; and

"(ii) a new tobacco producer.

"(C) CRITERIA.—Individual tobacco production permits shall be reallocated by the appropriate county committee under this paragraph in a fair and equitable manner after taking into consideration—

"(i) the experience of the producer;

"(ii) the availability of land, labor, and equipment for the production of tobacco;

"(iii) crop rotation practices; and

"(iv) the soil and other physical factors affecting the production of tobacco.

"(D) MEDICAL HARDSHIPS AND CROP DISASTERS.—Notwithstanding any other provision of this Act, the Secretary may issue an individual tobacco production permit under this paragraph to a producer that is otherwise ineligible for the permit due to a medical hardship or crop disaster that occurred during the 1997 marketing year.

"(c) REFERENDUM.—

"(1) ANNOUNCEMENT OF QUOTA AND ALLOTMENT.—Not later than December 15, 1998, the Secretary pursuant to subsection (b) shall determine and announce—

"(A) the quantity of the national marketing quota for flue-cured tobacco for the 1999 marketing year; and

"(B) the national acreage allotment and national average yield goal for the 1999 crop of flue-cured tobacco.

"(2) SPECIAL REFERENDUM.—Not later than 30 days after the announcement of the quantity of the national marketing quota in 2001, the Secretary shall conduct a special referendum of the tobacco production permit holders that were the principal producers of flue-cured tobacco of the 1997 crop to determine whether the producers approve or oppose the continuation of individual tobacco production permits on an acreage-poundage basis as provided in this section for the 2002 through 2004 marketing years.

"(3) APPROVAL OF PERMITS.—If the Secretary determines that more than 66⅔ percent of the producers voting in the special referendum approve the establishment of individual tobacco production permits on an acreage-poundage basis—

"(A) individual tobacco production permits on an acreage-poundage basis as provided in this section shall be in effect for the 2002 through 2004 marketing years; and

"(B) marketing quotas on an acreage-poundage basis shall cease to be in effect for the 2002 through 2004 marketing years.

"(4) DISAPPROVAL OF PERMITS.—If individual tobacco production permits on an acreage-poundage basis are not approved by more than 66⅔ percent of the producers voting in the referendum, no marketing quotas on an acreage-poundage basis shall continue in effect that were proclaimed under section 317 prior to the referendum.

"(5) APPLICABLE MARKETING YEARS.—If individual tobacco production permits have been made effective for flue-cured tobacco on an acreage-poundage basis pursuant to this subsection, the Secretary shall, not later than December 15 of any future marketing year, announce a national marketing quota for that type of tobacco for the next 3 succeeding marketing years if the marketing year is the last year of 3 consecutive years for which individual tobacco production permits previously proclaimed will be in effect.

"(d) ANNUAL ANNOUNCEMENT OF NATIONAL MARKETING QUOTA.—The Secretary shall determine and announce the national marketing quota, national acreage allotment, and national average yield goal for the second and third marketing years of any 3-year period for which individual tobacco production permits are in effect on or before the December 15 immediately preceding the beginning of the marketing year to which the quota, allotment, and goal apply.

"(e) ANNUAL ANNOUNCEMENT OF INDIVIDUAL TOBACCO PRODUCTION PERMITS.—If a national marketing quota, national acreage allotment, and national average yield goal are determined and announced, the Secretary shall provide for the determination of individual tobacco production permits, individual acreage limitations, and individual marketing limitations under this section for the crop and marketing year covered by the determinations.

"(f) ASSIGNMENT OF TOBACCO PRODUCTION PERMITS.—

"(1) LIMITATION TO SAME COUNTY.—Each individual tobacco production permit holder shall assign the individual acreage limitation and individual marketing limitation to 1 or more farms located within the county of origin of the individual tobacco production permit.

"(2) FILING WITH COUNTY COMMITTEE.—The assignment of an individual acreage limitation and individual marketing limitation shall not be effective until evidence of the assignment, in such form as required by the Secretary, is filed with and determined by the county committee for the county in which the farm involved is located.

"(3) LIMITATION ON TILLABLE CROPLAND.—The total acreage assigned to any farm under this subsection shall not exceed the acreage of cropland on the farm.

"(g) PROHIBITION ON SALE OR LEASING OF INDIVIDUAL TOBACCO PRODUCTION PERMITS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Secretary shall not permit the sale and transfer, or lease and transfer, of an individual tobacco production permit issued under this section.

"(2) TRANSFER TO DESCENDANTS.—

"(A) DEATH.—In the case of the death of a person to whom an individual tobacco production permit has been issued under this section, the permit shall transfer to the surviving spouse of the person or, if there is no surviving spouse, to surviving direct descendants of the person.

"(B) TEMPORARY INABILITY TO FARM.—In the case of the death of a person to whom an individual tobacco production permit has been issued under this section and whose descendants are temporarily unable to produce a crop of tobacco, the Secretary may hold the license in the name of the descendants for a period of not more than 18 months.

"(3) VOLUNTARY TRANSFERS.—A person that is eligible to obtain an individual tobacco production permit under this section may at any time transfer all or part of the permit to the person's spouse or direct descendants that are actively engaged in the production of tobacco.

"(h) RESERVE.—

"(1) IN GENERAL.—For each marketing year for which individual tobacco production permits are in effect under this section, the Secretary may establish a reserve from the national marketing quota in a quantity equal to not more than 1 percent of the national marketing quota to be available for—

"(A) making corrections of errors in individual acreage limitations and individual marketing limitations;

"(B) adjusting inequities; and

"(C) establishing individual tobacco production permits for new tobacco producers (except that not less than two-thirds of the reserve shall be for establishing such permits for new tobacco producers).

"(2) ELIGIBLE PERSONS.—To be eligible for a new individual tobacco production permit, a producer must not have been the principal producer of tobacco during the immediately preceding 5 years.

"(3) APPORTIONMENT FOR NEW PRODUCERS.—The part of the reserve held for apportionment to new individual tobacco producers shall be allotted on the basis of—

"(A) land, labor, and equipment available for the production of tobacco;

"(B) crop rotation practices;

"(C) soil and other physical factors affecting the production of tobacco; and

"(D) the past tobacco-producing experience of the producer.

"(4) PERMIT YIELD.—The permit yield for any producer for which a new individual tobacco production permit is established shall be determined on the basis of available productivity data for the land involved and yields for similar farms in the same county.

"(i) PENALTIES.—

"(1) PRODUCTION ON OTHER FARMS.—If any quantity of tobacco is marketed as having been produced under an individual acreage limitation or individual marketing limitation assigned to a farm but was produced on a different farm, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

"(2) FALSE REPORT.—If a person to which an individual tobacco production permit is issued files, or aids or acquiesces in the filing of, a false report with respect to the assignment of an individual acreage limitation or individual marketing limitation for a quantity of tobacco, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

"(j) MARKETING PENALTIES.—

"(1) IN GENERAL.—When individual tobacco production permits under this section are in effect, provisions with respect to penalties for the marketing of excess tobacco and the other provisions contained in section 314 shall apply in the same manner and to the same extent as they would apply under section 317(g) if farm marketing quotas were in effect.

"(2) PRODUCTION ON OTHER FARMS.—If a producer falsely identifies tobacco as having been produced on or marketed from a farm to which an individual acreage limitation or individual marketing limitation has been assigned, future individual acreage limitations and individual marketing limitations shall be forfeited.".

SEC. 1025. MODIFICATIONS IN FEDERAL TOBACCO PROGRAMS.

(a) PROGRAM REFERENDA.—Section 312(c) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1312(c)) is amended—

(1) by striking "(c) Within thirty" and inserting the following:

"(c) REFERENDA ON QUOTAS.—

"(1) IN GENERAL.—Not later than 30"; and

(2) by adding at the end the following:

"(2) REFERENDA ON PROGRAM CHANGES.—

"(A) IN GENERAL.—In the case of any type of tobacco for which marketing quotas are in effect, on the receipt of a petition from more than 5 percent of the producers of that type of tobacco in a State, the Secretary shall conduct a statewide referendum on any proposal related to the lease and transfer of tobacco quota within a State requested by the petition that is authorized under this part.

"(B) APPROVAL OF PROPOSALS.—If a majority of producers of the type of tobacco in the State approve a proposal in a referendum conducted under subparagraph (A), the Secretary shall implement the proposal in a manner that applies to all producers and quota holders of that type of tobacco in the State.".

(b) PURCHASE REQUIREMENTS.—Section 320B of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314h) is amended—

(1) in subsection (c)—

(A) by striking "(c) The amount" and inserting "(c) AMOUNT OF PENALTY.—For the 1998 and subsequent marketing years, the amount"; and

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

"(1) 105 percent of the average market price for the type of tobacco involved during the preceding marketing year; and".

(c) ELIMINATION OF TOBACCO MARKETING ASSESSMENT.—

(1) IN GENERAL.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by striking subsection (g).

(2) CONFORMING AMENDMENT.—Section 422(c) of the Uruguay Round Agreements Act (Public Law 103-465; 7 U.S.C. 1445 note) is amended by striking "section 106(g), 106A, or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445(g), 1445-1, or 1445-2)" and inserting "section 106A or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445-1, 1445-2)".

(d) ADJUSTMENT FOR LAND RENTAL COSTS.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by adding at the end the following:

"(h) ADJUSTMENT FOR LAND RENTAL COSTS.—For each of the 1999 and 2000 marketing years for flue-cured tobacco, after consultation with producers, State farm organizations and cooperative associations, the Secretary shall make an adjustment in the price support level for flue-cured tobacco equal to the annual change in the average cost per pound to flue-cured producers, as determined by the Secretary, under agreements through which producers rent land to produce flue-cured tobacco.".

(e) FIRE-CURED AND DARK AIR-CURED TOBACCO PROGRAMS.—

(1) LIMITATION ON TRANSFERS.—Section 318(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d(g)) is amended—

(A) by striking "ten" and inserting "30"; and

(B) by inserting "during any crop year" after "transferred to any farm".

(2) LOSS OF ALLOTMENT OR QUOTA THROUGH UNDERPLANTING.—Section 318 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d) is amended by adding at the end the following:

"(k) LOSS OF ALLOTMENT OR QUOTA THROUGH UNDERPLANTING.—Effective for the 1999 and subsequent marketing years, no acreage allotment or acreage-poundage quota, other than a new marketing quota, shall be established for a farm on which no fire-cured or dark air-cured tobacco was planted or considered planted during at least 2 of the 3 crop years immediately preceding the crop year for which the acreage allotment or acreage-poundage quota would otherwise be established.".

(f) EXPANSION OF TYPES OF TOBACCO SUBJECT TO NO NET COST ASSESSMENT.—

(1) NO NET COST TOBACCO FUND.—Section 106A(d)(1)(A) of the Agricultural Act of 1949 (7 U.S.C. 1445-1(d)(1)(A)) is amended—

(A) in clause (ii), by inserting after "Burley quota tobacco" the following: "and fire-cured and dark air-cured quota tobacco"; and

(B) in clause (iii)—

(i) in the matter preceding subclause (I), by striking "Flue-cured or Burley tobacco" and inserting "each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,"; and

(ii) by striking subclause (II) and inserting the following:

"(II) the sum of the amount of the per pound producer contribution and purchaser assessment (if any) for the kind of tobacco payable under clauses (i) and (ii); and".

(2) NO NET COST TOBACCO ACCOUNT.—Section 106B(d)(1) of the Agricultural Act of 1949 (7 U.S.C. 1445-2(d)(1)) is amended—

(A) in subparagraph (B), by inserting after "Burley quota tobacco" the following: "and fire-cured and dark air-cured tobacco"; and

(B) in subparagraph (C), by striking "Flue-cured and Burley tobacco" and inserting "each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,".

Subtitle C—Farmer and Worker Transition Assistance

SEC. 1031. TOBACCO WORKER TRANSITION PROGRAM.

(a) GROUP ELIGIBILITY REQUIREMENTS.—

(1) CRITERIA.—A group of workers (including workers in any firm or subdivision of a firm involved in the manufacture, processing, or warehousing of tobacco or tobacco products) shall be certified as eligible to apply for adjustment assistance under this section pursuant to a petition filed under subsection (b) if the Secretary of Labor determines that a significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated, and—

(A) the sales or production, or both, of the firm or subdivision have decreased absolutely; and

(B) the implementation of the national tobacco settlement contributed importantly to the workers' separation or threat of separation and to the decline in the sales or production of the firm or subdivision.

(2) DEFINITION OF CONTRIBUTED IMPORTANTLY.—In paragraph (1)(B), the term "contributed importantly" means a cause that is important but not necessarily more important than any other cause.

(3) REGULATIONS.—The Secretary shall issue regulations relating to the application of the criteria described in paragraph (1) in making preliminary findings under subsection (b) and determinations under subsection (c).

(b) PRELIMINARY FINDINGS AND BASIC ASSISTANCE.—

(1) FILING OF PETITIONS.—A petition for certification of eligibility to apply for adjustment assistance under this section may be filed by a group of workers (including workers in any firm or subdivision of a firm involved in the manufacture, processing, or warehousing of tobacco or tobacco products) or by their certified or recognized union or other duly authorized representative with the Governor of the State in which the workers' firm or subdivision thereof is located.

(2) FINDINGS AND ASSISTANCE.—On receipt of a petition under paragraph (1), the Governor shall—

(A) notify the Secretary that the Governor has received the petition;

(B) within 10 days after receiving the petition—

(i) make a preliminary finding as to whether the petition meets the criteria described in subsection (a)(1); and

(ii) transmit the petition, together with a statement of the finding under clause (i) and reasons for the finding, to the Secretary for action under subsection (c); and

(C) if the preliminary finding under subparagraph (B)(i) is affirmative, ensure that rapid response and basic readjustment services authorized under other Federal laws are made available to the workers.

(c) REVIEW OF PETITIONS BY SECRETARY; CERTIFICATIONS.—

(1) IN GENERAL.—The Secretary, within 30 days after receiving a petition under subsection (b)(2)(B)(ii), shall determine whether the petition meets the criteria described in subsection (a)(1). On a determination that the petition meets the criteria, the Secretary shall issue to workers covered by the petition a certification of eligibility to apply for the assistance described in subsection (d).

(2) DENIAL OF CERTIFICATION.—On the denial of a certification with respect to a petition under paragraph (1), the Secretary shall review the petition in accordance with the requirements of other applicable assistance programs to determine if the workers may be certified under the other programs.

(d) COMPREHENSIVE ASSISTANCE.—

(1) IN GENERAL.—Workers covered by a certification issued by the Secretary under subsection (c)(1) shall be provided with benefits and services described in paragraph (2) in the same manner and to the same extent as workers covered under a certification under subchapter A of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.), except that the total amount of payments under this section for any fiscal year shall not exceed $25,000,000.

(2) BENEFITS AND SERVICES.—The benefits and services described in this paragraph are the following:

(A) Employment services of the type described in section 235 of the Trade Act of 1974 (19 U.S.C. 2295).

(B) Training described in section 236 of the Trade Act of 1974 (19 U.S.C. 2296), except that notwithstanding the provisions of section 236(a)(2)(A) of that Act, the total amount of payments for training under this section for any fiscal year shall not exceed $12,500,000.

(C) Tobacco worker readjustment allowances, which shall be provided in the same manner as trade readjustment allowances are provided under part I of subchapter B of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2291 et seq.), except that—

(i) the provisions of sections 231(a)(5)(C) and 231(c) of that Act (19 U.S.C. 2291(a)(5)(C), 2291(c)), authorizing the payment of trade readjustment allowances on a finding that it is not feasible or appropriate to approve a training program for a worker, shall not be applicable to payment of allowances under this section; and

(ii) notwithstanding the provisions of section 233(b) of that Act (19 U.S.C. 2293(b)), in order for a worker to qualify for tobacco readjustment allowances under this section, the worker shall be enrolled in a training program approved by the Secretary of the type described in section 236(a) of that Act (19 U.S.C. 2296(a)) by the later of—

(I) the last day of the 16th week of the worker's initial unemployment compensation benefit period; or

(II) the last day of the 6th week after the week in which the Secretary issues a certification covering the worker.

In cases of extenuating circumstances relating to enrollment of a worker in a training program under this section, the Secretary may extend the time for enrollment for a period of not to exceed 30 days.

(D) Job search allowances of the type described in section 237 of the Trade Act of 1974 (19 U.S.C. 2297).

(E) Relocation allowances of the type described in section 238 of the Trade Act of 1974 (19 U.S.C. 2298).

(e) INELIGIBILITY OF INDIVIDUALS RECEIVING PAYMENTS FOR LOST TOBACCO QUOTA.—No benefits or services may be provided under this section to any individual who has received payments for lost tobacco quota under section 1021.

(f) FUNDING.—Of the amounts appropriated to carry out this title, the Secretary may use not to exceed $25,000,000 for each of fiscal years 1999 through 2008 to provide assistance under this section.

(g) EFFECTIVE DATE.—This section shall take effect on the date that is the later of—

(1) October 1, 1998; or

(2) the date of enactment of this Act.

(h) TERMINATION DATE.—No assistance, vouchers, allowances, or other payments may be provided under this section after the date that is the earlier of—

(1) the date that is 10 years after the effective date of this section under subsection (g); or

(2) the date on which legislation establishing a program providing dislocated workers with comprehensive assistance substantially similar to the assistance provided by this section becomes effective.

SEC. 1032. FARMER OPPORTUNITY GRANTS.

Part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) is amended by adding at the end the following:

"Subpart 9—Farmer Opportunity Grants

"SEC. 420D. STATEMENT OF PURPOSE.

"It is the purpose of this subpart to assist in making available the benefits of postsecondary education to eligible students (determined in accordance with section 420F) in institutions of higher education by providing farmer opportunity grants to all eligible students.

"SEC. 420E. PROGRAM AUTHORITY; AMOUNT AND DETERMINATIONS; APPLICATIONS.

"(a) PROGRAM AUTHORITY AND METHOD OF DISTRIBUTION.—

"(1) PROGRAM AUTHORITY.—From amounts made available under section 1011(d)(5) of the LEAF Act, the Secretary, during the period beginning July 1, 1999, and ending September 30, 2024, shall pay to each eligible institution such sums as may be necessary to pay to each eligible student (determined in accordance with section 420F) for each academic year during which that student is in attendance at an institution of higher education, as an undergraduate, a farmer opportunity grant in the amount for which that student is eligible, as determined pursuant to subsection (b). Not less than 85 percent of the sums shall be advanced to eligible institutions prior to the start of each payment period and shall be based on an amount requested by the institution as needed to pay eligible students, except that this sentence shall not be construed to limit the authority of the Secretary to place an institution on a reimbursement system of payment.

"(2) CONSTRUCTION.—Nothing in this section shall be construed to prohibit the Secretary from paying directly to students, in advance of the beginning of the academic term, an amount for which the students are eligible, in cases where the eligible institution elects not to participate in the disbursement system required by paragraph (1).

"(3) DESIGNATION.—Grants made under this subpart shall be known as 'farmer opportunity grants'.

"(b) AMOUNT OF GRANTS.—

"(1) AMOUNTS.—

"(A) IN GENERAL.—The amount of the grant for a student eligible under this subpart shall be—

"(i) $1,700 for each of the academic years 1999–2000 through 2003–2004;

"(ii) $2,000 for each of the academic years 2004–2005 through 2008–2009;

"(iii) $2,300 for each of the academic years 2009–2010 through 2013–2014;

"(iv) $2,600 for each of the academic years 2014–2015 through 2018–2019; and

"(v) $2,900 for each of the academic years 2019–2020 through 2023–2024.

"(B) PART-TIME RULE.—In any case where a student attends an institution of higher education on less than a full-time basis (including a student who attends an institution of higher education on less than a half-time basis) during any academic year, the amount of the grant for which that student is eligible shall be reduced in proportion to the degree to which that student is not so attending on a full-time basis, in accordance with a schedule of reductions established by the Secretary for the purposes of this subparagraph, computed in accordance with this subpart. The schedule of reductions shall be established by regulation and published in the Federal Register.

"(2) MAXIMUM.—No grant under this subpart shall exceed the cost of attendance (as described in section 472) at the institution at which that student is in attendance. If, with respect to any student, it is determined that the amount of a grant exceeds the cost of attendance for that year, the amount of the grant shall be reduced to an amount equal to the cost of attendance at the institution.

"(3) PROHIBITION.—No grant shall be awarded under this subpart to any individual who is incarcerated in any Federal, State, or local penal institution.

"(c) PERIOD OF ELIGIBILITY FOR GRANTS.—

"(1) IN GENERAL.—The period during which a student may receive grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student at the institution at which the student is in attendance, except that any period during which the student is enrolled in a noncredit or remedial course of study as described in paragraph (2) shall not be counted for the purpose of this paragraph.

"(2) CONSTRUCTION.—Nothing in this section shall be construed to—

"(A) exclude from eligibility courses of study that are noncredit or remedial in nature and that are determined by the institution to be necessary to help the student be prepared for the pursuit of a first undergraduate baccalaureate degree or certificate or, in the case of courses in English language instruction, to be necessary to enable the student to utilize already existing knowledge, training, or skills; and

"(B) exclude from eligibility programs of study abroad that are approved for credit by the home institution at which the student is enrolled.

"(3) PROHIBITION.—No student is entitled to receive farmer opportunity grant payments concurrently from more than 1 institution or from the Secretary and an institution.

"(d) APPLICATIONS FOR GRANTS.—

"(1) IN GENERAL.—The Secretary shall from time to time set dates by which students shall file applications for grants under this subpart. The filing of applications under this subpart shall be coordinated with the filing of applications under section 401(c).

"(2) INFORMATION AND ASSURANCES.—Each student desiring a grant for any year shall file with the Secretary an application for the grant containing such information and assurances as the Secretary may deem necessary to enable the Secretary to carry out the Secretary's functions and responsibilities under this subpart.

"(e) DISTRIBUTION OF GRANTS TO STUDENTS.—Payments under this section shall be made in accordance with regulations promulgated by the Secretary for such purpose, in such manner as will best accomplish the purpose of this section. Any disbursement allowed to be made by crediting the student's account shall be limited to tuition and fees and, in the case of institutionally owned housing, room and board. The student may elect to have the institution provide other such goods and services by crediting the student's account.

"(f) INSUFFICIENT FUNDING.—If, for any fiscal year, the funds made available to carry out this subpart are insufficient to satisfy fully all grants for students determined to be eligible under section 420F, the amount of the grant provided under subsection (b) shall be reduced on a pro rata basis among all eligible students.

"(g) TREATMENT OF INSTITUTIONS AND STUDENTS UNDER OTHER LAWS.—Any institution of higher education that enters into an agreement with the Secretary to disburse to students attending that institution the amounts those students are eligible to receive under this subpart shall not be deemed, by virtue of the agreement, to be a contractor maintaining a system of records to accomplish a function of the Secretary. Recipients of farmer opportunity grants shall not be considered to be individual grantees for purposes of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq.).

"SEC. 420F. STUDENT ELIGIBILITY.

"(a) IN GENERAL.—In order to receive any grant under this subpart, a student shall—

"(1) be a member of a tobacco farm family in accordance with subsection (b);

"(2) be enrolled or accepted for enrollment in a degree, certificate, or other program (including a program of study abroad approved for credit by the eligible institution at which the student is enrolled) leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with section 487, and not be enrolled in an elementary or secondary school;

"(3) if the student is presently enrolled at an institution of higher education, be maintaining satisfactory progress in the course of study the student is pursuing in accordance with subsection (c);

"(4) not owe a refund on grants previously received at any institution of higher education under this title, or be in default on any loan from a student loan fund at any institution provided for in part D, or a loan made, insured, or guaranteed by the Secretary under this title for attendance at any institution;

"(5) file with the institution of higher education that the student intends to attend, or is attending, a document, that need not be notarized, but that shall include—

"(A) a statement of educational purpose stating that the money attributable to the grant will be used solely for expenses related to attendance or continued attendance at the institution; and

"(B) the student's social security number; and

"(6) be a citizen of the United States.

"(b) TOBACCO FARM FAMILIES.—

"(1) IN GENERAL.—For the purpose of subsection (a)(1), a student is a member of a tobacco farm family if during calendar year 1998 the student was—

"(A) an individual who—

"(i) is a participating tobacco producer (as defined in section 1002 of the LEAF Act); or

"(ii) is otherwise actively engaged in the production of tobacco;

"(B) a spouse, son, daughter, stepson, or stepdaughter of an individual described in subparagraph (A);

"(C) an individual—

"(i) who was a brother, sister, stepbrother, stepsister, son-in-law, or daughter-in-law of an individual described in subparagraph (A); and

"(ii) whose principal place of residence was the home of the individual described in subparagraph (A); or

"(D) an individual who was a dependent (within the meaning of section 152 of the Internal Revenue Code of 1986) of an individual described in subparagraph (A).

"(2) ADMINISTRATION.—On request, the Secretary of Agriculture shall provide to the Secretary such information as is necessary to carry out this subsection.

"(c) SATISFACTORY PROGRESS.—

"(1) IN GENERAL.—For the purpose of subsection (a)(3), a student is maintaining satisfactory progress if—

"(A) the institution at which the student is in attendance reviews the progress of the student at the end of each academic year, or its equivalent, as determined by the institution; and

"(B) the student has at least a cumulative C average or its equivalent, or academic standing consistent with the requirements for graduation, as determined by the institution, at the end of the second such academic year.

"(2) SPECIAL RULE.—Whenever a student fails to meet the eligibility requirements of subsection (a)(3) as a result of the application of this subsection and subsequent to that failure the student has academic standing consistent with the requirements for graduation, as determined by the institution, for any grading period, the student

may, subject to this subsection, again be eligible under subsection (a)(3) for a grant under this subpart.

"(3) WAIVER.—Any institution of higher education at which the student is in attendance may waive paragraph (1) or (2) for undue hardship based on—

"(A) the death of a relative of the student;

"(B) the personal injury or illness of the student; or

"(C) special circumstances as determined by the institution.

"(d) STUDENTS WHO ARE NOT SECONDARY SCHOOL GRADUATES.—In order for a student who does not have a certificate of graduation from a school providing secondary education, or the recognized equivalent of the certificate, to be eligible for any assistance under this subpart, the student shall meet either 1 of the following standards:

"(1) EXAMINATION.—The student shall take an independently administered examination and shall achieve a score, specified by the Secretary, demonstrating that the student can benefit from the education or training being offered. The examination shall be approved by the Secretary on the basis of compliance with such standards for development, administration, and scoring as the Secretary may prescribe in regulations.

"(2) DETERMINATION.—The student shall be determined as having the ability to benefit from the education or training in accordance with such process as the State shall prescribe. Any such process described or approved by a State for the purposes of this section shall be effective 6 months after the date of submission to the Secretary unless the Secretary disapproves the process. In determining whether to approve or disapprove the process, the Secretary shall take into account the effectiveness of the process in enabling students without secondary school diplomas or the recognized equivalent to benefit from the instruction offered by institutions utilizing the process, and shall also take into account the cultural diversity, economic circumstances, and educational preparation of the populations served by the institutions.

"(e) SPECIAL RULE FOR CORRESPONDENCE COURSES.—A student shall not be eligible to receive a grant under this subpart for a correspondence course unless the course is part of a program leading to an associate, bachelor, or graduate degree.

"(f) COURSES OFFERED THROUGH TELECOMMUNICATIONS.—

"(1) RELATION TO CORRESPONDENCE COURSES.—A student enrolled in a course of instruction at an eligible institution of higher education (other than an institute or school that meets the definition in section 521(4)(C) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471(4)(C))) that is offered in whole or in part through telecommunications and leads to a recognized associate, bachelor, or graduate degree conferred by the institution shall not be considered to be enrolled in correspondence courses unless the total amount of telecommunications and correspondence courses at the institution equals or exceeds 50 percent of the courses.

"(2) RESTRICTION OR REDUCTIONS OF FINANCIAL AID.—A student's eligibility to receive a grant under this subpart may be reduced if a financial aid officer determines under the discretionary authority provided in section 479A that telecommunications instruction results in a substantially reduced cost of attendance to the student.

"(3) DEFINITION.—For the purposes of this subsection, the term 'telecommunications' means the use of television, audio, or computer transmission, including open broadcast, closed circuit, cable, microwave, or satellite, audio conferencing, computer conferencing, or video cassettes or discs, except that the term does not include a course that is delivered using video cassette or disc recordings at the institution and that is not delivered in person to other students of that institution.

"(g) STUDY ABROAD.—Nothing in this subpart shall be construed to limit or otherwise prohibit access to study abroad programs approved by the home institution at which a student is enrolled. An otherwise eligible student who is engaged in a program of study abroad approved for academic credit by the home institution at which the student is enrolled shall be eligible to receive a grant under this subpart, without regard to whether the study abroad program is required as part of the student's degree program.

"(h) VERIFICATION OF SOCIAL SECURITY NUMBER.—The Secretary, in cooperation with the Commissioner of Social Security, shall verify any social security number provided by a student to an eligible institution under subsection (a)(5)(B) and shall enforce the following conditions:

"(1) PENDING VERIFICATION.—Except as provided in paragraphs (2) and (3), an institution shall not deny, reduce, delay, or terminate a student's eligibility for assistance under this subpart because social security number verification is pending.

"(2) DENIAL OR TERMINATION.—If there is a determination by the Secretary that the social security number provided to an eligible institution by a student is incorrect, the institution shall deny or terminate the student's eligibility for any grant under this subpart until such time as the student provides documented evidence of a social security number that is determined by the institution to be correct.

"(3) CONSTRUCTION.—Nothing in this subsection shall be construed to permit the Secretary to take any compliance, disallowance, penalty, or other regulatory action against—

"(A) any institution of higher education with respect to any error in a social security number, unless the error was a result of fraud on the part of the institution; or

"(B) any student with respect to any error in a social security number, unless the error was a result of fraud on the part of the student.".

Subtitle D—Immunity

SEC. 1041. GENERAL IMMUNITY FOR TOBACCO PRODUCERS AND TOBACCO WAREHOUSE OWNERS.

Notwithstanding any other provision of this title, a participating tobacco producer, tobacco-related growers association, or tobacco warehouse owner or employee may not be subject to liability in any Federal or State court for any cause of action resulting from the failure of any tobacco product manufacturer, distributor, or retailer to comply with the National Tobacco Policy and Youth Smoking Reduction Act.

TITLE XI—MISCELLANEOUS PROVISIONS

Subtitle A—International Provisions

SEC. 1101. POLICY.

It shall be the policy of the United States government to pursue bilateral and multilateral agreements that include measures designed to—

(1) restrict or eliminate tobacco advertising and promotion aimed at children;

(2) require effective warning labels on packages and advertisements of tobacco products;

(3) require disclosure of tobacco ingredient information to the public;

(4) limit access to tobacco products by young people;

(5) reduce smuggling of tobacco and tobacco products;

(6) ensure public protection from environmental tobacco smoke; and

(7) promote tobacco product policy and program information sharing between or among the parties to those agreements.

SEC. 1102. TOBACCO CONTROL NEGOTIATIONS.

The President, in consultation with the Secretary of State, the Secretary of Health and Human Services, and the United States Trade Representative, shall—

(1) act as the lead negotiator for the United States in the area of international tobacco control;

(2) coordinate among U.S. foreign policy and trade negotiators in the area of effective international tobacco control policy;

(3) work closely with non-governmental groups, including public health groups; and

(4) report annually to the Congress on the progress of negotiations to achieve effective international tobacco control policy.

SEC. 1103. REPORT TO CONGRESS.

Not later than 150 days after the enactment of this Act and annually thereafter, the Secretary of Health and Human Services shall transmit to the Congress a report identifying the international fora wherein international tobacco control efforts may be negotiated.

SEC. 1104. FUNDING.

There are authorized such sums as are necessary to carry out the provisions of this subtitle.

SEC. 1105. PROHIBITION OF FUNDS TO FACILITATE THE EXPORTATION OR PROMOTION OF TOBACCO.

(a) IN GENERAL.—No officer, employee, department, or agency of the United States may promote the sale or export of tobacco or tobacco products, or seek the reduction or removal by any foreign country of restrictions on the marketing of tobacco or tobacco products, unless such restrictions are not applied equally to all tobacco and tobacco products. The United States Trade Representative shall consult with the Secretary regarding inquiries, negotiations, and representations with respect to tobacco and tobacco products, including whether proposed restrictions are reasonable protections of public health.

(b) NOTIFICATION.—Whenever such inquiries, negotiations, or representations are made, the United States Trade Representative shall notify the Congress within 10 days afterwards regarding the nature of the inquiry, negotiation, or representation.

SEC. 1106. HEALTH LABELING OF TOBACCO PRODUCTS FOR EXPORT.

(a) IN GENERAL.—

(1) EXPORTS MUST BE LABELED.—It shall be unlawful for any United States person, directly or through approval or facilitation of a transaction by a foreign person, to make use of the United States mail or of any instrument of interstate commerce to authorize or contribute to the export from the United States any tobacco product unless the tobacco product packaging contains a warning label that—

(A) complies with Federal requirements for labeling of similar tobacco products manufactured, imported, or packaged for sale or distribution in the United States; or

(B) complies with the specific health hazard warning labeling requirements of the foreign country to which the product is exported.

(2) U.S. REQUIREMENTS APPLY IF THE DESTINATION COUNTRY DOES NOT REQUIRE SPECIFIC HEALTH HAZARD WARNING LABELS.—Subparagraph (B) of paragraph (1) does not apply to exports to a foreign country that does not have any specific health hazard warning label requirements for the tobacco product being exported.

(b) UNITED STATES PERSON DEFINED.—For purposes of this section, the term "United States person" means—

(1) an individual who is a citizen, national, or resident of the United States; and

(2) a corporation, partnership, association, joint-stock company, business trust, unincorporated organization, or sole proprietorship which has its principal place of business in the United States.

(c) REPORT TO CONGRESS ON ENFORCEMENT; FEASIBILITY REGULATIONS.—

(1) THE PRESIDENT.—The President shall—

(A) report to the Congress within 90 days after the date of enactment of this Act—

(i) regarding methods to ensure compliance with subsection (a); and

(ii) listing countries whose health warnings related to tobacco products are substantially similar to those in the United States; and

(B) promulgate regulations within 1 year after the date of enactment of this Act that will ensure compliance with subsection (a).

(2) THE SECRETARY.—The Secretary shall determine through regulation the feasibility and practicability of requiring health warning labeling in the language of the country of destination weighing the health and other benefits and economic and other costs. To the greatest extent practicable, the Secretary should design a system that requires the language of the country of destination while minimizing the dislocative effects of such a system.

SEC. 1107. INTERNATIONAL TOBACCO CONTROL AWARENESS.

(a) ESTABLISHMENT OF INTERNATIONAL TOBACCO CONTROL AWARENESS.—The Secretary is authorized to establish an international tobacco control awareness effort. The Secretary shall—

(1) promote efforts to share information and provide education internationally about the health, economic, social, and other costs of tobacco use, including scientific and epidemiological data related to tobacco and tobacco use and enhancing countries' capacity to collect, analyze, and disseminating such data;

(2) promote policies and support and coordinate international efforts, including international agreements or arrangements, that seek to enhance the awareness and understanding of the costs associated with tobacco use;

(3) support the development of appropriate governmental control activities in foreign countries, such as assisting countries to design, implement, and evaluate programs and policies used in the United States or other countries; including the training of United States diplomatic and commercial representatives outside the United States;

(4) undertake other activities as appropriate in foreign countries that help achieve a reduction of tobacco use;

(5) permit United States participation in annual meetings of government and non-government representatives concerning international tobacco use and efforts to reduce tobacco use;

(6) promote mass media campaigns, including paid counter-tobacco advertisements to reverse the image appeal of pro-tobacco messages, especially those that glamorize and "Westernize" tobacco use to young people; and

(7) create capacity and global commitment to reduce international tobacco use and prevent youth smoking, including the use of models of previous public health efforts to address global health problems.

(b) ACTIVITIES.—

(1) IN GENERAL.—The activities under subsection (a) shall include—

(A) public health and education programs;

(B) technical assistance;

(C) cooperative efforts and support for related activities of multilateral organization and international organizations;

(D) training; and

(E) such other activities that support the objectives of this section as may be appropriate.

(2) GRANTS AND CONTRACTS.—In carrying out this section, the Secretary shall make grants to, enter into and carry out agreements with, and enter into other transactions with any individual, corporation, or other entity, whether within or outside the United States, including governmental and nongovernmental organizations, international organizations, and multilateral organizations.

(3) TRANSFER OF FUNDS TO AGENCIES.—The Secretary may transfer to any agency of the United States any part of any funds appropriated for the purpose of carrying out this section. Funds authorized to be appropriated by this section shall be available for obligation and expenditure in accordance with the provisions of this section or in accordance with the authority governing the activities of the agency to which such funds are transferred.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, from the National Tobacco Trust Fund, to carry out the provisions of this section, including the administrative costs incurred by any agency of the United States in carrying out this section, $350,000,000 for each of the fiscal years 1999 through 2004, and such sums as may be necessary for each fiscal year thereafter. A substantial amount of such funds shall be granted to non-governmental organizations. Any amount appropriated pursuant to this authorization shall remain available without fiscal year limitation until expended.

Subtitle B—Anti-smuggling Provisions

SEC. 1131. DEFINITIONS.

(a) INCORPORATION OF CERTAIN DEFINITIONS.—In this subtitle, the terms "cigar", "cigarette", "person", "pipe tobacco", "roll-your-own tobacco", "smokeless tobacco", "State", "tobacco product", and "United States ", shall have the meanings given such terms in sections 5702(a), 5702(b), 7701(a)(1), 5702(o), 5702(n)(1), 5702(p), 3306(j)(1), 5702(c), and 3306(j)(2) respectively of the Internal Revenue Code of 1986.

(b) OTHER DEFINITIONS.—In this subtitle:

(1) AFFILIATE.—The term "affiliate" means any one of 2 or more persons if 1 of such persons has actual or legal control, directly or indirectly, whether by stock ownership or otherwise, of other or others of such persons, and any 2 or more of such persons subject to common control, actual or legal, directly or indirectly, whether by stock ownership or otherwise.

(2) INTERSTATE OR FOREIGN COMMERCE.—The term "interstate or foreign commerce" means any commerce between any State and any place outside thereof, or commerce within any Territory or the District of Columbia, or between points within the same State but through any place outside thereof.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Treasury.

(4) PACKAGE.—The term "package" means the innermost sealed container irrespective of the material from which such container is made, in which a tobacco product is placed by the manufacturer and in which such tobacco product is offered for sale to a member of the general public.

(5) RETAILER.—The term "retailer" means any dealer who sells, or offers for sale, any tobacco product at retail. The term "retailer" includes any duty free store that sells, offers for sale, or otherwise distributes at retail in any single transaction 30 or less packages, or its equivalent for other tobacco products.

(6) EXPORTER.—The term "exporter" means any person engaged in the business of exporting tobacco products from the United States for purposes of sale or distribution; and the term "licensed exporter" means any such person licensed under the provisions of this subtitle. Any duty-free store that sells, offers for sale, or otherwise distributes to any person in any single transaction more than 30 packages of cigarettes, or its equivalent for other tobacco products as the Secretary shall by regulation prescribe, shall be deemed an "exporter" under this subtitle.

(7) IMPORTER.—The term "importer" means any person engaged in the business of importing tobacco products into the United States for purposes of sale or distribution; and the term "licensed importer" means any such person licensed under the provisions of this subtitle.

(8) INTENTIONALLY.—The term "intentionally" means doing an act, or omitting to do an act, deliberately, and not due to accident, inadvertence, or mistake. An intentional act does not require that a person knew that his act constituted an offense.

(9) MANUFACTURER.— The term "manufacturer" means any person engaged in the business of manufacturing a tobacco product for purposes of sale or distribution, except that such term shall not include a person who manufactures less than 30,000 cigarettes, or its equivalent as determined by regulations, in any twelve month period; and the term "licensed manufacturer" means any such person licensed under the provisions of this subtitle, except that such term shall not include a person who produces cigars, cigarettes, smokeless tobacco, or pipe tobacco solely for his own personal consumption or use.

(10) WHOLESALER.—The term "wholesaler" means any person engaged in the business of purchasing tobacco products for resale at wholesale, or any person acting as an agent or broker for any person engaged in the business of purchasing tobacco products for resale at wholesale, and the term "licensed wholesaler" means any such person licensed under the provisions of this subtitle.

SEC. 1132. TOBACCO PRODUCT LABELING REQUIREMENTS.

(a) IN GENERAL.—It is unlawful for any person to sell, or ship or deliver for sale or shipment, or otherwise introduce in interstate or foreign commerce, or to receive therein, or to remove from Customs custody for use, any tobacco product unless such product is packaged and labeled in conformity with this section.

(b) LABELING.—

(1) IDENTIFICATION.—Not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate regulations that require each manufacturer or importer of tobacco products to legibly print a unique serial number on all packages of tobacco products manufactured or imported for sale or

distribution. The serial number shall be designed to enable the Secretary to identify the manufacturer or importer of the product, and the location and date of manufacture or importation. The Secretary shall determine the size and location of the serial number.

(2) MARKING REQUIREMENTS FOR EXPORTS.—Each package of a tobacco product that is exported shall be marked for export from the United States. The Secretary shall promulgate regulations to determine the size and location of the mark and under what circumstances a waiver of this paragraph shall be granted.

(c) PROHIBITION ON ALTERATION.—It is unlawful for any person to alter, mutilate, destroy, obliterate, or remove any mark or label required under this subtitle upon a tobacco product in or affecting commerce, except pursuant to regulations of the Secretary authorizing relabeling for purposes of compliance with the requirements of this section or of State law.

SEC. 1133. TOBACCO PRODUCT LICENSES.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall establish a program under which tobacco product licenses are issued to manufacturers, importers, exporters, and wholesalers of tobacco products.

(b)(1) ELIGIBILITY.—A person is entitled to a license unless the Secretary finds—

(A) that such person has been previously convicted of a Federal crime relating to tobacco, including the taxation thereof;

(B) that such person has, within 5 years prior to the date of application, been previously convicted of any felony under Federal or State law; or

(C) that such person is, by virtue of his business experience, financial standing, or trade connections, not likely to maintain such operations in conformity with Federal law.

(2) CONDITIONS.—The issuance of a license under this section shall be conditioned upon the compliance with the requirements of this subtitle, all Federal laws relating to the taxation of tobacco products, chapter 114 of title 18, United States Code, and any regulations issued pursuant to such statutes.

(c) REVOCATION, SUSPENSION, AND ANNULMENT.—The program established under subsection (a) shall permit the Secretary to revoke, suspend, or annul a license issued under this section if the Secretary determines that the terms or conditions of the license have not been complied with. Prior to any action under this subsection, the Secretary shall provide the licensee with due notice and the opportunity for a hearing.

(d) RECORDS AND AUDITS.—The Secretary shall, under the program established under subsection (a), require all license holders to keep records concerning the chain of custody of the tobacco products that are the subject of the license and make such records available to the Secretary for inspection and audit.

(e) RETAILERS.—This section does not apply to retailers of tobacco products, except that retailers shall maintain records of receipt, and such records shall be available to the Secretary for inspection and audit. An ordinary commercial record or invoice will satisfy this requirement provided such record shows the date of receipt, from whom such products were received and the quantity of tobacco products received.

SEC. 1134. PROHIBITIONS.

(a) IMPORTATION AND SALE.—It is unlawful, except pursuant to a license issued by the Secretary under this subtitle—

(1) to engage in the business of importing tobacco products into the United States; or

(2) for any person so engaged to sell, offer, or deliver for sale, contract to sell, or ship, in or affecting commerce, directly or indirectly or through an affiliate, tobacco products so imported.

(b) MANUFACTURE AND SALE.—It is unlawful, except pursuant to a license issued by the Secretary under this subtitle—

(1) to engage in the business of manufacturing, packaging or warehousing tobacco products; or

(2) for any person so engaged to sell, offer, or deliver for sale, contract to sell, or ship, in or affecting commerce, directly or indirectly or through an affiliate, tobacco products so manufactured, packaged, or warehoused.

(c) WHOLESALE.—It is unlawful, except pursuant to a license issued by the Secretary under this subtitle—

(1) to engage in the business of purchasing for resale at wholesale tobacco products, or, as a principal or agent, to sell, offer for sale, negotiate for, or hold out by solicitation, advertisement, or otherwise as selling, providing, or arranging for, the purchase for resale at wholesale of tobacco products; or

(2) for any person so engaged to receive or sell, offer or deliver for sale, contract to sell, or ship, in or affecting commerce, directly or indirectly or through an affiliate, tobacco products so purchased.

(d) EXPORTATION.—

(1) IN GENERAL.—It is unlawful, except pursuant to a license issued by the Secretary under this subtitle—

(A) to engage in the business of exporting tobacco products from the United States; or

(B) for any person so engaged to sell, offer, or deliver for sale, contract to sell, or ship, in or affecting commerce, directly or indirectly or through an affiliate, tobacco products received for export.

(2) REPORT.—Prior to exportation of tobacco products from the United States, the exporter shall submit a report in such manner and form as the Secretary may by regulation prescribe to enable the Secretary to identify the shipment and assure that it reaches its intended destination.

(3) AGREEMENTS WITH FOREIGN GOVERNMENTS.—The Secretary is authorized to enter into agreements with foreign governments to exchange or share information contained in reports received from exporters of tobacco products if the Secretary believes that such an agreement will assist in—

(A) insuring compliance with any law or regulation enforced or administered by an agency of the United States; or

(B) preventing or detecting violation of the laws or regulations of a foreign government with which the Secretary has entered into an agreement.

Such information may be exchanged or shared with a foreign government only if the Secretary obtains assurances from such government that the information will be held in confidence and used only for the purpose of preventing or detecting violations of the laws or regulations of such government or the United States and, provided further that no information may be exchanged or shared with any government that has violated such assurances.

(e) UNLAWFUL ACTS.—

(1) UNLICENSED RECEIPT OR DELIVERY.—It is unlawful for any licensed importer, licensed manufacturer, or licensed wholesaler intentionally to ship, transport, deliver or receive any tobacco products from or to any person other than a person licensed under this chapter or a retailer licensed under the provisions of this Act, except a licensed importer may receive foreign tobacco products from a foreign manufacturer or a foreign distributor that have not previously entered the United States.

(2) RECEIPT OF RE-IMPORTED GOODS.—It is unlawful for any person, except a licensed manufacturer or a licensed exporter to receive any tobacco products that have previously been exported and returned to the United States.

(3) DELIVERY BY EXPORTER.—It is unlawful for any licensed exporter intentionally to ship, transport, sell or deliver for sale any tobacco products to any person other than a licensed manufacturer or foreign purchaser.

(4) SHIPMENT OF EXPORT-ONLY GOODS.—It is unlawful for any person other than a licensed exporter intentionally to ship, transport, receive or possess, for purposes of resale, any tobacco product in packages marked "FOR EXPORT FROM THE UNITED STATES," other than for direct return to the manufacturer or exporter for re-packing or for re-exportation.

(5) FALSE STATEMENTS.—It is unlawful for any licensed manufacturer, licensed exporter, licensed importer, or licensed wholesaler to make intentionally any false entry in, to fail willfully to make appropriate entry in, or to fail willfully to maintain properly any record or report that he is required to keep as required by this chapter or the regulations promulgated thereunder.

(h) EFFECTIVE DATE.—The provisions of this section shall become effective on the date that is 365 days after the date of enactment of this Act.

SEC. 1135. LABELING OF PRODUCTS SOLD BY NATIVE AMERICANS.

The Secretary, in consultation with the Secretary of the Interior, shall promulgate regulations that require that each package of a tobacco product that is sold on an Indian reservation (as defined in section 403(9) of the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3202(9)) be labeled as such. Such regulations shall include requirements for the size and location of the label.

SEC. 1136. LIMITATION ON ACTIVITIES INVOLVING TOBACCO PRODUCTS IN FOREIGN TRADE ZONES.

(a) MANUFACTURE OF TOBACCO PRODUCTS IN FOREIGN TRADE ZONES.—No person shall manufacture a tobacco product in any foreign trade zone, as defined for purposes of the Act of June 18, 1934 (19 U.S.C. 81a et seq.).

(b) EXPORTING OR IMPORTING FROM OR INTO A FOREIGN TRADE ZONE.—Any person exporting or importing tobacco products from or into a foreign trade zone, as defined for purposes of the Act of June 18, 1934 (19 U.S.C. 81a et seq.), shall comply with the requirements provided in this subtitle. In any case where the person operating in a foreign trade zone is acting on behalf of a person licensed under this subtitle, qualification as an importer or exporter will not be required, if such person complies with the requirements set forth in section 1134(d)(2) and (3) of this subtitle.

SEC. 1137. JURISDICTION; PENALTIES; COMPROMISE OF LIABILITY.

(a) JURISDICTION.—The District Courts of the United States, and the United States Court for any Territory, of the District where the offense is committed or of which the offender is an inhabitant or has its principal place of business, are vested with jurisdiction of any suit brought by the Attorney General in the name of the United States, to prevent and restrain violations of any of the provisions of this subtitle.

(b) PENALTIES.—Any person violating any of the provisions of this subtitle shall, upon

conviction, be fined as provided in section 3571 of title 18, United States Code, imprisoned for not more than 5 years, or both.

(c) CIVIL PENALTIES.—The Secretary may, in lieu of referring violations of this subtitle for criminal prosecution, impose a civil penalty of not more than $10,000 for each offense.

(d) COMPROMISE OF LIABILITY.—The Secretary is authorized, with respect to any violation of this subtitle, to compromise the liability arising with respect to a violation of this subtitle—

(1) upon payment of a sum not in excess of $10,000 for each offense, to be collected by the Secretary and to be paid into the Treasury as miscellaneous receipts; and

(2) in the case of repetitious violations and in order to avoid multiplicity of criminal proceedings, upon agreement to a stipulation, that the United States may, on its own motion upon 5 days notice to the violator, cause a consent decree to be entered by any court of competent jurisdiction enjoining the repetition of such violation.

(e) FORFEITURE.—

(1) The Secretary may seize and forfeit any conveyance, tobacco products, or monetary instrument (as defined in section 5312 of title 31, United States Code) involved in a violation of this subtitle, or any property, real or personal, which constitutes or is derived from proceeds traceable to a violation of this chapter. For purposes of this paragraph, the provisions of subsections (a)(2), (b)(2), and (c) through (j) of section 981 of title 18, United States Code, apply to seizures and forfeitures under this paragraph insofar as they are applicable and not inconsistent with the provisions of this subtitle.

(2) The court, in imposing sentence upon a person convicted of an offense under this subtitle, shall order that the person forfeit to the United States any property described in paragraph (1). The seizure and forfeiture of such property shall be governed by subsections (b), (c), and (e) through (p) of section 853 of title 21, United States Code, insofar as they are applicable and not inconsistent with the provisions of this subtitle.

SEC. 1138. AMENDMENTS TO THE CONTRABAND CIGARETTE TRAFFICKING ACT.

(a) DEFINITIONS.—Section 2341 of title 18, United States Code, is amended—

(1) by striking "60,000" and inserting "30,000" in paragraph (2);

(2) by inserting after "payment of cigarette taxes," in paragraph (2) the following: "or in the case of a State that does not require any such indication of tax payment, if the person in possession of the cigarettes is unable to provide any evidence that the cigarettes are moving legally in interstate commerce,";

(3) by striking "and" at the end of paragraph (4);

(4) by striking "Treasury." in paragraph (5) and inserting "Treasury;"; and

(5) by adding at the end thereof the following:

"(6) the term 'tobacco product' means cigars, cigarettes, smokeless tobacco, roll your own and pipe tobacco (as such terms are defined in section 5701 of the Internal Revenue Code of 1986); and

"(7) the term 'contraband tobacco product' means—

"(A) a quantity in excess of 30,000 of any tobacco product that is manufactured, sold, shipped, delivered, transferred, or possessed in violation of Federal laws relating to the distribution of tobacco products; and

"(B) a quantity of tobacco product that is equivalent to an excess of 30,000 cigarettes, as determined by regulation, which bears no evidence of the payment of applicable State tobacco taxes in the State where such tobacco products are found, if such State requires a stamp, impression, or other indication to be placed on packages or other containers of product to evidence payment of tobacco taxes, or in the case of a State that does not require any such indication of tax payment, if the person in possession of the tobacco product is unable to provide any evidence that the tobacco products are moving legally in interstate commerce and which are in the possession of any person other than a person defined in paragraph (2) of this section.".

(b) UNLAWFUL ACTS.—Section 2342 of title 18, United States Code, is amended—

(1) by inserting "or contraband tobacco products" before the period in subsection (a); and

(2) by adding at the end thereof the following:

"(c) It is unlawful for any person—

"(1) knowingly to make any false statement or representation with respect to the information required by this chapter to be kept in the records or reports of any person who ships, sells, or distributes any quantity of cigarettes in excess of 30,000 in a single transaction, or tobacco products in such equivalent quantities as shall be determined by regulation; or

"(2) knowingly to fail or knowingly to fail to maintain distribution records or reports, alter or obliterate required markings, or interfere with any inspection as required with respect to such quantity of cigarettes or other tobacco products.

"(d) It shall be unlawful for any person knowingly to transport cigarettes or other tobacco products under a false bill of lading or without any bill of lading.".

(d) RECORDKEEPING.—Section 2343 of title 18, United States Code, is amended—

(1) by striking "60,000" in subsection (a) and inserting "30,000";

(2) by inserting after "transaction" in subsection (a) the following: "or, in the case of other tobacco products an equivalent quantity as determined by regulation,";

(3) by striking the last sentence of subsection (a) and inserting the following:

"Except as provided in subsection (c) of this section, nothing contained herein shall authorize the Secretary to require reporting under this section.";

(4) by striking "60,000" in subsection (b) and inserting "30,000";

(5) by inserting after "transaction" in subsection (b) the following: "or, in the case of other tobacco products an equivalent quantity as determined by regulation,"; and

(6) by adding at the end thereof the following:

"(c)(1) Any person who ships, sells, or distributes for resale tobacco products in interstate commerce, whereby such tobacco products are shipped into a State taxing the sale or use of such tobacco products or who advertises or offers tobacco products for such sale or transfer and shipment shall—

"(A) first file with the tobacco tax administrator of the State into which such shipment is made or in which such advertisement or offer is disseminated, a statement setting for the persons name, and trade name (if any), and the address of the persons principal place of business and of any other place of business; and

"(B) not later than the 10th day of each month, file with the tobacco tax administrator of the State into which such shipment is made a memorandum or a copy of the invoice covering each and every shipment of tobacco products made during the previous month into such State; the memorandum or invoice in each case to include the name and address of the person to whom the shipment was made, the brand, and the quantity thereof.

"(2) The fact that any person ships or delivers for shipment any tobacco products shall, if such shipment is into a State in which such person has filed a statement with the tobacco tax administrator under paragraph (1)(A) of this subsection, be presumptive evidence that such tobacco products were sold, shipped, or distributed for resale by such person.

"(3) For purposes of this subsection—

"(A) the term 'use' includes consumption, storage, handling, or disposal of tobacco products; and

"(B) the term 'tobacco tax administrator' means the State official authorized to administer tobacco tax laws of the State.".

(e) PENALTIES.—Section 2344 of title 18, United States Code, is amended—

(1) by inserting "or (c)" in subsection (b) after "section 2344(b)";

(2) by inserting "or contraband tobacco products" after "cigarettes" in subsection (c); and

(3) by adding at the end thereof the following:

"(d) Any proceeds from the unlawful distribution of tobacco shall be subject to seizure and forfeiture under section 981(a)(1)(C).".

(f) REPEAL OF FEDERAL LAW RELATING TO COLLECTION OF STATE CIGARETTE TAXES.—The Act of October 19, 1949, (63 Stat. 884; 15 U.S.C. 375-378) is hereby repealed.

SEC. 1139. FUNDING.

(a) LICENSE FEES.—The Secretary may, in the Secretary's sole discretion, set the fees for licenses required by this chapter, in such amounts as are necessary to recover the costs of administering the provisions of this chapter, including preventing trafficking in contraband tobacco products.

(b) DISPOSITION OF FEES.—Fees collected by the Secretary under this chapter shall be deposited in an account with the Treasury of the United States that is specially designated for paying the costs associated with the administration or enforcement of this chapter or any other Federal law relating to the unlawful trafficking of tobacco products. The Secretary is authorized and directed to pay out of any funds available in such account any expenses incurred by the Federal Government in administering and enforcing this chapter or any other Federal law relating to the unlawful trafficking in tobacco products (including expenses incurred for the salaries and expenses of individuals employed to provide such services). None of the funds deposited into such account shall be available for any purpose other than making payments authorized under the preceding sentence.

SEC. 1140. RULES AND REGULATIONS.

The Secretary shall prescribe all needful rules and regulations for the enforcement of this chapter, including all rules and regulations that are necessary to ensure the lawful distribution of tobacco products in interstate or foreign commerce.

Subtitle C—Other Provisions

SEC. 1161. IMPROVING CHILD CARE AND EARLY CHILDHOOD DEVELOPMENT.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary from the National Tobacco Trust Fund such sums as may be necessary for each fiscal year to be

used by the Secretary for the following purposes:

(1) Improving the affordability of child care through increased appropriations for child care under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9859 et seq.).

(2) Enhancing the quality of child care and early childhood development through the provision of grants to States under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9859 et seq.).

(3) Expanding the availability and quality of school-age care through the provision of grants to States under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9859 et seq.).

(4) Assisting young children by providing grants to local collaboratives under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9859 et seq.) for the purpose of improving parent education and supportive services, strengthening the quality of child care, improving health services, and improving services for children with disabilities.

(b) SUPPLEMENT NOT SUPPLANT.—Amounts made available to a State under this section shall be used to supplement and not supplant other Federal, State, and local funds provided for programs that serve the health and developmental needs of children. Amounts provided to the State under any of the provisions of law referred to in this section shall not be reduced solely as a result of the availability of funds under this section.

SEC. 1162. BAN OF SALE OF TOBACCO PRODUCTS THROUGH THE USE OF VENDING MACHINES.

(a) BAN OF SALE OF TOBACCO PRODUCTS THROUGH THE USE OF VENDING MACHINES.—Effective 12 months after the date of enactment of this Act, it shall be unlawful to sell tobacco products through the use of a vending machine.

(b) COMPENSATION FOR BANNED VENDING MACHINES.—

(1) IN GENERAL.—The owners and operators of tobacco vending machines shall be reimbursed, subject to the availability of appropriations under subsection (d), for the fair market value of their tobacco vending machines.

(2) TOBACCO VENDING REIMBURSEMENT CORPORATION.—

(A) CORPORATION.—Reimbursement shall be directed through a private, nonprofit corporation established in the District of Columbia, known as the Tobacco Vending Reimbursement Corporation (in this section referred to as the "Corporation"). Except as otherwise provided in this section, the Corporation is subject to, and has all the powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act (D.C. Code section 29-501 et seq.).

(B) DUTIES.—The Corporation shall—

(i) disburse compensation funds to vending companies under this section;

(ii) verify operational machines; and

(iii) maintain complete records of machine verification and accountings of disbursements and administration of the compensation fund established under paragraph (4).

(3) MANAGEMENT OF CORPORATION.—

(A) BOARD OF DIRECTORS.—The Corporation shall be managed by a Board of Directors that—

(i) consists of distinguished Americans with experience in finance, public policy, or fund management;

(ii) includes at least 1 member of the United States tobacco vending machine industry;

(iii) shall be paid an annual salary in an amount determined by the President of the Corporation not to exceed $40,000 individually, out of amounts transferred to the Corporation under paragraph (4)(A);

(iv) shall appoint a President to manage the day-to-day activities of the Corporation;

(v) shall develop guidelines by which the President shall direct the Corporation;

(vi) shall retain a national accounting firm to verify the distribution of funds and audit the compensation fund established under paragraph (4);

(vii) shall retain such legal, management, or consulting assistance as is necessary and reasonable; and

(viii) shall periodically report to Congress regarding the activities of the Corporation.

(B) DUTIES OF THE PRESIDENT OF THE CORPORATION.—The President of the Corporation shall—

(i) hire appropriate staff;

(ii) prepare the report of the Board of Directors of the Corporation required under subparagraph (A)(viii); and

(iii) oversee Corporation functions, including verification of machines, administration and disbursement of funds, maintenance of complete records, operation of appeals procedures, and other directed functions.

(4) COMPENSATION FUND.—

(A) RULES FOR DISBURSEMENT OF FUNDS.—

(i) PAYMENTS TO OWNERS AND OPERATORS.—The Corporation shall disburse funds to compensate the owners and operators of tobacco vending machines in accordance with the following:

(I) The fair market value of each tobacco vending machine verified by the Corporation President in accordance with subparagraph (C), and proven to have been in operation before August 10, 1995, shall be disbursed to the owner of the machine seeking compensation.

(II) No compensation shall be made for a spiral glass front vending machine.

(ii) OTHER PAYMENTS.—Funds appropriated to the Corporation under subsection (d) may be used to pay the administrative costs of the Corporation that are necessary and proper or required by law. The total amount paid by the Corporation for administrative and overhead costs, including accounting fees, legal fees, consultant fees, and associated administrative costs shall not exceed 1 percent of the total amount appropriated to the Corporation under subsection (d).

(B) VERIFICATION OF VENDING MACHINES.—Verification of vending machines shall be based on copies of official State vending licenses, company computerized or handwritten sales records, or physical inspection by the Corporation President or by an inspection agent designated by the President. The Corporation President and the Board of Directors of the Corporation shall work vigorously to prevent and prosecute any fraudulent claims submitted for compensation.

(C) RETURN OF ACCOUNT FUNDS NOT DISTRIBUTED TO VENDORS.—The Corporation shall be dissolved on the date that is 4 years after the date of enactment of this Act. Any funds not dispersed or allocated to claims pending as of that date shall be transferred to a public anti-smoking trust, or used for such other purposes as Congress may designate.

(c) SETTLEMENT OF LEGAL CLAIMS PENDING AGAINST THE UNITED STATES.—Acceptance of a compensation payment from the Corporation by a vending machine owner or operator shall settle all pending and future claims of the owner or operator against the United States that are based on, or related to, the ban of the use of tobacco vending machines imposed under this section and any other laws or regulations that limit the use of tobacco vending machines.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Corporation from funds not otherwise obligated in the Treasury or out of the National Tobacco Trust Fund, such sums as may be necessary to carry out this section.

SEC. 1163. AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is amended by adding at the end the following new section:

"SEC. 713. REQUIRED COVERAGE FOR MINIMUM HOSPITAL STAY FOR MASTECTOMIES AND LYMPH NODE DISSECTIONS FOR THE TREATMENT OF BREAST CANCER AND COVERAGE FOR RECONSTRUCTIVE SURGERY FOLLOWING MASTECTOMIES.

"(a) INPATIENT CARE.—

"(1) IN GENERAL.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, that provides medical and surgical benefits shall ensure that inpatient coverage with respect to the surgical treatment of breast cancer (including a mastectomy, lumpectomy, or lymph node dissection for the treatment of breast cancer) is provided for a period of time as is determined by the attending physician, in his or her professional judgment consistent with generally accepted medical standards, in consultation with the patient, and subject to subsection (d), to be medically appropriate.

"(2) EXCEPTION.—Nothing in this section shall be construed as requiring the provision of inpatient coverage if the attending physician in consultation with the patient determine that a shorter period of hospital stay is medically appropriate.

"(b) RECONSTRUCTIVE SURGERY.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, that provides medical and surgical benefits with respect to a mastectomy shall ensure that, in a case in which a mastectomy patient elects breast reconstruction, coverage is provided for—

"(1) all stages of reconstruction of the breast on which the mastectomy has been performed;

"(2) surgery and reconstruction of the other breast to produce a symmetrical appearance; and

"(3) the costs of prostheses and complications of mastectomy including lymphedemas;

in the manner determined by the attending physician and the patient to be appropriate. Such coverage may be subject to annual deductibles and coinsurance provisions as may be deemed appropriate and as are consistent with those established for other benefits under the plan or coverage. Written notice of the availability of such coverage shall be delivered to the participant upon enrollment and annually thereafter.

"(c) NOTICE.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan shall provide notice to each participant and beneficiary under such plan regarding the coverage required by this section in accordance with regulations promulgated by the Secretary. Such notice shall be in writing and prominently positioned in any literature or correspondence made available or distributed by the plan or issuer and shall be transmitted—

"(1) in the next mailing made by the plan or issuer to the participant or beneficiary;

"(2) as part of any yearly informational packet sent to the participant or beneficiary; or

"(3) not later than January 1, 1998; whichever is earlier.

"(d) NO AUTHORIZATION REQUIRED.—

"(1) IN GENERAL.—An attending physician shall not be required to obtain authorization from the plan or issuer for prescribing any length of stay in connection with a mastectomy, a lumpectomy, or a lymph node dissection for the treatment of breast cancer.

"(2) PRENOTIFICATION.—Nothing in this section shall be construed as preventing a group health plan from requiring prenotification of an inpatient stay referred to in this section if such requirement is consistent with terms and conditions applicable to other inpatient benefits under the plan, except that the provision of such inpatient stay benefits shall not be contingent upon such notification.

"(e) PROHIBITIONS.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, may not—

"(1) deny to a patient eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of this section;

"(2) provide monetary payments or rebates to individuals to encourage such individuals to accept less than the minimum protections available under this section;

"(3) penalize or otherwise reduce or limit the reimbursement of an attending provider because such provider provided care to an individual participant or beneficiary in accordance with this section;

"(4) provide incentives (monetary or otherwise) to an attending provider to induce such provider to provide care to an individual participant or beneficiary in a manner inconsistent with this section; and

"(5) subject to subsection (f)(3), restrict benefits for any portion of a period within a hospital length of stay required under subsection (a) in a manner which is less favorable than the benefits provided for any preceding portion of such stay.

"(f) RULES OF CONSTRUCTION.—

"(1) IN GENERAL.—Nothing in this section shall be construed to require a patient who is a participant or beneficiary—

"(A) to undergo a mastectomy or lymph node dissection in a hospital; or

"(B) to stay in the hospital for a fixed period of time following a mastectomy or lymph node dissection.

"(2) LIMITATION.—This section shall not apply with respect to any group health plan, or any group health insurance coverage offered by a health insurance issuer, which does not provide benefits for hospital lengths of stay in connection with a mastectomy or lymph node dissection for the treatment of breast cancer.

"(3) COST SHARING.—Nothing in this section shall be construed as preventing a group health plan or issuer from imposing deductibles, coinsurance, or other cost-sharing in relation to benefits for hospital lengths of stay in connection with a mastectomy or lymph node dissection for the treatment of breast cancer under the plan (or under health insurance coverage offered in connection with a group health plan), except that such coinsurance or other cost-sharing for any portion of a period within a hospital length of stay required under subsection (a) may not be greater than such coinsurance or cost-sharing for any preceding portion of such stay.

"(4) LEVEL AND TYPE OF REIMBURSEMENTS.—Nothing in this section shall be construed to prevent a group health plan or a health insurance issuer offering group health insurance coverage from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

"(g) PREEMPTION, RELATION TO STATE LAWS.—

"(1) IN GENERAL.—Nothing in this section shall be construed to preempt any State law in effect on the date of enactment of this section with respect to health insurance coverage that—

"(A) such State law requires such coverage to provide for at least a 48-hour hospital length of stay following a mastectomy performed for treatment of breast cancer and at least a 24-hour hospital length of stay following a lymph node dissection for treatment of breast cancer;

"(B) requires coverage of at least the coverage of reconstructive breast surgery otherwise required under this section; or

"(C) requires coverage for breast cancer treatments (including breast reconstruction) in accordance with scientific evidence-based practices or guidelines recommended by established medical associations.

"(2) APPLICATION OF SECTION.—With respect to a State law—

"(A) described in paragraph (1)(A), the provisions of this section relating to breast reconstruction shall apply in such State; and

"(B) described in paragraph (1)(B), the provisions of this section relating to length of stays for surgical breast treatment shall apply in such State.

"(3) ERISA.—Nothing in this section shall be construed to affect or modify the provisions of section 514 with respect to group health plans.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 note) is amended by inserting after the item relating to section 712 the following new item:

"Sec. 713. Required coverage for minimum hospital stay for mastectomies and lymph node dissections for the treatment of breast cancer and coverage for reconstructive surgery following mastectomies.".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to plan years beginning on or after the date of enactment of this Act.

(2) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers, any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

TITLE XII—ASBESTOS-RELATED TOBACCO CLAIMS

SEC. 1201. NATIONAL TOBACCO TRUST FUNDS AVAILABLE UNDER FUTURE LEGISLATION.

If the Congress enacts qualifying legislation after the date of enactment of this Act to provide for the payment of asbestos claims, then amounts in the National Tobacco Trust Fund established by title IV of this Act set aside for public health expenditures shall be available, as provided by appropriation Acts, to make those payments. For purposes of this section, the term "qualifying legislation" means a public law that amends this Act and changes the suballocations of funds set aside for public health expenditures under title IV of this Act to provide for the payment of those claims.

TITLE XIII—VETERANS' BENEFITS

SEC. 1301. RECOVERY BY SECRETARY OF VETERANS AFFAIRS.

Title 38, United States Code, is amended by adding after part VI the following:

"PART VII—RECOVERY OF COSTS FOR TOBACCO-RELATED DISABILITY OR DEATH

"CHAPTER 91—TORT LIABILITY FOR DISABILITY, INJURY, DISEASE, OR DEATH DUE TO TOBACCO USE

"Sec.
"9101. Recovery by Secretary of Veterans Affairs
"9102. Regulations
"9103. Limitation or repeal of other provisions for recovery of compensation
"9104. Exemption from annual limitation on damages

"§ 9101. Recovery by Secretary of Veterans Affairs

"(a) CONDITIONS; EXCEPTIONS; PERSONS LIABLE; AMOUNT OF RECOVERY; SUBROGATION.—In any case in which the Secretary is authorized or required by law to provide compensation and medical care services under this title for disability or death from injury or disease attributable in whole or in part to the use of tobacco products by a veteran during the veterans active military, naval, or air service under circumstances creating a tort liability upon a tobacco product manufacturer (other than or in addition to the United States) to pay damages therefor, the Secretary shall have a right to recover (independent of the rights of the injured or diseased veteran) from said tobacco product manufacturer the cost of the compensation paid or to be paid and the costs of medical care services provided, and shall, as to this right, be subrogated to any right or claim that the injured or diseased veteran, his or her guardian, personal representative, estate, dependents, or survivors has against such third person to the extent of the cost of the compensation paid or to be paid and the costs of medical services provided.

"(b) ENFORCEMENT PROCEDURE; INTERVENTION; JOINDER OF PARTIES; STATE OR FEDERAL COURT PROCEEDINGS.—The Secretary may, to enforce such right under subsection (a) of this section—

"(1) intervene or join in any action or proceeding brought by the injured or diseased veteran, his or her guardian, personal representative, estate, dependents, or survivors, against the tobacco product manufacturer who is liable for the injury or disease; or

"(2) if such action or proceeding is not commenced within 6 months after the first day on which compensation is paid, or the medical care services are provided, by the Secretary in connection with the injury or disease involved, institute and prosecute legal proceedings against the tobacco product manufacturer who is liable for the injury or disease, in a State or Federal court, either alone (in its own name or in the name of the injured veteran, his or her guardian, personal representative, estate, dependents, or survivors) or in conjunction with the injured or diseased veteran, his or her guardian, personal representative, estate, dependents, or survivors.

"(c) CREDITS TO APPROPRIATIONS.—Any amount recovered or collected under this

section for compensation paid, and medical care services provided, by the Secretary shall be credited to a revolving fund established in the Treasury of the United States known as the Department of Veterans Affairs Tobacco Recovery Fund (hereafter called the Fund). The Fund shall be available to the Secretary without fiscal year limitation for purposes of veterans programs, including administrative costs. The Secretary may transfer such funds as deemed necessary to the various Department of Veterans Affairs appropriations, which shall remain available until expended.

"§ 9102. Regulations

"(a) DETERMINATION AND ESTABLISHMENT OF PRESENT VALUE OF COMPENSATION AND MEDICAL CARE SERVICES TO BE PAID.—The Secretary may prescribe regulations to carry out this chapter, including regulations with respect to the determination and establishment of the present value of compensation to be paid to an injured or diseased veteran or his or her surviving spouse, child, or parent, and medical care services provided to a veteran.

"(b) SETTLEMENT, RELEASE AND WAIVER OF CLAIMS.—To the extent prescribed by regulations under subsection (a) of this section, the Secretary may—

"(1) compromise, or settle and execute a release of, any claim which the Secretary has by virtue of the right established by section 9101 of this title; or

"(2) waive any such claim, in whole or in part, for the convenience of the Government, or if he or she determines that collection would result in undue hardship upon the veteran who suffered the injury or disease or his or her surviving spouse, child or parent resulting in payment of compensation, or receipt of medical care services.

"(c) DAMAGES RECOVERABLE FOR PERSONAL INJURY UNAFFECTED.—No action taken by the Secretary in connection with the rights afforded under this chapter shall operate to deny to the injured veteran or his or her surviving spouse, child or parent the recovery for that portion of his or her damage not covered hereunder.

"§ 9103. Limitation or repeal of other provisions for recovery of compensation and medical care services

"This chapter does not limit or repeal any other provision of law providing for recovery by the Secretary of the cost of compensation and medical care services described in section 9101 of this title.

"§ 9104. Exemption from annual limitation on damages

"Any amount recovered under section 9101 of this title for compensation paid or to be paid, and the cost of medical care services provided, by the Secretary for disability or death from injury or disease attributable in whole or in part to the use of tobacco products by a veteran during the veterans active military, naval, or air service shall not be subject to the limitation on the annual amount of damages for which the tobacco product manufacturers may be found liable as provided in the National Tobacco Policy and Youth Smoking Reduction Act and shall not be counted in computing the annual amount of damages for purposes of that section.".

TITLE XIV—EXCHANGE OF BENEFITS FOR AGREEMENT TO TAKE ADDITIONAL MEASURES TO REDUCE YOUTH SMOKING

SEC. 1401. CONFERRAL OF BENEFITS ON PARTICIPATING TOBACCO PRODUCT MANUFACTURERS IN RETURN FOR THEIR ASSUMPTION OF SPECIFIC OBLIGATIONS.

Participating tobacco product manufacturers shall receive the benefits, and assume the obligations, set forth in this title.

SEC. 1402. PARTICIPATING TOBACCO PRODUCT MANUFACTURER.

(a) IN GENERAL.—Except as provided in subsection (b), a tobacco product manufacturer that—

(1) executes a protocol with the Secretary of Health and Human Services that meets the requirements of sections 1403, 1404, and 1405; and

(2) makes the payment required under section 402(a)(1),

is, for purposes of this title, a participating tobacco products manufacturer.

(b) DISQUALIFICATION.—

(1) INELIGIBILITY.—Notwithstanding subsection (a), a tobacco product manufacturer may not become a participating tobacco products manufacturer if—

(A) the tobacco product manufacturer or any of its principal officers (acting in that official's corporate capacity), is convicted of—

(i) manufacturing or distributing misbranded tobacco products in violation of the criminal prohibitions on such misbranding established under section 301 or 303 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331 or 333);

(ii) violating reporting requirements established under section 5762(a)(4) of the Internal Revenue Code of 1986 (26 U.S.C. 5762(a)(4));

(iii) violating, or aiding and abetting the violation of chapter 114 of title 18, United States Code; or

(iv) violating Federal prohibitions on mail fraud, wire fraud, or the making of false statements to Federal officials in the course of making reports or disclosures required by this Act; or

(B) the tobacco product manufacturer, at the end of the 1-year period beginning on the date on which such manufacturer fails to make a required assessment payment under title IV of this Act, has not fully made such payment.

(2) DISQUALIFICATION.—A tobacco product manufacturer that has become a participating tobacco product manufacturer shall cease to be treated as a participating tobacco product manufacturer if—

(A) it, or any of its principal officers (acting in that official's corporate capacity) is convicted of an offense described in paragraph (1)(A); or

(B) it fails to make such a payment within the time period described in paragraph (1)(B).

(c) NON-PARTICIPATING TOBACCO MANUFACTURERS.—Any tobacco product manufacturer that—

(1) does not execute a protocol in accordance with subsection (a);

(2) fails to make the payment required by section 402(a)(1) (if applicable to that manufacturer);

(3) is not eligible, under subsection (b)(1), to become a participating tobacco product manufacturer; or

(4) ceases to be treated as a participating tobacco product manufacturer under subsection (b)(2),

is, for purposes of this title, a non-participating tobacco product manufacturer.

SEC. 1403. GENERAL PROVISIONS OF PROTOCOL.

(a) IN GENERAL.—For purposes of section 1402, a protocol meets the requirements of this section if it—

(1) contains the provisions described in subsection (b); and

(2) is enforceable at law.

(b) REQUIRED PROVISIONS.—The protocol shall include the following provisions:

(1) The tobacco product manufacturer executing the protocol will not engage in any conduct that was, either on the date of enactment of this Act, or at any time after the date of enactment of this Act—

(A) prohibited by this Act;

(B) prohibited by any regulation promulgated by the Food and Drug Administration that applies to tobacco products; or

(C) prohibited by any other statute.

(2) The tobacco product manufacturer executing the protocol will contract with only such distributors and retailers who have operated in compliance with the applicable provisions of Federal, State, or local law regarding the marketing and sale of tobacco products and who agree to comply with advertising and marketing provisions in paragraph (3).

(3) The tobacco product manufacturer executing the protocol will be bound in marketing tobacco products by the following provisions, whether or not these provisions have legal force and effect against manufacturers who are not signatories to the protocol—

(A) the advertising and marketing provisions of part 897 of title 21, Code of Federal Regulations, that were published in the Federal Register on August 28, 1996, and which shall be adopted and incorporated as independent terms of the protocol;

(B) the requirements of section 1404; and

(C) the requirements of section 1405.

(4) The tobacco product manufacturer executing the protocol will make any payments to the National Tobacco Trust Fund in title IV that are required to be made under that title or in any other title of this Act.

(5) The tobacco product manufacturer executing the protocol will be bound by the provisions of title IV, and any other title of this Act with respect to payments required under title IV, without regard to whether those provisions have legal force and effect against manufacturers who have not become signatories.

(6) The tobacco product manufacturer executing the protocol will make the industry-wide and manufacturer-specific look-back assessment payments that may be required under title II.

(7) The tobacco product manufacturer executing the protocol will be bound by the provisions of title II that require a manufacturer to make look-back assessments, and any other title of this Act with respect to such assessments, without regard to whether such terms have legal force and effect against manufacturers who have not become signatories.

(8) The tobacco product manufacturer executing the protocol will, within 180 days after the date of enactment of this Act and in conjunction with other participating tobacco product manufacturers, establish a National Tobacco Document Depository in the Washington, D.C. area—

(A) that is not affiliated with, or controlled by, any tobacco product manufacturer;

(B) the establishment and operational costs of which are allocated among participating tobacco product manufacturers; and

(C) that will make any document submitted to it under title IX of this Act and finally determined not to be subject to attorney-client privilege, attorney work product, or trade secret exclusions, available to the public using the Internet or other means within 30 days after receiving the document.

(c) PROVISIONS APPLICABLE TO DOCUMENTS.—The provisions of section 2116(a) and (b) of title 44, United States Code, apply to records and documents submitted to the Depository (or, to the alternative depository, if any, established by the Secretary by regulation under title IX of this Act) in the same manner and to the same extent as if they were records submitted to the National Archives of the United States required by statute to be retained indefinitely.

SEC. 1404. TOBACCO PRODUCT LABELING AND ADVERTISING REQUIREMENTS OF PROTOCOL.

(a) IN GENERAL.—For purposes of section 1402, a protocol meets the requirements of this section if it requires that—

(1) no tobacco product will be sold or distributed in the United States unless its advertising and labeling (including the package)—

(A) contain no human image, animal image, or cartoon character;

(B) are not outdoor advertising, including advertising in enclosed stadia and on mass transit vehicles, and advertising from within a retail establishment that is directed toward or visible from the outside of the establishment;

(C) at the time the advertising or labeling is first used are submitted to the Secretary so that the Secretary may conduct regular review of the advertising and labeling;

(D) comply with any applicable requirement of the Federal Food, Drug, and Cosmetic Act, the Federal Cigarette Labeling and Advertising Act, and any regulation promulgated under either of those Acts;

(E) do not appear on the international computer network of both Federal and non-Federal interoperable packet switches data networks (the "Internet"), unless such advertising is designed to be inaccessible in or from the United States to all individuals under the age of 18 years;

(F) use only black text on white background, other than—

(i) those locations other than retail stores where no person under the age of 18 is permitted or present at any time, if the advertising is not visible from outside the establishment and is affixed to a wall or fixture in the establishment; and

(ii) advertisements appearing in any publication which the tobacco product manufacturer, distributor, or retailer demonstrates to the Secretary is a newspaper, magazine, periodical, or other publication whose readers under the age of 18 years constitute 15 percent or less of the total readership as measured by competent and reliable survey evidence, and that is read by less than 2 million persons under the age of 18 years as measured by competent and reliable survey evidence;

(G) for video formats, use only static black text on a white background, and any accompanying audio uses only words without music or sound effects;

(8) for audio formats, use only words without music or sound effects;

(2) if a logo, symbol, motto, selling message, recognizable color or pattern of colors, or any other indicia of brand-name product identification of the tobacco product is contained in a movie, program, or video game for which a direct or indirect payment has been made to ensure its placement;

(3) if a direct or indirect payment has been made by any tobacco product manufacturer, distributor, or retailer to any entity for the purpose of promoting use of the tobacco product through print or film media that appeals to individuals under the age of 18 years or through a live performance by an entertainment artist that appeals to such individuals;

(4) if a logo, symbol, motto, selling message, recognizable color or pattern of colors, or any other indicia or product identification identical to, similar to, or identifiable with the tobacco product is used for any item (other than a tobacco product) or service marketed, licensed, distributed or sold or caused to be marketed, licensed, distributed, or sold by the tobacco product manufacturer or distributor of the tobacco product; and

(5)(A) except as provided in subparagraph (B), if advertising or labeling for such product that is otherwise in accordance with the requirements of this section bears a tobacco product brand name (alone or in conjunction with any other word) or any other indicia of tobacco product identification and is disseminated in a medium other than newspapers, magazines, periodicals or other publications (whether periodic or limited distribution), nonpoint-of-sale promotional material (including direct mail), point-of-sale promotional material, or audio or video formats delivered at a point-of-sale; but

(B) notwithstanding subparagraph (A), advertising or labeling for cigarettes or smokeless tobacco may be disseminated in a medium that is not specified in paragraph (1) if the tobacco product manufacturer, distributor, or retailer notifies the Secretary not later than 30 days prior to the use of such medium, and the notice describes the medium and the extent to which the advertising or labeling may be seen by persons under the age of 18 years.

(b) COLOR PRINT ADS ON MAGAZINES.—The protocol shall also provide that no tobacco product may be sold or distributed in the United States if any advertising for that product on the outside back cover of a magazine appears in any color or combination of colors.

SEC. 1405. POINT-OF-SALE REQUIREMENTS.

(a) IN GENERAL.—For purposes of section 1402, a protocol meets the requirements of this section if it provides that, except as provided in subsection (b), point-of-sale advertising of any tobacco product in any retail establishment is prohibited.

(b) PERMITTED POS LOCATIONS.—

(1) PLACEMENT.—One point-of-sale advertisement may be placed in or at each retail establishment for its brand or the contracted house retailer or private label brand of its wholesaler.

(2) SIZE.—The display area of any such point-of-sale advertisement (either individually or in the aggregate) shall not be larger than 576 square inches and shall consist of black letters on white background or another recognized typography.

(3) PROXIMITY TO CANDY.—Any such point-of-sale advertisement shall not be attached to or located within 2 feet of any display fixture on which candy is displayed for sale.

(c) AUDIO OR VIDEO.—Any audio or video format permitted under regulations promulgated by the Secretary may be played or shown in, but not distributed, at any location where tobacco products are offered for sale.

(d) NO RESTRICTIVE COVENANTS.—No tobacco product manufacturer or distributor of tobacco products may enter into any arrangement with a retailer that limits the retailer's ability to display any form of advertising or promotional material originating with another supplier and permitted by law to be displayed in a retail establishment.

(e) DEFINITIONS.—As used in this section, the terms "point-of-sale advertisement" and "point-of-sale advertising" mean all printed or graphical materials (other than a pack, box, carton, or container of any kind in which cigarettes or smokeless tobacco is offered for sale, sold, or otherwise distributed to consumers) bearing the brand name (alone or in conjunction with any other word), logo, symbol, motto, selling message, or any other indicia of product identification identical or similar to, or identifiable with, those used for any brand of cigarettes or smokeless tobacco, which, when used for its intended purpose, can reasonably be anticipated to be seen by customers at a location where tobacco products are offered for sale.

SEC. 1406. APPLICATION OF TITLE.

(a) IN GENERAL.—The provisions of this title apply to any civil action involving a tobacco claim brought pursuant to title VII of this Act, including any such claim that has not reached final judgment or final settlement as of the date of enactment of this Act, only if such claim is brought or maintained against—

(1) a participating tobacco product manufacturer or its predecessors;

(2) an importer, distributor, wholesaler, or retailer of tobacco products—

(A) that, after the date of enactment of this Act, does not import, distribute, or sell tobacco products made or sold by a non-participating tobacco manufacturer;

(B) whose business practices with respect to sales or operations occurring within the United States, conform to the applicable requirements of the protocol; and

(C) that is not itself a non-participating tobacco product manufacturer;

(3) a supplier of component or constituent parts of tobacco products—

(A) whose business practices with respect to sales or operations occurring within the United States, conform to the applicable requirements of the protocol; and

(B) that is not itself a non-participating tobacco product manufacturer;

(4) a grower of tobacco products, unless such person is itself a non-participating tobacco product manufacturer; or

(5) an insurer of any person described in paragraph (1), (2), (3), or (4) based on, arising out of, or related to tobacco products manufactured, imported, distributed, or sold (or tobacco grown) by such person (other than an action brought by the insured person), unless such insurer is itself a non-participating tobacco product manufacturer.

(b) EXCEPTIONS.—The provisions of this title shall not apply to any tobacco claim—

(1) brought against any person other than those described in subsection (a) or to any tobacco claim that reached final judgment or final settlement prior to the date of enactment of this Act;

(2) against an employer under valid workers' compensation laws;

(3) arising under the securities laws of a State or the United State;

(4) brought by the United States;

(5) brought under this title by a State or a participating tobacco product manufacturer to enforce this Act;

(6) asserting damage to the environment from exposures other than environmental smoke or second-hand smoke; or

(7) brought against a supplier of a component or constituent part of a tobacco product, if the component or constituent part

was sold after the date of enactment of this Act, and the supplier knew that the tobacco product giving rise to the claim would be manufactured in the United States by a nonparticipating tobacco product manufacturer.

SEC. 1407. GOVERNMENTAL CLAIMS.

(a) IN GENERAL.—Except as provided in subsection (b) and (c), no State, political subdivision of a State, municipal corporation, governmental entity or corporation, Indian tribe, or agency or subdivision thereof, or other entity acting in *parens patriae*, may file or maintain any civil action involving a tobacco claim against a participating tobacco product manufacturer.

(b) EFFECT ON EXISTING STATE SUITS OF SETTLEMENT AGREEMENT OR CONSENT DECREE.—Within 30 days after the date of enactment of this Act, any State that has filed a civil action involving a tobacco claim against a participating tobacco product manufacturer may elect to settle such action against said tobacco product manufacturer. If a State makes such an election to enter into a settlement or a consent decree, it may maintain a civil action involving a tobacco claim only to the extent necessary to permit continuing court jurisdiction over the settlement or consent decree. Nothing herein shall preclude any State from bringing suit or seeking a court order to enforce the terms of such settlement or decree.

(c) STATE OPTION FOR ONE-TIME OPT OUT.—Any State that does not make the election described in subsection (b) may continue its lawsuit, notwithstanding subsection (a) of this section. A State that does not make such an election shall not be eligible to receive payments from the trust fund in title IV.

(d) 30-DAY DELAY.—No settlement or consent decree entered into under subsection (b) may take effect until 30 days after the date of enactment of this Act.

(f) PRESERVATION OF INSURANCE CLAIMS.—

(1) IN GENERAL.—If all participating tobacco product manufacturers fail to make the payments required by title IV for any calendar year, then—

(A) beginning on the first day of the next calendar year, subsection (a) does not apply to any insurance claim (including a direct action claim) that is a tobacco claim, regardless of when that claim arose;

(B) any statute of limitations or doctrine of laches under applicable law shall be tolled for the period—

(i) beginning on the date of enactment of this Act; and

(ii) ending on the last day of that calendar year; and

(C) an insurance claim (including a direct action claim) that is a tobacco claim and that is pending on the date of enactment of this Act shall be preserved.

(2) APPLICATION OF TITLE 11, UNITED STATES CODE.—For purposes of this subsection, nothing in this Act shall be construed to modify, suspend, or otherwise affect the application of title 11, United States Code, to participating tobacco manufacturers that fail to make such payments.

(3) STATE LAW NOT AFFECTED.—Nothing in this subsection shall be construed to expand or abridge State law.

SEC. 1408. ADDICTION AND DEPENDENCY CLAIMS; CASTANO CIVIL ACTIONS.

(a) ADDICTION AND DEPENDENCE CLAIMS BARRED.—In any civil action to which this title applies, no addiction claim or dependence claim may be filed or maintained against a participating tobacco product manufacturer.

(b) CASTANO CIVIL ACTIONS.—

(1) The rights and benefits afforded in this Act, and the various research activities envisioned by this Act, are provided in settlement of, and shall constitute the exclusive remedy for the purpose of determining civil liability as to those claims asserted in the Castano Civil Actions, and all bases for any such claim under the laws of any State are preempted (including State substantive, procedural, remedial, and evidentiary provisions) and settled. The Castano Civil Actions shall be dismissed with full reservation of the rights of individual class members to pursue claims not based on addiction or dependency in civil actions, as defined in section 1417(2), in accordance with this Act. For purposes of determining application of statutes of limitation or repose, individual actions filed within one year after the effective date of this Act by those who were included within a Castano Civil Action shall be considered to have been filed as of the date of the Castano Civil Action applicable to said individual.

(2) For purposes of awarding attorneys fees and expenses for those actions subject to this subsection, the matter at issue shall be submitted to arbitration before one panel of arbitrators. In any such arbitration, the arbitration panel shall consist of 3 persons, one of whom shall be chosen by the attorneys of the Castano Plaintiffs' Litigation Committee who were signatories to the Memorandum of Understanding dated June 20, 1997, by and between tobacco product manufacturers, the Attorneys General, and private attorneys, one of whom shall be chosen by the participating tobacco product manufacturers, and one of whom shall be chosen jointly by those 2 arbitrators.

(3) The participating tobacco product manufacturers shall pay the arbitration award.

SEC. 1409. SUBSTANTIAL NON-ATTAINMENT OF REQUIRED REDUCTIONS.

(a) ACTION BY SECRETARY.—If the Secretary determines under title II that the non-attainment percentage for any year is greater than 20 percentage points for cigarettes or smokeless tobacco, then the Secretary shall determine, on a brand-by-brand basis, using data that reflects a 1999 baseline, which tobacco product manufacturers are responsible within the 2 categories of tobacco products for the excess. The Secretary may commence an action under this section against the tobacco product manufacturer or manufacturers of the brand or brands of cigarettes or smokeless tobacco products for which the non-attainment percentage exceeded 20 percentage points.

(b) PROCEDURES.—Any action under this section shall be commenced by the Secretary in the United States District Court for the District of Columbia within 90 days after publication in the Federal Register of the determination that the non-attainment percentage for the tobacco product in question is greater than 20 percentage points. Any such action shall be heard and determined by a 3-judge court under section 2284 of title 28, United States Code.

(c) DETERMINATION BY COURT.—In any action under this section, the court shall determine whether a tobacco product manufacturer has shown, by a preponderance of the evidence that it—

(1) has complied substantially with the provisions of this Act regarding underage tobacco use, of any rules or regulations promulgated thereunder, or of any Federal or State laws regarding underage tobacco use;

(2) has not taken any material action to undermine the achievement of the required percentage reduction for the tobacco product in question; and

(3) has used its best efforts to reduce underage tobacco use to a degree at least equal to the required percentage reductions.

(d) REMOVAL OF ANNUAL AGGREGATE PAYMENT LIMITATION.—Except as provided in subsections (e) and (g), if the court determines that a tobacco product manufacturer has failed to make the showing described in subsection (c) then sections 1411 and 1412 of this Act do not apply to the enforcement against, or the payment by, such tobacco product manufacturer of any judgment or settlement that becomes final after that determination is made.

(e) DEFENSE.—An action under this section shall be dismissed, and subsection (d) shall not apply, if the court finds that the Secretary's determination under subsection (a) was unlawful under subparagraph (A), (B), (C), or (D) of section 706(2) of title 5, United States Code. Any judgments paid under section 1412 of this Act prior to a final judgment determining that the Secretary's determination was erroneous shall be fully credited, with interest, under section 1412 of this Act.

(f) REVIEW.—Decisions of the court under this section are reviewable only by the Supreme Court by writ of certiorari granted upon the petition of any party. The applicability of subsection (d) shall be stayed during the pendency of any such petition or review.

(g) CONTINUING EFFECT.—Subsection (d) shall cease to apply to a tobacco product manufacturer found to have engaged in conduct described in subsection (c) upon the later of—

(1) a determination by the Secretary under section 201 after the commencement of action under subsection (a) that the non-attainment percentage for the tobacco product in question is 20 or fewer percentage points; or

(2) a finding by the court in an action filed against the Secretary by the manufacturer, not earlier than 2 years after the determination described in subsection (c) becomes final, that the manufacturer has shown by a preponderance of the evidence that, in the period since that determination, the manufacturer—

(A) has complied with the provisions of this Act regarding underage tobacco use, of any rules or regulations promulgated thereunder, and of any other applicable Federal, State, or local laws, rules, or regulations;

(B) has not taken any action to undermine the achievement of the required percentage reduction for the tobacco product in question; and

(C) has used its best efforts to attain the required percentage reduction for the tobacco product in question.

A judgment or settlement against the tobacco product manufacturer that becomes final after a determination or finding described in paragraph (1) or (2) of this subsection is not subject to subsection (d). An action under paragraph (2) of this subsection shall be commenced in the United States District Court for the District of Columbia, and shall be heard and determined by a 3-judge court under section 2284 of title 28, United States Code. A decision by the court under paragraph (2) of this subsection is reviewable only by the Supreme Court by writ of certiorari granted upon the petition of any party, and the decision shall be stayed during the pendency of the petition or review. A determination or finding described in paragraph (1) or (2) of this subsection does not limit the Secretary's authority to bring a subsequent action under this section against any tobacco product manufacturer or the applicability of subsection (d) with respect to any such subsequent action.

SEC. 1410. PUBLIC HEALTH EMERGENCY.

If the Secretary, in consultation with the Commissioner of Food and Drugs, the Surgeon General, the Director of the Center for Disease Control or the Director's delegate, and the Director of the Health and Human Services Office of Minority Health determines at any time that a tobacco product manufacturer's actions or inactions with respect to its compliance with the Act are of such a nature as to create a clear and present danger that the manufacturer will not attain the targets for underage smoking reduction, the Secretary may bring an action under section 1409 seeking the immediate suspension of the tobacco product manufacturer's annual limitation cap on civil judgments. If the court determines that the Secretary has proved by clear and convincing evidence that the subject manufacturer's actions or inactions are of such a nature that they present a clear and present danger that the manufacturer will not attain the targets for underage smoking reduction, the court may suspend the subject manufacturer's annual limitation cap on civil judgments.

SEC. 1411. TOBACCO CLAIMS BROUGHT AGAINST PARTICIPATING TOBACCO PRODUCT MANUFACTURERS.

(a) PERMISSIBLE DEFENDANTS.—In any civil action to which this title applies, tobacco claims may be filed or maintained only against—

(1) a participating tobacco product manufacturer; or

(2) a surviving entity established by a participating tobacco product manufacturer.

(b) ACTIONS INVOLVING PARTICIPATING AND NON-PARTICIPATING MANUFACTURERS.—In any civil action involving both a tobacco claim against a participating tobacco product manufacturer based in whole or in part upon conduct occurring prior to the date of enactment of this Act and a claim against 1 or more non-participating tobacco product manufacturers, the court, upon application of a participating tobacco product manufacturer, shall require the jury to or shall itself apportion liability as between the participating tobacco product manufacturer and non-participating tobacco product manufacturers.

SEC. 1412. PAYMENT OF TOBACCO CLAIM SETTLEMENTS AND JUDGMENTS.

(a) IN GENERAL.—Except as provided in this section, any judgment or settlement in any civil action to which this subtitle applies shall be subject to the process for payment of judgments and settlements set forth in this section. No participating tobacco product manufacturer shall be obligated to pay a judgment or settlement on a tobacco claim in any civil action to which this title applies except in accordance with this section. This section shall not apply to the portion, if any, of a judgment that imposes punitive damages based on any conduct that—

(1) occurs after the date of enactment of this Act; and

(2) is other than the manufacture, development, advertising, marketing, or sale of tobacco products in compliance with this Act and any agreement incident thereto.

(b) REGISTRATION WITH THE SECRETARY OF THE TREASURY.—

(1) The Secretary shall maintain a record of settlements, judgments, and payments in civil actions to which this title applies.

(2) Any party claiming entitlement to a monetary payment under a final judgment or final settlement on a tobacco claim shall register such claim with the Secretary by filing a true and correct copy of the final judgment or final settlement agreement with the Secretary and providing a copy of such filing to all other parties to the judgment or settlement.

(3) Any participating tobacco product manufacturer making a payment on any final judgment or final settlement to which this section applies shall certify such payment to the Secretary by filing a true and correct copy of the proof of payment and a statement of the remaining unpaid portion, if any, of such final judgment or final settlement with the Secretary and shall provide a copy of such filing to all other parties to the judgment or settlement.

(c) LIABILITY CAP.—

(1) IN GENERAL.—The aggregate payments made by all participating tobacco product manufacturers in any calendar year may not exceed $8,000,000,000.

(2) IMPLEMENTATION.—The Secretary shall initiate a rulemaking within 30 days after the date of enactment of this Act to establish a mechanism for implementing this subsection in such a way to ensure the fair and equitable payment of final judgments or final settlements on tobacco claims under this title. Amounts not payable because of the application of this subsection, shall be carried forward and paid in the next year, subject to the provisions of this subsection.

(3) INFLATION ADJUSTMENT.—

(A) IN GENERAL.—The amount in paragraph (1) shall be increased annually, beginning with the second calendar year beginning after the date of enactment of this Act, by the greater of 3 percent or the annual increase in the CPI.

(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.

(d) INJUNCTIVE RELIEF.—A participating tobacco product manufacturer may commence an action to enjoin any State court proceeding to enforce or execute any judgment or settlement where payment has not been authorized under this section. Such an action shall arise under the laws of the United States and may be commenced in the district court of the United States for the district in which the State court proceeding is pending.

(e) JOINT AND SEVERAL LIABILITY.—All participating tobacco product manufacturers shall be jointly and severally liable for, and shall enter into an agreement to apportion among them, any amounts payable under judgments and settlements governed by this section arising in whole or in part from conduct occurring prior to the date of enactment of this Act.

(f) BANKRUPTCY OF PARTICIPATING MANUFACTURER.—No participating tobacco product manufacturer shall cease operations without establishing a surviving entity against which a tobacco claim may be brought. Any obligation , interest, or debt of a participating, tobacco product manufacturer arising under such liability apportionment agreement shall be given priority and shall not be rejected, avoided, discharged, or otherwise modified or diminished in a proceeding, under title 11, United States Code, or in any liquidation, reorganization, receivership, or other insolvency proceeding under State law. A trustee or receiver in any proceeding under title 11, United States Code, or in liquidation, reorganization, receivership, or other insolvency proceeding under State law, may avoid any transfer of an interest of the participating tobacco product manufacturer, or any obligation incurred by such manufacturer, that was made or incurred on or within 2 years before the date of the filing of a bankruptcy petition, if such manufacturer made such transfer or incurred such obligation to hinder or defeat in any fashion the payment of any obligation, interest, or debt of the manufacturer arising under the liability apportionment agreement. Any property vesting in the participating tobacco product manufacturer following such a proceeding shall be subject to all claims and interest of creditors arising under the liability apportionment agreement.

(f) LIMITATION ON STATE COURTS.—No court of any State, Tribe, or political subdivision of a State may take any action to inhibit the effective operation of subsection (c).

SEC. 1413. ATTORNEYS' FEES AND EXPENSES.

(a) ARBITRATION PANEL.—

(1) RIGHT TO ESTABLISH .—For the purpose of awarding of attorneys' fees and expenses relating to litigation affected by, or legal services that, in whole or in part, resulted in or created a model for programs in, this Act, and with respect to which litigation or services the attorney involved is unable to agree with the plaintiff who employed that attorney with respect to any dispute that may arise between them regarding the fee agreement, the matter at issue shall be submitted to arbitration. In any such arbitration, the arbitration panel shall consist of 3 persons, one of whom shall be chosen by the plaintiff, one of whom shall be chosen by the attorney, and one of whom shall be chosen jointly by those 2 arbitrators.

(2) OPERATION.—Not later than 30 days after the date on which all members of an arbitration panel are appointed under paragraph (1), the panel shall establish the procedures under which the panel will operate which shall include—

(A) a requirement that any finding by the arbitration panel must be in writing and supported by written reasons;

(B) procedures for the exchanging of exhibits and witness lists by the various claimants for awards;

(C) to the maximum extent practicable, requirements that proceedings before the panel be based on affidavits rather than live testimony; and

(D) a requirement that all claims be submitted to an arbitration panel not later than 3 months after the date of this Act and a determination made by the panel with respect to such claims not later than 7 months after such date of enactment.

(3) RIGHT TO PETITION.—Any individual attorney or group of attorneys involved in litigation affected by this Act shall have the right to petition an arbitration panel for attorneys' fees and expenses.

(4) CRITERIA.—In making any award under this section, an arbitration panel shall consider the following criteria:

(A) The time and labor required by the claimant.

(B) The novelty and difficulty of the questions involved in the action for which the claimant is making a claim.

(C) The skill requisite to perform the legal service involved properly.

(D) The preclusion of other employment by the attorney due to acceptance of the action involved.

(E) Whether the fee is fixed or a percentage.

(F) Time limitations imposed by the client or the circumstances.

(G) The amount involved and the results obtained.

(H) The experience, reputation, and ability of the attorneys involved.

(I) The undesirability of the action.

(J) Such other factors as justice may require.

(5) APPEAL AND ENFORCEMENT.—The findings of an arbitration panel shall be final, binding, nonappealable, and payable within 30 days after the date on which the finding is made public, except that if an award is to be paid in installments, the first installment shall be payable within such 30 day period and succeeding installments shall be paid annually thereafter.

(b) VALIDITY AND ENFORCEABILITY OF PRIVATE AGREEMENTS.—Notwithstanding any other provision of this Act, nothing in this section shall be construed to abrogate or restrict in any way the rights of any parties to mediate, negotiate, or settle any fee or expense disputes or issues to which this section applies, or to enter into private agreements with respect to the allocation or division of fees among the attorneys party to any such agreement.

(c) OFFSET FOR AMOUNTS ALREADY PAID.—In making a determination under this section with regard to a dispute between a State that pursued independent civil action against tobacco product manufacturers and its attorney, the arbitration panel shall take into account any amounts already paid by the State under the agreement in dispute.

SEC. 1414. EFFECT OF COURT DECISIONS.

(a) SEVERABILITY.—If any provision of titles I through XIII, or the application thereof to any person, manufacturer or circumstance, is held invalid, the remainder of the provisions of those titles, and the application of such provision to other persons or circumstances, shall not be affected thereby.

(b) NONSEVERABILITY.—If a court of competent jurisdiction enters a final decision substantially limiting or impairing the essential elements of title XIV, specifically the requirements of sections 1404 and 1405, then the provisions of section 1412 are null and void and of no effect.

SEC. 1415. CRIMINAL LAWS NOT AFFECTED.

Nothing in this title shall be construed to limit the criminal liability of tobacco product manufacturers, retailers, or distributors or their directors, officers, employees, successors, or assigns.

SEC. 1416. CONGRESS RESERVES THE RIGHT TO ENACT LAWS IN THE FUTURE.

The right to alter, amend, or repeal any provision of this Act is hereby reserved to the Congress in accordance with the provisions of Article I of the Constitution of the United States and more than 200 years of history.

SEC. 1417. DEFINITIONS.

In this title:

(1) TERMS DEFINED IN TITLE VII.—Any term used in this title that is defined in title VII has the meaning given to it in title VII.

(2) ADDITIONAL DEFINITIONS.—

(A) ADDICTION CLAIM; DEPENDENCE CLAIM.—The term "addiction claim" or "dependence claim" refers only to any cause of action to the extent that the prayer for relief seeks a cessation program, or other public health program that is to be available to members of the general public and is designed to reduce or eliminate the users' addiction to, or dependence on, tobacco products, and as used herein is brought by those who claim the need for nicotine reduction assistance. Neither addiction or dependence claims include claims related to or involving manifestation of illness or tobacco-related diseases.

(B) COMPENSATORY DAMAGES.—The term "compensatory damages" refers to those damages necessary to reimburse an injured party, and includes actual, general, and special damages.

(C) PROTOCOL.—The term "protocol" means the agreement to be entered into by the Secretary of Health and Human Services with a participating tobacco product manufacturers under this title.

(D) PUNITIVE DAMAGES.—The term "punitive damages" means damages in addition to compensatory damages having the character of punishment or penalty.

(E) SECRETARY.—The term "Secretary" means the Secretary of the Treasury, except where the context otherwise requires.

AMENDMENT NO. 2619

In lieu of the matter proposed to be inserted, strike all beginning with page 25, line 1, and insert the following:

TITLE I—REGULATION OF THE TOBACCO INDUSTRY

SEC. 101. AMENDMENT OF FEDERAL FOOD, DRUG, AND COSMETIC ACT OF 1938.

(a) DEFINITION OF TOBACCO PRODUCTS.—Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) is amended by adding at the end the following:

"(kk) The term 'tobacco product' means any product made or derived from tobacco that is intended for human consumption, including any component, part, or accessory of a tobacco product (except for raw materials other than tobacco used in manufacturing a component, part, or accessory of a tobacco product).".

(b) FDA AUTHORITY OVER TOBACCO PRODUCTS.—The Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) is amended—

(1) by redesignating chapter IX as chapter X;

(2) by redesignating sections 901 through 907 as sections 1001 through 1007; and

(3) by inserting after section 803 the following:

"CHAPTER IX—TOBACCO PRODUCTS

"SEC. 901. FDA AUTHORITY OVER TOBACCO PRODUCTS

"(a) IN GENERAL.—Tobacco products shall be regulated by the Secretary under this chapter and shall not be subject to the provisions of chapter V, unless—

"(1) such products are intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease (within the meaning of section 201(g)(1)(B) or section 201(h)(2)); or

"(2) a health claim is made for such products under section 201(g)(1)(C) or 201(h)(3).

"(b) APPLICABILITY.—This chapter shall apply to all tobacco products subject to the provisions of part 897 of title 21, Code of Federal Regulations, and to any other tobacco products that the Secretary by regulation deems to be subject to this chapter.

"(c) SCOPE.—

"(1) Nothing in this chapter, any policy issued or regulation promulgated thereunder, or the National Tobacco Policy and Youth Smoking Reduction Act, shall be construed to affect the Secretary's authority over, or the regulation of, products under this Act that are not tobacco products under chapter V of the Federal Food, Drug and Cosmetic Act or any other chapter of that Act.

"(2) The provisions of this chapter shall not apply to tobacco leaf that is not in the possession of the manufacturer, or to the producers of tobacco leaf, including tobacco growers, tobacco warehouses, and tobacco grower cooperatives, nor shall any employee of the Food and Drug Administration have any authority whatsoever to enter onto a farm owned by a producer of tobacco leaf without the written consent of such producer. Notwithstanding any other provision of this subparagraph, if a producer of tobacco leaf is also a tobacco product manufacturer or controlled by a tobacco product manufacturer, the producer shall be subject to this chapter in the producer's capacity as a manufacturer. Nothing in this chapter shall be construed to grant the Secretary authority to promulgate regulations on any matter that involves the production of tobacco leaf or a producer thereof, other than activities by a manufacturer affecting production. For purposes of the preceding sentence, the term 'controlled by' means a member of the same controlled group of corporations as that term is used in section 52(a) of the Internal Revenue Code of 1986, or under common control within the meaning of the regulations promulgated under section 52(b) of such Code.

"SEC. 902. ADULTERATED TOBACCO PRODUCTS.

"A tobacco product shall be deemed to be adulterated if—

"(1) it consists in whole or in part of any filthy, putrid, or decomposed substance, or is otherwise contaminated by any poisonous or deleterious substance that may render the product injurious to health;

"(2) it has been prepared, packed, or held under insanitary conditions whereby it may have been contaminated with filth, or whereby it may have been rendered injurious to health;

"(3) its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;

"(4) it is, or purports to be or is represented as, a tobacco product which is subject to a performance standard established under section 907 unless such tobacco product is in all respects in conformity with such standard;

"(5) it is required by section 910(a) to have premarket approval, is not exempt under section 906(f), and does not have an approved application in effect;

"(6) the methods used in, or the facilities or controls used for, its manufacture, packing or storage are not in conformity with applicable requirements under section 906(e)(1) or an applicable condition prescribed by an order under section 906(e)(2); or

"(7) it is a tobacco product for which an exemption has been granted under section 906(f) for investigational use and the person who was granted such exemption or any investigator who uses such tobacco product under such exemption fails to comply with a requirement prescribed by or under such section.

"SEC. 903. MISBRANDED TOBACCO PRODUCTS.

"(a) IN GENERAL.—A tobacco product shall be deemed to be misbranded—

"(1) if its labeling is false or misleading in any particular;

"(2) if in package form unless it bears a label containing—

"(A) the name and place of business of the tobacco product manufacturer, packer, or distributor; and

"(B) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count,

except that under subparagraph (B) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Secretary;

"(3) if any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with

such conspicuousness (as compared with other words, statements or designs in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

"(4) if it has an established name, unless its label bears, to the exclusion of any other nonproprietary name, its established name prominently printed in type as required by the Secretary by regulation;

"(5) if the Secretary has issued regulations requiring that its labeling bear adequate directions for use, or adequate warnings against use by children, that are necessary for the protection of users unless its labeling conforms in all respects to such regulations;

"(6) if it was manufactured, prepared, propagated, compounded, or processed in any State in an establishment not duly registered under section 905(b), if it was not included in a list required by section 905(i), if a notice or other information respecting it was not provided as required by such section or section 905(j), or if it does not bear such symbols from the uniform system for identification of tobacco products prescribed under section 905(e) as the Secretary by regulation requires;

"(7) if, in the case of any tobacco product distributed or offered for sale in any State—

"(A) its advertising is false or misleading in any particular; or

"(B) it is sold, distributed, or used in violation of regulations prescribed under section 906(d);

"(8) unless, in the case of any tobacco product distributed or offered for sale in any State, the manufacturer, packer, or distributor thereof includes in all advertisements and other descriptive printed matter issued or caused to be issued by the manufacturer, packer, or distributor with respect to that tobacco product—

"(A) a true statement of the tobacco product's established name as defined in paragraph (4) of this subsection, printed prominently; and

"(B) a brief statement of—

"(i) the uses of the tobacco product and relevant warnings, precautions, side effects, and contraindications; and

"(ii) in the case of specific tobacco products made subject to a finding by the Secretary after notice and opportunity for comment that such action is necessary to protect the public health, a full description of the components of such tobacco product or the formula showing quantitatively each ingredient of such tobacco product to the extent required in regulations which shall be issued by the Secretary after an opportunity for a hearing;

"(9) if it is a tobacco product subject to a performance standard established under section 907, unless it bears such labeling as may be prescribed in such performance standard; or

"(10) if there was a failure or refusal—

"(A) to comply with any requirement prescribed under section 904 or 908;

"(B) to furnish any material or information required by or under section 909; or

"(C) to comply with a requirement under section 912.

"(b) PRIOR APPROVAL OF STATEMENTS ON LABEL.—The Secretary may, by regulation, require prior approval of statements made on the label of a tobacco product. No regulation issued under this subsection may require prior approval by the Secretary of the content of any advertisement and no advertisement of a tobacco product, published after the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act shall, with respect to the matters specified in this section or covered by regulations issued hereunder, be subject to the provisions of sections 12 through 15 of the Federal Trade Commission Act (15 U.S.C. 52 through 55). This subsection does not apply to any printed matter which the Secretary determines to be labeling as defined in section 201(m).

"SEC. 904. SUBMISSION OF HEALTH INFORMATION TO THE SECRETARY.

"(a) REQUIREMENT.—Not later than 6 months after the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act, each tobacco product manufacturer or importer of tobacco products, or agents thereof, shall submit to the Secretary the following information:

"(1) A listing of all tobacco ingredients, substances and compounds that are, on such date, added by the manufacturer to the tobacco, paper, filter, or other component of each tobacco product by brand and by quantity in each brand and subbrand.

"(2) A description of the content, delivery, and form of nicotine in each tobacco product measured in milligrams of nicotine.

"(3) All documents (including underlying scientific information) relating to research activities, and research findings, conducted, supported, or possessed by the manufacturer (or agents thereof) on the health, behavioral, or physiologic effects of tobacco products, their constituents, ingredients, and components, and tobacco additives, described in paragraph (1).

"(4) All documents (including underlying scientific information) relating to research activities, and research findings, conducted, supported, or possessed by the manufacturer (or agents thereof) that relate to the issue of whether a reduction in risk to health from tobacco products can occur upon the employment of technology available or known to the manufacturer.

"(5) All documents (including underlying scientific information) relating to marketing research involving the use of tobacco products.

An importer of a tobacco product not manufactured in the United States shall supply the information required of a tobacco product manufacturer under this subsection.

"(b) ANNUAL SUBMISSION.—A tobacco product manufacturer or importer that is required to submit information under subsection (a) shall update such information on an annual basis under a schedule determined by the Secretary.

"(c) TIME FOR SUBMISSION.—

"(1) NEW PRODUCTS.—At least 90 days prior to the delivery for introduction into interstate commerce of a tobacco product not on the market on the date of enactment of this chapter, the manufacturer of such product shall provide the information required under subsection (a) and such product shall be subject to the annual submission under subsection (b).

"(2) MODIFICATION OF EXISTING PRODUCTS.—If at any time a tobacco product manufacturer adds to its tobacco products a new tobacco additive, increases or decreases the quantity of an existing tobacco additive or the nicotine content, delivery, or form, or eliminates a tobacco additive from any tobacco product, the manufacturer shall within 60 days of such action so advise the Secretary in writing and reference such modification in submissions made under subsection (b).

"SEC. 905. ANNUAL REGISTRATION.

"(a) DEFINITIONS.—As used in this section—

"(1) the term 'manufacture, preparation, compounding, or processing' shall include repackaging or otherwise changing the container, wrapper, or labeling of any tobacco product package in furtherance of the distribution of the tobacco product from the original place of manufacture to the person who makes final delivery or sale to the ultimate consumer or user; and

"(2) the term 'name' shall include in the case of a partnership the name of each partner and, in the case of a corporation, the name of each corporate officer and director, and the State of incorporation.

"(b) REGISTRATION BY OWNERS AND OPERATORS.—On or before December 31 of each year every person who owns or operates any establishment in any State engaged in the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products shall register with the Secretary the name, places of business, and all such establishments of that person.

"(c) REGISTRATION OF NEW OWNERS AND OPERATORS.—Every person upon first engaging in the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products in any establishment owned or operated in any State by that person shall immediately register with the Secretary that person's name, place of business, and such establishment.

"(d) REGISTRATION OF ADDED ESTABLISHMENTS.—Every person required to register under subsection (b) or (c) shall immediately register with the Secretary any additional establishment which that person owns or operates in any State and in which that person begins the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products.

"(e) UNIFORM PRODUCT IDENTIFICATION SYSTEM.—The Secretary may by regulation prescribe a uniform system for the identification of tobacco products and may require that persons who are required to list such tobacco products under subsection (i) of this section shall list such tobacco products in accordance with such system.

"(f) PUBLIC ACCESS TO REGISTRATION INFORMATION.—The Secretary shall make available for inspection, to any person so requesting, any registration filed under this section.

"(g) BIENNIAL INSPECTION OF REGISTERED ESTABLISHMENTS.—Every establishment in any State registered with the Secretary under this section shall be subject to inspection under section 704, and every such establishment engaged in the manufacture, compounding, or processing of a tobacco product or tobacco products shall be so inspected by one or more officers or employees duly designated by the Secretary at least once in the 2-year period beginning with the date of registration of such establishment under this section and at least once in every successive 2-year period thereafter.

"(h) FOREIGN ESTABLISHMENTS MAY REGISTER.—Any establishment within any foreign country engaged in the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products, may register under this section under regulations promulgated by the Secretary. Such regulations shall require such establishment to provide the information required by subsection (i) of this section and shall include provisions for registration of any such establishment upon condition that adequate and effective means are available, by arrangement with the government of such foreign country or otherwise, to enable the Secretary to determine from time to time whether tobacco products manufactured,

prepared, compounded, or processed in such establishment, if imported or offered for import into the United States, shall be refused admission on any of the grounds set forth in section 801(a).

"(i) REGISTRATION INFORMATION.—

"(1) PRODUCT LIST.—Every person who registers with the Secretary under subsection (b), (c), or (d) of this section shall, at the time of registration under any such subsection, file with the Secretary a list of all tobacco products which are being manufactured, prepared, compounded, or processed by that person for commercial distribution and which has not been included in any list of tobacco products filed by that person with the Secretary under this paragraph or paragraph (2) before such time of registration. Such list shall be prepared in such form and manner as the Secretary may prescribe and shall be accompanied by—

"(A) in the case of a tobacco product contained in the applicable list with respect to which a performance standard has been established under section 907 or which is subject to section 910, a reference to the authority for the marketing of such tobacco product and a copy of all labeling for such tobacco product;

"(B) in the case of any other tobacco product contained in an applicable list, a copy of all consumer information and other labeling for such tobacco product, a representative sampling of advertisements for such tobacco product, and, upon request made by the Secretary for good cause, a copy of all advertisements for a particular tobacco product; and

"(C) if the registrant filing a list has determined that a tobacco product contained in such list is not subject to a performance standard established under section 907, a brief statement of the basis upon which the registrant made such determination if the Secretary requests such a statement with respect to that particular tobacco product.

"(2) BIANNUAL REPORT OF ANY CHANGE IN PRODUCT LIST.—Each person who registers with the Secretary under this section shall report to the Secretary once during the month of June of each year and once during the month of December of each year the following:

"(A) A list of each tobacco product introduced by the registrant for commercial distribution which has not been included in any list previously filed by that person with the Secretary under this subparagraph or paragraph (1) of this subsection. A list under this subparagraph shall list a tobacco product by its established name and shall be accompanied by the other information required by paragraph (1).

"(B) If since the date the registrant last made a report under this paragraph that person has discontinued the manufacture, preparation, compounding, or processing for commercial distribution of a tobacco product included in a list filed under subparagraph (A) or paragraph (1), notice of such discontinuance, the date of such discontinuance, and the identity of its established name.

"(C) If since the date the registrant reported under subparagraph (B) a notice of discontinuance that person has resumed the manufacture, preparation, compounding, or processing for commercial distribution of the tobacco product with respect to which such notice of discontinuance was reported, notice of such resumption, the date of such resumption, the identity of such tobacco product by established name, and other information required by paragraph (1), unless the registrant has previously reported such resumption to the Secretary under this subparagraph.

"(D) Any material change in any information previously submitted under this paragraph or paragraph (1).

"(j) REPORT PRECEDING INTRODUCTION OF CERTAIN SUBSTANTIALLY-EQUIVALENT PRODUCTS INTO INTERSTATE COMMERCE.—

"(1) IN GENERAL.—Each person who is required to register under this section and who proposes to begin the introduction or delivery for introduction into interstate commerce for commercial distribution of a tobacco product intended for human use that was not commercially marketed (other than for test marketing) in the United States as of August 11, 1995, as defined by the Secretary by regulation shall, at least 90 days before making such introduction or delivery, report to the Secretary (in such form and manner as the Secretary shall by regulation prescribe)—

"(A) the basis for such person's determination that the tobacco product is substantially equivalent, within the meaning of section 910, to a tobacco product commercially marketed (other than for test marketing) in the United States as of August 11, 1995, that is in compliance with the requirements of this Act; and

"(B) action taken by such person to comply with the requirements under section 907 that are applicable to the tobacco product.

"(2) APPLICATION TO CERTAIN POST-AUGUST 11TH PRODUCTS.—A report under this subsection for a tobacco product that was first introduced or delivered for introduction into interstate commerce for commercial distribution in the United States after August 11, 1995, and before the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act shall be submitted to the Secretary within 6 months after the date of enactment of that Act.

"SEC. 906. GENERAL PROVISIONS RESPECTING CONTROL OF TOBACCO PRODUCTS.

"(a) IN GENERAL.—Any requirement established by or under section 902, 903, 905, or 909 applicable to a tobacco product shall apply to such tobacco product until the applicability of the requirement to the tobacco product has been changed by action taken under section 907, section 910, or subsection (d) of this section, and any requirement established by or under section 902, 903, 905, or 909 which is inconsistent with a requirement imposed on such tobacco product under section 907, section 910, or subsection (d) of this section shall not apply to such tobacco product.

"(b) INFORMATION ON PUBLIC ACCESS AND COMMENT.—Each notice of proposed rulemaking under section 907, 908, 909, or 910, or under this section, any other notice which is published in the Federal Register with respect to any other action taken under any such section and which states the reasons for such action, and each publication of findings required to be made in connection with rulemaking under any such section shall set forth—

"(1) the manner in which interested persons may examine data and other information on which the notice or findings is based; and

"(2) the period within which interested persons may present their comments on the notice or findings (including the need therefor) orally or in writing, which period shall be at least 60 days but may not exceed 90 days unless the time is extended by the Secretary by a notice published in the Federal Register stating good cause therefor.

"(c) LIMITED CONFIDENTIALITY OF INFORMATION.—Any information reported to or otherwise obtained by the Secretary or the Secretary's representative under section 904, 907, 908, 909, or 910 or 704, or under subsection (e) or (f) of this section, which is exempt from disclosure under subsection (a) of section 552 of title 5, United States Code, by reason of subsection (b)(4) of that section shall be considered confidential and shall not be disclosed, except that the information may be disclosed to other officers or employees concerned with carrying out this chapter, or when relevant in any proceeding under this chapter.

"(d) RESTRICTIONS.—

"(1) The Secretary may by regulation require that a tobacco product be restricted to sale, distribution, or use upon such conditions, including restrictions on the access to, and the advertising and promotion of, the tobacco product, as the Secretary may prescribe in such regulation if, because of its potentiality for harmful effect or the collateral measures necessary to its use, the Secretary determines that such regulation would be appropriate for the protection of the public health. The finding as to whether such regulation would be appropriate for the protection of the public health shall be determined with respect to the risks and benefits to the population as a whole, including users and non-users of the tobacco product, and taking into account—

"(A) the increased or decreased likelihood that existing users of tobacco products will stop using such products; and

"(B) the increased or decreased likelihood that those who do not use tobacco products will start using such products.

No such condition may require that the sale or distribution of a tobacco product be limited to the written or oral authorization of a practitioner licensed by law to prescribe medical products.

"(2) The label of a tobacco product shall bear such appropriate statements of the restrictions required by a regulation under subsection (a) as the Secretary may in such regulation prescribe.

"(3) No restriction under paragraph (1) may prohibit the sale of any tobacco product in face-to-face transactions by a specific category of retail outlets.

"(e) GOOD MANUFACTURING PRACTICE REQUIREMENTS.—

"(1) METHODS, FACILITIES, AND CONTROLS TO CONFORM.—

"(A) The Secretary may, in accordance with subparagraph (B), prescribe regulations requiring that the methods used in, and the facilities and controls used for, the manufacture, pre-production design validation (including a process to assess the performance of a tobacco product), packing and storage of a tobacco product, conform to current good manufacturing practice, as prescribed in such regulations, to assure that the public health is protected and that the tobacco product is in compliance with this chapter.

"(B) The Secretary shall—

"(i) before promulgating any regulation under subparagraph (A), afford an advisory committee an opportunity to submit recommendations with respect to the regulation proposed to be promulgated;

"(ii) before promulgating any regulation under subparagraph (A), afford opportunity for an oral hearing;

"(iii) provide the advisory committee a reasonable time to make its recommendation with respect to proposed regulations under subparagraph (A); and

"(iv) in establishing the effective date of a regulation promulgated under this subsection, take into account the differences in the manner in which the different types of

tobacco products have historically been produced, the financial resources of the different tobacco product manufacturers, and the state of their existing manufacturing facilities; and shall provide for a reasonable period of time for such manufacturers to conform to good manufacturing practices.

"(2) EXEMPTIONS; VARIANCES.—

"(A) Any person subject to any requirement prescribed under paragraph (1) may petition the Secretary for a permanent or temporary exemption or variance from such requirement. Such a petition shall be submitted to the Secretary in such form and manner as the Secretary shall prescribe and shall—

"(i) in the case of a petition for an exemption from a requirement, set forth the basis for the petitioner's determination that compliance with the requirement is not required to assure that the tobacco product will be in compliance with this chapter;

"(ii) in the case of a petition for a variance from a requirement, set forth the methods proposed to be used in, and the facilities and controls proposed to be used for, the manufacture, packing, and storage of the tobacco product in lieu of the methods, facilities, and controls prescribed by the requirement; and

"(iii) contain such other information as the Secretary shall prescribe.

"(B) The Secretary may refer to an advisory committee any petition submitted under subparagraph (A). The advisory committee shall report its recommendations to the Secretary with respect to a petition referred to it within 60 days after the date of the petition's referral. Within 60 days after—

"(i) the date the petition was submitted to the Secretary under subparagraph (A); or

"(ii) the day after the petition was referred to an advisory committee,

whichever occurs later, the Secretary shall by order either deny the petition or approve it.

"(C) The Secretary may approve—

"(i) a petition for an exemption for a tobacco product from a requirement if the Secretary determines that compliance with such requirement is not required to assure that the tobacco product will be in compliance with this chapter; and

"(ii) a petition for a variance for a tobacco product from a requirement if the Secretary determines that the methods to be used in, and the facilities and controls to be used for, the manufacture, packing, and storage of the tobacco product in lieu of the methods, controls, and facilities prescribed by the requirement are sufficient to assure that the tobacco product will be in compliance with this chapter.

"(D) An order of the Secretary approving a petition for a variance shall prescribe such conditions respecting the methods used in, and the facilities and controls used for, the manufacture, packing, and storage of the tobacco product to be granted the variance under the petition as may be necessary to assure that the tobacco product will be in compliance with this chapter.

"(E) After the issuance of an order under subparagraph (B) respecting a petition, the petitioner shall have an opportunity for an informal hearing on such order.

"(3) Compliance with requirements under this subsection shall not be required before the period ending 3 years after the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act.

"(f) EXEMPTION FOR INVESTIGATIONAL USE.—The Secretary may exempt tobacco products intended for investigational use from this chapter under such conditions as the Secretary may prescribe by regulation .

"(g) RESEARCH AND DEVELOPMENT.—The Secretary may enter into contracts for research, testing, and demonstrations respecting tobacco products and may obtain tobacco products for research, testing, and demonstration purposes without regard to section 3324(a) and (b) of title 31, United States Code, and section 5 of title 41, United States Code.

"SEC. 907. PERFORMANCE STANDARDS.

"(a) IN GENERAL.—

"(1) FINDING REQUIRED.—The Secretary may adopt performance standards for a tobacco product if the Secretary finds that a performance standard is appropriate for the protection of the public health. This finding shall be determined with respect to the risks and benefits to the population as a whole, including users and non-users of the tobacco product, and taking into account—

"(A) the increased or decreased likelihood that existing users of tobacco products will stop using such products; and

"(B) the increased or decreased likelihood that those who do not use tobacco products will start using such products.

"(2) CONTENT OF PERFORMANCE STANDARDS.—A performance standard established under this section for a tobacco product—

"(A) shall include provisions to provide performance that is appropriate for the protection of the public health, including provisions, where appropriate—

"(i) for the reduction or elimination of nicotine yields of the product;

"(ii) for the reduction or elimination of other constituents or harmful components of the product; or

"(iii) relating to any other requirement under (B);

"(B) shall, where necessary to be appropriate for the protection of the public health, include—

"(i) provisions respecting the construction, components, ingredients, and properties of the tobacco product;

"(ii) provisions for the testing (on a sample basis or, if necessary, on an individual basis) of the tobacco product;

"(iii) provisions for the measurement of the performance characteristics of the tobacco product;

"(iv) provisions requiring that the results of each or of certain of the tests of the tobacco product required to be made under clause (ii) show that the tobacco product is in conformity with the portions of the standard for which the test or tests were required; and

"(v) a provision requiring that the sale and distribution of the tobacco product be restricted but only to the extent that the sale and distribution of a tobacco product may be restricted under a regulation under section 906(d); and

"(C) shall, where appropriate, require the use and prescribe the form and content of labeling for the proper use of the tobacco product.

"(3) PERIODIC RE-EVALUATION OF PERFORMANCE STANDARDS.—The Secretary shall provide for periodic evaluation of performance standards established under this section to determine whether such standards should be changed to reflect new medical, scientific, or other technological data. The Secretary may provide for testing under paragraph (2) by any person.

"(4) INVOLVEMENT OF OTHER AGENCIES; INFORMED PERSONS.—In carrying out duties under this section, the Secretary shall, to the maximum extent practicable—

"(A) use personnel, facilities, and other technical support available in other Federal agencies;

"(B) consult with other Federal agencies concerned with standard-setting and other nationally or internationally recognized standard-setting entities; and

"(C) invite appropriate participation, through joint or other conferences, workshops, or other means, by informed persons representative of scientific, professional, industry, or consumer organizations who in the Secretary's judgment can make a significant contribution.

"(b) ESTABLISHMENT OF STANDARDS.—

"(1) NOTICE.—

(A) The Secretary shall publish in the Federal Register a notice of proposed rulemaking for the establishment, amendment, or revocation of any performance standard for a tobacco product.

"(B) A notice of proposed rulemaking for the establishment or amendment of a performance standard for a tobacco product shall—

"(i) set forth a finding with supporting justification that the performance standard is appropriate for the protection of the public health;

"(ii) set forth proposed findings with respect to the risk of illness or injury that the performance standard is intended to reduce or eliminate; and

"(iii) invite interested persons to submit an existing performance standard for the tobacco product, including a draft or proposed performance standard, for consideration by the Secretary.

"(C) A notice of proposed rulemaking for the revocation of a performance standard shall set forth a finding with supporting justification that the performance standard is no longer necessary to be appropriate for the protection of the public health.

"(D) The Secretary shall consider all information submitted in connection with a proposed standard, including information concerning the countervailing effects of the performance standard on the health of adolescent tobacco users, adult tobacco users, or non-tobacco users, such as the creation of a significant demand for contraband or other tobacco products that do not meet the requirements of this chapter and the significance of such demand, and shall issue the standard if the Secretary determines that the standard would be appropriate for the protection of the public health.

"(E) The Secretary shall provide for a comment period of not less than 60 days.

"(2) PROMULGATION.—

"(A) After the expiration of the period for comment on a notice of proposed rulemaking published under paragraph (1) respecting a performance standard and after consideration of such comments and any report from an advisory committee, the Secretary shall—

"(i) promulgate a regulation establishing a performance standard and publish in the Federal Register findings on the matters referred to in paragraph (1); or

"(ii) publish a notice terminating the proceeding for the development of the standard together with the reasons for such termination.

"(B) A regulation establishing a performance standard shall set forth the date or dates upon which the standard shall take effect, but no such regulation may take effect before one year after the date of its publication unless the Secretary determines that an earlier effective date is necessary for the protection of the public health. Such date or dates shall be established so as to minimize,

consistent with the public health, economic loss to, and disruption or dislocation of, domestic and international trade.

"(3) SPECIAL RULE FOR STANDARD BANNING CLASS OF PRODUCT OR ELIMINATING NICOTINE CONTENT.—Because of the importance of a decision of the Secretary to issue a regulation establishing a performance standard—

"(A) eliminating all cigarettes, all smokeless tobacco products, or any similar class of tobacco products, or

"(B) requiring the reduction of nicotine yields of a tobacco product to zero,

it is appropriate for the Congress to have the opportunity to review such a decision. Therefore, any such standard may not take effect before a date that is 2 years after the President notifies the Congress that a final regulation imposing the restriction has been issued.

"(4) AMENDMENT; REVOCATION.—

"(A) The Secretary, upon the Secretary's own initiative or upon petition of an interested person may by a regulation, promulgated in accordance with the requirements of paragraphs (1) and (2)(B) of this subsection, amend or revoke a performance standard.

"(B) The Secretary may declare a proposed amendment of a performance standard to be effective on and after its publication in the Federal Register and until the effective date of any final action taken on such amendment if the Secretary determines that making it so effective is in the public interest.

"(5) REFERENCE TO ADVISORY COMMITTEE.—The Secretary—

"(A) may, on the Secretary's own initiative, refer a proposed regulation for the establishment, amendment, or revocation of a performance standard; or

"(B) shall, upon the request of an interested person which demonstrates good cause for referral and which is made before the expiration of the period for submission of comments on such proposed regulation,

refer such proposed regulation to an advisory committee, for a report and recommendation with respect to any matter involved in the proposed regulation which requires the exercise of scientific judgment. If a proposed regulation is referred under this subparagraph to the advisory committee, the Secretary shall provide the advisory committee with the data and information on which such proposed regulation is based. The advisory committee shall, within 60 days after the referral of a proposed regulation and after independent study of the data and information furnished to it by the Secretary and other data and information before it, submit to the Secretary a report and recommendation respecting such regulation, together with all underlying data and information and a statement of the reason or basis for the recommendation. A copy of such report and recommendation shall be made public by the Secretary.

"SEC. 908. NOTIFICATION AND OTHER REMEDIES

"(a) NOTIFICATION.—If the Secretary determines that—

"(1) a tobacco product which is introduced or delivered for introduction into interstate commerce for commercial distribution presents an unreasonable risk of substantial harm to the public health; and

"(2) notification under this subsection is necessary to eliminate the unreasonable risk of such harm and no more practicable means is available under the provisions of this chapter (other than this section) to eliminate such risk,

the Secretary may issue such order as may be necessary to assure that adequate notification is provided in an appropriate form, by the persons and means best suited under the circumstances involved, to all persons who should properly receive such notification in order to eliminate such risk. The Secretary may order notification by any appropriate means, including public service announcements. Before issuing an order under this subsection, the Secretary shall consult with the persons who are to give notice under the order.

"(b) NO EXEMPTION FROM OTHER LIABILITY.—Compliance with an order issued under this section shall not relieve any person from liability under Federal or State law. In awarding damages for economic loss in an action brought for the enforcement of any such liability, the value to the plaintiff in such action of any remedy provided under such order shall be taken into account.

"(c) RECALL AUTHORITY.—

"(1) IN GENERAL.—If the Secretary finds that there is a reasonable probability that a tobacco product contains a manufacturing or other defect not ordinarily contained in tobacco products on the market that would cause serious, adverse health consequences or death, the Secretary shall issue an order requiring the appropriate person (including the manufacturers, importers, distributors, or retailers of the tobacco product) to immediately cease distribution of such tobacco product. The order shall provide the person subject to the order with an opportunity for an informal hearing, to be held not later than 10 days after the date of the issuance of the order, on the actions required by the order and on whether the order should be amended to require a recall of such tobacco product. If, after providing an opportunity for such a hearing, the Secretary determines that inadequate grounds exist to support the actions required by the order, the Secretary shall vacate the order.

"(2) AMENDMENT OF ORDER TO REQUIRE RECALL.—

"(A) If, after providing an opportunity for an informal hearing under paragraph (1), the Secretary determines that the order should be amended to include a recall of the tobacco product with respect to which the order was issued, the Secretary shall, except as provided in subparagraph (B), amend the order to require a recall. The Secretary shall specify a timetable in which the tobacco product recall will occur and shall require periodic reports to the Secretary describing the progress of the recall.

"(B) An amended order under subparagraph (A)—

"(i) shall not include recall of a tobacco product from individuals; and

"(ii) shall provide for notice to persons subject to the risks associated with the use of such tobacco product.

In providing the notice required by clause (ii), the Secretary may use the assistance of retailers and other persons who distributed such tobacco product. If a significant number of such persons cannot be identified, the Secretary shall notify such persons under section 705(b).

"(3) REMEDY NOT EXCLUSIVE.—The remedy provided by this subsection shall be in addition to remedies provided by subsection (a) of this section.

"SEC. 909. RECORDS AND REPORTS ON TOBACCO PRODUCTS.

"(a) IN GENERAL.—Every person who is a tobacco product manufacturer or importer of a tobacco product shall establish and maintain such records, make such reports, and provide such information, as the Secretary may by regulation reasonably require to assure that such tobacco product is not adulterated or misbranded and to otherwise protect public health. Regulations prescribed under the preceding sentence—

"(1) may require a tobacco product manufacturer or importer to report to the Secretary whenever the manufacturer or importer receives or otherwise becomes aware of information that reasonably suggests that one of its marketed tobacco products may have caused or contributed to a serious unexpected adverse experience associated with the use of the product or any significant increase in the frequency of a serious, expected adverse product experience;

"(2) shall require reporting of other significant adverse tobacco product experiences as determined by the Secretary to be necessary to be reported;

"(3) shall not impose requirements unduly burdensome to a tobacco product manufacturer or importer, taking into account the cost of complying with such requirements and the need for the protection of the public health and the implementation of this chapter;

"(4) when prescribing the procedure for making requests for reports or information, shall require that each request made under such regulations for submission of a report or information to the Secretary state the reason or purpose for such request and identify to the fullest extent practicable such report or information;

"(5) when requiring submission of a report or information to the Secretary, shall state the reason or purpose for the submission of such report or information and identify to the fullest extent practicable such report or information; and

"(6) may not require that the identity of any patient or user be disclosed in records, reports, or information required under this subsection unless required for the medical welfare of an individual, to determine risks to public health of a tobacco product, or to verify a record, report, or information submitted under this chapter.

In prescribing regulations under this subsection, the Secretary shall have due regard for the professional ethics of the medical profession and the interests of patients. The prohibitions of paragraph (6) of this subsection continue to apply to records, reports, and information concerning any individual who has been a patient, irrespective of whether or when he ceases to be a patient.

"(b) REPORTS OF REMOVALS AND CORRECTIONS.—

(1) Except as provided in paragraph (3), the Secretary shall by regulation require a tobacco product manufacturer or importer of a tobacco product to report promptly to the Secretary any corrective action taken or removal from the market of a tobacco product undertaken by such manufacturer or importer if the removal or correction was undertaken—

"(A) to reduce a risk to health posed by the tobacco product; or

"(B) to remedy a violation of this chapter caused by the tobacco product which may present a risk to health.

A tobacco product manufacturer or importer of a tobacco product who undertakes a corrective action or removal from the market of a tobacco product which is not required to be reported under this subsection shall keep a record of such correction or removal.

"(2) No report of the corrective action or removal of a tobacco product may be required under paragraph (1) if a report of the corrective action or removal is required and has been submitted under subsection (a) of this section.

"SEC. 910. PREMARKET REVIEW OF CERTAIN TOBACCO PRODUCTS.

"(a) IN GENERAL.—

"(1) PREMARKET APPROVAL REQUIRED.—

"(A) NEW PRODUCTS.—Approval under this section of an application for premarket approval for any tobacco product that is not commercially marketed (other than for test marketing) in the United States as of August 11, 1995, is required unless the manufacturer has submitted a report under section 905(j), and the Secretary has issued an order that the tobacco product is substantially equivalent to a tobacco product commercially marketed (other than for test marketing) in the United States as of August 11, 1995, that is in compliance with the requirements of this Act.

"(B) PRODUCTS INTRODUCED BETWEEN AUGUST 11, 1995, AND ENACTMENT OF THIS CHAPTER.—Subparagraph (A) does not apply to a tobacco product that—

"(i) was first introduced or delivered for introduction into interstate commerce for commerce for commercial distribution in the United States after August 11, 1995, and before the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act; and

"(ii) for which a report was submitted under section 905(j) within 6 months after such date,

until the Secretary issues an order that the tobacco product is substantially equivalent for purposes of this section or requires premarket approval.

"(2) SUBSTANTIALLY EQUIVALENT DEFINED.—

"(A) For purposes of this section and section 905(j), the term 'substantially equivalent' or 'substantial equivalence' mean, with respect to the tobacco product being compared to the predicate tobacco product, that the Secretary by order has found that the tobacco product—

"(i) has the same characteristics as the predicate tobacco product; or

"(ii) has different characteristics and the information submitted contains information, including clinical data if deemed necessary by the Secretary, that demonstrates that it is not appropriate to regulate the product under this section because the product does not raise different questions of public health.

"(B) For purposes of subparagraph (A), the term 'characteristics' means the materials, ingredients, design, composition, heating source, or other features of a tobacco product.

"(C) A tobacco product may not be found to be substantially equivalent to a predicate tobacco product that has been removed from the market at the initiative of the Secretary or that has been determined by a judicial order to be misbranded or adulterated.

"(3) HEALTH INFORMATION.—

"(A) As part of a submission under section 905(j) respecting a tobacco product, the person required to file a premarket notification under such section shall provide an adequate summary of any health information related to the tobacco product or state that such information will be made available upon request by any person.

"(B) Any summary under subparagraph (A) respecting a tobacco product shall contain detailed information regarding data concerning adverse health effects and shall be made available to the public by the Secretary within 30 days of the issuance of a determination that such tobacco product is substantially equivalent to another tobacco product.

"(b) APPLICATION.—

"(1) CONTENTS.—An application for premarket approval shall contain—

"(A) full reports of all information, published or known to or which should reasonably be known to the applicant, concerning investigations which have been made to show the health risks of such tobacco product and whether such tobacco product presents less risk than other tobacco products;

"(B) a full statement of the components, ingredients, and properties, and of the principle or principles of operation, of such tobacco product;

"(C) a full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and, when relevant, packing and installation of, such tobacco product;

"(D) an identifying reference to any performance standard under section 907 which would be applicable to any aspect of such tobacco product, and either adequate information to show that such aspect of such tobacco product fully meets such performance standard or adequate information to justify any deviation from such standard;

"(E) such samples of such tobacco product and of components thereof as the Secretary may reasonably require;

"(F) specimens of the labeling proposed to be used for such tobacco product; and

"(G) such other information relevant to the subject matter of the application as the Secretary may require.

"(2) REFERENCE TO ADVISORY COMMITTEE.—Upon receipt of an application meeting the requirements set forth in paragraph (1), the Secretary—

"(A) may, on the Secretary's own initiative; or

"(B) shall, upon the request of an applicant,

refer such application to an advisory committee and for submission (within such period as the Secretary may establish) of a report and recommendation respecting approval of the application, together with all underlying data and the reasons or basis for the recommendation.

"(c) ACTION ON APPLICATION.—

"(1) DEADLINE.—

"(A) As promptly as possible, but in no event later than 180 days after the receipt of an application under subsection (b) of this section, the Secretary, after considering the report and recommendation submitted under paragraph (2) of such subsection, shall—

"(i) issue an order approving the application if the Secretary finds that none of the grounds for denying approval specified in paragraph (2) of this subsection applies; or

"(ii) deny approval of the application if the Secretary finds (and sets forth the basis for such finding as part of or accompanying such denial) that one or more grounds for denial specified in paragraph (2) of this subsection apply.

"(B) An order approving an application for a tobacco product may require as a condition to such approval that the sale and distribution of the tobacco product be restricted but only to the extent that the sale and distribution of a tobacco product may be restricted under a regulation under section 906(d).

"(2) DENIAL OF APPROVAL.—The Secretary shall deny approval of an application for a tobacco product if, upon the basis of the information submitted to the Secretary as part of the application and any other information before the Secretary with respect to such tobacco product, the Secretary finds that—

"(A) there is a lack of a showing that permitting such tobacco product to be marketed would be appropriate for the protection of the public health;

"(B) the methods used in, or the facilities or controls used for, the manufacture, processing, or packing of such tobacco product do not conform to the requirements of section 906(e);

"(C) based on a fair evaluation of all material facts, the proposed labeling is false or misleading in any particular; or

"(D) such tobacco product is not shown to conform in all respects to a performance standard in effect under section 907, compliance with which is a condition to approval of the application, and there is a lack of adequate information to justify the deviation from such standard.

"(3) DENIAL INFORMATION.—Any denial of an application shall, insofar as the Secretary determines to be practicable, be accompanied by a statement informing the applicant of the measures required to place such application in approvable form (which measures may include further research by the applicant in accordance with one or more protocols prescribed by the Secretary).

"(4) BASIS FOR FINDING.—For purposes of this section, the finding as to whether approval of a tobacco product is appropriate for the protection of the public health shall be determined with respect to the risks and benefits to the population as a whole, including users and non-users of the tobacco product, and taking into account—

"(A) the increased or decreased likelihood that existing users of tobacco products will stop using such products; and

"(B) the increased or decreased likelihood that those who do not use tobacco products will start using such products.

"(5) BASIS FOR ACTION.—

"(A) For purposes of paragraph (2)(A), whether permitting a tobacco product to be marketed would be appropriate for the protection of the public health shall, when appropriate, be determined on the basis of well-controlled investigations, which may include one or more clinical investigations by experts qualified by training and experience to evaluate the tobacco product.

"(B) If the Secretary determines that there exists valid scientific evidence (other than evidence derived from investigations described in subparagraph (A)) which is sufficient to evaluate the tobacco product the Secretary may authorize that the determination for purposes of paragraph (2)(A) be made on the basis of such evidence.

"(d) WITHDRAWAL AND TEMPORARY SUSPENSION.—

"(1) IN GENERAL.—The Secretary shall, upon obtaining, where appropriate, advice on scientific matters from an advisory committee, and after due notice and opportunity for informal hearing to the holder of an approved application for a tobacco product, issue an order withdrawing approval of the application if the Secretary finds—

"(A) that the continued marketing of such tobacco product no longer is appropriate for the protection of the public health;

"(B) that the application contained or was accompanied by an untrue statement of a material fact;

"(C) that the applicant—

"(i) has failed to establish a system for maintaining records, or has repeatedly or deliberately failed to maintain records or to make reports, required by an applicable regulation under section 909;

"(ii) has refused to permit access to, or copying or verification of, such records as required by section 704; or

"(iii) has not complied with the requirements of section 905;

"(D) on the basis of new information before the Secretary with respect to such tobacco

product, evaluated together with the evidence before the Secretary when the application was approved, that the methods used in, or the facilities and controls used for, the manufacture, processing, packing, or installation of such tobacco product do not conform with the requirements of section 906(e) and were not brought into conformity with such requirements within a reasonable time after receipt of written notice from the Secretary of nonconformity;

"(E) on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when the application was approved, that the labeling of such tobacco product, based on a fair evaluation of all material facts, is false or misleading in any particular and was not corrected within a reasonable time after receipt of written notice from the Secretary of such fact; or

"(F) on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when the application was approved, that such tobacco product is not shown to conform in all respects to a performance standard which is in effect under section 907, compliance with which was a condition to approval of the application, and that there is a lack of adequate information to justify the deviation from such standard.

"(2) APPEAL.—The holder of an application subject to an order issued under paragraph (1) withdrawing approval of the application may, by petition filed on or before the thirtieth day after the date upon which he receives notice of such withdrawal, obtain review thereof in accordance with subsection (e) of this section.

"(3) TEMPORARY SUSPENSION.—If, after providing an opportunity for an informal hearing, the Secretary determines there is reasonable probability that the continuation of distribution of a tobacco product under an approved application would cause serious, adverse health consequences or death, that is greater than ordinarily caused by tobacco products on the market, the Secretary shall by order temporarily suspend the approval of the application approved under this section. If the Secretary issues such an order, the Secretary shall proceed expeditiously under paragraph (1) to withdraw such application.

"(e) SERVICE OF ORDER.—An order issued by the Secretary under this section shall be served—

"(1) in person by any officer or employee of the department designated by the Secretary; or

"(2) by mailing the order by registered mail or certified mail addressed to the applicant at the applicant's last known address in the records of the Secretary.

"SEC. 911. JUDICIAL REVIEW.

"(a) IN GENERAL.—Not later than 30 days after—

"(1) the promulgation of a regulation under section 907 establishing, amending, or revoking a performance standard for a tobacco product; or

"(2) a denial of an application for approval under section 910(c),

any person adversely affected by such regulation or order may file a petition with the United States Court of Appeals for the District of Columbia or for the circuit wherein such person resides or has his principal place of business for judicial review of such regulation or order. A copy of the petition shall be transmitted by the clerk of the court to the Secretary or other officer designated by the Secretary for that purpose. The Secretary shall file in the court the record of the proceedings on which the Secretary based the Secretary's regulation or order and each record or order shall contain a statement of the reasons for its issuance and the basis, on the record, for its issuance. For purposes of this section, the term 'record' means all notices and other matter published in the Federal Register with respect to the regulation or order reviewed, all information submitted to the Secretary with respect to such regulation or order, proceedings of any panel or advisory committee with respect to such regulation or order, any hearing held with respect to such regulation or order, and any other information identified by the Secretary, in the administrative proceeding held with respect to such regulation or order, as being relevant to such regulation or order.

"(b) COURT MAY ORDER SECRETARY TO MAKE ADDITIONAL FINDINGS.—If the petitioner applies to the court for leave to adduce additional data, views, or arguments respecting the regulation or order being reviewed and shows to the satisfaction of the court that such additional data, views, or arguments are material and that there were reasonable grounds for the petitioner's failure to adduce such data, views, or arguments in the proceedings before the Secretary, the court may order the Secretary to provide additional opportunity for the oral presentation of data, views, or arguments and for written submissions. The Secretary may modify the Secretary's findings, or make new findings by reason of the additional data, views, or arguments so taken and shall file with the court such modified or new findings, and the Secretary's recommendation, if any, for the modification or setting aside of the regulation or order being reviewed, with the return of such additional data, views, or arguments.

"(c) STANDARD OF REVIEW.—Upon the filing of the petition under subsection (a) of this section for judicial review of a regulation or order, the court shall have jurisdiction to review the regulation or order in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief, including interim relief, as provided in such chapter. A regulation or order described in paragraph (1) or (2) of subsection (a) of this section shall not be affirmed if it is found to be unsupported by substantial evidence on the record taken as a whole.

"(d) FINALITY OF JUDGMENT.—The judgment of the court affirming or setting aside, in whole or in part, any regulation or order shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28, United States Code.

"(e) OTHER REMEDIES.—The remedies provided for in this section shall be in addition to and not in lieu of any other remedies provided by law.

"(f) REGULATIONS AND ORDERS MUST RECITE BASIS IN RECORD.—To facilitate judicial review under this section or under any other provision of law of a regulation or order issued under section 906, 907, 908, 909, 910, or 914, each such regulation or order shall contain a statement of the reasons for its issuance and the basis, in the record of the proceedings held in connection with its issuance, for its issuance.

"SEC. 912. POSTMARKET SURVEILLANCE

"(a) DISCRETIONARY SURVEILLANCE.—The Secretary may require a tobacco product manufacturer to conduct postmarket surveillance for a tobacco product of the manufacturer if the Secretary determines that postmarket surveillance of the tobacco product is necessary to protect the public health or is necessary to provide information regarding the health risks and other safety issues involving the tobacco product.

"(b) SURVEILLANCE APPROVAL.—Each tobacco product manufacturer required to conduct a surveillance of a tobacco product under subsection (a) of this section shall, within 30 days after receiving notice that the manufacturer is required to conduct such surveillance, submit, for the approval of the Secretary, a protocol for the required surveillance. The Secretary, within 60 days of the receipt of such protocol, shall determine if the principal investigator proposed to be used in the surveillance has sufficient qualifications and experience to conduct such surveillance and if such protocol will result in collection of useful data or other information necessary to protect the public health. The Secretary may not approve such a protocol until it has been reviewed by an appropriately qualified scientific and technical review committee established by the Secretary.

"SEC. 913. REDUCED RISK TOBACCO PRODUCTS.

"(a) REQUIREMENTS.—

"(1) IN GENERAL.—For purposes of this section, the term 'reduced risk tobacco product' means a tobacco product designated by the Secretary under paragraph (2).

"(2) DESIGNATION.—

"(A) IN GENERAL.—A product may be designated by the Secretary as a reduced risk tobacco product if the Secretary finds that the product will significantly reduce harm to individuals caused by a tobacco product and is otherwise appropriate to protect public health, based on an application submitted by the manufacturer of the product (or other responsible person) that—

"(i) demonstrates through testing on animals and short-term human testing that use of such product results in ingestion or inhalation of a substantially lower yield of toxic substances than use of conventional tobacco products in the same category as the proposed reduced risk product; and

"(ii) if required by the Secretary, includes studies of the long-term health effects of the product.

If such studies are required, the manufacturer may consult with the Secretary regarding protocols for conducting the studies.

"(B) BASIS FOR FINDING.—In making the finding under subparagraph (A), the Secretary shall take into account—

"(i) the risks and benefits to the population as a whole, including both users of tobacco products and non-users of tobacco products;

"(ii) the increased or decreased likelihood that existing users of tobacco products will stop using such products including reduced risk tobacco products;

"(iii) the increased or decreased likelihood that those who do not use tobacco products will start to use such products, including reduced risk tobacco products; and

"(iv) the risks and benefits to consumers from the use of a reduced risk tobacco product as compared to the use of products approved under chapter V to reduce exposure to tobacco.

"(3) MARKETING REQUIREMENTS.—A tobacco product may be marketed and labeled as a reduced risk tobacco product if it—

"(A) has been designated as a reduced risk tobacco product by the Secretary under paragraph (2);

"(B) bears a label prescribed by the Secretary concerning the product's contribution to reducing harm to health; and

"(C) complies with requirements prescribed by the Secretary relating to marketing and advertising of the product, and

other provisions of this chapter as prescribed by the Secretary.

"(b) REVOCATION OF DESIGNATION.—At any time after the date on which a tobacco product is designated as a reduced risk tobacco product under this section the Secretary may, after providing an opportunity for an informal hearing, revoke such designation if the Secretary determines, based on information not available at the time of the designation, that—

"(1) the finding made under subsection (a)(2) is no longer valid; or

"(2) the product is being marketed in violation of subsection (a)(3).

"(c) LIMITATION.—A tobacco product that is designated as a reduced risk tobacco product that is in compliance with subsection (a) shall not be regulated as a drug or device.

"(d) DEVELOPMENT OF REDUCED RISK TOBACCO PRODUCT TECHNOLOGY.—A tobacco product manufacturer shall provide written notice to the Secretary upon the development or acquisition by the manufacturer of any technology that would reduce the risk of a tobacco product to the health of the user for which the manufacturer is not seeking designation as a 'reduced risk tobacco product' under subsection (a).

"SEC. 914. PRESERVATION OF STATE AND LOCAL AUTHORITY.

"(a) ADDITIONAL REQUIREMENTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), nothing in this Act shall be construed as prohibiting a State or political subdivision thereof from adopting or enforcing a requirement applicable to a tobacco product that is in addition to, or more stringent than, requirements established under this chapter.

"(2) PREEMPTION OF CERTAIN STATE AND LOCAL REQUIREMENTS.—

"(A) Except as provided in subparagraph (B), no State or political subdivision of a State may establish or continue in effect with respect to a tobacco product any requirement which is different from, or in addition to, any requirement applicable under the provisions of this chapter relating to performance standards, premarket approval, adulteration, misbranding, registration, reporting, good manufacturing standards, or reduced risk products.

"(B) Subparagraph (A) does not apply to requirements relating to the sale, use, or distribution of a tobacco product including requirements related to the access to, and the advertising and promotion of, a tobacco product.

"(b) RULE OF CONSTRUCTION REGARDING PRODUCT LIABILITY.—No provision of this chapter relating to a tobacco product shall be construed to modify or otherwise affect any action or the liability of any person under the product liability law of any State.

"(c) WAIVERS.—Upon the application of a State or political subdivision thereof, the Secretary may, by regulation promulgated after notice and an opportunity for an oral hearing, exempt from subsection (a), under such conditions as may be prescribed in such regulation, a requirement of such State or political subdivision applicable to a tobacco product if—

"(1) the requirement is more stringent than a requirement applicable under the provisions described in subsection (a)(3) which would be applicable to the tobacco product if an exemption were not in effect under this subsection; or

"(2) the requirement—

"(A) is required by compelling local conditions; and

"(B) compliance with the requirement would not cause the tobacco product to be in violation of any applicable requirement of this chapter.

"SEC. 915. EQUAL TREATMENT OF RETAIL OUTLETS.

"The Secretary shall issue regulations to require that retail establishments for which the predominant business is the sale of tobacco products comply with any advertising restrictions applicable to retail establishments accessible to individuals under the age of 18.".

SEC. 102. CONFORMING AND OTHER AMENDMENTS TO GENERAL PROVISIONS.

(a) AMENDMENT OF FEDERAL FOOD, DRUG, AND COSMETIC ACT.—Except as otherwise expressly provided, whenever in this section an amendment is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference is to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

(b) SECTION 301.—Section 301 (21 U.S.C. 331) is amended—

(1) by inserting "tobacco product," in subsection (a) after "device,";

(2) by inserting "tobacco product," in subsection (b) after "device,";

(3) by inserting "tobacco product," in subsection (c) after "device,";

(4) by striking "515(f), or 519" in subsection (e) and inserting "515(f), 519, or 909";

(5) by inserting "tobacco product," in subsection (g) after "device,";

(6) by inserting "tobacco product," in subsection (h) after "device,";

(7) by striking "708, or 721" in subsection (j) and inserting "708, 721, 904, 905, 906, 907, 908, or 909";

(8) by inserting "tobacco product," in subsection (k) after "device,";

(9) by striking subsection (p) and inserting the following:

"(p) The failure to register in accordance with section 510 or 905, the failure to provide any information required by section 510(j), 510(k), 905(i), or 905(j), or the failure to provide a notice required by section 510(j)(2) or 905(J)(2).";

(10) by striking subsection (q)(1) and inserting the following:

"(q)(1) The failure or refusal—

"(A) to comply with any requirement prescribed under section 518, 520(g), 906(f), or 908;

"(B) to furnish any notification or other material or information required by or under section 519, 520(g), 904, 906(f), or 909; or

"(C) to comply with a requirement under section 522 or 912.";

(11) by striking "device," in subsection (q)(2) and inserting "device or tobacco product,";

(12) by inserting "or tobacco product" in subsection (r) after "device" each time that it appears; and

(13) by adding at the end thereof the following:

"(aa) The sale of tobacco products in violation of a no-tobacco-sale order issued under section 303(f).".

(c) SECTION 303.—Section 303(f) (21 U.S.C. 333(f)) is amended—

(1) by amending the caption to read as follows:

"(f) CIVIL PENALTIES; NO-TOBACCO-SALE ORDERS.—";

(2) by inserting "or tobacco products" after "devices" in paragraph (1)(A);

(3) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), and inserting after paragraph (2) the following:

"(3) If the Secretary finds that a person has committed repeated violations of restrictions promulgated under section 906(d) at a particular retail outlet then the Secretary may impose a no-tobacco-sale order on that person prohibiting the sale of tobacco products in that outlet. A no-tobacco-sale order may be imposed with a civil penalty under paragraph (1).";

(4) by striking "assessed" the first time it appears in subparagraph (A) of paragraph (4), as redesignated, and inserting "assessed, or a no-tobacco-sale order may be imposed,";

(5) by striking "penalty" in such subparagraph and inserting "penalty, or upon whom a no-tobacco-order is to be imposed,";

(6) by inserting after "penalty," in subparagraph (B) of paragraph (4), as redesignated, the following: "or the period to be covered by a no-tobacco-sale order,";

(7) by adding at the end of such subparagraph the following: "A no-tobacco-sale order permanently prohibiting an individual retail outlet from selling tobacco products shall include provisions that allow the outlet, after a specified period of time, to request that the Secretary compromise, modify, or terminate the order.";

(8) by adding at the end of paragraph (4), as redesignated, the following:

"(D) The Secretary may compromise, modify, or terminate, with or without conditions, any no-tobacco-sale order.";

(9) by striking "(3)(A)" in paragraph (5), as resdesignated, and inserting "(4)(A)";

(10) by inserting "or the imposition of a no-tobacco-sale order" after "penalty" the first 2 places it appears in such paragraph;

(11) by striking "issued." in such paragraph and inserting "issued, or on which the no-tobacco-sale order was imposed, as the case may be."; and

(12) by striking "paragraph (4)" each place it appears in paragraph (6), as redesignated, and inserting "paragraph (5)".

(d) SECTION 304.—Section 304 (21 U.S.C. 334) is amended—

(1) by striking "and" before "(D)" in subsection (a)(2);

(2) by striking "device." in subsection (a)(2) and inserting a comma and "(E) Any adulterated or misbranded tobacco product.";

(3) by inserting "tobacco product," in subsection (d)(1) after "device,";

(4) by inserting "or tobacco product" in subsection (g)(1) after "device" each place it appears; and

(5) by inserting "or tobacco product" in subsection (g)(2)(A) after "device" each place it appears.

(e) SECTION 702.—Section 702(a) (21 U.S.C. 372(a)) is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end thereof the following:

"(2) For a tobacco product, to the extent feasible, the Secretary shall contract with the States in accordance with paragraph (1) to carry out inspections of retailers in connection with the enforcement of this Act.".

(f) SECTION 703.—Section 703 (21 U.S.C. 373) is amended—

(1) by inserting "tobacco product," after "device," each place it appears; and

(2) by inserting "tobacco products," after "devices," each place it appears.

(g) SECTION 704.—Section 704 (21 U.S.C. 374) is amended—

(1) by inserting "tobacco products," in subsection (a)(1)(A) after "devices," each place it appears;

(2) by inserting "or tobacco products" in subsection (a)(1)(B) after "restricted devices" each place it appears; and

(3) by inserting "tobacco product," in subsection (b) after "device,".

(h) SECTION 705.—Section 705(b) (21 U.S.C. 375(b)) is amended by inserting "tobacco products," after "devices,".

(i) SECTION 709.—Section 709 (21 U.S. C. 379) is amended by inserting "or tobacco product" after "device".

(j) SECTION 801.—Section 801 (21 U.S.C. 381) is amended—

(1) by inserting "tobacco products," after "devices," in subsection (a) the first time it appears;

(2) by inserting "or subsection (j) of section 905" in subsection (a) after "section 510"; and

(3) by striking "drugs or devices" each time it appears in subsection (a) and inserting "drugs, devices, or tobacco products";

(4) by inserting "tobacco product," in subsection (e)(1) after "device,";

(2) by redesignating paragraph (4) of subsection (e) as paragraph (5) and inserting after paragraph (3), the following:

"(4) Paragraph (1) does not apply to any tobacco product—

"(A) which does not comply with an applicable requirement of section 907 or 910; or

"(B) which under section 906(f) is exempt from either such section.

This paragraph does not apply if the Secretary has determined that the exportation of the tobacco product is not contrary to the public health and safety and has the approval of the country to which it is intended for export or the tobacco product is eligible for export under section 802.".

(k) SECTION 802.—Section 802 (21 U.S.C. 382) is amended—

(1) by striking "device—" in subsection (a) and inserting "device or tobacco product—";

(2) by striking "and" after the semicolon in subsection (a)(1)(C);

(3) by striking subparagraph (C) of subsection (a)(2) and all that follows in that subsection and inserting the following:

"(C) is a banned device under section 516; or

"(3) which, in the case of a tobacco product—

"(A) does not comply with an applicable requirement of section 907 or 910; or

"(B) under section 906(f) is exempt from either such section,

is adulterated, misbranded, and in violation of such sections or Act unless the export of the drug, device, or tobacco product is, except as provided in subsection (f), authorized under subsection (b), (c), (d), or (e) of this section or section 801(e)(2) or 801(e)(4). If a drug, device, or tobacco product described in paragraph (1), (2), or (3) may be exported under subsection (b) and if an application for such drug or device under section 505, 515, or 910 of this Act or section 351 of the Public Health Service Act (42 U.S.C. 262) was disapproved, the Secretary shall notify the appropriate public health official of the country to which such drug, device, or tobacco product will be exported of such disapproval.";

(4) by inserting "or tobacco product" in subsection (b)(1)(A) after "device" each time it appears;

(5) by inserting "or tobacco product" in subsection (c) after "device" and inserting "or section 906(f)" after "520(g).";

(6) by inserting "or tobacco product" in subsection (f) after "device" each time it appears; and

(7) by inserting "or tobacco product" in subsection (g) after "device" each time it appears.

(l) SECTION 1003.—Section 1003(d)(2)(C) (as redesignated by section 101(a)) is amended—

(1) by striking "and" after "cosmetics,"; and

(2) inserting a comma and "and tobacco products" after "devices".

(m) EFFECTIVE DATE FOR NO-TOBACCO-SALE ORDER AMENDMENTS.—The amendments made by subsection (c), other than the amendment made by paragraph (2) thereof, shall take effect only upon the promulgation of final regulations by the Secretary—

(1) defining the term "repeated violation", as used in section 303(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333(f)) as amended by subsection (c), by identifying the number of violations of particular requirements over a specified period of time that constitute a repeated violation;

(2) providing for notice to the retailer of each violation at a particular retail outlet;

(3) providing that a person may not be charged with a violation at a particular retail outlet unless the Secretary has provided notice to the retailer of all previous violations at that outlet;

(4) establishing a period of time during which, if there are no violations by a particular retail outlet, that outlet will not considered to have been the site of repeated violations when the next violation occurs; and

(5) providing that good faith reliance on false identification does not constitute a violation of any minimum age requirement for the sale of tobacco products.

SEC. 103. CONSTRUCTION OF CURRENT REGULATIONS.

(a) IN GENERAL.—The final regulations promulgated by the Secretary in the August 28, 1996, issue of the Federal Register (62 Red. Reg. 44615-44618) and codified at part 897 of title 21, Code of Federal Regulations, are hereby deemed to be lawful and to have been lawfully promulgated by the Secretary under chapter IX and section 701 of the Federal Food, Drug, and Cosmetic Act, as amended by this Act, and not under chapter V of the Federal Food, Drug, and Cosmetic Act. The provisions of part 897 that are not in effect on the date of enactment of this Act shall take effect as in such part or upon such later date as determined by the Secretary by order. The Secretary shall amend the designation of authority in such regulations in accordance with this subsection.

(b) LIMITATION ON ADVISORY OPINIONS.—As of the date of enactment of this Act, the following documents issued by the Food and Drug Administration shall not constitute advisory opinions under section 10.85(d)(1) of title 21, Code of Federal Regulations, except as they apply to tobacco products, and shall not be cited by the Secretary or the Food and Drug Administration as binding precedent.

(1) The preamble to the proposed rule in the document entitled "Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco Products to Protect Children and Adolescents" (60 Fed. Reg. 41314-41372 (August 11, 1995)).

(2) The document entitled "Nicotine in Cigarettes and Smokeless Tobacco Products is a Drug and These Products Are Nicotine Delivery Devices Under the Federal Food, Drug, and Cosmetic Act;; (60 Fed. Reg. 41453-41787 (August 11, 1995)).

(3) The preamble to the final rule in the document entitled "Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco to Protect Children and Adolescents" (61 Fed. Reg. 44396-44615 (August 28, 1996)).

(4) The document entitled "Nicotine in Cigarettes and Smokeless Tobacco is a Drug and These Products are Nicotine Delivery Devices Under the Federal Food, Drug, and Cosmetic Act; Jurisdictional Determination;; (61 Fed. Reg. 44619-45318 (August 28, 1996)).

TITLE II—REDUCTIONS IN UNDERAGE TOBACCO USE

Subtitle A—Underage Use

SEC. 201. FINDINGS.

The Congress finds the following:

(1) Reductions in the underage use of tobacco products are critically important to the public health.

(2) Achieving this critical public health goal can be substantially furthered by increasing the price of tobacco products to discourage underage use if reduction targets are not achieved and by creating financial incentives for manufacturers to discourage youth from using their tobacco products.

(3) When reduction targets in underage use are not achieved on an industry-wide basis, the price increases that will result from an industry-wide assessment will provide an additional deterrence to youth tobacco use.

(4) Manufacturer-specific incentives that will be imposed if reduction targets are not met by a manufacturer provide a strong incentive for each manufacturer to make all efforts to discourage youth use of its brands and ensure the effectiveness of the industry-wide assessments.

SEC. 202. PURPOSE.

This title is intended to ensure that, in the event that other measures contained in this Act prove to be inadequate to produce substantial reductions in tobacco use by minors, tobacco companies will pay additional assessments. These additional assessments are designed to lower youth tobacco consumption in a variety of ways: by triggering further increases in the price of tobacco products, by encouraging tobacco companies to work to meet statutory targets for reductions in youth tobacco consumption, and providing support for further reduction efforts.

SEC. 203. GOALS FOR REDUCING UNDERAGE TOBACCO USE.

(a) GOALS.—As part of a comprehensive national tobacco control policy, the Secretary, working in cooperation with State, Tribal, and local governments and the private sector, shall take all actions under this Act necessary to ensure that the required percentage reductions in underage use of tobacco products set forth in this title are achieved.

(b) REQUIRED REDUCTIONS FOR CIGARETTES.—With respect to cigarettes, the required percentage reduction in underage use, as set forth in section 204, means—

Calendar Year After Date of Enactment	Required Percentage Reduction as a Percentage of Base Incidence Percentage in Underage Cigarette Use
Years 3 and 4	15 percent
Years 5 and 6	30 percent
Years 7, 8, and 9	50 percent
Year 10 and thereafter	60 percent

(c) REQUIRED REDUCTIONS FOR SMOKELESS TOBACCO.—With respect to smokeless tobacco products, the required percentage reduction in underage use, as set forth in section 204, means—

Calendar Year After Date of Enactment	Required Percentage Reduction as a Percentage of Base Incidence Percentage in Underage Smokeless Tobacco Use
Years 3 and 4	12.5 percent
Years 5 and 6	25 percent
Years 7, 8, and 9	35 percent
Year 10 and thereafter	45 percent

SEC. 204. LOOK-BACK ASSESSMENT.

(a) ANNUAL PERFORMANCE SURVEY.—Beginning no later than 1999 and annually thereafter the Secretary shall conduct a survey,

in accordance with the methodology in subsection (d)(1), to determine—

(1) the percentage of all young individuals who used a type of tobacco product within the past 30 days; and

(2) the percentage of young individuals who identify each brand of each type of tobacco product as the usual brand of that type smoked or used within the past 30 days.

(b) ANNUAL DETERMINATION.—The Secretary shall make an annual determination, based on the annual performance survey conducted under subsection (a), of whether the required percentage reductions in underage use of tobacco products for a year have been achieved for the year involved. The determination shall be based on the annual percent prevalence of the use of tobacco products, for the industry as a whole and of particular manufacturers, by young individuals (as determined by the surveys conducted by the Secretary) for the year involved as compared to the base incidence percentages.

(c) CONFIDENTIALITY OF DATA.—The Secretary may conduct a survey relating to tobacco use involving minors. If the information collected in the course of conducting the annual performance survey results in the individual supplying the information or described in it to be identifiable, the information may not be used for any purpose other than the purpose for which it was supplied unless that individual (or that individual's guardian) consents to its use for such other purpose. The information may not be published or released in any other form if the individual supplying the information or described in it is identifiable unless that individual (or that individual's guardian) consents to its publication or release in other form.

(d) METHODOLGY.—

(1) IN GENERAL.—The survey required by subsection (a) shall—

(A) be based on a nationally representative sample of young individuals;

(B) be a household-based, in person survey (which may include computer-assisted technology);

(C) measure use of each type of tobacco product within the past 30 days;

(D) identify the usual brand of each type of tobacco product used within the past 30 days; and

(E) permit the calculation of the actual percentage reductions in underage use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of tobacco product of a manufacturer) based on the point estimates of the percentage of young individuals reporting use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of tobacco product of a manufacturer) from the annual performance survey.

(2) CRITERIA FOR DEEMING POINT ESTIMATES CORRECT.—Point estimates under paragraph (1)(E) are deemed conclusively to be correct and accurate for calculating actual percentage reductions in underage use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of tobacco product of a particular manufacturer) for the purpose of measuring compliance with percent reduction targets and calculating surcharges provided that the precision of estimates (based on sampling error) of the percentage of young individuals reporting use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of tobacco product of a manufacturer) is such that the 95-percent confidence interval around such point estimates is no more than plus or minus 1 percent.

(3) SURVEY DEEMED CORRECT, PROPER, AND ACCURATE.—A survey using the methodology required by this subsection is deemed conclusively to be proper, correct, and accurate for purposes of this Act.

(4) SECRETARY MAY ADOPT DIFFERENT METHODOLOGY.—The Secretary by notice and comment rulemaking may adopt a survey methodology that is different than the methodology described in paragraph (1) if the different methodology is at least as statistically precise as that methodology.

(e) INDUSTRY-WIDE NON-ATTAINMENT SURCHARGES.—

(1) SECRETARY TO DETERMINE INDUSTRY-WIDE NON-ATTAINMENT PERCENTAGE.—The Secretary shall determine the industry-wide non-attainment percentage for cigarettes and for smokeless tobacco for each calendar year.

(2) NON-ATTAINMENT SURCHARGE FOR CIGARETTES.—For each calendar year in which the percentage reduction in underage use required by section 203b) is not attained, the Secretary shall assess a surcharge on cigarette manufacturers as follows:

If the non-attainment percentage is:	The surcharge is:
Not more than 5 percent	$80,000,000 multiplied by the non-attainment percentage
More than 5% but not more than 10%	$400,000,000, plus $160,000,000 multiplied by the non-attainment percentage in excess of 5% but not in excess of 10%
More than 10%	$1,200,000,000, plus $240,000,000 multiplied by the non-attainment percentage in excess of 10%
More than 21.6%	$4,000,000,000

(3) NON-ATTAINMENT SURCHARGE FOR SMOKELESS TOBACCO.—For each year in which the percentage reduction in underage use required by section 203c) is not attained, the Secretary shall assess a surcharge on smokeless tobacco product manufacturers as follows:

If the non-attainment percentage is:	The surcharge is:
Not more than 5 percent	$8,000,000 multiplied by the non-attainment percentage
More than 5% but not more than 10%	$40,000,000, plus $16,000,000 multiplied by the non-attainment percentage in excess of 5% but not in excess of 10%
More than 10%	$120,000,000, plus $24,000,000 multiplied by the non-attainment percentage in excess of 10%
More than 21.6%	$400,000,000

(4) STRICT LIABILITY; JOINT AND SEVERAL LIABILITY.—Liability for any surcharge imposed under subsection (e) shall be—

(A) strict liability; and

(B) joint and several liability—

(i) among all cigarette manufacturers for surcharges imposed under subsection (e)(2); and

(ii) among all smokeless tobacco manufacturers for surcharges imposed under subsection (e)(3).

(5) SURCHARGE LIABILITY AMONG MANUFACTURERS.—A tobacco product manufacturer shall be liable under this subsection to one or more other manufacturers if the plaintiff tobacco product manufacturer establishes by a preponderance of the evidence that the defendant tobacco product manufacturer, through its acts or omissions, was responsible for a disproportionate share of the non-attainment surcharge as compared to the responsibility of the plaintiff manufacturer.

(6) EXEMPTIONS FOR SMALL MANUFACTURERS.—

(A) ALLOCATION BY MARKET SHARE.—The Secretary shall make such allocations according to each manufacturer's share of the domestic cigarette or domestic smokeless tobacco market, as appropriate, in the year for which the surcharge is being assessed, based on actual Federal excise tax payments.

(B) EXEMPTION.—In any year in which a surcharge is being assessed, the Secretary shall exempt from payment any tobacco product manufacturer with less than 1 percent of the domestic market share for a specific category of tobacco product unless the Secretary finds that the manufacturer's products are used by underage individuals at a rate equal to or greater than the manufacturer's total market share for the type of tobacco product.

(f) MANUFACTURER-SPECIFIC SURCHARGES.—

(1) REQUIRED PERCENTAGE REDUCTIONS.—Each manufacturer which manufactured a brand or brands of tobacco product on or before the date of the enactment of this Act shall reduce the percentage of young individuals who use such manufacturer's brand or brands as their usual brand in accordance with the required percentage reductions described under subsections (b) (with respect to cigarettes) and (c) (with respect to smokeless tobacco).

(2) APPLICATION TO LESS POPULAR BRANDS.—Each manufacturer which manufactured a brand or brands of tobacco product on or before the date of the enactment of this Act for which the base incidence percentage is equal to or less than the *de minimis* level shall ensure that the percent prevalence of young individuals who use the manufacturer's tobacco products as their usual brand remains equal to or less than the *de minimis* level described in paragraph (4).

(3) NEW ENTRANTS.—Each manufacturer of a tobacco product which begins to manufacture a tobacco product after the date of the enactment of this Act shall ensure that the percent prevalence of young individuals who use the manufacturer's tobacco products as their usual brand is equal to or less than the *de minimis* level.

(4) DE MINIMIS LEVEL DEFINED.—The *de minimis* level is equal to 1 percent prevalence of the use of each manufacturer's brands of tobacco product by young individuals (as determined on the basis of the annual performance survey conducted by the Secretary) for a year.

(5) TARGET REDUCTION LEVELS.—

(A) EXISTING MANUFACTURERS.— For purposes of this section, the target reduction level for each type of tobacco product for a year for a manufacturer is the product of the required percentage reduction for a type of tobacco product for a year and the manufacturers base incidence percentage for such tobacco product.

(B) NEW MANUFACTURERS; MANUFACTURERS WITH LOW BASE INCIDENCE PERCENTAGES.—With respect to a manufacturer which begins to manufacture a tobacco product after the date of the enactment of this Act or a manufacturer for which the baseline level as measured by the annual performance survey is equal to or less than the *de minimis* level described in paragraph (4), the base incidence percentage is the *de minimis* level, and the required percentage reduction in underage use for a type of tobacco product with respect to a manufacturer for a year shall be deemed to be the number of percentage points necessary to reduce the actual percent prevalence of young individuals identifying a brand of such tobacco product of such manufacturer as the usual brand smoked or used for such year to the *de minimis* level.

(6) SURCHARGE AMOUNT.—

(A) IN GENERAL.—If the Secretary determines that the required percentage reduction in use of a type of tobacco product has not been achieved by such manufacturer for a year, the Secretary shall impose a surcharge on such manufacturer under this paragraph.

(B) AMOUNT.—The amount of the manufacturer-specific surcharge for a type of tobacco product for a year under this paragraph is $1,000, multiplied by the number of young individuals for which such firm is in noncompliance with respect to its target reduction level.

(C) DETERMINATION OF NUMBER OF YOUNG INDIVIDUALS.—For purposes of subparagraph (B) the number of young individuals for which a manufacturer is in noncompliance for a year shall be determined by the Secretary from the annual performance survey and shall be calculated based on the estimated total number of young individuals in such year and the actual percentage prevalence of young individuals identifying a brand of such tobacco product of such manufacturer as the usual brand smoked or used in such year as compared to such manufacturer's target reduction level for the year.

(7) DE MINIMIS RULE.—The Secretary may not impose a surcharge on a manufacturer for a type of tobacco product for a year if the Secretary determines that actual percent prevalence of young individuals identifying that manufacturer's brands of such tobacco product as the usual products smoked or used for such year is less than 1 percent.

(g) SURCHARGES TO BE ADJUSTED FOR INFLATION.—

(1) IN GENERAL.—Beginning with the fourth calendar year after the date of enactment of this Act, each dollar amount in the tables in subsections (e)(2), (e)(3), and (f)(6)(B) shall be increased by the inflation adjustment.

(2) INFLATION ADJUSTMENT.—For purposes of paragraph (1), the inflation adjustment for any calendar year is the percentage (if any) by which—

(A) the CPI for the preceding calendar year, exceeds

(B) the CPI for the calendar year 1998.

(3) CPI.—For purposes of paragraph (2), the CPI for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor.

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

(h) METHOD OF SURCHARGE ASSESSMENT.—The Secretary shall assess a surcharge for a specific calendar year on or before May 1 of the subsequent calendar year. Surcharge payments shall be paid on or before July 1 of the year in which they are assessed. The Secretary may establish, by regulation, interest at a rate up to 3 times the prevailing prime rate at the time the surcharge is assessed, and additional charges in an amount up to 3 times the surcharge, for late payment of the surcharge.

(i) BUSINESS EXPENSE DEDUCTION.—Any surcharge paid by a tobacco product manufacturer under this section shall not be deductible as an ordinary and necessary business expense or otherwise under the Internal Revenue Code of 1986.

(j) APPEAL RIGHTS.—The amount of any surcharge is committed to the sound discretion of the Secretary and shall be subject to judicial review by the United States Court of Appeals for the District of Columbia Circuit, based on the arbitrary and capricious standard of section 706(2)(A) of title 5, United States Code. Notwithstanding any other provisions of law, no court shall have authority to stay any surcharge payments due the Secretary under this Act pending judicial review.

(k) RESPONSIBILITY FOR AGENTS.—In any action brought under this subsection, a tobacco product manufacturer shall be held responsible for any act or omission of its attorneys, advertising agencies, or other agents that contributed to that manufacturer's responsibility for the surcharge assessed under this section.

SEC. 205. DEFINITIONS.

In this subtitle:

(1) BASE INCIDENCE PERCENTAGE.—The term "base incidence percentage" means, with respect to each type of tobacco product, the percentage of young individuals determined to have used such tobacco product in the first annual performance survey for 1999.

(2) MANUFACTURERS BASE INCIDENCE PERCENTAGE.—The term "manufacturers base incidence percentage" is, with respect to each type of tobacco product, the percentage of young individuals determined to have identified a brand of such tobacco product of such manufacturer as the usual brand smoked or used in the first annual performance survey for 1999.

(3) YOUNG INDIVIDUALS.—The term "young individuals" means individuals who are over 11 years of age and under 18 years of age.

(4) CIGARETTE MANUFACTURERS.—The term "cigarette manufacturers" means manufacturers of cigarettes sold in the United States.

(5) NON-ATTAINMENT PERCENTAGE FOR CIGARETTES.—The term "non-attainment percentage for cigarettes" means the number of percentage points yielded—

(A) for a calendar year in which the percent incidence of underage use of cigarettes is less than the base incidence percentage, by subtracting—

(i) the percentage by which the percent incidence of underage use of cigarettes in that year is less than the base incidence percentage, from

(ii) the required percentage reduction applicable in that year; and

(B) for a calendar year in which the percent incidence of underage use of cigarettes is greater than the base incidence percentage, adding—

(i) the percentage by which the percent incidence of underage use of cigarettes in that year is greater than the base incidence percentage; and

(ii) the required percentage reduction applicable in that year.

(6) NON-ATTAINMENT PERCENTAGE FOR SMOKELESS TOBACCO PRODUCTS.—The term "non-attainment percentage for smokeless tobacco products" means the number of percentage points yielded—

(A) for a calendar year in which the percent incidence of underage use of smokeless tobacco products is less than the base incidence percentage, by subtracting—

(i) the percentage by which the percent incidence of underage use of smokeless tobacco products in that year is less than the base incidence percentage, from

(ii) the required percentage reduction applicable in that year; and

(B) for a calendar year in which the percent incidence of underage use of smokeless tobacco products is greater than the base incidence percentage, by adding—

(i) the percentage by which the percent incidence of underage use of smokeless tobacco products in that year is greater than the base incidence percentage; and

(ii) the required percentage reduction applicable in that year.

(7) SMOKELESS TOBACCO PRODUCT MANUFACTURERS.—The term "smokeless tobacco product manufacturers" means manufacturers of smokeless tobacco products sold in the United States.

Subtitle B—State Retail Licensing and Enforcement Incentives

SEC. 231. STATE RETAIL LICENSING AND ENFORCEMENT BLOCK GRANTS.

(a) IN GENERAL.—The Secretary shall make State retail licensing and enforcement block grants in accordance with the provisions of this section. There are authorized to be appropriated to the Secretary from the National Tobacco Trust Fund $200,000,000 for each fiscal year to carry out the provisions of this section.

(b) REQUIREMENTS.—

(1) ESTABLISHMENT.—The Secretary shall provide a block grant, based on population, under this subtitle to each State that has in effect a law that—

(A) provides for the licensing of entities engaged in the sale or distribution of tobacco products directly to consumers;

(B) makes it illegal to sell or distribute tobacco products to individuals under 18 years of age; and

(C) meets the standards described in this section.

(2) STATE AGREEMENT REQUIRED.—In order to receive a block grant under this section, a State—

(A) shall enter into an agreement with the Secretary to assume responsibilities for the implementation and enforcement of a tobacco retailer licensing program;

(B) shall prohibit retailers from selling or otherwise distributing tobacco products to individuals under 18 years of age in accordance with the Youth Access Restrictions regulations promulgated by the Secretary (21 C.F.R. 897.14(a) and (b));

(C) shall make available to appropriate Federal agencies designated by the Secretary requested information concerning retail establishments involved in the sale or distribution of tobacco products to consumers; and

(D) shall establish to the satisfaction of the Secretary that it has a law or regulation that includes the following:

(i) LICENSURE; SOURCES; AND NOTICE.—A requirement for a State license for each retail establishment involved in the sale or distribution of tobacco products to consumers. A requirement that a retail establishment may purchase tobacco products only from Federally-licensed manufacturers, importers, or wholesalers. A program under which notice is provided to such establishments and their employees of all licensing requirements and responsibilities under State and Federal law relating to the retail distribution of tobacco products.

(ii) PENALTIES.—

(I) CRIMINAL.—Criminal penalties for the sale or distribution of tobacco products to a consumer without a license.

(II) CIVIL.—Civil penalties for the sale or distribution of tobacco products in violation of State law, including graduated fines and suspension or revocation of licenses for repeated violations.

(III) OTHER.—Other programs, including such measures as fines, suspension of driver's license privileges, or community service requirements, for underage youths who possess, purchase, or attempt to purchase tobacco products.

(iii) JUDICIAL REVIEW.—Judicial review procedures for an action of the State suspending, revoking, denying, or refusing to renew any license under its program.

(c) ENFORCEMENT.—

(1) UNDERTAKING.—Each State that receives a grant under this subtitle shall undertake to enforce compliance with its tobacco retailing licensing program in a manner that can reasonably be expected to reduce the sale and distribution of tobacco products to individuals under 18 years of age. If the Secretary determines that a State is not enforcing the law in accordance with such an undertaking, the Secretary may withhold a portion of any unobligated funds under this section otherwise payable to that State.

(2) ACTIVITIES AND REPORTS REGARDING ENFORCEMENT.—A State that receives a grant under this subtitle shall—

(A) conduct monthly random, unannounced inspections of sales or distribution outlets in the State to ensure compliance with a law prohibiting sales of tobacco products to individuals under 18 years of age;

(B) annually submit to the Secretary a report describing in detail—

(i) the activities carried out by the State to enforce underage access laws during the fiscal year;

(ii) the extent of success the State has achieved in reducing the availability of tobacco products to individuals under the age of 18 years;

(iii) how the inspections described in subparagraph (A) were conducted and the methods used to identify outlets, with appropriate protection for the confidentiality of information regarding the timing of inspections and other investigative techniques whose effectiveness depends on continued confidentiality; and

(iv) the identity of the single State agency designated by the Governor of the State to be responsible for the implementation of the requirements of this section.

(3) MINIMUM INSPECTION STANDARDS.—Inspections conducted by the State shall be conducted by the State in such a way as to ensure a scientifically sound estimate (with a 95 percent confidence interval that such estimates are accurate to within plus or minus 3 percentage points), using an accurate list of retail establishments throughout the State. Such inspections shall cover a range of outlets (not preselected on the basis of prior violations) to measure overall levels of compliance as well as to identify violations. The sample must reflect the distribution of the population under the age of 18 years throughout the State and the distribution of the outlets throughout the State accessible to youth. Except as provided in this paragraph, any reports required by this paragraph shall be made public. As used in this paragraph, the term "outlet" refers to any location that sells at retail or otherwise distributes tobacco products to consumers, including to locations that sell such products over-the-counter.

(d) NONCOMPLIANCE.—

(1) INSPECTIONS.—The Secretary shall withhold from any State that fails to meet the requirements of subsection (b) in any calendar year an amount equal to 5 percent of the amount otherwise payable under this subtitle to that State for the next fiscal year.

(2) COMPLIANCE RATE.—The Secretary shall withhold from any State that fails to demonstrate a compliance rate of—

(A) at least the annual compliance targets that were negotiated with the Secretary under section 1926 of the Public Health Service Act (42 U.S.C. 300x—26) as such section was in effect before its repeal by this Act through the third fiscal year after the date of enactment of this Act;

(B) at least 80 percent in the fourth fiscal year after such date;

(C) at least 85 percent in the fifth and sixth fiscal years after such date; and

(D) at least 90 percent in every fiscal year beginning with the seventh fiscal year after such date,

an amount equal to one percentage point for each percentage point by which the State failed to meet the percentage set forth in this subsection for that year from the amount otherwise payable under this subtitle for that fiscal year.

(e) RELEASE AND DISBURSEMENT.—

(1) Upon notice from the Secretary that an amount payable under this section has been ordered withheld under subsection (d), a State may petition the Secretary for a release and disbursement of up to 75 percent of the amount withheld, and shall give timely written notice of such petition to the attorney general of that State and to all tobacco product manufacturers.

(2) The agency shall conduct a hearing on such a petition, in which the attorney general of the State may participate and be heard.

(3) The burden shall be on the State to prove, by a preponderance of the evidence, that the release and disbursement should be made. The Secretary's decision on whether to grant such a release, and the amount of any such disbursement, shall be based on whether—

(A) the State presents scientifically sound survey data showing that the State is making significant progress toward reducing the use of tobacco products by individuals who have not attained the age of 18 years;

(B) the State presents scientifically-based data showing that it has progressively decreased the availability of tobacco products to such individuals;

(C) the State has acted in good faith and in full compliance with this Act, and any rules or regulations promulgated under this Act;

(D) the State provides evidence that it plans to improve enforcement of these laws in the next fiscal year; and

(E) any other relevant evidence.

(4) A State is entitled to interest on any withheld amount released at the average United States 52-Week Treasury Bill rate for the period between the withholding of the amount and its release.

(5) Any State attorney general or tobacco product manufacturer aggrieved by a final decision on a petition filed under this subsection may seek judicial review of such decision within 30 days in the United States Court of Appeals for the District of Columbia Circuit. Unless otherwise specified in this Act, judicial review under this section shall be governed by sections 701 through 706 of title 5, United States Code.

(6) No stay or other injunctive relief enjoining a reduction in a State's allotment pending appeal or otherwise may be granted by the Secretary or any court.

(f) NON-PARTICIPATING STATES LICENSING REQUIREMENTS.—For retailers in States which have not established a licensing program under subsection (a), the Secretary shall promulgate regulations establishing Federal retail licensing for retailers engaged in tobacco sales to consumers in those States. The Secretary may enter into agreements with States for the enforcement of those regulations. A State that enters into such an agreement shall receive a grant under this section to reimburse it for costs incurred in carrying out that agreement.

(g) DEFINITION.—For the purposes of this section, the term "first applicable fiscal year" means the first fiscal year beginning after the fiscal year in which funding is made available to the States under this section.

SEC. 232. BLOCK GRANTS FOR COMPLIANCE BONUSES.

(a) IN GENERAL.—The Secretary shall make block grants to States determined to be eligible under subsection (b) in accordance with the provisions of this section. There are authorized to be appropriated to the Secretary from the National Tobacco Trust Fund $100,000,000 for each fiscal year to carry out the provisions of this section.

(b) ELIGIBLE STATES.—To be eligible to receive a grant under subsection (a), a State shall—

(1) prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require; and

(2) with respect to the year involved, demonstrate to the satisfaction of the Secretary that fewer than 5 percent of all individuals under 18 years of age who attempt to purchase tobacco products in the State in such year are successful in such purchase.

(c) PAYOUT.—

(1) PAYMENT TO STATE.—If one or more States are eligible to receive a grant under this section for any fiscal year, the amount payable for that fiscal year shall be apportioned among such eligible States on the basis of population.

(2) YEAR IN WHICH NO STATE RECEIVES GRANT.—If in any fiscal year no State is eligible to receive a grant under this section, then the Secretary may use not more than 25 percent of the amount appropriated to carry out this section for that fiscal year to support efforts to improve State and local enforcement of laws regulating the use, sale, and distribution of tobacco products to individuals under the age of 18 years.

(3) AMOUNTS AVAILABLE WITHOUT FISCAL YEAR LIMITATION.—Any amount appropriated under this section remaining unexpended and unobligated at the end of a fiscal year shall remain available for obligation and expenditure in the following fiscal year.

SEC. 233. CONFORMING CHANGE.

Section 1926 of the Public Health Service Act (42 U.S.C. 300x—26) is hereby repealed.

Subtitle C—Tobacco Use Prevention and Cessation Initiatives

SEC. 261. TOBACCO USE PREVENTION AND CESSATION INITIATIVES.

Title XIX of the Public Health Service Act (42 U.S.C. 300w et seq.) is amended by adding at the end the following:

"PART D—TOBACCO USE PREVENTION AND CESSATION INITIATIVES

"SUBPART I—CESSATION AND COMMUNITY-BASED PREVENTION BLOCK GRANTS

"SEC. 1981. FUNDING FROM TOBACCO SETTLEMENT TRUST FUND.

"(a) IN GENERAL.—From amounts contained in the Public Health Allocation Account under section 451(b)(2)(A) and (C) of the National Tobacco Policy and Youth Smoking Reduction Act for a fiscal year, there are authorized to be appropriated (under subsection (d) of such section) to carry out this subpart—

(1) for cessation activities, the amounts appropriated under section 451(b)(2)(A); and

(2) for prevention and education activities, the amounts appropriated under section 451(b)(2)(C).

"(b) NATIONAL ACTIVITIES.—

"(1) Not more than 10 percent of the amount made available for any fiscal year under subsection (a) shall be made available to the Secretary to carry out activities under section 1981B and 1981D(d).

"(2) Not more than 10 percent of the amount available for any fiscal year under subsection (a)(1) shall be available to the Secretary to carry out activities under section 1981D(d).

"SEC. 1981A. ALLOTMENTS.

"(a) AMOUNT.—

"(1) IN GENERAL.—From the amount made available under section 1981 for any fiscal year the Secretary, acting through the Director of the Centers for Disease Control and Prevention (referred to in this subpart as the 'Director'), shall allot to each State an amount based on a formula to be developed by the Secretary that is based on the tobacco prevention and cessation needs of each State including the needs of the State's minority populations.

"(2) MINIMUM AMOUNT.—In determining the amount of allotments under paragraph (1), the Secretary shall ensure that no State receives less than ½ of 1 percent of the amount available under section 1981(a) for the fiscal year involved.

"(b) REALLOTMENT.—To the extent that amounts made available under section 1981 for a fiscal year are not otherwise allotted to States because—

"(1) 1 or more States have not submitted an application or description of activities in accordance with section 1981D for the fiscal year;

"(2) 1 or more States have notified the Secretary that they do not intend to use the full amount of their allotment; or

"(3) the Secretary has determined that the State is not in compliance with this subpart, and therefore is subject to penalties under section 1981D(g);

such excess amount shall be reallotted among each of the remaining States in proportion to the amount otherwise allotted to such States for the fiscal year involved without regard to this subsection.

"(c) PAYMENTS.—

"(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall utilize the funds made available under this section to make payments to States under allotments under this subpart as provided for under section 203 of the Intergovernmental Cooperation Act of 1968.

"(2) FEDERAL GRANTEES.—From amounts available under section 1981(b)(2), the Secretary may make grants, or supplement existing grants, to entities eligible for funds under the programs described in section 1981C(d)(1) and (10) to enable such entities to carry out smoking cessation activities under this subpart, except not less than 25 percent of this amount shall be used for the program described in 1981C(d)(6).

"(3) AVAILABILITY OF FUNDS.—Any amount paid to a State for a fiscal year under this subpart and remaining unobligated at the end of such year shall remain available to such State for the next fiscal year for the purposes for which such payment was made.

"(d) REGULATIONS.—Not later than 9 months after the date of enactment of this part, the Secretary shall promulgate regulations to implement this subpart. This subpart shall take effect regardless of the date on which such regulations are promulgated.

"SEC. 1981B. TECHNICAL ASSISTANCE AND PROVISION OF SUPPLIES AND SERVICES IN LIEU OF FUNDS.

"(a) TECHNICAL ASSISTANCE.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall, without charge to a State receiving an allotment under section 1981A, provide to such State (or to any public or nonprofit private entity within the State) technical assistance and training with respect to the planning, development, operation, and evaluation of any program or service carried out pursuant to the program involved. The Secretary may provide such technical assistance or training directly, through contract, or through grants.

"(b) PROVISION OF SUPPLIES AND SERVICE IN LIEU OF GRANT FUNDS.—The Secretary, at the request of a State, may reduce the amount of payments to the State under section 1981A(c) by—

"(1) the fair market value of any supplies or equipment furnished by the Secretary to the State; and

"(2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Federal Government when detailed to the State and the amount of any other costs incurred in connection with the detail of such officer or employee;

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of the State and for the purpose of conducting activities described in section 1981C. The amount by which any payment is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment or in detailing the personnel, on which reduction of the payment is based, and the amount shall be deemed to be part of the payment and shall be deemed to have been paid to the State.

"SEC. 1981C. PERMITTED USERS OF CESSATION BLOCK GRANTS AND OF COMMUNITY-BASED PREVENTION BLOCK GRANTS.

"(a) TOBACCO USE CESSATION ACTIVITIES.—Except as provided in subsections (d) and (e), amounts described in subsection (a)(1) may be used for the following:

"(1) Evidence-based cessation activities described in the plan of the State, submitted in accordance with section 1981D, including—

"(A) evidence-based programs designed to assist individuals, especially young people and minorities who have been targeted by tobacco product manufacturers, to quit their use of tobacco products;

"(B) training in cessation intervention methods for health plans and health professionals, including physicians, nurses, dentists, health educators, public health professionals, and other health care providers;

"(C) programs to encourage health insurers and health plans to provide coverage for evidence-based tobacco use cessation interventions and therapies, except that the use of any funds under this clause to offset the cost of providing a smoking cessation benefit shall be on a temporary demonstration basis only;

"(D) culturally and linguistically appropriate programs targeted toward minority and low-income individuals, individuals residing in medically underserved areas, uninsured individuals, and pregnant women;

"(E) programs to encourage employer-based wellness programs to provide evidence-based tobacco use cessation intervention and therapies; and

"(F) programs that target populations whose smoking rate is disproportionately high in comparison to the smoking rate population-wide in the State.

"(2) Planning, administration, and educational activities related to the activities described in paragraph (1).

"(3) The monitoring and evaluation of activities carried out under paragraphs (1) and (2), and reporting and disseminating resulting information to health professionals and the public.

"(4) Targeted pilot programs with evaluation components to encourage innovation and experimentation with new methodologies.

"(b) STATE AND COMMUNITY ACTION ACTIVITIES.—Except as provided in subsections (d) and (e), amounts described in subsection (a)(2) may be used for the following:

"(1) Evidence-based activities for tobacco use prevention and control described in the plan of the State, submitted in accordance with section 1981D, including—

"(A) State and community initiatives;

"(B) community-based prevention programs, similar to programs currently funded by NIH;

"(C) programs focused on those populations within the community that are most at risk to use tobacco products or that have been targeted by tobacco advertising or marketing;

"(D) school programs to prevent and reduce tobacco use and addiction, including school programs focused in those regions of the State with high smoking rates and targeted at populations most at risk to start smoking;

"(E) culturally and linguistically appropriate initiatives targeted towards minority and low-income individuals, individuals residing in medically underserved areas, and women of child-bearing age;

"(F) the development and implementation of tobacco-related public health and health promotion campaigns and public policy initiatives;

"(G) assistance to local governmental entities within the State to conduct appropriate anti-tobacco activities.

"(H) strategies to ensure that the State's smoking prevention activities include minority, low-income, and other undeserved populations; and

"(I) programs that target populations whose smoking rate is disproportionately high in comparison to the smoking rate population-wide in the State.

"(2) Planning, administration, and educational activities related to the activities described in paragraph (1).

"(3) The monitoring and evaluation of activities carried out under paragraphs (1) and (2), and reporting and disseminating resulting information to health professionals and the public.

"(4) Targeted pilot programs with evaluation components to encourage innovation and experimentation with new methodologies.

"(c) COORDINATION.—Tobacco use cessation and community-based prevention activities permitted under subsections (b) and (c) may be conducted in conjunction with recipients of other Federally—funded programs within the State, including—

"(1) the special supplemental food program under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786);

"(2) the Maternal and Child Health Services Block Grant program under title V of the Social Security Act (42 U.S.C. 701 et seq.);

"(3) the State Children's Health Insurance Program of the State under title XXI of the

Social Security Act (42 U.S.C. 13397aa et seq.);

"(4) the school lunch program under the National School Lunch Act (42 U.S.C. 1751 et seq.);

"(5) an Indian Health Service Program;

"(6) the community, migrant, and homeless health centers program under section 330 of the Public Health Service Act (42 U.S.C. 254b);

"(7) state-initiated smoking cessation programs that include provisions for reimbursing individuals for medications or therapeutic techniques;

"(8) the substance abuse and mental health services block grant program, and the preventive health services block grant program, under title XIX of the Public Health Service Act (42 U.S.C. 300w et seq.);

"(9) the Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.); and

"(10) programs administered by the Department of Defense and the Department of Veterans Affairs.

"(d) LIMITATION.—A State may not use amounts paid to the State under section 1981A(c) to—

"(1) make cash payments except with appropriate documentation to intended recipients of tobacco use cessation services;

"(2) fund educational, recreational, or health activities not based on scientific evidence that the activity will prevent smoking or lead to success of cessation efforts

"(3) purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment;

"(4) satisfy any requirement for the expenditure of non-Federal funds as a condition of the receipt of Federal funds; or

"(5) provide financial assistance to any entity other than a public or nonprofit private entity or a private entity consistent with subsection (b)(1)(C).

This subsection shall not apply to the support of targeted pilot programs that use innovative and experimental new methodologies and include an evaluation component.

"(e) ADMINISTRATION.—Not more than 5 percent of the allotment of a State for a fiscal year under this subpart may be used by the State to administer the funds paid to the State under section 1981A(c). The State shall pay from non-Federal sources the remaining costs of administering such funds.

"SEC. 1981D. ADMINISTRATIVE PROVISIONS.

"(a) APPLICATION.—The Secretary may make payments under section 1981A(c) to a State for a fiscal year only if—

"(1) the State submits to the Secretary an application, in such form and by such date as the Secretary may require, for such payments;

"(2) the application contains a State plan prepared in a manner consistent with section 1905(b) and in accordance with tobacco-related guidelines promulgated by the Secretary;

"(3) the application contains a certification that is consistent with the certification required under section 1905(c); and

"(4) the application contains such assurances as the Secretary may require regarding the compliance of the State with the requirements of this subpart (including assurances regarding compliance with the agreements described in subsection (c)).

"(b) STATE PLAN.—A State plan under subsection (a)(2) shall be developed in a manner consistent with the plan developed under section 1905(b) except that such plan—

"(1) with respect to activities described in section 1981C(b)—

"(A) shall provide for tobacco use cessation intervention and treatment consistent with the tobacco use cessation guidelines issued by the Agency for Health Care Policy and Research, or another evidence-based guideline approved by the Secretary, or treatments using drugs, human biological products, or medical devices approved by the Food and Drug Administration, or otherwise legally marketed under the Federal Food, Drug and Cosmetic Act for use as tobacco use cessation therapies or aids;

"(B) may, to encourage innovation and experimentation with new methodologies, provide for or may include a targeted pilot program with an evaluation component;

"(C) shall provide for training in tobacco use cessation intervention methods for health plans and health professionals, including physicians, nurses, dentists, health educators, public health professionals, and other health care providers;

"(D) shall ensure access to tobacco use cessation programs for rural and underserved populations;

"(E) shall recognize that some individuals may require more than one attempt for successful cessation; and

"(F) shall be tailored to the needs of specific populations, including minority populations; and

"(2) with respect to State and community-based prevention activities described in section 1981C(c), shall specify the activities authorized under such section that the State intends to carry out.

"(c) CERTIFICATION.—The certification referred to in subsection (a)(3) shall be consistent with the certification required under section 1905(c), except that

"(1) the State shall agree to expend payments under section 1981A(c) only for the activities authorized in section 1981C;

"(2) paragraphs (9) and (10) of such section shall not apply; and

"(3) the State is encouraged to establish an advisory committee in accordance with section 1981E.

"(d) REPORTS, DATA, AND AUDITS.—The provisions of section 1906 shall apply with respect to a State that receives payments under section 1981A(c) and be applied in a manner consistent with the manner in which such provisions are applied to a State under part, except that the data sets referred to in section 1905(a)(2) shall be developed for uniformly defining levels of youth and adult use of tobacco products, including uniform data for racial and ethnic groups, for use in the reports required under this subpart.

"(e) WITHHOLDING.—The provisions of 1907 shall apply with respect to a State that receives payments under section 1981A(c) and be applied in a manner consistent with the manner in which such provisions are applied to a State under part A.

"(f) NONDISCRIMINATION.—The provisions of 1908 shall apply with respect to a State that receives payments under section 1981A(c) and be applied in a manner consistent with the manner in which such provisions are applied to a State under part A.

"(g) CRIMINAL PENALTIES.—The provisions of 1909 shall apply with respect to a State that receives payments under section 1981A(c) and be applied in a manner consistent with the manner in which such provisions are applied to a State under part A.

"SEC. 1981E. STATE ADVISORY COMMITTEE.

"(a) IN GENERAL.—For purposes of sections 1981D(c)(3), an advisory committee is in accordance with this section if such committee meets the conditions described in this subsection.

"(b) DUTIES.—The recommended duties of the committee are—

"(1) to hold public hearings on the State plans required under sections 1981D; and

"(2) to make recommendations under this subpart regarding the development and implementation of such plans, including recommendations on—

"(A) the conduct of assessments under the plans;

"(B) which of the activities authorized in section 1981C should be carried out in the State;

"(C) the allocation of payments made to the State under section 1981A(c);

"(D) the coordination of activities carried out under such plans with relevant programs of other entities; and

"(E) the collection and reporting of data in accordance with section 1981D.

"(c) COMPOSITION.—

"(1) IN GENERAL.—The recommended composition of the advisory committee is members of the general public, such officials of the health departments of political subdivisions of the State, public health professionals, teenagers, minorities, and such experts in tobacco product research as may be necessary to provide adequate representation of the general public and of such health departments, and that members of the committee shall be subject to the provisions of sections 201, 202, and 203 of title 18, United States Code.

"(2) REPRESENTATIVES.—With respect to compliance with paragraph (1), the membership of the advisory committee may include representatives of community-based organizations (including minority community-based organizations), schools of public health, and entities to which the State involved awards grants or contracts to carry out activities authorized under section 1981C.

"SUBPART II—TOBACCO-FREE COUNTER-ADVERTISING PROGRAMS

"SEC. 1982. FEDERAL-STATE COUNTER-ADVERTISING PROGRAMS.

"(a) NATIONAL CAMPAIGN.—

"(1) IN GENERAL.—The Secretary shall conduct a national campaign to reduce tobacco usage through media-based (such as counter-advertising campaigns) and nonmedia-based education, prevention and cessation campaigns designed to discourage the use of tobacco products by individuals, to encourage those who use such products to quit, and to educate the public about the hazards of exposure to environmental tobacco smoke.

"(2) REQUIREMENTS.—The national campaign under paragraph (1) shall—

"(A) target those populations that have been targeted by tobacco industry advertising using culturally and linguistically appropriate means;

"(B) include a research and evaluation component; and

"(C) be designed in a manner that permits the campaign to be modified for use at the State or local level.

"(b) ESTABLISHMENT OF AN ADVISORY BOARD.—

"(1) IN GENERAL.—The Secretary shall establish a board to be known as the 'National Tobacco Free Education Advisory Board' (referred to in this section as the 'Board') to evaluate and provide long range planning for the development and effective dissemination of public informational and educational campaigns and other activities that are part of the campaign under subsection (a).

"(2) COMPOSITION.—The Board shall be composed of—

"(A) 9 non-Federal members to be appointed by the President, after consultation and agreement with the Majority and Minority Leaders of the Senate and the Speaker and Minority Leader of the House of Representatives, of which—

"(i) at least 3 such members shall be individuals who are widely recognized by the general public for cultural, educational, behavioral science or medical achievement;

"(ii) at least 3 of whom shall be individuals who hold positions of leadership in major public health organizations, including minority public health organizations; and

"(iii) at least 3 of whom shall be individuals recognized as experts in the field of advertising and marketing, of which—

"(I) 1 member shall have specific expertise in advertising and marketing to children and teens; and

"(II) 1 member shall have expertise in marketing research and evaluation; and

"(B) the Surgeon General, the Director of the Centers for Disease Control and Prevention, or their designees, shall serve as an ex officio members of the Board.

"(3) TERMS AND VACANCIES.—The members of the Board shall serve for a term of 3 years. Such terms shall be staggered as determined appropriate at the time of appointment by the Secretary. Any vacancy in the Board shall not affect its powers, but shall be filled in the same manner as the original appointment.

"(4) TRAVEL EXPENSES.—The members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.

"(5) AWARDS.—In carrying out subsection (a), the Secretary may—

"(A) enter into contracts with or award grants to eligible entities to develop messages and campaigns designed to prevent and reduce the use of tobacco products that are based on effective strategies to affect behavioral changes in children and other targeted populations, including minority populations;

"(B) enter into contracts with or award grants to eligible entities to carry out public informational and educational activities designed to reduce the use of tobacco products;

"(6) POWERS AND DUTIES.—The Board may—

"(A) hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Board considers advisable to carry out the purposes of this section; and

"(B) secure directly from any Federal department or agency such information as the Board considers necessary to carry out the provisions of this section.

"(c) ELIGIBILITY.—To be eligible to receive funding under this section an entity shall—

"(1) be a—

"(A) public entity or a State health department; or

"(B) private or nonprofit private entity that—

"(i)(I) is not affiliated with a tobacco product manufacturer or importer;

"(II) has a demonstrated record of working effectively to reduce tobacco product use; or

"(III) has expertise in conducting a multimedia communications campaign; and

"(ii) has expertise in developing strategies that affect behavioral changes in children and other targeted populations, including minority populations;

"(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a description of the activities to be conducted using amounts received under the grant or contract;

"(3) provide assurances that amounts received under this section will be used in accordance with subsection (c); and

"(4) meet any other requirements determined appropriate by the Secretary.

"(d) USE OF FUNDS.—An entity that receives funds under this section shall use amounts provided under the grant or contract to conduct multi-media and non-media public educational, informational, marketing and promotional campaigns that are designed to discourage and de-glamorize the use of tobacco products, encourage those using such products to quit, and educate the public about the hazards of exposure to environmental tobacco smoke. Such amounts may be used to design and implement such activities and shall be used to conduct research concerning the effectiveness of such programs.

"(e) NEEDS OF CERTAIN POPULATIONS.—In awarding grants and contracts under this section, the Secretary shall take into consideration the needs of particular populations, including minority populations, and use methods that are culturally and linguistically appropriate.

"(f) COORDINATION.—The Secretary shall ensure that programs and activities under this section are coordinated with programs and activities carried out under this title.

"(g) ALLOCATION OF FUNDS.—Not to exceed—

"(1) 25 percent of the amount made available under subsection (h) for each fiscal year shall be provided to States for State and local media-based and nonmedia-based education, prevention and cessation campaigns;

"(2) no more than 20 percent of the amount made available under subsection (h) for each fiscal year shall be used specifically for the development of new messages and campaigns;

"(3) the remainder shall be used specifically to place media messages and carry out other dissemination activities described in subsection (d); and

"(4) half of 1 percent for administrative costs and expenses.

"(h) TRIGGER.—No expenditures shall be made under this section during any fiscal year in which the annual amount appropriated for the Centers for Disease Control and Prevention is less than the amount so appropriated for the prior fiscal year.".

"PART E—REDUCING YOUTH SMOKING AND TOBACCO-RELATED DISEASES THROUGH RESEARCH

"SEC. 1991. FUNDING FROM TOBACCO SETTLEMENT TRUST FUND.

No expenditures shall be made under sections 451(b) or (c)—

"(1) for the National Institutes of Health during any fiscal year in which the annual amount appropriated for such Institutes is less than the amount so appropriated for the prior fiscal year;

"(2) for the Centers for Disease Control and Prevention during any fiscal year in which the annual amount appropriated for such Centers is less than the amount so appropriated for the prior fiscal year; or

"(3) for the Agency for Health Care Policy and Research during any fiscal year in which the annual amount appropriated for such Agency is less than the amount so appropriated for the prior fiscal year.

"SEC. 1991A. STUDY BY THE INSTITUTE OF MEDICINE.

"(a) CONTRACT.—Not later than 60 days after the date of enactment of this title, the Secretary shall enter into a contract with the Institute of Medicine for the conduct of a study on the framework for a research agenda and research priorities to be used under this part.

"(b) CONSIDERATIONS.—

"(1) IN GENERAL.—In developing the framework for the research agenda and research priorities under subsection (a) the Institute of Medicine shall focus on increasing knowledge concerning the biological, social, behavioral, public health, and community factors involved in the prevention of tobacco use, reduction of tobacco use, and health consequences of tobacco use.

"(2) SPECIFIC CONSIDERATIONS.—In the study conducted under subsection (a), the Institute of Medicine shall specifically include research on—

"(A) public health and community research relating to tobacco use prevention methods, including public education, media, community strategies;

"(B) behavioral research relating to addiction, tobacco use, and patterns of smoking, including risk factors for tobacco use by children, women, and racial and ethnic minorities;

"(C) health services research relating to tobacco product prevention and cessation treatment methodologies;

"(D) surveillance and epidemiology research relating to tobacco;

"(E) biomedical, including clinical, research relating to prevention and treatment of tobacco-related diseases, including a focus on minorities, including racial and ethnic minorities;

"(F) the effects of tobacco products, ingredients of tobacco products, and tobacco smoke on the human body and methods of reducing any negative effects, including the development of non-addictive, reduced risk tobacco products;

"(G) differentials between brands of tobacco products with respect to health effects or addiction;

"(H) risks associated with environmental exposure to tobacco smoke, including a focus on children and infants;

"(I) effects of tobacco use by pregnant women; and

"(J) other matters determined appropriate by the Institute.

"(c) REPORT.—Not later than 10 months after the date on which the Secretary enters into the contract under subsection (a), the Institute of Medicine shall prepare and submit to the Secretary, the Committee on Labor and Human Resources, and the Committee on Appropriations of the Senate, and the Committee on Commerce of the House of Representatives, a report that shall contain the findings and recommendations of the Institute for the purposes described in subsection (b).

"SEC. 1991B. RESEARCH COORDINATION.

"(a) IN GENERAL.—The Secretary shall foster coordination among Federal research agencies, public health agencies, academic bodies, and community groups that conduct or support tobacco-related biomedical, clinical, behavioral, health services, public health and community, and surveillance and epidemiology research activities.

"(b) REPORT.—The Secretary shall prepare and submit a report on a biennial basis to the Committee on Labor and Human Resources, and the Committee on Appropriations of the Senate, and the Committee on

Commerce of the House of Representatives on the current and planned tobacco-related research activities of participating Federal agencies.

"SEC. 1991C. RESEARCH ACTIVITIES OF THE CENTERS FOR DISEASE CONTROL AND PREVENTION.

"(a) DUTIES.—The Director of the Centers for Disease Control and Prevention shall, from amounts provided under section 451(c), and after review of the study of the Institute of Medicine, carry out tobacco-related surveillance and epidemiologic studies and develop tobacco control and prevention strategies; and

"(b) YOUTH SURVEILLANCE SYSTEMS.—From amounts provided under section 451(b), the Director of the Centers for Disease Control and Prevention shall provide for the use of youth surveillance systems to monitor the use of all tobacco products by individuals under the age of 18, including brands-used to enable determinations to be made of company-specific youth market share.

"SEC. 1991D. RESEARCH ACTIVITIES OF THE NATIONAL INSTITUTES OF HEALTH.

"(a) FUNDING.—There are authorized to be appropriated, from amounts in the National Tobacco Settlement Trust Fund established by section 401 of the National Tobacco Policy and Youth Smoking Reduction Act.

"(b) EXPENDITURE OF FUNDS.—The Director of the National Institutes of Health shall provide funds to conduct or support epidemiological, behavioral, biomedical, and social science research, including research related to the prevention and treatment of tobacco addiction, and the prevention and treatment of diseases associated with tobacco use.

"(c) GUARANTEED MINIMUM.—Of the funds made available to the National Institutes of Health under this section, such sums as may be necessary, may be used to support epidemiological, behavioral, and social science research related to the prevention and treatment of tobacco addiction.

"(d) NATURE OF RESEARCH.—Funds made available under subsection (d) may be used to conduct or support research with respect to one or more of the following—

"(1) the epidemiology of tobacco use;

"(2) the etiology of tobacco use;

"(3) risk factors for tobacco use by children;

"(4) prevention of tobacco use by children, including school and community-based programs, and alternative activities;

"(5) the relationship between tobacco use, alcohol abuse and illicit drug abuse;

"(6) behavioral and pharmacological smoking cessation methods and technologies, including relapse prevention;

"(7) the toxicity of tobacco products and their ingredients;

"(8) the relative harmfulness of different tobacco products;

"(9) environmental exposure to tobacco smoke;

"(10) the impact of tobacco use by pregnant women on their fetuses;

"(11) the redesign of tobacco products to reduce risks to public health and safety; and

"(12) other appropriate epidemiological, behavioral, and social science research.

"(e) COORDINATION.—In carrying out tobacco-related research under this section, the Director of the National Institutes of Health shall ensure appropriate coordination with the research of other agencies, and shall avoid duplicative efforts through all appropriate means.

"(h) ADMINISTRATION.—The director of the NIH Office of Behavioral and Social Sciences Research may—

"(1) identify tobacco-related research initiatives that should be conducted or supported by the research institutes, and develop such projects in cooperation with such institutes;

"(2) coordinate tobacco-related research that is conducted or supported by the National Institutes of Health;

"(3) annually recommend to Congress the allocation of anti-tobacco research funds among the national research institutes; and

"(4) establish a clearinghouse for information about tobacco-related research conducted by governmental and non-governmental bodies.

"(f) TRIGGER.—No expenditure shall be made under subsection (a) during any fiscal year in which the annual amount appropriated for the National Institutes of Health is less than the amount so appropriated for the prior fiscal year.

"(g) REPORT.—The Director of the NIH shall every 2 years prepare and submit to the Congress a report ——— research activities, including funding levels, for research made available under subsection (c).

(b) MEDICAID COVERAGE OF OUTPATIENT SMOKING CESSATION AGENTS.—Paragraph (2) of section 1927(d) of the Public Health Service Act (42 U.S.C. 1396r-8(d)) is amended—

(1) by striking subparagraph (E) and redesignating subparagraphs (F) through (J) as subparagraphs (E) through (I); and

(2) by striking "drugs." in subparagraph (F), as redesignated, and inserting "drugs, except agents, approved by the Food and Drug Administration, when used to promote smoking cessation.".

"SEC. 1991E. RESEARCH ACTIVITIES OF THE AGENCY FOR HEALTH CARE POLICY AND RESEARCH.

"(a) IN GENERAL.—The Administrator of the Agency for Health Care Policy and Research shall carry out outcomes, effectiveness, cost-effectiveness, and other health services research related to effective interventions for the prevention and cessation of tobacco use and appropriate strategies for implementing those services, the outcomes and delivery of care for diseases related to tobacco use, and the development of quality measures for evaluating the provision of those services.

"(b) ANALYSES AND SPECIAL PROGRAMS.—The Secretary, acting through the Administrator of the Agency for Health Care Policy and Research, shall support—

"(1) and conduct periodic analyses and evaluations of the best scientific information in the area of smoking and other tobacco product use cessation; and

"(2) the development and dissemination of special programs in cessation intervention for health plans and national health professional societies.".

TITLE III—TOBACCO PRODUCT WARNINGS AND SMOKE CONSTITUENT DISCLOSURE

Subtitle A—Product Warnings, Labeling and Packaging

SEC. 301. CIGARETTE LABEL AND ADVERTISING WARNINGS.

(a) IN GENERAL.—Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333) is amended to read as follows:

"SEC. 4. LABELING.

"(a) LABEL REQUIREMENTS.—

"(1) IN GENERAL.—It shall be unlawful for any person to manufacture, package, or import for sale or distribution within the United States any cigarettes the package of which fails to bear, in accordance with the requirements of this section, one of the following labels:

"WARNING: Cigarettes are addictive"

"WARNING: Tobacco smoke can harm your children"

"WARNING: Cigarettes cause fatal lung disease"

"WARNING: Cigarettes cause cancer"

"WARNING: Cigarettes cause strokes and heart disease"

"WARNING: Smoking during pregnancy can harm your baby"

"WARNING: Smoking can kill you"

"WARNING: Tobacco smoke causes fatal lung disease in non-smokers"

"WARNING: Quitting smoking now greatly reduces serious risks to your health"

"(2) PLACEMENT; TYPOGRAPHY; ETC..—

"(A) IN GENERAL.—Each label statement required by paragraph (1) shall be located in the upper portion of the front and rear panels of the package, directly on the package underneath the cellophane or other clear wrapping. Except as provided in subparagraph (B), each label statement shall comprise at least the top 25 percent of the front and rear panels of the package. The word "WARNING" shall appear in capital letters and all text shall be in conspicuous and legible 17-point type, unless the text of the label statement would occupy more than 70 percent of such area, in which case the text may be in a smaller conspicuous and legible type size, provided that at least 60 percent of such area is occupied by required text. The text shall be black on a white background, or white on a black background, in a manner that contrasts, by typography, layout, or color, with all other printed material on the package, in an alternating fashion under the plan submitted under subsection (b)(4).

"(B) FLIP-TOP BOXES.—For any cigarette brand package manufactured or distributed before January 1, 2000, which employs a flip-top style (if such packaging was used for that brand in commerce prior to June 21, 1997), the label statement required by paragraph (1) shall be located on the flip-top area of the package, even if such area is less than 25 percent of the area of the front panel. Except as provided in this paragraph, the provisions of this subsection shall apply to such packages.

"(3) DOES NOT APPLY TO FOREIGN DISTRIBUTION.—The provisions of this subsection do not apply to a tobacco product manufacturer or distributor of cigarettes which does not manufacture, package, or import cigarettes for sale or distribution within the United States.

"(b) ADVERTISING REQUIREMENTS.—

"(1) IN GENERAL.—It shall be unlawful for any tobacco product manufacturer, importer, distributor, or retailer of cigarettes to advertise or cause to be advertised within the United States any cigarette unless its advertising bears, in accordance with the requirements of this section, one of the labels specified in subsection (a) of this section.

"(2) TYPOGRAPHY, ETC..—Each label statement required by subsection (a) of this section in cigarette advertising shall comply with the standards set forth in this paragraph. For press and poster advertisements, each such statement and (where applicable) any required statement relating to tar, nicotine, or other constituent yield shall comprise at least 20 percent of the area of the advertisement and shall appear in a conspicuous and prominent format and location at the top of each advertisement within the trim area. The Secretary may revise the required type sizes in such area in such manner as the Secretary determines appropriate. The word "WARNING" shall appear in capital letters, and each label statement shall

appear in conspicuous and legible type. The text of the label statement shall be black if the background is white and white if the background is black, under the plan submitted under paragraph (4) of this subsection. The label statements shall be enclosed by a rectangular border that is the same color as the letters of the statements and that is the width of the first downstroke of the capital "W" of the word "WARNING" in the label statements. The text of such label statements shall be in a typeface pro rata to the following requirements: 45-point type for a whole-page broadsheet newspaper advertisement; 39-point type for a half-page broadsheet newspaper advertisement; 39-point type for a whole-page tabloid newspaper advertisement; 27-point type for a half-page tabloid newspaper advertisement; 31.5-point type for a double page spread magazine or whole-page magazine advertisement; 22.5-point type for a 28 centimeter by 3 column advertisement; and 15-point type for a 20 centimeter by 2 column advertisement. The label statements shall be in English, except that in the case of—

"(A) an advertisement that appears in a newspaper, magazine, periodical, or other publication that is not in English, the statements shall appear in the predominant language of the publication; and

"(B) in the case of any other advertisement that is not in English, the statements shall appear in the same language as that principally used in the advertisement.

"(3) ADJUSTMENT BY SECRETARY.—The Secretary may, through a rulemaking under section 553 of title 5, United States Code, adjust the format and type sizes for the label statements required by this section or the text, format, and type sizes of any required tar, nicotine yield, or other constituent disclosures, or to establish the text, format, and type sizes for any other disclosures required under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et. seq.). The text of any such label statements or disclosures shall be required to appear only within the 20 percent area of cigarette advertisements provided by paragraph (2) of this subsection. The Secretary shall promulgate regulations which provide for adjustments in the format and type sizes of any text required to appear in such area to ensure that the total text required to appear by law will fit within such area.

"(4) MARKETING REQUIREMENTS.—

"(A) The label statements specified in subsection (a)(1) shall be randomly displayed in each 12-month period, in as equal a number of times as is possible on each brand of the product and be randomly distributed in all areas of the United States in which the product is marketed in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer and approved by the Secretary.

"(B) The label statements specified in subsection (a)(1) shall be rotated quarterly in alternating sequence in advertisements for each brand of cigarettes in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer to, and approved by, the Secretary.

"(C) The Secretary shall review each plan submitted under subparagraph (B) and approve it if the plan—

"(i) will provide for the equal distribution and display on packaging and the rotation required in advertising under this subsection; and

"(ii) assures that all of the labels required under this section will be displayed by the tobacco product manufacturer, importer, distributor, or retailer at the same time.".

(b) REPEAL OF PROHIBITION ON STATE RESTRICTION.—Section 5 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1334) is amended—

(1) by striking "(a) ADDITIONAL STATEMENTS.—" IN SUBSECTION (A); AND

(2) by striking subsection (b).

SEC. 302. AUTHORITY TO REVISE CIGARETTE WARNING LABEL STATEMENTS.

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

"(c) CHANGE IN REQUIRED 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. 303. SMOKELESS TOBACCO LABELS AND ADVERTISING WARNINGS.

Section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402) is amended to read as follows:

"SEC. 3. SMOKELESS TOBACCO WARNING.

"(a) GENERAL RULE.—

"(1) It shall be unlawful for any person to manufacture, package, or import for sale or distribution within the United States any smokeless tobacco product unless the product package bears, in accordance with the requirements of this Act, one of the following labels:

"WARNING: This product can cause mouth cancer"

"WARNING: This product can cause gum disease and tooth loss"

"WARNING: This product is not a safe alternative to cigarettes"

"WARNING: Smokeless tobacco is addictive"

"(2) Each label statement required by paragraph (1) shall be—

"(A) located on the 2 principal display panels of the package, and each label statement shall comprise at least 25 percent of each such display panel; and

"(B) in 17-point conspicuous and legible type and in black text on a white background, or white text on a black background, in a manner that contrasts by typography, layout, or color, with all other printed material on the package, in an alternating fashion under the plan submitted under subsection (b)(3), except that if the text of a label statement would occupy more than 70 percent of the area specified by subparagraph (A), such text may appear in a smaller type size, so long as at least 60 percent of such warning area is occupied by the label statement.

"(3) The label statements required by paragraph (1) shall be introduced by each tobacco product manufacturer, packager, importer, distributor, or retailer of smokeless tobacco products concurrently into the distribution chain of such products.

"(4) The provisions of this subsection do not apply to a tobacco product manufacturer or distributor of any smokeless tobacco product that does not manufacture, package, or import smokeless tobacco products for sale or distribution within the United States.

"(b) REQUIRED LABELS.—

"(1) It shall be unlawful for any tobacco product manufacturer, packager, importer, distributor, or retailer of smokeless tobacco products to advertise or cause to be advertised within the United States any smokeless tobacco product unless its advertising bears, in accordance with the requirements of this section, one of the labels specified in subsection (a).

"(2) Each label statement required by subsection (a) in smokeless tobacco advertising shall comply with the standards set forth in this paragraph. For press and poster advertisements, each such statement and (where applicable) any required statement relating to tar, nicotine, or other constituent yield shall—

"(A) comprise at least 20 percent of the area of the advertisement, and the warning area shall be delineated by a dividing line of contrasting color from the advertisement; and

"(B) the word "WARNING" shall appear in capital letters and each label statement shall appear in conspicuous and legible type. The text of the label statement shall be black on a white background, or white on a black background, in an alternating fashion under the plan submitted under paragraph (3).

"(3)(A) The label statements specified in subsection (a)(1) shall be randomly displayed in each 12-month period, in as equal a number of times as is possible on each brand of the product and be randomly distributed in all areas of the United States in which the product is marketed in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer and approved by the Secretary.

"(B) The label statements specified in subsection (a)(1) shall be rotated quarterly in alternating sequence in advertisements for each brand of smokeless tobacco product in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer to, and approved by, the Secretary.

"(C) The Secretary shall review each plan submitted under subparagraph (B) and approve it if the plan—

"(i) will provide for the equal distribution and display on packaging and the rotation required in advertising under this subsection; and

"(ii) assures that all of the labels required under this section will be displayed by the 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 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 units 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 excees 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.

(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 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.

The 95-percent maintenance-of-effort requirement in paragraph (1), and the adjustments in paragraph (2), apply to each program identified in paragraph (1) on an individual basis.

(f) OPTIONS FOR CHILDREN'S HEALTH OUTREACH.—In addition to the options for the use of grants described in this section, the following are new options to be added to States' choices for conducting children's health outreach:

(1) EXPANSION OF PRESUMPTIVE ELIGIBILITY OPTION FOR CHILDREN.—

(A) IN GENERAL.—Section 1920A(b)(3)(A)(I) of the Social Security Act (42 U.S.C. 1396r-1a(b)(3)(A)(I)) is amended—

(i) by striking "described in subsection (a) or (II) is authorized" and inserting "described in subsection (a), (II) is authorized"; and

(ii) by inserting before the semicolon ", eligibility for benefits under part A of title IV, eligibility of a child to receive benefits under the State plan under this title or title XXI, (III) is a staff member of a public school, child care resource and referral center, or agency administering a plan under part D of title IV, or (IV) is so designated by the State".

(B) TECHNICAL AMENDMENTS.—Section 1920A of that Act (42 U.S.C. 1396r-1a) is amended—

(i) in subsection (b)(3)(A)(ii), by striking "paragraph (1)(A)" and inserting "paragraph (2)(A)"; and

(ii) in subsection (c)(2), in the matter preceding subparagraph (A), by striking "subsection (b)(1)(A)" and inserting "subsection (b)(2)(A)".

(2) REMOVAL OF REQUIREMENT THAT CHILDREN'S HEALTH INSURANCE PROGRAM ALLOTMENTS BE REDUCED BY COSTS RELATED TO PRESUMPTIVE ELIGIBILITY DETERMINATIONS.—

(A) IN GENERAL.—Section 2104(d) of the Social Security Act (42 U.S.C. 1397dd(d)) is amended by striking "the sum of—" and all that follows through the paragraph designation "(2)" and merging all that remains of subsection (d) into a single sentence.

(B) EFFECTIVE DATE.—The amendment made by subsection (a) shall be deemed to have taken effect on August 5, 1997.

(3) INCREASED FUNDING FOR ADMINISTRATIVE COSTS RELATED TO OUTREACH AND ELIGIBILITY DETERMINATIONS FOR CHILDREN.—Section 1931(h) of the Social Security Act (42 U.S.C. 1396u-1(h)) is amended—

(A) by striking the subsection caption and inserting "(h) INCREASED FEDERAL MATCHING RATE FOR ADMINISTRATIVE COSTS RELATED TO OUTREACH AND ELIGIBILITY DETERMINATIONS FOR CHILDREN.—";

(B) in paragraph (2), by striking "eligibility determinations" and all that follows and inserting "determinations of the eligibility of children for benefits under the State plan under this title or title XXI, outreach to children likely to be eligible for such benefits, and such other outreach- and eligibility-related activities as the Secretary may approve.";

(C) in paragraph (3), by striking "and ending with fiscal year 2000 shall not exceed $500,000,000" and inserting "shall not exceed $525,000,000"; and

(D) by striking paragraph (4).

(g) PERIODIC REASSESSMENT OF SPENDING OPTIONS.—Spending options under subsection (b)(2) will be reassessed jointly by the States and Federal government every 5 years and be reported to the Secretary.

SEC. 453. INDIAN HEALTH SERVICE.

Amounts available under section 451(b)(2)(B) shall be provided to the Indian Health Service to be used for anti-tobacco-related consumption and cessation activities including—

(1) clinic and facility design, construction, repair, renovation, maintenance and improvement;

(2) provider services and equipment;

(3) domestic and community sanitation associated with clinic and facility construction and improvement; and

(4) other programs and service provided through the Indian Health Service or through tribal contracts, compacts, grants, or cooperative agreements with the Indian Health Service and which are deemed appropriate to raising the health status of Indians.

SEC. 454. RESEARCH AT THE NATIONAL SCIENCE FOUNDATION.

Amounts available under section 451(c)(2)(C) shall be made available for necessary expenses in carry out the National Science Foundation Act of 1950 (U.S.C. 1861–1875), and the Act to establish a National Medal of Science (42 U.S.C. 1880–1881).

SEC. 455. MEDICARE CANCER PATIENT DEMONSTRATION PROJECT; EVALUATION AND REPORT TO CONGRESS.

(a) ESTABLISHMENT.—The Secretary shall establish a 3-year demonstration project which provides for payment under the Medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) of routine patient care costs—

(1) which are provided to an individual diagnosed with cancer and enrolled in the Medicare program under such title as part of the individual's participation in an approved clinical trial program; and

(2) which are not otherwise eligible for payment under such title for individuals who are entitled to benefits under such title.

(b) APPLICATION.—The beneficiary cost sharing provisions under the Medicare program, such as deductibles, coinsurance, and copayment amounts, shall apply to any individual in a demonstration project conducted under this section.

(c) APPROVED CLINICAL TRIAL PROGRAM.—

(1) IN GENERAL.—For purposes of this section, the term "approved clinical trial program" means a clinical trial program which is approved by—

(A) the National Institutes of Health;

(B) a National Institutes of Health cooperative group or a National Institutes of Health center; and

(C) the National Cancer Institute,

with respect to programs that oversee and coordinate extramural clinical cancer research, trials sponsored by such Institute and conducted at designated cancer centers, clinical trials, and Institute grants that support clinical investigators.

(2) MODIFICATIONS IN APPROVED TRIALS.—Beginning 1 year after the date of enactment of this Act, the Secretary, in consultation with the Cancer Policy Board of the Institute of Medicine, may modify or add to the requirements of paragraph (1) with respect to an approved clinical trial program.

(d) ROUTINE PATIENT CARE COSTS.—

(1) IN GENERAL.—For purposes of this section, the term "routine patient care costs" include the costs associated with the provision of items and services that—

(A) would otherwise be covered under the Medicare program if such items and services were not provided in connection with an approved clinical trial program; and

(B) are furnished according to the design of an approved clinical trial program.

(2) EXCLUSION.—For purposes of this section, the term "routine patient care costs" does not include the costs associated with the provision of—

(A) an investigational drug or device, unless the Secretary has authorized the manufacturer of such drug or device to charge for such drug or device; or

(B) any item or service supplied without charge by the sponsor of the approved clinical trial program.

(e) STUDY.—The Secretary shall study the impact on the Medicare program under title XVIII of the Social Security Act of covering routine patient care costs for individuals with a diagnosis of cancer and other diagnoses, who are entitled to benefits under such title and who are enrolled in an approved clinical trial program.

(f) REPORT TO CONGRESS.—Not later than 30 months after the date of enactment of this Act, the Secretary shall submit a report to Congress that contains a detailed description of the results of the study conducted under subsection (e) including recommendations regarding the extension and expansion of the demonstration project conducted under this section.

TITLE V—STANDARDS TO REDUCE INVOLUNTARY EXPOSURE TO TOBACCO SMOKE

SEC. 501. DEFINITIONS.

In this title:

(1) ASSISTANT SECRETARY.—The term "Assistant Secretary" means the Assistant Secretary of the Occupational Safety and Health Administration of the Department of Labor.

(2) PUBLIC FACILITY.—

(A) IN GENERAL.—The term "public facility" means any building used for purposes that affect interstate or foreign commerce that is regularly entered by 10 or more individuals at least 1 day per week including any building owned by or leased to an agency, independent establishment, department, or the executive, legislative, or judicial branch of the United States Government.

(B) EXCLUSIONS.—The term "public facility" does not include a building or portion thereof which is used for residential purposes or as a restaurant (other than a fast food restaurant), bar, private club, hotel guest room or common area, casino, bingo parlor, tobacconist's shop, or prison.

(C) FAST FOOD RESTAURANT DEFINED.—The term "fast food restaurant" means any restaurant or chain of restaurants that primarily distributes food through a customer pick-up (either at a counter or drive-through window). The Assistant Secretary may promulgate regulations to clarify this subparagraph to ensure that the intended inclusion of establishments catering to individuals under 18 years of age is achieved.

(3) RESPONSIBLE ENTITY.—The term "responsible entity" means, with respect to any public facility, the owner of such facility except that, in the case of any such facility or portion thereof which is leased, such term means the lessee if the lessee is actively engaged in supervising day-to-day activity in the leased space.

SEC. 502. SMOKE-FREE ENVIRONMENT POLICY.

(a) POLICY REQUIRED.—In order to protect children and adults from cancer, respiratory disease, heart disease, and other adverse health effects from breathing environmental tobacco smoke, the responsible entity for each public facility shall adopt and implement at such facility a smoke-free environment policy which meets the requirements of subsection (b).

(b) ELEMENTS OF POLICY.—

(1) IN GENERAL.—The responsible entity for a public facility shall—

(A) prohibit the smoking of cigarettes, cigars, and pipes, and any other combustion of tobacco within the facility and on facility

property within the immediate vicinity of the entrance to the facility; and

(B) post a clear and prominent notice of the smoking prohibition in appropriate and visible locations at the public facility.

(2) EXCEPTION.—The responsible entity for a public facility may provide an exception to the prohibition specified in paragraph (1) for 1 or more specially designated smoking areas within a public facility if such area or areas meet the requirements of subsection (c).

(c) SPECIALLY DESIGNATED SMOKING AREAS.—A specially designated smoking area meets the requirements of this subsection if—

(1) the area is ventilated in accordance with specifications promulgated by the Assistant Secretary that ensure that air from the area is directly exhausted to the outside and does not recirculate or drift to other areas within the public facility;

(2) the area is maintained at negative pressure, as compared to adjoining nonsmoking areas, as determined under regulations promulgated by the Assistant Secretary;

(3) nonsmoking individuals do not have to enter the area for any purpose while smoking is occurring in such area; and

(4) cleaning and maintenance work are conducted in such area only when no smoking is occurring in the area.

SEC. 503. CITIZEN ACTIONS.

(a) IN GENERAL.—An action may be brought to enforce the requirements of this title by any aggrieved person, any State or local government agency, or the Assistant Secretary.

(b) VENUE.—Any action to enforce this title may be brought in any United States district court for the district in which the defendant resides or is doing business to enjoin any violation of this title or to impose a civil penalty for any such violation in the amount of not more than $5,000 per day of violation. The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce this title and to impose civil penalties under this title.

(c) NOTICE.—An aggrieved person shall give any alleged violator notice at least 60 days prior to commencing an action under this section. No action may be commenced by an aggrieved person under this section if such alleged violator complies with the requirements of this title within such 60-day period and thereafter.

(d) COSTS.—The court, in issuing any final order in any action brought under this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any prevailing plaintiff, whenever the court determines such award is appropriate.

(e) PENALTIES.—The court, in any action under this section to apply civil penalties, shall have discretion to order that such civil penalties be used for projects which further the policies of this title. The court shall obtain the view of the Assistant Secretary in exercising such discretion and selecting any such projects.

(f) APPLICATION WITH OSHA.—Nothing in this section affects enforcement of the Occupational Safety and Health Act of 1970.

SEC. 504. PREEMPTION.

Nothing in this title shall preempt or otherwise affect any other Federal, State, or local law which provides greater protection from health hazards from environmental tobacco smoke.

SEC. 505. REGULATIONS.

The Assistant Secretary is authorized to promulgate such regulations, after consulting with the Administrator of the Environmental Protection Agency, as the Assistant Secretary deems necessary to carry out this title.

SEC. 506. EFFECTIVE DATE.

Except as provided in section 507, the provisions of this title shall take effect on the first day of January next following the next regularly scheduled meeting of the State legislature occurring after the date of enactment of this Act at which, under the procedural rules of that legislature, a measure under section 507 may be considered.

SEC. 507. STATE CHOICE.

Any State or local government may opt out of this title by promulgating a State or local law, subject to certification by the Assistant Secretary that the law is as or more protective of the public's health as this title, based on the best available science. Any State or local government may opt to enforce this title itself, subject to certification by the Assistant Secretary that the enforcement mechanism will effectively protect the public health.

TITLE VI—APPLICATION TO INDIAN TRIBES

SEC. 601. SHORT TITLE.

This title may be cited as the "Reduction in Tobacco Use and Regulation of Tobacco Products in Indian Country Act of 1998".

SEC. 602. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that Native Americans have used tobacco products for recreational, ceremonial, and traditional purposes for centuries.

(b) PURPOSE.—It is the purpose of this title to—

(1) provide for the implementation of this Act with respect to the regulation of tobacco products, and other tobacco-related activities on Indian lands;

(2) recognize the historic Native American traditional and ceremonial use of tobacco products, and to preserve and protect the cultural, religious, and ceremonial uses of tobacco by members of Indian tribes;

(3) recognize and respect Indian tribal sovereignty and tribal authority to make and enforce laws regarding the regulation of tobacco distributors and tobacco products on Indian lands; and

(4) ensure that the necessary funding is made available to tribal governments for licensing and enforcement of tobacco distributors and tobacco products on Indian lands.

SEC. 603. APPLICATION OF TITLE TO INDIAN LANDS AND TO NATIVE AMERICANS.

(a) IN GENERAL.—The provisions of this Act shall apply to the manufacture, distribution, and sale of tobacco or tobacco products on Indian lands, including such activities of an Indian tribe or member of such tribe.

(b) TRADITIONAL USE EXCEPTION.—

(1) IN GENERAL.—In recognition of the religious, ceremonial, and traditional uses of tobacco and tobacco products by Indian tribes and the members of such tribes, nothing in this Act shall be construed to permit an infringement upon upon the right of such tribes or members of such tribes to acquire, possess, use, or transfer any tobacco or tobacco product for such purposes, or to infringe upon the ability of minors to participate and use tobacco products for such religious, ceremonial, or traditional purposes.

(2) APPLICATION OF PROVISIONS.—Paragraph (1) shall apply only to those quantities of tobacco or tobacco products necessary to fulfill the religious, ceremonial, or traditional purposes of an Indian tribe or the members of such tribe, and shall not be construed to permit the general manufacture, distribution, sale or use of tobacco or tobacco products in a manner that is not in compliance with this Act or the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.)

(c) LIMITATION.—Nothing in this Act shall be construed to permit an Indian tribe or member of such a tribe to acquire, possess, use, or transfer any tobacco or tobacco product in violation of section 2341 of title 18, United States Code, with respect to the transportation of contraband cigarettes.

(d) APPLICATION ON INDIAN LANDS.—

(1) IN GENERAL.—The Secretary, in consultation with the Secretary of Interior, shall promulgate regulations to implement this section as necessary to apply this Act and the Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) with respect to tobacco products manufactured, distributed, or sold on Indian lands.

(2) SCOPE.—This Act and the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) shall apply to the manufacture, distribution and sale of tobacco products on Indian lands, including such activities by Indian tribes and members of such tribes.

(3) TRIBAL TOBACCO RETAILER LICENSING PROGRAM.—

(A) IN GENERAL.—The requirements of this Act with respect to the licensing of tobacco retailers shall apply to all retailers that sell tobacco or tobacco products on Indian lands, including Indian tribes, and members thereof.

(B) IMPLEMENTATION.—

(i) IN GENERAL.—An Indian tribe may implement and enforce a tobacco retailer licensing and enforcement program on its Indian lands consistent with the provisions of section 231 if the tribe is eligible under subparagraph (D). For purposes of this clause, section 231 shall be applied to an Indian tribe by substituting "Indian tribe" for "State" each place it appears, and an Indian tribe shall not be ineligible for grants under that section if the Secretary applies that section to the tribe by modifying it to address tribal population, land base, and jurisdictional factors.

(ii) COOPERATION.—An Indian tribe and State with tobacco retailer licensing programs within adjacent jurisdictions should consult and confer to ensure effective implementation of their respective programs.

(C) ENFORCEMENT.—The Secretary may vest the responsibility for implementation and enforcement of a tobacco retailer licensing program in—

(i) the Indian tribe involved;

(ii) the State within which the lands of the Indian tribe are located pursuant to a voluntary cooperative agreement entered into by the State and the Indian tribe; or

(iii) the Secretary pursuant to subparagraph (F).

(D) ELIGIBILITY.—To be eligible to implement and enforce a tobacco retailer licensing program under section 231, the Secretary, in consultation with the Secretary of Interior, must find that—

(i) the Indian tribe has a governing body that has powers and carries out duties that are similar to the powers and duties of State or local governments;

(ii) the functions to be exercised relate to activities conducted on its Indian lands; and

(iii) the Indian tribe is reasonably expected to be capable of carrying out the functions required by the Secretary.

(E) DETERMINATIONS.—Not later than 90 days after the date on which an Indian tribe submits an application for authority under subparagraph (D), the Secretary shall make a determination concerning the eligibility of

such tribe for such authority. Each tribe found eligible under subparagraph (D) shall be eligible to enter into agreements for block grants under section 231, to conduct a licensing and enforcement program pursuant to section 231, and for bonuses under section 232.

(F) IMPLEMENTATION BY THE SECRETARY.—If the Secretary determines that the Indian tribe is not willing or not qualified to administer a retail licensing and enforcement program, the Secretary, in consultation with the Secretary of Interior, shall promulgate regulations for a program for such tribes in the same manner as for States which have not established a tobacco retailer licensing program under section 231(f).

(G) DEFICIENT APPLICATIONS; OPPORTUNITY TO CURE.—

(i) If the Secretary determines under subparagraph (F) that a Indian tribe is not eligible to establish a tobacco retailer licensing program, the Secretary shall—

(I) submit to such tribe, in writing, a statement of the reasons for such determination of ineligibility; and

(II) shall assist such tribe in overcoming any deficiencies that resulted in the determination of ineligibility.

(ii) After an opportunity to review and cure such deficiencies, the tribe may reapply to the Secretary for assistance under this subsection.

(H) SECRETARIAL REVIEW.—The Secretary may periodically review the tribal tobacco retailer licensing program of a tribe approved pursuant to subparagraph (E), including the effectiveness of the program, the tribe's enforcement thereof, and the compatibility of the tribe's program with the program of the State in which the tribe is located. The program shall be subject to all applicable requirements of section 231.

(e) ELIGIBILITY FOR PUBLIC HEATH FUNDS.—

(1) ELIGIBILITY FOR GRANTS.—

(A) For each fiscal year the Secretary may award grants to Indian tribes from the federal Account or other federal funds, except a tribe that is not a participating tobacco product manufacturer (as defined in section 1402(a), for the same purposes as States and local governments are eligible to receive grants from the Federal Account as provided for in this Act. Indian tribes shall have the flexibility to utilize such grants to meet the unique health care needs of their service populations consistent with the goals and purposes of Federal Indian health care law and policy.

(B) In promulgating regulations for the approval and funding of smoking cessation programs under section 221 the Secretary shall ensure that adequate funding is available to address the high rate of smoking among Native Americans.

(2) HEALTH CARE FUNDING.—

(A) INDIAN HEALTH SERVICE.—Each fiscal year the Secretary shall disburse to the Indian Health Service from the National Tobacco Settlement Trust Fund an amount determined by the Secretary in consultation with the Secretary of the Interior equal to the product of—

(i) the ratio of the total Indian health care service population relative to the total population of the United States; and

(ii) the amount allocated to the States each year from the State Litigation Trust Account.

(B) FUNDING.—The trustees of the Trust Fund shall for each fiscal year transfer to the Secretary from the State Litigation Trust Account the amount determined pursuant to paragraph (A).

(C) USE OF HEALTH CARE TRUST FUNDS.—Amounts made available to the Indian Health Service under this paragraph shall be made available to Indian tribes pursuant to the provisions of the Indian Self Determination and Education Assistance Act (25 U.S.C. 450b et seq.), shall be used to reduce tobacco consumption, promote smoking cessation, and shall be used to fund health care activities including—

(i) clinic and facility design, construction, repair, renovation, maintenance, and improvement;

(ii) health care provider services and equipment;

(iii) domestic and community sanitation associated with clinic and facility construction and improvement;

(iv) inpatient and outpatient services; and

(v) other programs and services which have as their goal raising the health status of Indians.

(f) PREEMPTION.—

(1) IN GENERAL.—Except as otherwise provided in this section, nothing in this Act shall be construed to prohibit an Indian tribe from imposing requirements, prohibitions, penalties, or other measures to further the purposes of this Act that are in addition to the requirements, prohibitions, or penalties required by this Act.

(2) PUBLIC EXPOSURE TO SMOKE.—Nothing in this title shall be construed to preempt or otherwise affect any Indian tribe rule or practice that provides greater protections from the health hazard of environmental tobacco smoke.

(g) DISCLAIMER.—Nothing in this Act shall be construed to increase or diminish tribal or State jurisdiction on Indian lands with respect to tobacco-related activities.

TITLE VII—TOBACCO CLAIMS

SEC. 701. DEFINITIONS.

In this title:

(1) AFFILIATE.—The term "affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. For purposes of this definition, ownership means ownership of an equity interest, or the equivalent thereof, of ten percent or more, and person means an individual, partnership, committee, association, corporation, or any other organization or group of persons.

(2) CIVIL ACTION.—The term "civil action" means any action, lawsuit, or proceeding that is not a criminal action.

(3) COURT.—The term "court" means any judicial or agency court, forum, or tribunal within the United States, including without limitation any Federal, State, or tribal court.

(4) FINAL JUDGMENT.—The term "final judgment" means a judgment on which all rights of appeal or discretionary review have been exhausted or waived or for which the time to appeal or seek such discretionary review has expired.

(5) FINAL SETTLEMENT.—The term "final settlement" means a settlement agreement that is executed and approved as necessary to be fully binding on all relevant parties.

(6) INDIVIDUAL.—The term "individual" means a human being and does not include a corporation, partnership, unincorporated association, trust, estate, or any other public or private entity, State or local government, or Indian tribe.

(7) TOBACCO CLAIM.—The term "tobacco claim" means a claim directly or indirectly arising out of, based on, or related to the health-related effects of tobacco products, including without limitation a claim arising out of, based on or related to allegations regarding any conduct, statement, or omission respecting the health-related effects of such products.

(8) TOBACCO PRODUCT MANUFACTURER.—The term "tobacco product manufacturer" means a person who—

(A) manufactures tobacco products for sale in the United States after the date of enactment of this Act, including tobacco products for sale in the United States through an importer;

(B) is, after the date of enactment of this Act, the first purchaser for resale in the United States of tobacco products manufactured for sale outside of the United States;

(C) engaged in activities described in subparagraph (A) or (B) prior to the date of enactment of this Act, has not engaged in such activities after the date of enactment of this Act, and was not as of June 20, 1997, an affiliate of a tobacco product manufacturer in which the tobacco product manufacturer or its other affiliates owned a 50 percent or greater interest;

(D) is a successor or assign of any of the foregoing;

(E) is an entity to which any of the foregoing directly or indirectly makes, after the date of enactment of this Act, a fraudulent conveyance or a transfer that would otherwise be voidable under part 5 of title 11 of the United States Code, but only to the extent of the interest or obligation transferred; or

(F) is an affiliate of a tobacco product manufacturer.

(9) CASTANO CIVIL ACTIONS.—The term "Castano Civil Actions" means the following civil actions: Gloria Wilkinson Lyons et al. v. American Tobacco Co., et al. (USDC Alabama 96-0881-BH; Agnes McGinty, et al. v. American Tobacco Co., et al. (USDC Arkansas LR-C-96-881); Willard R. Brown, et al. v. R.J. Reynolds Co., et al. (San Diego, California-00711400); Gray Davis & James Ellis, et al. R.J. Reynolds Tobacco Co., et al. (San Diego, California-00706458); Chester Lyons, et al. v. Brown & Williamson Tobacco Corp., et al. (Fulton County, Georgia-E-59346); Rosalyn Peterson, et al. v. American Tobacco Co., et al. (USDC Hawaii-97-00233-HG); Jean Clay , et al. v. American Tobacco Co., et al. (USDC Illinois Benton Division-97-4167-JPG); William J. Norton, et al. v. RJR Nabisco Holdings Corp., et al. (Madison County, Indiana 48D01-9605-CP-0271); Alga Emig, et al. v. American Tobacco Co., et al. (USDC Kansas-97-1121-MLB); Gloria Scott, et al. v. American Tobacco Co., et al. (Orleans Parish, Louisiana-97-1178); Vern Masepohl, et al. v. American Tobacco Co., et al. (USDC Minnesota-3-96-CV-888); Matthew Tepper, et al. v. Philip Morris Incorporated, et al (Bergen County, New Jersey-BER-L-4983-97-E); Carol A. Connor, et al. v. American Tobacco Co., et al. (Bernalillo County, New Mexico-CV96-8464); Edwin Paul Hoskins, et al. v. R.J. Reynolds Tobacco Co., et al.; Josephine Stewart-Lomantz v. Brown & Williamson Tobacco, et al.; Rose Frosina, et al. v. Philip Morris Incorporated, et al.; Catherine Zito, et al. v. American Tobacco Co., et al.; Kevin Mroczkowski, et al. v. Lorillard Tobacco Company, et al. (Supreme Court, New York County, New York-110949 thru 110953); Judith E. Chamberlain, et al. v. American Tobacco Co., et al. (USDC Ohio-1:96CV2005); Brian walls, et al. v. American Tobacco Co., et al. (USDC Oklahoma-97-CV-218-H); Steven R. Arch, et al. v. American Tobacco Co., et al. (USDC Pennsylvania-96-5903-CN); Barreras-Ruiz, et al. v. American Tobacco Co., et al. (USDC Puerto Rico-96-2300-JAF); Joanne Anderson, et al. v. American Tobacco Co., et al.

(Know County, Tennessee); Carlis Cole, et al. v. The Tobacco institute, Inc., et al. (USDC Beaumont Texas Division-1:97CV0256); Carrol Jackson, et al. v. Philip Morris Incorporated, et al. (Salt Lake County, Utah-CV No. 98-0901634PI).

SEC. 702. APPLICATION; PREEMPTION.

(a) APPLICATION.—The provisions of this title govern any tobacco claim in any civil action brought in an State, Tribal, or Federal court, including any such claim that has not reached final judgment or final settlement as of the date of enactment of this Act.

(b) PREEMPTION.—This title supersedes State law only to the extent that State law applies to a matter covered by this title. Any matter that is not governed by this title, including any standard of liability applicable to a manufacturer, shall be governed by any applicable State, Tribal, or Federal law.

(c) CRIMINAL LIABILITY UNTOUCHED.—Nothing in this title shall be construed to limit the criminal liability of tobacco product manufacturers, retailers, or distributors, or their officers, directors, employees, successors, or assigns.

SEC. 703. RULES GOVERNING TOBACCO CLAIMS.

(a) GENERAL CAUSATION PRESUMPTION.—In any civil action to which this title applies brought involving a tobacco claim, there shall be an evidentiary presumption that nicotine is addictive and that the diseases identified as being caused by use of tobacco products in the Center for Disease Control and Prevention Reducing the Health Consequences of Smoking: 25 Years of Progress: A Report of the Surgeon General (United States Public Health Service 1989), The Health Consequences of Smoking: Involuntary Smoking, (USPHS 1986); and The Health Consequences of Using Smokeless Tobacco, (USPHS 1986), are caused in whole or in part by the use of tobacco products, (hereinafter referred to as the "general causation presumption"), and a jury empaneled to hear a tobacco claim shall be so instructed. In all other respects, the burden of proof as to the issue of whether a plaintiff's specific disease or injury was caused by smoking shall be governed by the law of the State or Tribe in which the tobacco claim was brought. This general causation presumption shall in no way affect the ability of the defendant to introduce evidence or argument which the defendant would otherwise be entitled to present under the law of the State or Tribe in which the tobacco claim was brought to rebut the general causation presumption, or with respect to general causation, specific causation, or alternative causation, or to introduce any other evidence or argument which the defendant would otherwise be entitled to make.

(b) ACTIONS AGAINST PARTICIPATING TOBACCO PRODUCT MANUFACTURERS.—In any civil action brought involving a tobacco claim against participating tobacco product manufacturers, as that term is defined in title XIV, the provisions of title XIV apply in conjunction with the provisions of this title.

TITLE VIII—TOBACCO INDUSTRY ACCOUNTABILITY REQUIREMENTS AND EMPLOYEE PROTECTION FROM REPRISALS

SEC. 801. ACCOUNTABILITY REQUIREMENTS AND OVERSIGHT OF THE TOBACCO INDUSTRY.

(a) ACCOUNTABILITY.—The Secretary, following regular consultation with the Commissioner of Food and Drugs, the Surgeon General, the Director of the Center for Disease Control or the Director's delegate, and the Director of the Health and Human Services Office of Minority Health shall annually issue a report as provided for in subsection (c).

(b) TOBACCO COMPANY PLAN.—Within a year after the date of enactment of this Act, each participating tobacco product manufacturer shall adopt and submit to the Secretary a plan to achieve the required percentage reductions in underage use of tobacco products set forth in section 201, and thereafter shall update its plan no less frequently than annually. The annual report of the Secretary may recommend amendment of any plan to incorporate additional measures to reduce underage tobacco use that are consistent with the provisions of this Act.

(c) ANNUAL REPORT.—The Secretary shall submit a report to the Congress by January 31 of each year, which shall be published in the Federal Register. The report shall—

(1) describe in detail each tobacco product manufacturer's compliance with the provisions of this Act and its plan submitted under subsection (b);

(2) report on whether each tobacco product manufacturer's efforts to reduce underage smoking are likely to result in attainment of smoking reduction targets under section 201;

(3) recommend, where necessary, additional measures individual tobacco companies should undertake to meet those targets; and

(4) include, where applicable, the extent to which prior panel recommendations have been adopted by each tobacco product manufacturer.

SEC. 802. TOBACCO PRODUCT MANUFACTURER EMPLOYEE PROTECTION.

(a) PROHIBITED ACTS.—No tobacco product manufacturer may discharge, demote, or otherwise discriminate against any employee with respect to compensation, terms, conditions, benefits, or privileges of employment because the employee (or any person acting under a request of the employee)—

(1) notified the manufacturer, the Commissioner of Food and Drugs, the Attorney General, or any Federal, State, or local public health or law enforcement authority of an alleged violation of this or any other Act;

(2) refused to engage in any practice made unlawful by such Acts, if the employee has identified the alleged illegality to the manufacturer;

(3) testified before Congress or at any Federal or State proceeding regarding any provision (or proposed provision) of such Acts;

(4) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under such Acts, or a proceeding for the administration or enforcement of any requirement imposed under such Acts;

(5) testified or is about to testify in any such proceeding; or

(6) assisted or participated, or is about to assist or participate, in any manner in such a proceeding or in any other manner in such a proceeding or in any other action to carry out the purposes of such Acts.

(b) EMPLOYEE COMPLAINT.—

(1) Any employee of a tobacco product manufacturer who believes that he or she has been discharged, demoted, or otherwise discriminated against by any person in violation of subsection (a) of this section may, within 180 days after such violation occurs, file (or have any person file on his or her behalf) a complaint with the Secretary alleging such discharge, demotion, or discrimination. Upon receipt of such a complaint, the Secretary shall notify the person named in the complaint of its filing.

(2)(A) Upon receipt of a complaint under paragraph (1) of this subsection, the Secretary shall conduct an investigation of the violation alleged in the complaint. Within 30 days after the receipt of such complaint, the Secretary shall complete such investigation and shall notify in writing the complainant (and any such person acting in his or her behalf) and the person alleged to have committed such violation of the results of the investigation conducted under this paragraph. Within 90 days after the receipt of such complaint, the Secretary shall (unless the proceeding on the complaint is terminated by the Secretary on the basis of a settlement entered into by the Secretary and the person alleged to have committed such violation) issue an order either providing the relief prescribed in subparagraph (B) of this paragraph or denying the complaint. An order of the Secretary shall be made on the record after notice and the opportunity for a hearing in accordance with sections 554 and 556 of title 5, United States Code. Upon the conclusion of such a hearing and the issuance of a recommended decision that the complaint has merit, the Secretary shall issue a preliminary order providing the relief prescribed in subparagraph (B) of this paragraph, but may not order compensatory damages pending a final order. The Secretary may not enter into a settlement terminating a proceeding on a complaint without the participation and consent of the complainant.

(B) If, in response to a complaint under paragraph (1) of this subsection, the Secretary determines that a violation of this paragraph has occurred, the Secretary shall order the person who committed such violation to (i) take affirmative action to abate the violation, and (ii) reinstate the complainant to his or her former position together with compensation (including back pay), terms, conditions, and privileges of his or her employment. The Secretary may order such person to provide compensatory damages to the complainant. If an order is issued under this subparagraph, the Secretary, at the request of the complainant, shall assess the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys' and expert witness fees) reasonably incurred (as determined by the Secretary), by the complainant for, or in connection with, the bringing of the complaint upon which the order is issued.

(3)(A) The Secretary shall dismiss a complaint filed under paragraph (1) of this subsection, and shall not conduct the investigation required under paragraph (2) of this subsection, unless the complainant has made a *prima facie* showing that any behavior described in subsection (a) of this section was a contributing factor in the unfavorable personnel action alleged in the complaint.

(B) Notwithstanding a finding by the Secretary that the complainant has made the showing required by subparagraph (A) of this paragraph, no investigation required under paragraph (2) of this subsection shall be conducted if the manufacturer demonstrates by clear and convincing evidence that it would have taken the same unfavorable personnel action in the absence of such behavior. Relief may not be ordered under paragraph (1) of this subsection if the manufacturer demonstrates by clear and convincing evidence that it would have taken the same unfavorable personnel action in the absence of such behavior.

(C) The Secretary may determine that a violation of subsection (a) of this section has occurred only if the complainant has demonstrated that any behavior described in

subsection (a) of this section was a contributing factor in unfavorable personnel action alleged in the complaint.

(c) JUDICIAL REVIEW.—

(1) Any person adversely affected or aggrieved by an order issued under subsection (a) of this section may obtain review of the order in the United States court of appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred. The petition for review must be filed within 60 days after the issuance of the Secretary's order. Judicial review shall be available as provided in chapter 7 of title 5, United States Code. The commencement of proceedings under this subsection shall not, unless ordered by the court, operate as a stay of the Secretary's order.

(2) An order of the Secretary with respect to which review could have been obtained under paragraph (1) of this subsection shall not be subject to judicial review in any criminal or civil proceeding.

(d) NONCOMPLIANCE.—Whenever a person has failed to comply with an order issued under subsection (b)(2) of this section, the Secretary may file a civil action in the United States district court for the district in which the violation occurred to enforce such order. In actions brought under this subsection, the district courts shall have jurisdiction to grant all appropriate relief, including injunctive relief and compensatory and exemplary damages.

(e) ACTION TO ENSURE COMPLIANCE.—

(1) Any person on whose behalf an order was issued under subsection (b)(2) of this section may commence a civil action to require compliance with such order against the person to whom such order was issued. The appropriate United States district court shall have jurisdiction to enforce such order, without regard to the amount in controversy or the citizenship of the parties.

(2) The court, in issuing any final order under this subsection, may award costs of litigation (including reasonable attorneys' and expert witness fees) to any party whenever the court determines such award is appropriate.

(f) ENFORCEMENT.—Any non-discretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28, United States Code.

(g) APPLICABILITY TO CERTAIN EMPLOYEES.—Subsection (a) of this section shall not apply with respect to any employee who, acting without direction from the manufacturer (or the agent of the manufacturer) deliberately causes a violation of any requirement of this Act, the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq), or any other law or regulation relating to tobacco products.

(h) EFFECT ON OTHER LAWS.—This section shall not be construed to expand, diminish, or otherwise affect any right otherwise available to an employee under Federal or State law to redress the employee's discharge or other discriminatory action taken by a tobacco product manufacturer against the employee.

(i) POSTING.—The provisions of this section shall be prominently posted in any place of employment to which this section applies.

TITLE IX—PUBLIC DISCLOSURE OF TOBACCO INDUSTRY DOCUMENTS

SEC. 901. FINDINGS.

The Congress finds that—

(1) the American tobacco industry has made claims of attorney-client privilege, attorney work product, and trade secrets to protect from public disclosure thousands of internal documents sought by civil litigants;

(2) a number of courts have found that these claims of privilege were not made in good faith; and

(3) a prompt and full exposition of tobacco documents will—

(A) promote understanding by the public of the tobacco industry's research and practices; and

(B) further the purposes of this Act.

SEC. 902. APPLICABILITY.

This title applies to all tobacco product manufacturers.

SEC. 903. DOCUMENT DISCLOSURE.

(a) DISCLOSURE TO THE FOOD AND DRUG ADMINISTRATION.—

(1) Within 60 days after the date of enactment of this Act, each tobacco product manufacturer shall submit to the Food and Drug Administration the documents identified in subsection (c), including documents for which trade secret protection is claimed, with the exception of any document for which privilege is claimed, and identified in accordance with subsection (b). Each such manufacturer shall provide the Administration with the privilege and trade secret logs identified under subsection (b).

(2) With respect to documents that are claimed to contain trade secret material, unless and until it is finally determined under this title, either through judicial review or because time for judicial review has expired, that such a document does not constitute or contain trade secret material, the Administration shall treat the document as a trade secret in accordance with section 708 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379) and the regulations promulgated thereunder. Nothing herein shall limit the authority of the Administration to obtain and use, in accordance with any provision of the Federal Food, Drug, and Cosmetic Act and the regulations promulgated thereunder, any document constituting or containing trade secret material. Documents and materials received by the Administration under this provision shall not be obtainable by or releasable to the public through section 552 of title 5, United States Code, or any other provision of law, and the only recourse to obtain these documents shall be through the process established by section 905.

(3) If a document depository is not established under title XIV, the Secretary shall establish by regulation a procedure for making public all documents submitted under paragraph (1) except documents for which trade secret protection has been claimed and for which there has not been a final judicial determination that the document does not contain a trade secret.

(b) SEPARATE SUBMISSION OF DOCUMENTS.—

(1) PRIVILEGED TRADE SECRET DOCUMENTS.—Any document required to be submitted under subsection (c) or (d) that is subject to a claim by a tobacco product manufacturer of attorney-client privilege, attorney work product, or trade secret protection shall be so marked and shall be submitted to the panel under section 904 within 30 days after its appointment. Compliance with this subsection shall not be deemed to be a waiver of any applicable claim of privilege or trade secret protection.

(2) PRIVILEGE AND TRADE SECRET LOGS.—

(A) IN GENERAL.—Within 15 days after submitting documents under paragraph (1), each tobacco product manufacturer shall submit a comprehensive log which identifies on a document-by-document basis all documents produced for which the manufacturer asserts attorney-client privilege, attorney work-product, or trade secrecy. With respect to documents for which the manufacturer previously has asserted one or more of the aforementioned privileges or trade secret protection, the manufacturer shall conduct a good faith *de novo* review of such documents to determine whether such privilege or trade secret protection is appropriate.

(B) ORGANIZATION OF LOG.—The log shall be organized in numerical order based upon the document identifier assigned to each document. For each document, the log shall contain—

(i) a description of the document, including type of document, title of document, name and position or title of each author, addressee, and other recipient who was intended to receive a copy, document date, document purpose, and general subject matter;

(ii) an explanation why the document or a portion of the document is privileged or subject to trade secret protection; and

(iii) a statement whether any previous claim of privilege or trade secret was denied and, if so, in what proceeding.

(C) PUBLIC INSPECTION.—Within 5 days of receipt of such a log, the Depository shall make it available for public inspection and review.

(3) DECLARATION OF COMPLIANCE.—Each tobacco product manufacturer shall submit to the Depository a declaration, in accordance with the requirements of section 1746 of title 28, United States Code, by an individual with responsibility for the *de novo* review of documents, preparation of the privilege log, and knowledge of its contents. The declarant shall attest to the manufacturer's compliance with the requirements of this subsection pertaining to the review of documents and preparation of a privilege log.

(c) DOCUMENT CATEGORIES.—Each tobacco product manufacturer shall submit—

(1) every existing document (including any document subject to a claim of attorney-client privilege, attorney work product, or trade secret protection) in the manufacturer's possession, custody, or control relating, referring, or pertaining to—

(A) any studies, research, or analysis of any possible health or pharmacological effects in humans or animals, including addiction, associated with the use of tobacco products or components of tobacco products;

(B) the engineering, manipulation, or control of nicotine in tobacco products;

(C) the sale or marketing of tobacco products;

(D) any research involving safer or less hazardous tobacco products;

(E) tobacco use by minors; or

(F) the relationship between advertising or promotion and the use of tobacco products;

(2) all documents produced by any tobacco product manufacturer, the Center of Tobacco Research or Tobacco Institute to the Attorney General of any State during discovery in any action brought on behalf of any State and commenced after January 1, 1994;

(3) all documents produced by any tobacco product manufacturer, Center for Tobacco Research or Tobacco Institute to the Federal Trade Commission in connection with its investigation into the "Joe Camel" advertising campaign and any underage marketing of tobacco products to minors;

(4) all documents produced by any tobacco product manufacturers, the Center for Tobacco Research or the Tobacco Institute to litigation adversaries during discovery in any private litigation matters;

(5) all documents produced by any tobacco product manufacturer, the Center for Tobacco Research, or the Tobacco Institute in any of the following private litigation matters:

(A) Philip Morris v. American Broadcasting Co., Law No. 7609CL94x00181-00 (Cir. Ct. Va. filed Mar. 26, 1994);

(B) Estate of Butler v. R.J. Reynolds Tobacco Co., Civ. A. No. 94-5-53 (Cir. Ct. Miss., filed May 12, 1994);

(C) Haines v. Liggett Group, No. 84-CV-678 (D.N.J., filed Feb. 22, 1984); and

(D) Cipollone v. Liggett Group, No. 83-CV-284 (D.N.J., filed Aug. 1, 1983);

(6) any document produced as evidence or potential evidence or submitted to the Depository by tobacco product manufacturers in any of the actions described in paragraph (5), including briefs and other pleadings, memoranda, interrogatories, transcripts of depositions, and expert witnesses and consultants materials, including correspondence, reports, and testimony;

(7) any additional documents that any tobacco product manufacturer, the Center for Tobacco Research, or the Tobacco Institute have agreed or been required by any court to produce to litigation adversaries as part of discovery in any action listed in paragraph (2), (3), (4), or (5) but have not yet completed producing as of the date of enactment of this Act;

(8) all indices of documents relating to tobacco products and health, with any such indices that are maintained in computerized form placed into the depository in both a computerized and hard-copy form;

(9) a privilege log describing each document or portion of a document otherwise subject to production in the actions enumerated in this subsection that any tobacco product manufacturer, the Center for Tobacco Research, or the Tobacco Institute maintains, based upon a good faith *de novo* re-review conducted after the date of enactment of this Act is exempt from public disclosure under this title; and

(10) a trade secrecy log describing each document or portion of a document that any tobacco product manufacturer, the Center for Tobacco Research, or the Tobacco Institute maintains is exempt from public disclosure under this title.

(d) FUTURE DOCUMENTS.—With respect to documents created after the date of enactment of this Act, the tobacco product manufacturers and their trade associations shall—

(1) place the documents in the depository; and

(2) provide a copy of the documents to the Food and Drug Administration (with the exception of documents subject to a claim of attorney-client privilege or attorney work product).

(1) Every existing document (including any document subject to a claim of attorney-client privilege, attorney work product, or trade secret protection) in the manufacturer's possession, custody, or control relating, referring, or pertaining to—

(A) any studies, research, or analysis of any possible health or pharmacological effects in humans or animals, including addiction, associated with the use of tobacco products or components of tobacco products;

(B) the engineering, manipulation, or control of nicotine in tobacco products;

(C) the sale or marketing of tobacco products;

(D) any research involving safer or less hazardous tobacco products;

(E) tobacco use by minors; or

(F) the relationship between advertising or promotion and the use of tobacco products;

(2) Every existing document (including any document subject to a claim of attorney-client privilege, attorney work product, or trade secret protection) in the manufacturer's possession, custody, or control—

(A) produced, or ordered to be produced, by the tobacco product manufacturer in any health-related civil or criminal proceeding, judicial or administrative; and

(B) that the panel established under section 906 determines is appropriate for submission.

(3) All studies conducted or funded, directly or indirectly, by any tobacco product manufacturer, relating to tobacco product use by minors.

(4) All documents discussing or referring to the relationship, if any, between advertising and promotion and the use of tobacco products by minors.

(5) A privilege log describing each document or each portion of a document otherwise subject to public disclosure under this subsection that any tobacco product manufacturer maintains is exempt from public disclosure under this title.

(6) A trade secrecy log describing each document or each portion of a document otherwise subject to public disclosure under this subsection that any tobacco product manufacturer, the Center for Tobacco Research, or the Tobacco Institute maintains is exempt from public disclosure under this Act.

(e) DOCUMENT IDENTIFICATION AND INDEX.—Documents submitted under this section shall be sequentially numbered and marked to identify the tobacco product manufacturer. Within 15 days after submission of documents, each tobacco product manufacturer shall supply the panel with a comprehensive document index which references the applicable document categories contained in subsection (b).

SEC. 904. DOCUMENT REVIEW.

(a) AJUDICATION OF PRIVILEGE CLAIMS.—An claim of attorney-client privilege, trade secret protection, or other claim of privilege with respect to a document required to be submitted by this title shall be heard by a 3-judge panel of the United States District Court for the District of Columbia under section 2284 of title 28, United States Code. The panel may appoint special masters, employ such personnel, and establish such procedures as it deems necessary to carry out its functions under this title.

(b) PRIVILEGE.—The panel shall apply the attorney-client privilege, the attorney work-product doctrine, and the trade secret doctrine in a manner consistent with Federal law.

SEC. 905. RESOLUTION OF DISPUTED PRIVILEGE AND TRADE SECRET CLAIMS.

(a) IN GENERAL.—The panel shall determine whether to uphold or reject disputed claims of attorney client privilege, attorney work product, or trade secret protection with respect to documents submitted. Any person may petition the panel to resolve a claim that a document submitted may not be disclosed to the public. Such a determination shall be made by a majority of the panel, in writing, and shall be subject to judicial review as specified in this title. All such determinations shall be made solely on consideration of the subject document and written submissions from the person claiming that the document is privileged or protected by trade secrecy and from any person seeking disclosure of the document. The panel shall cause notice of the petition and the panel's decision to be published in the Federal Register.

(b) FINAL DECISION.—The panel may uphold a claim of privilege or protection in its entirety or, in its sole discretion, it may redact that portion of a document that it determines is protected from public disclosure under subsection (a). Any decision of the panel shall be final unless judicial review is sought under section 906. In the event that judicial review is so sought, the panel's decision shall be stayed pending a final judicial decision.

SEC. 906. APPEAL OF PANEL DECISION.

(a) PETITION; RIGHT OF APPEAL.—Any person may obtain judicial review of a final decision of the panel by filing a petition for review with the United States Court of Appeals for the Federal Circuit within 60 days after the publication of such decision in the Federal Register. A copy of the petition shall be transmitted by the Clerk of the Court to the panel. The panel shall file in the court the record of the proceedings on which the panel based its decision (including any documents reviewed by the panel in *camera*) as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have exclusive jurisdiction to affirm or set aside the panel's decision, except that until the filing of the record the panel may modify or set aside its decision.

(b) ADDITIONAL EVIDENCE AND ARGUMENTS.—If the any party applies to the court for leave to adduce additional evidence respecting the decision being reviewed and shows to the satisfaction of the court that such additional evidence or arguments are material and that there were reasonable grounds for the failure to adduce such evidence or arguments in the proceedings before the panel, the court may order the panel to provide additional opportunity for the presentation of evidence or arguments in such manner and upon such terms as the court deems proper. The panel may modify its findings or make new findings by reason of the additional evidence or arguments and shall file with the court such modified or new findings, and its recommendation, if any, for the modification or setting aside of the decision being reviewed.

(c) STANDARD OF REVIEW; FINALITY OF JUDGMENTS.—The panel's findings of fact, if supported by substantial evidence on the record taken as a whole, shall be conclusive. The court shall review the panel's legal conclusions *de novo*. The judgment of the court affirming or setting aside the panel's decision shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28, United States Code.

(d) PUBLIC DISCLOSURE AFTER FINAL DECISION.—Within 30 days after a final decision that a document, as redacted by the panel or in its entirety, is not protected from disclosure by a claim of attorney-client privilege, attorney work product, or trade secret protection, the panel shall direct that the document be made available to the Commissioner of Food and Drugs under section 903(a). No Federal, Tribal, or State court shall have jurisdiction to review a claim of attorney-client privilege, attorney work product, or trade secret protection for a document that has lawfully been made available to the public under this subsection.

(e) EFFECT OF NON-DISCLOSURE DECISION ON JUDICIAL PROCEEDINGS.—The panel's decision that a document is protected by attorney-client privilege, attorney work product, or trade secret protection is binding only for the purpose of protecting the document from disclosure by the Depository. The decision by the panel shall not be construed to prevent a document from being disclosed in a judicial proceeding or interfere with the authority of a court to determine whether a document is admissible or whether its production may be compelled.

SEC. 907. MISCELLANEOUS.

The disclosure process in this title is not intended to affect the Federal Rules of Civil

or Criminal Procedure or any Federal law which requires the disclosure of documents or which deals with attorney-client privilege, attorney work product, or trade secret protection.

SEC. 908. PENALTIES.

(a) GOOD FAITH REQUIREMENT.—Each tobacco product manufacturer shall act in good faith in asserting claims of privilege or trade secret protection based on fact and law. If the panel determines that a tobacco product manufacturer has not acted in good faith with full knowledge of the truth of the facts asserted and with a reasonable basis under existing law, the manufacturer shall be assessed costs, which shall include the full administrative costs of handling the claim of privilege, and all attorneys' fees incurred by the panel and any party contesting the privilege. The panel may also impose civil penalties of up to $50,000 per violation if it determines that the manufacturer acted in bad faith in asserting a privilege, or knowingly acted with the intent to delay, frustrate, defraud, or obstruct the panel's determination of privilege, attorney work product, or trade secret protection claims.

(b) FAILURE TO PRODUCE DOCUMENT.—A failure by a tobacco product manufacturer to produce indexes and documents in compliance with the schedule set forth in this title, or with such extension as may be granted by the panel, shall be punished by a civil penalty of up to $50,000 per violation. A separate violation occurs for each document the manufacturer has failed to produce in a timely manner. The maximum penalty under this subsection for a related series of violations is $5,000,000. In determining the amount of any civil penalty, the panel shall consider the number of documents, length of delay, any history of prior violations, the ability to pay, and such other matters as justice requires. Nothing in this title shall replace or supersede any criminal sanction under title 18, United States Code, or any other provision of law.

SEC. 909. DEFINITIONS.

For the purposes of this title—

(1) DOCUMENT.—The term "document" includes originals and drafts of any kind of written or graphic matter, regardless of the manner of production or reproduction, of any kind or description, whether sent or received or neither, and all copies thereof that are different in any way from the original (whether by interlineation, receipt stamp, notation, indication of copies sent or received or otherwise) regardless of whether confidential, privileged, or otherwise, including any paper, book, account, photograph, blueprint, drawing, agreement, contract, memorandum, advertising material, letter, telegram, object, report, record, transcript, study, note, notation, working paper, intra-office communication, intra-department communication, chart, minute, index sheet, routing sheet, computer software, computer data, delivery ticket, flow sheet, price list, quotation, bulletin, circular, manual, summary, recording of telephone or other conversation or of interviews, or of conferences, or any other written, recorded, transcribed, punched, taped, filmed, or graphic matter, regardless of the manner produced or reproduced. Such term also includes any tape, recording, videotape, computerization, or other electronic recording, whether digital or analog or a combination thereof.

(2) TRADE SECRET.—The term "trade secret" means any commercially valuable plan, formula, process, or device that is used for making, compounding, processing, or preparing trade commodities and that can be said to be the end-product of either innovation or substantial effort, for which there is a direct relationship between the plan, formula, process, or device and the productive process.

(3) CERTAIN ACTIONS DEEMED TO BE PROCEEDINGS.—Any action undertaken under this title, including the search, indexing, and production of documents, is deemed to be a "proceeding" before the executive branch of the United States.

(4) OTHER TERMS.—Any term used in this title that is defined in section 701 has the meaning given to it by that section.

TITLE X—LONG-TERM ECONOMIC ASSISTANCE FOR FARMERS

SEC. 1001. SHORT TITLE.

This title may be cited as the "Long-Term Economic Assistance for Farmers Act" or the "LEAF Act".

SEC. 1002. DEFINITIONS.

In this title:

(1) PARTICIPATING TOBACCO PRODUCER.—The term "participating tobacco producer" means a quota holder, quota lessee, or quota tenant.

(2) QUOTA HOLDER.—The term "quota holder" means an owner of a farm on January 1, 1998, for which a tobacco farm marketing quota or farm acreage allotment was established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.).

(3) QUOTA LESSEE.—The term "quota lessee" means—

(A) a producer that owns a farm that produced tobacco pursuant to a lease and transfer to that farm of all or part of a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years; or

(B) a producer that rented land from a farm operator to produce tobacco under a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years.

(4) QUOTA TENANT.—The term "quota tenant" means a producer that—

(A) is the principal producer, as determined by the Secretary, of tobacco on a farm where tobacco is produced pursuant to a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years; and

(B) is not a quota holder or quota lessee.

(5) SECRETARY.—The term "Secretary" means—

(A) in subtitles A and B, the Secretary of Agriculture; and

(B) in section 1031, the Secretary of Labor.

(6) TOBACCO PRODUCT IMPORTER.—The term "tobacco product importer" has the meaning given the term "importer" in section 5702 of the Internal Revenue Code of 1986.

(7) TOBACCO PRODUCT MANUFACTURER.—

(A) IN GENERAL.—The term "tobacco product manufacturer" has the meaning given the term "manufacturer of tobacco products" in section 5702 of the Internal Revenue Code of 1986.

(B) EXCLUSION.—The term "tobacco product manufacturer" does not include a person that manufactures cigars or pipe tobacco.

(8) TOBACCO WAREHOUSE OWNER.—The term "tobacco warehouse owner" means a warehouseman that participated in an auction market (as defined in the first section of the Tobacco Inspection Act (7 U.S.C. 511)) during the 1998 marketing year.

(9) FLUE-CURED TOBACCO.—The term "flue-cured tobacco" includes type 21 and type 37 tobacco.

Subtitle A—Tobacco Community Revitalization

SEC. 1011. AUTHORIZATION OF APPROPRIATIONS.

There are appropriated and transferred to the Secretary for each fiscal year such amounts from the National Tobacco Trust Fund established by section 401, other than from amounts in the State Litigation Settlement Account, as may be necessary to carry out the provisions of this title.

SEC. 1012. EXPENDITURES.

The Secretary is authorized, subject to appropriations, to make payments under—

(1) section 1021 for payments for lost tobacco quota for each of fiscal years 1999 through 2023, but not to exceed $1,650,000,000 for any fiscal year except to the extent the payments are made in accordance with subsection (d)(12) or (e)(9) of section 1021;

(2) section 1022 for industry payments for all costs of the Department of Agriculture associated with the production of tobacco;

(3) section 1023 for tobacco community economic development grants, but not to exceed—

(A) $375,000,000 for each of fiscal years 1999 through 2008, less any amount required to be paid under section 1022 for the fiscal year; and

(B) $450,000,000 for each of fiscal year 2009 through 2023, less any amount required to be paid under section 1022 during the fiscal year;

(4) section 1031 for assistance provided under the tobacco worker transition program, but not to exceed $25,000,000 for any fiscal year; and

(5) subpart 9 of part A of title IV of the Higher Education Act of 1965 for farmer opportunity grants, but not to exceed—

(A) $42,500,000 for each of the academic years 1999–2000 through 2003–2004;

(B) $50,000,000 for each of the academic years 2004–2005 through 2008–2009;

(C) $57,500,000 for each of the academic years 2009–2010 through 2013–2014;

(D) $65,000,000 for each of the academic years 2014–2015 through 2018–2019; and

(E) $72,500,000 for each of the academic years 2019–2020 through 2023–2024.

SEC. 1013. BUDGETARY TREATMENT.

This subtitle constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide payments to States and eligible persons in accordance with this title.

Subtitle B—Tobacco Market Transition Assistance

SEC. 1021. PAYMENTS FOR LOST TOBACCO QUOTA.

(a) IN GENERAL.—Beginning with the 1999 marketing year, the Secretary shall make payments for lost tobacco quota to eligible quota holders, quota lessees, and quota tenants as reimbursement for lost tobacco quota.

(b) ELIGIBILITY.—To be eligible to receive payments under this section, a quota holder, quota lessee, or quota tenant shall—

(1) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including information sufficient to make the demonstration required under paragraph (2); and

(2) demonstrate to the satisfaction of the Secretary that, with respect to the 1997 marketing year—

(A) the producer was a quota holder and realized income (or would have realized income, as determined by the Secretary, but

for a medical hardship or crop disaster during the 1997 marketing year) from the production of tobacco through—

(i) the active production of tobacco;

(ii) the lease and transfer of tobacco quota to another farm;

(iii) the rental of all or part of the farm of the quota holder, including the right to produce tobacco, to another tobacco producer; or

(iv) the hiring of a quota tenant to produce tobacco;

(B) the producer was a quota lessee; or

(C) the producer was a quota tenant.

(c) BASE QUOTA LEVEL.—

(1) IN GENERAL.—The Secretary shall determine, for each quota holder, quota lessee, and quota tenant, the base quota level for the 1995 through 1997 marketing years.

(2) QUOTA HOLDERS.—The base quota level for a quota holder shall be equal to the average tobacco farm marketing quota established for the farm owned by the quota holder for the 1995 through 1997 marketing years.

(3) QUOTA LESSEES.—The base quota level for a quota lessee shall be equal to—

(A) 50 percent of the average number of pounds of tobacco quota established for the farm for the 1995 through 1997 marketing years—

(i) that was leased and transferred to a farm owned by the quota lessee; or

(ii) that was rented to the quota lessee for the right to produce the tobacco; less

(B) 25 percent of the average number of pounds of tobacco quota described in subparagraph (A) for which a quota tenant was the principal producer of the tobacco quota.

(4) QUOTA TENANTS.—The base quota level for a quota tenant shall be equal to the sum of—

(A) 50 percent of the average number of pounds of tobacco quota established for a farm for the 1995 through 1997 marketing years—

(i) that was owned by a quota holder; and

(ii) for which the quota tenant was the principal producer of the tobacco on the farm; and

(B) 25 percent of the average number of pounds of tobacco quota for the 1995 through 1997 marketing years—

(i)(I) that was leased and transferred to a farm owned by the quota lessee; or

(II) for which the rights to produce the tobacco were rented to the quota lessee; and

(ii) for which the quota tenant was the principal producer of the tobacco on the farm.

(5) MARKETING QUOTAS OTHER THAN POUNDAGE QUOTAS.—

(A) IN GENERAL.—For each type of tobacco for which there is a marketing quota or allotment (on an acreage basis), the base quota level for each quota holder, quota lessee, or quota tenant shall be determined in accordance with this subsection (based on a poundage conversion) by multiplying—

(i) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; and

(ii) the average yield per acre for the farm for the type of tobacco for the marketing years.

(B) YIELDS NOT AVAILABLE.—If the average yield per acre is not available for a farm, the Secretary shall calculate the base quota for the quota holder, quota lessee, or quota tenant (based on a poundage conversion) by determining the amount equal to the product obtained by multiplying—

(i) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; and

(ii) the average county yield per acre for the county in which the farm is located for the type of tobacco for the marketing years.

(d) PAYMENTS FOR LOST TOBACCO QUOTA FOR TYPES OF TOBACCO OTHER THAN FLUE-CURED TOBACCO.—

(1) ALLOCATION OF FUNDS.—Of the amounts made available under section 1011(d)(1) for payments for lost tobacco quota, the Secretary shall make available for payments under this subsection an amount that bears the same ratio to the amounts made available as—

(A) the sum of all national marketing quotas for all types of tobacco other than flue-cured tobacco during the 1995 through 1997 marketing years; bears to

(B) the sum of all national marketing quotas for all types of tobacco during the 1995 through 1997 marketing years.

(2) OPTION TO RELINQUISH QUOTA.—

(A) IN GENERAL.—Each quota holder, for types of tobacco other than flue-cured tobacco, shall be given the option to relinquish the farm marketing quota or farm acreage allotment of the quota holder in exchange for a payment made under paragraph (3).

(B) NOTIFICATION.—A quota holder shall give notification of the intention of the quota holder to exercise the option at such time and in such manner as the Secretary may require, but not later than January 15, 1999.

(3) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA HOLDERS EXERCISING OPTIONS TO RELINQUISH QUOTA.—

(A) IN GENERAL.—Subject to subparagraph (E), for each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost tobacco quota to each quota holder that has relinquished the farm marketing quota or farm acreage allotment of the quota holder under paragraph (2).

(B) AMOUNT.—The amount of a payment made to a quota holder described in subparagraph (A) for a marketing year shall equal 1/10 of the lifetime limitation established under subparagraph (E).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the farm marketing quota or farm acreage allotment is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(E) LIFETIME LIMITATION ON PAYMENTS.—The total amount of payments made under this paragraph to a quota holder shall not exceed the product obtained by multiplying the base quota level for the quota holder by $8 per pound.

(4) REISSUANCE OF QUOTA.—

(A) REALLOCATION TO LESSEE OR TENANT.—If a quota holder exercises an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), a quota lessee or quota tenant that was the primary producer during the 1997 marketing year of tobacco pursuant to the farm marketing quota or farm acreage allotment, as determined by the Secretary, shall be given the option of having an allotment of the farm marketing quota or farm acreage allotment reallocated to a farm owned by the quota lessee or quota tenant.

(B) CONDITIONS FOR REALLOCATION.—

(i) TIMING.—A quota lessee or quota tenant that is given the option of having an allotment of a farm marketing quota or farm acreage allotment reallocated to a farm owned by the quota lessee or quota tenant under subparagraph (A) shall have 1 year from the date on which a farm marketing quota or farm acreage allotment is relinquished under paragraph (2) to exercise the option.

(ii) LIMITATION ON ACREAGE ALLOTMENT.—In the case of a farm acreage allotment, the acreage allotment determined for any farm subsequent to any reallocation under subparagraph (A) shall not exceed 50 percent of the acreage of cropland of the farm owned by the quota lessee or quota tenant.

(iii) LIMITATION ON MARKETING QUOTA.—In the case of a farm marketing quota, the marketing quota determined for any farm subsequent to any reallocation under subparagraph (A) shall not exceed an amount determined by multiplying—

(I) the average county farm yield, as determined by the Secretary; and

(II) 50 percent of the acreage of cropland of the farm owned by the quota lessee or quota tenant.

(C) ELIGIBILITY OF LESSEE OR TENANT FOR PAYMENTS.—If a farm marketing quota or farm acreage allotment is reallocated to a quota lessee or quota tenant under subparagraph (A)—

(i) the quota lessee or quota tenant shall not be eligible for any additional payments under paragraph (5) or (6) as a result of the reallocation; and

(ii) the base quota level for the quota lessee or quota tenant shall not be increased as a result of the reallocation.

(D) REALLOCATION TO QUOTA HOLDERS WITHIN SAME COUNTY OR STATE.—

(i) IN GENERAL.—Except as provided in clause (ii), if there was no quota lessee or quota tenant for the farm marketing quota or farm acreage allotment for a type of tobacco, or if no quota lessee or quota tenant exercises an option of having an allotment of the farm marketing quota or farm acreage allotment for a type of tobacco reallocated, the Secretary shall reapportion the farm marketing quota or farm acreage allotment among the remaining quota holders for the type of tobacco within the same county.

(ii) CROSS-COUNTY LEASING.—In a State in which cross-county leasing is authorized pursuant to section 319(l) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(*l*)), the Secretary shall reapportion the farm marketing quota among the remaining quota holders for the type of tobacco within the same State.

(iii) ELIGIBILITY OF QUOTA HOLDER FOR PAYMENTS.—If a farm marketing quota is reapportioned to a quota holder under this subparagraph—

(I) the quota holder shall not be eligible for any additional payments under paragraph (5) or (6) as a result of the reapportionment; and

(II) the base quota level for the quota holder shall not be increased as a result of the reapportionment.

(E) SPECIAL RULE FOR TENANT OF LEASED TOBACCO.—If a quota holder exercises an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), the farm marketing quota or farm acreage allotment shall be divided evenly between, and the option of reallocating the farm marketing quota or farm acreage allotment shall be offered in equal portions to, the quota lessee and to the quota tenant, if—

(i) during the 1997 marketing year, the farm marketing quota or farm acreage allotment was leased and transferred to a farm owned by the quota lessee; and

(ii) the quota tenant was the primary producer, as determined by the Secretary, of tobacco pursuant to the farm marketing quota or farm acreage allotment.

(5) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA HOLDERS.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for a type of tobacco is less than the average national marketing quota for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota holder, for types of tobacco other than flue-cured tobacco, that is eligible under subsection (b), and has not exercised an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), in an amount that is equal to the product obtained by multiplying—

(i) the number of pounds by which the basic farm marketing quota (or poundage conversion) is less than the base quota level for the quota holder; and

(ii) $4 per pound.

(B) POUNDAGE CONVERSION FOR MARKETING QUOTAS OTHER THAN POUNDAGE QUOTAS.—

(i) IN GENERAL.—For each type of tobacco for which there is a marketing quota or allotment (on an acreage basis), the poundage conversion for each quota holder during a marketing year shall be determined by multiplying—

(I) the basic farm acreage allotment for the farm for the marketing year; and

(II) the average yield per acre for the farm for the type of tobacco.

(ii) YIELD NOT AVAILABLE.—If the average yield per acre is not available for a farm, the Secretary shall calculate the poundage conversion for each quota holder during a marketing year by multiplying—

(I) the basic farm acreage allotment for the farm for the marketing year; and

(II) the average county yield per acre for the county in which the farm is located for the type of tobacco.

(6) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for a type of tobacco is less than the average national marketing quota for the type of tobacco for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota lessee and quota tenant, for types of tobacco other than flue-cured tobacco, that is eligible under subsection (b) in an amount that is equal to the product obtained by multiplying—

(A) the percentage by which the national marketing quota for the type of tobacco is less than the average national marketing quota for the type of tobacco for the 1995 through 1997 marketing years;

(B) the base quota level for the quota lessee or quota tenant; and

(C) $4 per pound.

(7) LIFETIME LIMITATION ON PAYMENTS.—Except as otherwise provided in this subsection, the total amount of payments made under this subsection to a quota holder, quota lessee, or quota tenant during the lifetime of the quota holder, quota lessee, or quota tenant shall not exceed the product obtained by multiplying—

(A) the base quota level for the quota holder, quota lessee, or quota tenant; and

(B) $8 per pound.

(8) LIMITATIONS ON AGGREGATE ANNUAL PAYMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the total amount payable under this subsection for any marketing year shall not exceed the amount made available under paragraph (1).

(B) ACCELERATED PAYMENTS.—Paragraph (1) shall not apply if accelerated payments for lost tobacco quota are made in accordance with paragraph (12).

(C) REDUCTIONS.—If the sum of the amounts determined under paragraphs (3), (5), and (6) for a marketing year exceeds the amount made available under paragraph (1), the Secretary shall make a pro rata reduction in the amounts payable under paragraphs (5) and (6) to quota holders, quota lessees, and quota tenants under this subsection to ensure that the total amount of payments for lost tobacco quota does not exceed the amount made available under paragraph (1).

(D) ROLLOVER OF PAYMENTS FOR LOST TOBACCO QUOTA.—Subject to subparagraph (A), if the Secretary makes a reduction in accordance with subparagraph (C), the amount of the reduction shall be applied to the next marketing year and added to the payments for lost tobacco quota for the marketing year.

(E) ADDITIONAL PAYMENTS TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTA.—If the amount made available under paragraph (1) exceeds the sum of the amounts determined under paragraphs (3), (5), and (6) for a marketing year, the Secretary shall distribute the amount of the excess pro rata to quota holders that have exercised an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2) by increasing the amount payable to each such holder under paragraph (3).

(9) SUBSEQUENT SALE AND TRANSFER OF QUOTA.—Effective beginning with the 1999 marketing year, on the sale and transfer of a farm marketing quota or farm acreage allotment under section 316(g) or 319(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(g), 1314e(g))—

(A) the person that sold and transferred the quota or allotment shall have—

(i) the base quota level attributable to the person reduced by the base quota level attributable to the quota that is sold and transferred; and

(ii) the lifetime limitation on payments established under paragraph (7) attributable to the person reduced by the product obtained by multiplying—

(I) the base quota level attributable to the quota; and

(II) $8 per pound; and

(B) if the quota or allotment has never been relinquished by a previous quota holder under paragraph (2), the person that acquired the quota shall have—

(i) the base quota level attributable to the person increased by the base quota level attributable to the quota that is sold and transferred; and

(ii) the lifetime limitation on payments established under paragraph (7) attributable to the person—

(I) increased by the product obtained by multiplying—

(aa) the base quota level attributable to the quota; and

(bb) $8 per pound; but

(II) decreased by any payments under paragraph (5) for lost tobacco quota previously made that are attributable to the quota that is sold and transferred.

(10) SALE OR TRANSFER OF FARM.—On the sale or transfer of ownership of a farm that is owned by a quota holder, the base quota level established under subsection (c), the right to payments under paragraph (5), and the lifetime limitation on payments established under paragraph (7) shall transfer to the new owner of the farm to the same extent and in the same manner as those provisions applied to the previous quota holder.

(11) DEATH OF QUOTA LESSEE OR QUOTA TENANT.—If a quota lessee or quota tenant that is entitled to payments under this subsection dies and is survived by a spouse or 1 or more dependents, the right to receive the payments shall transfer to the surviving spouse or, if there is no surviving spouse, to the surviving dependents in equal shares.

(12) ACCELERATION OF PAYMENTS.—

(A) IN GENERAL.—On the occurrence of any of the events described in subparagraph (B), the Secretary shall make an accelerated lump sum payment for lost tobacco quota as established under paragraphs (5) and (6) to each quota holder, quota lessee, and quota tenant for any affected type of tobacco in accordance with subparagraph (C).

(B) TRIGGERING EVENTS.—The Secretary shall make accelerated payments under subparagraph (A) if after the date of enactment of this Act—

(i) subject to subparagraph (D), for 3 consecutive marketing years, the national marketing quota or national acreage allotment for a type of tobacco is less than 50 percent of the national marketing quota or national acreage allotment for the type of tobacco for the 1998 marketing year; or

(ii) Congress repeals or makes ineffective, directly or indirectly, any provision of—

(I) section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b);

(II) section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e);

(III) section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445);

(IV) section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445–1); or

(V) section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2).

(C) AMOUNT.—The amount of the accelerated payments made to each quota holder, quota lessee, and quota tenant under this subsection shall be equal to—

(i) the amount of the lifetime limitation established for the quota holder, quota lessee, or quota tenant under paragraph (7); less

(ii) any payments for lost tobacco quota received by the quota holder, quota lessee, or quota tenant before the occurrence of any of the events described in subparagraph (B).

(D) REFERENDUM VOTE NOT A TRIGGERING EVENT.—A referendum vote of producers for any type of tobacco that results in the national marketing quota or national acreage allotment not being in effect for the type of tobacco shall not be considered a triggering event under this paragraph.

(13) BAN ON SUBSEQUENT SALE OR LEASING OF FARM MARKETING QUOTA OR FARM ACREAGE ALLOTMENT TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTA.—No quota holder that exercises the option to relinquish a farm marketing quota or farm acreage allotment for any type of tobacco under paragraph (2) shall be eligible to acquire a farm marketing quota or farm acreage allotment for the type of tobacco, or to obtain the lease or transfer of a farm marketing quota or farm acreage allotment for the type of tobacco, for a period of 25 crop years after the date on which the quota or allotment was relinquished.

(e) PAYMENTS FOR LOST TOBACCO QUOTA FOR FLUE-CURED TOBACCO.—

(1) ALLOCATION OF FUNDS.—Of the amounts made available under section 1011(d)(1) for payments for lost tobacco quota, the Secretary shall make available for payments under this subsection an amount that bears the same ratio to the amounts made available as—

(A) the sum of all national marketing quotas for flue-cured tobacco during the 1995 through 1997 marketing years; bears to

(B) the sum of all national marketing quotas for all types of tobacco during the 1995 through 1997 marketing years.

(2) RELINQUISHMENT OF QUOTA.—

(A) IN GENERAL.—Each quota holder of flue-cured tobacco shall relinquish the farm marketing quota or farm acreage allotment in exchange for a payment made under paragraph (3) due to the transition from farm marketing quotas as provided under section 317 of the Agricultural Adjustment Act of 1938 for flue-cured tobacco to individual tobacco production permits as provided under section 317A of the Agricultural Adjustment Act of 1938 for flue-cured tobacco.

(B) NOTIFICATION.—The Secretary shall notify the quota holders of the relinquishment of their quota or allotment at such time and in such manner as the Secretary may require, but not later than November 15, 1998.

(3) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA HOLDERS THAT RELINQUISH QUOTA.—

(A) IN GENERAL.—For each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost flue-cured tobacco to each quota holder that has relinquished the farm marketing quota or farm acreage allotment of the quota holder under paragraph (2).

(B) AMOUNT.—The amount of a payment made to a quota holder described in subparagraph (A) for a marketing year shall equal 1/10 of the lifetime limitation established under paragraph (6).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the farm marketing quota or farm acreage allotment is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(4) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS THAT HAVE NOT RELINQUISHED PERMITS.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for flue-cured tobacco is less than the average national marketing quota for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota lessee or quota tenant that—

(i) is eligible under subsection (b);

(ii) has been issued an individual tobacco production permit under section 317A(b) of the Agricultural Adjustment Act of 1938; and

(iii) has not exercised an option to relinquish the permit.

(B) AMOUNT.—The amount of a payment made to a quota lessee or quota tenant described in subparagraph (A) for a marketing year shall be equal to the product obtained by multiplying—

(i) the number of pounds by which the individual marketing limitation established for the permit is less than twice the base quota level for the quota lessee or quota tenant; and

(ii) $2 per pound.

(5) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS THAT HAVE RELINQUISHED PERMITS.—

(A) IN GENERAL.—For each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost flue-cured tobacco quota to each quota lessee and quota tenant that has relinquished an individual tobacco production permit under section 317A(b)(5) of the Agricultural Adjustment Act of 1938.

(B) AMOUNT.—The amount of a payment made to a quota lessee or quota tenant described in subparagraph (A) for a marketing year shall be equal to 1/10 of the lifetime limitation established under paragraph (6).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the individual tobacco production permit is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(E) PROHIBITION AGAINST PERMIT EXPANSION.—A quota lessee or quota tenant that receives a payment under this paragraph shall be ineligible to receive any new or increased tobacco production permit from the county production pool established under section 317A(b)(8) of the Agricultural Adjustment Act of 1938.

(6) LIFETIME LIMITATION ON PAYMENTS.—Except as otherwise provided in this subsection, the total amount of payments made under this subsection to a quota holder, quota lessee, or quota tenant during the lifetime of the quota holder, quota lessee, or quota tenant shall not exceed the product obtained by multiplying—

(A) the base quota level for the quota holder, quota lessee, or quota tenant; and

(B) $8 per pound.

(7) LIMITATIONS ON AGGREGATE ANNUAL PAYMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the total amount payable under this subsection for any marketing year shall not exceed the amount made available under paragraph (1).

(B) ACCELERATED PAYMENTS.—Paragraph (1) shall not apply if accelerated payments for lost flue-cured tobacco quota are made in accordance with paragraph (9).

(C) REDUCTIONS.—If the sum of the amounts determined under paragraphs (3), (4), and (5) for a marketing year exceeds the amount made available under paragraph (1), the Secretary shall make a pro rata reduction in the amounts payable under paragraph (4) to quota lessees and quota tenants under this subsection to ensure that the total amount of payments for lost flue-cured tobacco quota does not exceed the amount made available under paragraph (1).

(D) ROLLOVER OF PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA.—Subject to subparagraph (A), if the Secretary makes a reduction in accordance with subparagraph (C), the amount of the reduction shall be applied to the next marketing year and added to the payments for lost flue-cured tobacco quota for the marketing year.

(E) ADDITIONAL PAYMENTS TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTAS OR PERMITS, OR TO QUOTA LESSEES OR QUOTA TENANTS RELINQUISHING PERMITS.—If the amount made available under paragraph (1) exceeds the sum of the amounts determined under paragraphs (3), (4), and (5) for a marketing year, the Secretary shall distribute the amount of the excess pro rata to quota holders by increasing the amount payable to each such holder under paragraphs (3) and (5).

(8) DEATH OF QUOTA HOLDER, QUOTA LESSEE, OR QUOTA TENANT.—If a quota holder, quota lessee or quota tenant that is entitled to payments under paragraph (4) or (5) dies and is survived by a spouse or 1 or more descendants, the right to receive the payments shall transfer to the surviving spouse or, if there is no surviving spouse, to the surviving descendants in equal shares.

(9) ACCELERATION OF PAYMENTS.—

(A) IN GENERAL.—On the occurrence of any of the events described in subparagraph (B), the Secretary shall make an accelerated lump sum payment for lost flue-cured tobacco quota as established under paragraphs (3), (4), and (5) to each quota holder, quota lessee, and quota tenant for flue-cured tobacco in accordance with subparagraph (C).

(B) TRIGGERING EVENTS.—The Secretary shall make accelerated payments under subparagraph (A) if after the date of enactment of this Act—

(i) subject to subparagraph (D), for 3 consecutive marketing years, the national marketing quota or national acreage allotment for flue-cured tobacco is less than 50 percent of the national marketing quota or national acreage allotment for flue-cured tobacco for the 1998 marketing year; or

(ii) Congress repeals or makes ineffective, directly or indirectly, any provision of—

(I) section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b);

(II) section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e);

(III) section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445);

(IV) section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445–1);

(V) section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2); or

(VI) section 317A of the Agricultural Adjustment Act of 1938.

(C) AMOUNT.—The amount of the accelerated payments made to each quota holder, quota lessee, and quota tenant under this subsection shall be equal to—

(i) the amount of the lifetime limitation established for the quota holder, quota lessee, or quota tenant under paragraph (6); less

(ii) any payments for lost flue-cured tobacco quota received by the quota holder, quota lessee, or quota tenant before the occurrence of any of the events described in subparagraph (B).

(D) REFERENDUM VOTE NOT A TRIGGERING EVENT.—A referendum vote of producers for flue-cured tobacco that results in the national marketing quota or national acreage allotment not being in effect for flue-cured tobacco shall not be considered a triggering event under this paragraph.

SEC. 1022. INDUSTRY PAYMENTS FOR ALL DEPARTMENT COSTS ASSOCIATED WITH TOBACCO PRODUCTION.

(a) IN GENERAL.—The Secretary shall use such amounts remaining unspent and obligated at the end of each fiscal year to reimburse the Secretary for—

(1) costs associated with the administration of programs established under this title and amendments made by this title;

(2) costs associated with the administration of the tobacco quota and price support programs administered by the Secretary;

(3) costs to the Federal Government of carrying out crop insurance programs for tobacco;

(4) costs associated with all agricultural research, extension, or education activities associated with tobacco;

(5) costs associated with the administration of loan association and cooperative programs for tobacco producers, as approved by the Secretary; and

(6) any other costs incurred by the Department of Agriculture associated with the production of tobacco.

(b) LIMITATIONS.—Amounts made available under subsection (a) may not be used—

(1) to provide direct benefits to quota holders, quota lessees, or quota tenants; or

(2) in a manner that results in a decrease, or an increase relative to other crops, in the amount of the crop insurance premiums assessed to participating tobacco producers under the Federal Crop Insurance Act (7 U.S.C. 1501 *et seq.*).

(c) DETERMINATIONS.—Not later than September 30, 1998, and each fiscal year thereafter, the Secretary shall determine—

(1) the amount of costs described in subsection (a); and

(2) the amount that will be provided under this section as reimbursement for the costs.

SEC. 1023. TOBACCO COMMUNITY ECONOMIC DEVELOPMENT GRANTS.

(a) AUTHORITY.—The Secretary shall make grants to tobacco-growing States in accordance with this section to enable the States to carry out economic development initiatives in tobacco-growing communities.

(b) APPLICATION.—To be eligible to receive payments under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

(1) a description of the activities that the State will carry out using amounts received under the grant;

(2) a designation of an appropriate State agency to administer amounts received under the grant; and

(3) a description of the steps to be taken to ensure that the funds are distributed in accordance with subsection (e).

(c) AMOUNT OF GRANT.—

(1) IN GENERAL.—From the amounts available to carry out this section for a fiscal year, the Secretary shall allot to each State an amount that bears the same ratio to the amounts available as the total farm income of the State derived from the production of tobacco during the 1995 through 1997 marketing years (as determined under paragraph (2)) bears to the total farm income of all States derived from the production of tobacco during the 1995 through 1997 marketing years.

(2) TOBACCO INCOME.—For the 1995 through 1997 marketing years, the Secretary shall determine the amount of farm income derived from the production of tobacco in each State and in all States.

(d) PAYMENTS.—

(1) IN GENERAL.—A State that has an application approved by the Secretary under subsection (b) shall be entitled to a payment under this section in an amount that is equal to its allotment under subsection (c).

(2) FORM OF PAYMENTS.—The Secretary may make payments under this section to a State in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(3) REALLOTMENTS.—Any portion of the allotment of a State under subsection (c) that the Secretary determines will not be used to carry out this section in accordance with an approved State application required under subsection (b), shall be reallotted by the Secretary to other States in proportion to the original allotments to the other States.

(e) USE AND DISTRIBUTION OF FUNDS.—

(1) IN GENERAL.—Amounts received by a State under this section shall be used to carry out economic development activities, including—

(A) rural business enterprise activities described in subsections (c) and (e) of section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932);

(B) down payment loan assistance programs that are similar to the program described in section 310E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1935);

(C) activities designed to help create productive farm or off-farm employment in rural areas to provide a more viable economic base and enhance opportunities for improved incomes, living standards, and contributions by rural individuals to the economic and social development of tobacco communities;

(D) activities that expand existing infrastructure, facilities, and services to capitalize on opportunities to diversify economies in tobacco communities and that support the development of new industries or commercial ventures;

(E) activities by agricultural organizations that provide assistance directly to participating tobacco producers to assist in developing other agricultural activities that supplement tobacco-producing activities;

(F) initiatives designed to create or expand locally owned value-added processing and marketing operations in tobacco communities;

(G) technical assistance activities by persons to support farmer-owned enterprises, or agriculture-based rural development enterprises, of the type described in section 252 or 253 of the Trade Act of 1974 (19 U.S.C. 2342, 2343); and

(H) initiatives designed to partially compensate tobacco warehouse owners for lost revenues and assist the tobacco warehouse owners in establishing successful business enterprises.

(2) TOBACCO-GROWING COUNTIES.—Assistance may be provided by a State under this section only to assist a county in the State that has been determined by the Secretary to have in excess of $100,000 in income derived from the production of tobacco during 1 or more of the 1995 through 1997 marketing years. For purposes of this section, the term "tobacco-growing county" includes a political subdivision surrounded within a State by a county that has been determined by the Secretary to have in excess of $100,000 in income derived from the production of tobacco during 1 or more of the 1995 through 1997 marketing years.

(3) DISTRIBUTION.—

(A) ECONOMIC DEVELOPMENT ACTIVITIES.—Not less than 20 percent of the amounts received by a State under this section shall be used to carry out—

(i) economic development activities described in subparagraph (E) or (F) of paragraph (1); or

(ii) agriculture-based rural development activities described in paragraph (1)(G).

(B) TECHNICAL ASSISTANCE ACTIVITIES.—Not less than 4 percent of the amounts received by a State under this section shall be used to carry out technical assistance activities described in paragraph (1)(G).

(C) TOBACCO WAREHOUSE OWNER INITIATIVES.—Not less than 6 percent of the amounts received by a State under this section during each of fiscal years 1999 through 2008 shall be used to carry out initiatives described in paragraph (1)(H).

(D) TOBACCO-GROWING COUNTIES.—To be eligible to receive payments under this section, a State shall demonstrate to the Secretary that funding will be provided, during each 5-year period for which funding is provided under this section, for activities in each county in the State that has been determined under paragraph (2) to have in excess of $100,000 in income derived from the production of tobacco, in amounts that are at least equal to the product obtained by multiplying—

(i) the ratio that the tobacco production income in the county determined under paragraph (2) bears to the total tobacco production income for the State determined under subsection (c); and

(ii) 50 percent of the total amounts received by a State under this section during the 5-year period.

(f) PREFERENCES IN HIRING.—A State may require recipients of funds under this section to provide a preference in employment to—

(1) an individual who—

(A) during the 1998 calendar year, was employed in the manufacture, processing, or warehousing of tobacco or tobacco products, or resided, in a county described in subsection (e)(2); and

(B) is eligible for assistance under the tobacco worker transition program established under section 1031; or

(2) an individual who—

(A) during the 1998 marketing year, carried out tobacco quota or relevant tobacco production activities in a county described in subsection (e)(2);

(B) is eligible for a farmer opportunity grant under subpart 9 of part A of title IV of the Higher Education Act of 1965; and

(C) has successfully completed a course of study at an institution of higher education.

(g) MAINTENANCE OF EFFORT.—

(1) IN GENERAL.—Subject to paragraph (2), a State shall provide an assurance to the Secretary that the amount of funds expended by the State and all counties in the State described in subsection (e)(2) for any activities funded under this section for a fiscal year is not less than 90 percent of the amount of funds expended by the State and counties for the activities for the preceding fiscal year.

(2) REDUCTION OF GRANT AMOUNT.—If a State does not provide an assurance described in paragraph (1), the Secretary shall reduce the amount of the grant determined under subsection (c) by an amount equal to the amount by which the amount of funds expended by the State and counties for the activities is less than 90 percent of the amount of funds expended by the State and counties for the activities for the preceding fiscal year, as determined by the Secretary.

(3) FEDERAL FUNDS.—For purposes of this subsection, the amount of funds expended by a State or county shall not include any amounts made available by the Federal Government.

SEC. 1024. FLUE-CURED TOBACCO PRODUCTION PERMITS.

The Agricultural Adjustment Act of 1938 is amended by inserting after section 317 (7 U.S.C. 1314c) the following:

"SEC. 317A. FLUE-CURED TOBACCO PRODUCTION PERMITS.

"(a) DEFINITIONS.—In this section:

"(1) INDIVIDUAL ACREAGE LIMITATION.—The term 'individual acreage limitation' means the number of acres of flue-cured tobacco that may be planted by the holder of a permit during a marketing year, calculated—

"(A) prior to—

"(i) any increase or decrease in the number due to undermarketings or overmarketings; and

"(ii) any reduction under subsection (i); and

"(B) in a manner that ensures that—

"(i) the total of all individual acreage limitations is equal to the national acreage allotment, less the reserve provided under subsection (h); and

"(ii) the individual acreage limitation for a marketing year bears the same ratio to the

individual acreage limitation for the previous marketing year as the ratio that the national acreage allotment for the marketing year bears to the national acreage allotment for the previous marketing year, subject to adjustments by the Secretary to account for any reserve provided under subsection (h).

"(2) INDIVIDUAL MARKETING LIMITATION.—The term 'individual marketing limitation' means the number of pounds of flue-cured tobacco that may be marketed by the holder of a permit during a marketing year, calculated—

"(A) prior to—

"(i) any increase or decrease in the number due to undermarketings or overmarketings; and

"(ii) any reduction under subsection (i); and

"(B) in a manner that ensures that—

"(i) the total of all individual marketing limitations is equal to the national marketing quota, less the reserve provided under subsection (h); and

"(ii) the individual marketing limitation for a marketing year is obtained by multiplying the individual acreage limitation by the permit yield, prior to any adjustment for undermarketings or overmarketings.

"(3) INDIVIDUAL TOBACCO PRODUCTION PERMIT.—The term 'individual tobacco production permit' means a permit issued by the Secretary to a person authorizing the production of flue-cured tobacco for any marketing year during which this section is effective.

"(4) NATIONAL ACREAGE ALLOTMENT.—The term 'national acreage allotment' means the quantity determined by dividing—

"(A) the national marketing quota; by

"(B) the national average yield goal.

"(5) NATIONAL AVERAGE YIELD GOAL.—The term 'national average yield goal' means the national average yield for flue-cured tobacco during the 5 marketing years immediately preceding the marketing year for which the determination is being made.

"(6) NATIONAL MARKETING QUOTA.—For the 1999 and each subsequent crop of flue-cured tobacco, the term 'national marketing quota' for a marketing year means the quantity of flue-cured tobacco, as determined by the Secretary, that is not more than 103 percent nor less than 97 percent of the total of—

"(A) the aggregate of the quantities of flue-cured tobacco that domestic manufacturers of cigarettes estimate that the manufacturers intend to purchase on the United States auction markets or from producers during the marketing year, as compiled and determined under section 320A;

"(B) the average annual quantity of flue-cured tobacco exported from the United States during the 3 marketing years immediately preceding the marketing year for which the determination is being made; and

"(C) the quantity, if any, of flue-cured tobacco that the Secretary, in the discretion of the Secretary, determines is necessary to increase or decrease the inventory of the producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of flue-cured tobacco to establish or maintain the inventory at the reserve stock level for flue-cured tobacco.

"(7) PERMIT YIELD.—The term 'permit yield' means the yield of tobacco per acre for an individual tobacco production permit holder that is—

"(A) based on a preliminary permit yield that is equal to the average yield during the 5 marketing years immediately preceding the marketing year for which the determination is made in the county where the holder of the permit is authorized to plant flue-cured tobacco, as determined by the Secretary, on the basis of actual yields of farms in the county; and

"(B) adjusted by a weighted national yield factor calculated by—

"(i) multiplying each preliminary permit yield by the individual acreage limitation, prior to adjustments for overmarketings, undermarketings, or reductions required under subsection (i); and

"(ii) dividing the sum of the products under clause (i) for all flue-cured individual tobacco production permit holders by the national acreage allotment.

"(b) INITIAL ISSUANCE OF PERMITS.—

"(1) TERMINATION OF FLUE-CURED MARKETING QUOTAS.—On the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act, farm marketing quotas as provided under section 317 shall no longer be in effect for flue-cured tobacco.

"(2) ISSUANCE OF PERMITS TO QUOTA HOLDERS THAT WERE PRINCIPAL PRODUCERS.—

"(A) IN GENERAL.—By January 15, 1999, each individual quota holder under section 317 that was a principal producer of flue-cured tobacco during the 1998 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

"(B) NOTIFICATION.—The Secretary shall notify the holder of each permit of the individual acreage limitation and the individual marketing limitation applicable to the holder for each marketing year.

"(C) INDIVIDUAL ACREAGE LIMITATION FOR 1999 MARKETING YEAR.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

"(D) INDIVIDUAL MARKETING LIMITATION FOR 1999 MARKETING YEAR.—In establishing the individual marketing limitation for the 1999 marketing year under this section, the farm marketing quota that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual marketing limitation for the previous marketing year.

"(3) QUOTA HOLDERS THAT WERE NOT PRINCIPAL PRODUCERS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), on approval through a referendum under subsection (c)—

"(i) each person that was a quota holder under section 317 but that was not a principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall not be eligible to own a permit; and

"(ii) the Secretary shall not issue any permit during the 25-year period beginning on the date of enactment of this Act to any person that was a quota holder and was not the principal producer of flue-cured tobacco during the 1997 marketing year.

"(B) MEDICAL HARDSHIPS AND CROP DISASTERS.—Subparagraph (A) shall not apply to a person that would have been the principal producer of flue-cured tobacco during the 1997 marketing year but for a medical hardship or crop disaster that occurred during the 1997 marketing year.

"(C) ADMINISTRATION.—The Secretary shall issue regulations—

"(i) defining the term 'person' for the purpose of this paragraph; and

"(ii) prescribing such rules as the Secretary determines are necessary to ensure a fair and reasonable application of the prohibition established under this paragraph.

"(4) ISSUANCE OF PERMITS TO PRINCIPAL PRODUCERS OF FLUE-CURED TOBACCO.—

"(A) IN GENERAL.—By January 15, 1999, each individual quota lessee or quota tenant (as defined in section 1002 of the LEAF Act) that was the principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

"(B) INDIVIDUAL ACREAGE LIMITATIONS.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by a quota holder for whom the quota lessee or quota tenant was the principal producer of flue-cured tobacco during the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

"(C) INDIVIDUAL MARKETING LIMITATIONS.—In establishing the individual marketing limitation for the 1999 marketing year under this section, the individual marketing limitation for the previous year for an individual described in this paragraph shall be calculated by multiplying—

"(i) the farm marketing quota that was allotted to a farm owned by a quota holder for whom the quota lessee or quota holder was the principal producer of flue-cured tobacco during the 1997 marketing year, by

"(ii) the ratio that—

"(I) the sum of all flue-cured tobacco farm marketing quotas for the 1997 marketing year prior to adjusting for undermarketing and overmarketing; bears to

"(II) the sum of all flue-cured tobacco farm marketing quotas for the 1998 marketing year, after adjusting for undermarketing and overmarketing.

"(D) SPECIAL RULE FOR TENANT OF LEASED FLUE-CURED TOBACCO.—If the farm marketing quota or farm acreage allotment of a quota holder was produced pursuant to an agreement under which a quota lessee rented land from a quota holder and a quota tenant was the primary producer, as determined by the Secretary, of flue-cured tobacco pursuant to the farm marketing quota or farm acreage allotment, the farm marketing quota or farm acreage allotment shall be divided proportionately between the quota lessee and quota tenant for purposes of issuing individual tobacco production permits under this paragraph.

"(5) OPTION OF QUOTA LESSEE OR QUOTA TENANT TO RELINQUISH PERMIT.—

"(A) IN GENERAL.—Each quota lessee or quota tenant that is issued an individual tobacco production permit under paragraph (4) shall be given the option of relinquishing the permit in exchange for payments made under section 1021(e)(5) of the LEAF Act.

"(B) NOTIFICATION.—A quota lessee or quota tenant that is issued an individual tobacco production permit shall give notification of the intention to exercise the option at such time and in such manner as the Secretary may require, but not later than 45 days after the permit is issued.

"(C) REALLOCATION OF PERMIT.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit relinquished under this paragraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

"(6) ACTIVE PRODUCER REQUIREMENT.—

"(A) REQUIREMENT FOR SHARING RISK.—No individual tobacco production permit shall

be issued to, or maintained by, a person that does not fully share in the risk of producing a crop of flue-cured tobacco.

"(B) CRITERIA FOR SHARING RISK.—For purposes of this paragraph, a person shall be considered to have fully shared in the risk of production of a crop if—

"(i) the investment of the person in the production of the crop is not less than 100 percent of the costs of production associated with the crop;

"(ii) the amount of the person's return on the investment is dependent solely on the sale price of the crop; and

"(iii) the person may not receive any of the return before the sale of the crop.

"(C) PERSONS NOT SHARING RISK.—

"(i) FORFEITURE.—Any person that fails to fully share in the risks of production under this paragraph shall forfeit an individual tobacco production permit if, after notice and opportunity for a hearing, the appropriate county committee determines that the conditions for forfeiture exist.

"(ii) REALLOCATION.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit forfeited under this subparagraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

"(D) NOTICE.—Notice of any determination made by a county committee under subparagraph (C) shall be mailed, as soon as practicable, to the person involved.

"(E) REVIEW.—If the person is dissatisfied with the determination, the person may request, not later than 15 days after notice of the determination is received, a review of the determination by a local review committee under the procedures established under section 363 for farm marketing quotas.

"(7) COUNTY OF ORIGIN REQUIREMENT.—For the 1999 and each subsequent crop of flue-cured tobacco, all tobacco produced pursuant to an individual tobacco production permit shall be produced in the same county in which was produced the tobacco produced during the 1997 marketing year pursuant to the farm marketing quota or farm acreage allotment on which the individual tobacco production permit is based.

"(8) COUNTY PRODUCTION POOL.—

"(A) IN GENERAL.—The authority to produce flue-cured tobacco under an individual tobacco production permit that is forfeited, relinquished, or surrendered within a county may be reallocated by the appropriate county committee to tobacco producers located in the same county that apply to the committee to produce flue-cured tobacco under the authority.

"(B) PRIORITY.—In reallocating individual tobacco production permits under this paragraph, a county committee shall provide a priority to—

"(i) an active tobacco producer that controls the authority to produce a quantity of flue-cured tobacco under an individual tobacco production permit that is equal to or less than the average number of pounds of flue-cured tobacco that was produced by the producer during each of the 1995 through 1997 marketing years, as determined by the Secretary; and

"(ii) a new tobacco producer.

"(C) CRITERIA.—Individual tobacco production permits shall be reallocated by the appropriate county committee under this paragraph in a fair and equitable manner after taking into consideration—

"(i) the experience of the producer;

"(ii) the availability of land, labor, and equipment for the production of tobacco;

"(iii) crop rotation practices; and

"(iv) the soil and other physical factors affecting the production of tobacco.

"(D) MEDICAL HARDSHIPS AND CROP DISASTERS.—Notwithstanding any other provision of this Act, the Secretary may issue an individual tobacco production permit under this paragraph to a producer that is otherwise ineligible for the permit due to a medical hardship or crop disaster that occurred during the 1997 marketing year.

"(c) REFERENDUM.—

"(1) ANNOUNCEMENT OF QUOTA AND ALLOTMENT.—Not later than December 15, 1998, the Secretary pursuant to subsection (b) shall determine and announce—

"(A) the quantity of the national marketing quota for flue-cured tobacco for the 1999 marketing year; and

"(B) the national acreage allotment and national average yield goal for the 1999 crop of flue-cured tobacco.

"(2) SPECIAL REFERENDUM.—Not later than 30 days after the announcement of the quantity of the national marketing quota in 2001, the Secretary shall conduct a special referendum of the tobacco production permit holders that were the principal producers of flue-cured tobacco of the 1997 crop to determine whether the producers approve or oppose the continuation of individual tobacco production permits on an acreage-poundage basis as provided in this section for the 2002 through 2004 marketing years.

"(3) APPROVAL OF PERMITS.—If the Secretary determines that more than 66⅔ percent of the producers voting in the special referendum approve the establishment of individual tobacco production permits on an acreage-poundage basis—

"(A) individual tobacco production permits on an acreage-poundage basis as provided in this section shall be in effect for the 2002 through 2004 marketing years; and

"(B) marketing quotas on an acreage-poundage basis shall cease to be in effect for the 2002 through 2004 marketing years.

"(4) DISAPPROVAL OF PERMITS.—If individual tobacco production permits on an acreage-poundage basis are not approved by more than 66⅔ percent of the producers voting in the referendum, no marketing quotas on an acreage-poundage basis shall continue in effect that were proclaimed under section 317 prior to the referendum.

"(5) APPLICABLE MARKETING YEARS.—If individual tobacco production permits have been made effective for flue-cured tobacco on an acreage-poundage basis pursuant to this subsection, the Secretary shall, not later than December 15 of any future marketing year, announce a national marketing quota for that type of tobacco for the next 3 succeeding marketing years if the marketing year is the last year of 3 consecutive years for which individual tobacco production permits previously proclaimed will be in effect.

"(d) ANNUAL ANNOUNCEMENT OF NATIONAL MARKETING QUOTA.—The Secretary shall determine and announce the national marketing quota, national acreage allotment, and national average yield goal for the second and third marketing years of any 3-year period for which individual tobacco production permits are in effect on or before the December 15 immediately preceding the beginning of the marketing year to which the quota, allotment, and goal apply.

"(e) ANNUAL ANNOUNCEMENT OF INDIVIDUAL TOBACCO PRODUCTION PERMITS.—If a national marketing quota, national acreage allotment, and national average yield goal are determined and announced, the Secretary shall provide for the determination of individual tobacco production permits, individual acreage limitations, and individual marketing limitations under this section for the crop and marketing year covered by the determinations.

"(f) ASSIGNMENT OF TOBACCO PRODUCTION PERMITS.—

"(1) LIMITATION TO SAME COUNTY.—Each individual tobacco production permit holder shall assign the individual acreage limitation and individual marketing limitation to 1 or more farms located within the county of origin of the individual tobacco production permit.

"(2) FILING WITH COUNTY COMMITTEE.—The assignment of an individual acreage limitation and individual marketing limitation shall not be effective until evidence of the assignment, in such form as required by the Secretary, is filed with and determined by the county committee for the county in which the farm involved is located.

"(3) LIMITATION ON TILLABLE CROPLAND.—The total acreage assigned to any farm under this subsection shall not exceed the acreage of cropland on the farm.

"(g) PROHIBITION ON SALE OR LEASING OF INDIVIDUAL TOBACCO PRODUCTION PERMITS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Secretary shall not permit the sale and transfer, or lease and transfer, of an individual tobacco production permit issued under this section.

"(2) TRANSFER TO DESCENDANTS.—

"(A) DEATH.—In the case of the death of a person to whom an individual tobacco production permit has been issued under this section, the permit shall transfer to the surviving spouse of the person or, if there is no surviving spouse, to surviving direct descendants of the person.

"(B) TEMPORARY INABILITY TO FARM.—In the case of the death of a person to whom an individual tobacco production permit has been issued under this section and whose descendants are temporarily unable to produce a crop of tobacco, the Secretary may hold the license in the name of the descendants for a period of not more than 18 months.

"(3) VOLUNTARY TRANSFERS.—A person that is eligible to obtain an individual tobacco production permit under this section may at any time transfer all or part of the permit to the person's spouse or direct descendants that are actively engaged in the production of tobacco.

"(h) RESERVE.—

"(1) IN GENERAL.—For each marketing year for which individual tobacco production permits are in effect under this section, the Secretary may establish a reserve from the national marketing quota in a quantity equal to not more than 1 percent of the national marketing quota to be available for—

"(A) making corrections of errors in individual acreage limitations and individual marketing limitations;

"(B) adjusting inequities; and

"(C) establishing individual tobacco production permits for new tobacco producers (except that not less than two-thirds of the reserve shall be for establishing such permits for new tobacco producers).

"(2) ELIGIBLE PERSONS.—To be eligible for a new individual tobacco production permit, a producer must not have been the principal producer of tobacco during the immediately preceding 5 years.

"(3) APPORTIONMENT FOR NEW PRODUCERS.—The part of the reserve held for apportionment to new individual tobacco producers shall be allotted on the basis of—

"(A) land, labor, and equipment available for the production of tobacco;

"(B) crop rotation practices;

"(C) soil and other physical factors affecting the production of tobacco; and

"(D) the past tobacco-producing experience of the producer.

"(4) PERMIT YIELD.—The permit yield for any producer for which a new individual tobacco production permit is established shall be determined on the basis of available productivity data for the land involved and yields for similar farms in the same county.

"(i) PENALTIES.—

"(1) PRODUCTION ON OTHER FARMS.—If any quantity of tobacco is marketed as having been produced under an individual acreage limitation or individual marketing limitation assigned to a farm but was produced on a different farm, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

"(2) FALSE REPORT.—If a person to which an individual tobacco production permit is issued files, or aids or acquiesces in the filing of, a false report with respect to the assignment of an individual acreage limitation or individual marketing limitation for a quantity of tobacco, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

"(j) MARKETING PENALTIES.—

"(1) IN GENERAL.—When individual tobacco production permits under this section are in effect, provisions with respect to penalties for the marketing of excess tobacco and the other provisions contained in section 314 shall apply in the same manner and to the same extent as they would apply under section 317(g) if farm marketing quotas were in effect.

"(2) PRODUCTION ON OTHER FARMS.—If a producer falsely identifies tobacco as having been produced on or marketed from a farm to which an individual acreage limitation or individual marketing limitation has been assigned, future individual acreage limitations and individual marketing limitations shall be forfeited.".

SEC. 1025. MODIFICATIONS IN FEDERAL TOBACCO PROGRAMS.

(a) PROGRAM REFERENDA.—Section 312(c) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1312(c)) is amended—

(1) by striking "(c) Within thirty" and inserting the following:

"(c) REFERENDA ON QUOTAS.—

"(1) IN GENERAL.—Not later than 30"; and

(2) by adding at the end the following:

"(2) REFERENDA ON PROGRAM CHANGES.—

"(A) IN GENERAL.—In the case of any type of tobacco for which marketing quotas are in effect, on the receipt of a petition from more than 5 percent of the producers of that type of tobacco in a State, the Secretary shall conduct a statewide referendum on any proposal related to the lease and transfer of tobacco quota within a State requested by the petition that is authorized under this part.

"(B) APPROVAL OF PROPOSALS.—If a majority of producers of the type of tobacco in the State approve a proposal in a referendum conducted under subparagraph (A), the Secretary shall implement the proposal in a manner that applies to all producers and quota holders of that type of tobacco in the State.".

(b) PURCHASE REQUIREMENTS.—Section 320B of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314h) is amended—

(1) in subsection (c)—

(A) by striking "(c) The amount" and inserting "(c) AMOUNT OF PENALTY.—For the 1998 and subsequent marketing years, the amount"; and

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

"(1) 105 percent of the average market price for the type of tobacco involved during the preceding marketing year; and".

(c) ELIMINATION OF TOBACCO MARKETING ASSESSMENT.—

(1) IN GENERAL.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by striking subsection (g).

(2) CONFORMING AMENDMENT.—Section 422(c) of the Uruguay Round Agreements Act (Public Law 103-465; 7 U.S.C. 1445 note) is amended by striking "section 106(g), 106A, or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445(g), 1445-1, or 1445-2)" and inserting "section 106A or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445-1, 1445-2)".

(d) ADJUSTMENT FOR LAND RENTAL COSTS.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by adding at the end the following:

"(h) ADJUSTMENT FOR LAND RENTAL COSTS.—For each of the 1999 and 2000 marketing years for flue-cured tobacco, after consultation with producers, State farm organizations and cooperative associations, the Secretary shall make an adjustment in the price support level for flue-cured tobacco equal to the annual change in the average cost per pound to flue-cured producers, as determined by the Secretary, under agreements through which producers rent land to produce flue-cured tobacco.".

(e) FIRE-CURED AND DARK AIR-CURED TOBACCO PROGRAMS.—

(1) LIMITATION ON TRANSFERS.—Section 318(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d(g)) is amended—

(A) by striking "ten" and inserting "30"; and

(B) by inserting "during any crop year" after "transferred to any farm".

(2) LOSS OF ALLOTMENT OR QUOTA THROUGH UNDERPLANTING.—Section 318 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d) is amended by adding at the end the following:

"(k) LOSS OF ALLOTMENT OR QUOTA THROUGH UNDERPLANTING.—Effective for the 1999 and subsequent marketing years, no acreage allotment or acreage-poundage quota, other than a new marketing quota, shall be established for a farm on which no fire-cured or dark air-cured tobacco was planted or considered planted during at least 2 of the 3 crop years immediately preceding the crop year for which the acreage allotment or acreage-poundage quota would otherwise be established.".

(f) EXPANSION OF TYPES OF TOBACCO SUBJECT TO NO NET COST ASSESSMENT.—

(1) NO NET COST TOBACCO FUND.—Section 106A(d)(1)(A) of the Agricultural Act of 1949 (7 U.S.C. 1445-1(d)(1)(A)) is amended—

(A) in clause (ii), by inserting after "Burley quota tobacco" the following: "and fire-cured and dark air-cured quota tobacco"; and

(B) in clause (iii)—

(i) in the matter preceding subclause (I), by striking "Flue-cured or Burley tobacco" and inserting "each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,"; and

(ii) by striking subclause (II) and inserting the following:

"(II) the sum of the amount of the per pound producer contribution and purchaser assessment (if any) for the kind of tobacco payable under clauses (i) and (ii); and".

(2) NO NET COST TOBACCO ACCOUNT.—Section 106B(d)(1) of the Agricultural Act of 1949 (7 U.S.C. 1445-2(d)(1)) is amended—

(A) in subparagraph (B), by inserting after "Burley quota tobacco" the following: "and fire-cured and dark air-cured tobacco"; and

(B) in subparagraph (C), by striking "Flue-cured and Burley tobacco" and inserting "each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,".

Subtitle C—Farmer and Worker Transition Assistance

SEC. 1031. TOBACCO WORKER TRANSITION PROGRAM.

(a) GROUP ELIGIBILITY REQUIREMENTS.—

(1) CRITERIA.—A group of workers (including workers in any firm or subdivision of a firm involved in the manufacture, processing, or warehousing of tobacco or tobacco products) shall be certified as eligible to apply for adjustment assistance under this section pursuant to a petition filed under subsection (b) if the Secretary of Labor determines that a significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated, and—

(A) the sales or production, or both, of the firm or subdivision have decreased absolutely; and

(B) the implementation of the national tobacco settlement contributed importantly to the workers' separation or threat of separation and to the decline in the sales or production of the firm or subdivision.

(2) DEFINITION OF CONTRIBUTED IMPORTANTLY.—In paragraph (1)(B), the term "contributed importantly" means a cause that is important but not necessarily more important than any other cause.

(3) REGULATIONS.—The Secretary shall issue regulations relating to the application of the criteria described in paragraph (1) in making preliminary findings under subsection (b) and determinations under subsection (c).

(b) PRELIMINARY FINDINGS AND BASIC ASSISTANCE.—

(1) FILING OF PETITIONS.—A petition for certification of eligibility to apply for adjustment assistance under this section may be filed by a group of workers (including workers in any firm or subdivision of a firm involved in the manufacture, processing, or warehousing of tobacco or tobacco products) or by their certified or recognized union or other duly authorized representative with the Governor of the State in which the workers' firm or subdivision thereof is located.

(2) FINDINGS AND ASSISTANCE.—On receipt of a petition under paragraph (1), the Governor shall—

(A) notify the Secretary that the Governor has received the petition;

(B) within 10 days after receiving the petition—

(i) make a preliminary finding as to whether the petition meets the criteria described in subsection (a)(1); and

(ii) transmit the petition, together with a statement of the finding under clause (i) and reasons for the finding, to the Secretary for action under subsection (c); and

(C) if the preliminary finding under subparagraph (B)(i) is affirmative, ensure that rapid response and basic readjustment services authorized under other Federal laws are made available to the workers.

(c) REVIEW OF PETITIONS BY SECRETARY; CERTIFICATIONS.—

(1) IN GENERAL.—The Secretary, within 30 days after receiving a petition under subsection (b)(2)(B)(ii), shall determine whether the petition meets the criteria described in

subsection (a)(1). On a determination that the petition meets the criteria, the Secretary shall issue to workers covered by the petition a certification of eligibility to apply for the assistance described in subsection (d).

(2) DENIAL OF CERTIFICATION.—On the denial of a certification with respect to a petition under paragraph (1), the Secretary shall review the petition in accordance with the requirements of other applicable assistance programs to determine if the workers may be certified under the other programs.

(d) COMPREHENSIVE ASSISTANCE.—

(1) IN GENERAL.—Workers covered by a certification issued by the Secretary under subsection (c)(1) shall be provided with benefits and services described in paragraph (2) in the same manner and to the same extent as workers covered under a certification under subchapter A of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.), except that the total amount of payments under this section for any fiscal year shall not exceed $25,000,000.

(2) BENEFITS AND SERVICES.—The benefits and services described in this paragraph are the following:

(A) Employment services of the type described in section 235 of the Trade Act of 1974 (19 U.S.C. 2295).

(B) Training described in section 236 of the Trade Act of 1974 (19 U.S.C. 2296), except that notwithstanding the provisions of section 236(a)(2)(A) of that Act, the total amount of payments for training under this section for any fiscal year shall not exceed $12,500,000.

(C) Tobacco worker readjustment allowances, which shall be provided in the same manner as trade readjustment allowances are provided under part I of subchapter B of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2291 et seq.), except that—

(i) the provisions of sections 231(a)(5)(C) and 231(c) of that Act (19 U.S.C. 2291(a)(5)(C), 2291(c)), authorizing the payment of trade readjustment allowances on a finding that it is not feasible or appropriate to approve a training program for a worker, shall not be applicable to payment of allowances under this section; and

(ii) notwithstanding the provisions of section 233(b) of that Act (19 U.S.C. 2293(b)), in order for a worker to qualify for tobacco readjustment allowances under this section, the worker shall be enrolled in a training program approved by the Secretary of the type described in section 236(a) of that Act (19 U.S.C. 2296(a)) by the later of—

(I) the last day of the 16th week of the worker's initial unemployment compensation benefit period; or

(II) the last day of the 6th week after the week in which the Secretary issues a certification covering the worker.

In cases of extenuating circumstances relating to enrollment of a worker in a training program under this section, the Secretary may extend the time for enrollment for a period of not to exceed 30 days.

(D) Job search allowances of the type described in section 237 of the Trade Act of 1974 (19 U.S.C. 2297).

(E) Relocation allowances of the type described in section 238 of the Trade Act of 1974 (19 U.S.C. 2298).

(e) INELIGIBILITY OF INDIVIDUALS RECEIVING PAYMENTS FOR LOST TOBACCO QUOTA.—No benefits or services may be provided under this section to any individual who has received payments for lost tobacco quota under section 1021.

(f) FUNDING.—Of the amounts appropriated to carry out this title, the Secretary may use not to exceed $25,000,000 for each of fiscal years 1999 through 2008 to provide assistance under this section.

(g) EFFECTIVE DATE.—This section shall take effect on the date that is the later of—

(1) October 1, 1998; or

(2) the date of enactment of this Act.

(h) TERMINATION DATE.—No assistance, vouchers, allowances, or other payments may be provided under this section after the date that is the earlier of—

(1) the date that is 10 years after the effective date of this section under subsection (g); or

(2) the date on which legislation establishing a program providing dislocated workers with comprehensive assistance substantially similar to the assistance provided by this section becomes effective.

SEC. 1032. FARMER OPPORTUNITY GRANTS.

Part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) is amended by adding at the end the following:

"Subpart 9—Farmer Opportunity Grants

"SEC. 420D. STATEMENT OF PURPOSE.

"It is the purpose of this subpart to assist in making available the benefits of postsecondary education to eligible students (determined in accordance with section 420F) in institutions of higher education by providing farmer opportunity grants to all eligible students.

"SEC. 420E. PROGRAM AUTHORITY; AMOUNT AND DETERMINATIONS; APPLICATIONS.

"(a) PROGRAM AUTHORITY AND METHOD OF DISTRIBUTION.—

"(1) PROGRAM AUTHORITY.—From amounts made available under section 1011(d)(5) of the LEAF Act, the Secretary, during the period beginning July 1, 1999, and ending September 30, 2024, shall pay to each eligible institution such sums as may be necessary to pay to each eligible student (determined in accordance with section 420F) for each academic year during which that student is in attendance at an institution of higher education, as an undergraduate, a farmer opportunity grant in the amount for which that student is eligible, as determined pursuant to subsection (b). Not less than 85 percent of the sums shall be advanced to eligible institutions prior to the start of each payment period and shall be based on an amount requested by the institution as needed to pay eligible students, except that this sentence shall not be construed to limit the authority of the Secretary to place an institution on a reimbursement system of payment.

"(2) CONSTRUCTION.—Nothing in this section shall be construed to prohibit the Secretary from paying directly to students, in advance of the beginning of the academic term, an amount for which the students are eligible, in cases where the eligible institution elects not to participate in the disbursement system required by paragraph (1).

"(3) DESIGNATION.—Grants made under this subpart shall be known as 'farmer opportunity grants'.

"(b) AMOUNT OF GRANTS.—

"(1) AMOUNTS.—

"(A) IN GENERAL.—The amount of the grant for a student eligible under this subpart shall be—

"(i) $1,700 for each of the academic years 1999–2000 through 2003–2004;

"(ii) $2,000 for each of the academic years 2004–2005 through 2008–2009;

"(iii) $2,300 for each of the academic years 2009–2010 through 2013–2014;

"(iv) $2,600 for each of the academic years 2014–2015 through 2018–2019; and

"(v) $2,900 for each of the academic years 2019–2020 through 2023–2024.

"(B) PART-TIME RULE.—In any case where a student attends an institution of higher education on less than a full-time basis (including a student who attends an institution of higher education on less than a half-time basis) during any academic year, the amount of the grant for which that student is eligible shall be reduced in proportion to the degree to which that student is not so attending on a full-time basis, in accordance with a schedule of reductions established by the Secretary for the purposes of this subparagraph, computed in accordance with this subpart. The schedule of reductions shall be established by regulation and published in the Federal Register.

"(2) MAXIMUM.—No grant under this subpart shall exceed the cost of attendance (as described in section 472) at the institution at which that student is in attendance. If, with respect to any student, it is determined that the amount of a grant exceeds the cost of attendance for that year, the amount of the grant shall be reduced to an amount equal to the cost of attendance at the institution.

"(3) PROHIBITION.—No grant shall be awarded under this subpart to any individual who is incarcerated in any Federal, State, or local penal institution.

"(c) PERIOD OF ELIGIBILITY FOR GRANTS.—

"(1) IN GENERAL.—The period during which a student may receive grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student at the institution at which the student is in attendance, except that any period during which the student is enrolled in a noncredit or remedial course of study as described in paragraph (2) shall not be counted for the purpose of this paragraph.

"(2) CONSTRUCTION.—Nothing in this section shall be construed to—

"(A) exclude from eligibility courses of study that are noncredit or remedial in nature and that are determined by the institution to be necessary to help the student be prepared for the pursuit of a first undergraduate baccalaureate degree or certificate or, in the case of courses in English language instruction, to be necessary to enable the student to utilize already existing knowledge, training, or skills; and

"(B) exclude from eligibility programs of study abroad that are approved for credit by the home institution at which the student is enrolled.

"(3) PROHIBITION.—No student is entitled to receive farmer opportunity grant payments concurrently from more than 1 institution or from the Secretary and an institution.

"(d) APPLICATIONS FOR GRANTS.—

"(1) IN GENERAL.—The Secretary shall from time to time set dates by which students shall file applications for grants under this subpart. The filing of applications under this subpart shall be coordinated with the filing of applications under section 401(c).

"(2) INFORMATION AND ASSURANCES.—Each student desiring a grant for any year shall file with the Secretary an application for the grant containing such information and assurances as the Secretary may deem necessary to enable the Secretary to carry out the Secretary's functions and responsibilities under this subpart.

"(e) DISTRIBUTION OF GRANTS TO STUDENTS.—Payments under this section shall be made in accordance with regulations promulgated by the Secretary for such purpose, in such manner as will best accomplish the purpose of this section. Any disbursement allowed to be made by crediting the student's account shall be limited to tuition and fees

and, in the case of institutionally owned housing, room and board. The student may elect to have the institution provide other such goods and services by crediting the student's account.

"(f) INSUFFICIENT FUNDING.—If, for any fiscal year, the funds made available to carry out this subpart are insufficient to satisfy fully all grants for students determined to be eligible under section 420F, the amount of the grant provided under subsection (b) shall be reduced on a pro rata basis among all eligible students.

"(g) TREATMENT OF INSTITUTIONS AND STUDENTS UNDER OTHER LAWS.—Any institution of higher education that enters into an agreement with the Secretary to disburse to students attending that institution the amounts those students are eligible to receive under this subpart shall not be deemed, by virtue of the agreement, to be a contractor maintaining a system of records to accomplish a function of the Secretary. Recipients of farmer opportunity grants shall not be considered to be individual grantees for purposes of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq.).

"SEC. 420F. STUDENT ELIGIBILITY.

"(a) IN GENERAL.—In order to receive any grant under this subpart, a student shall—

"(1) be a member of a tobacco farm family in accordance with subsection (b);

"(2) be enrolled or accepted for enrollment in a degree, certificate, or other program (including a program of study abroad approved for credit by the eligible institution at which the student is enrolled) leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with section 487, and not be enrolled in an elementary or secondary school;

"(3) if the student is presently enrolled at an institution of higher education, be maintaining satisfactory progress in the course of study the student is pursuing in accordance with subsection (c);

"(4) not owe a refund on grants previously received at any institution of higher education under this title, or be in default on any loan from a student loan fund at any institution provided for in part D, or a loan made, insured, or guaranteed by the Secretary under this title for attendance at any institution;

"(5) file with the institution of higher education that the student intends to attend, or is attending, a document, that need not be notarized, but that shall include—

"(A) a statement of educational purpose stating that the money attributable to the grant will be used solely for expenses related to attendance or continued attendance at the institution; and

"(B) the student's social security number; and

"(6) be a citizen of the United States.

"(b) TOBACCO FARM FAMILIES.—

"(1) IN GENERAL.—For the purpose of subsection (a)(1), a student is a member of a tobacco farm family if during calendar year 1998 the student was—

"(A) an individual who—

"(i) is a participating tobacco producer (as defined in section 1002 of the LEAF Act); or

"(ii) is otherwise actively engaged in the production of tobacco;

"(B) a spouse, son, daughter, stepson, or stepdaughter of an individual described in subparagraph (A);

"(C) an individual—

"(i) who was a brother, sister, stepbrother, stepsister, son-in-law, or daughter-in-law of an individual described in subparagraph (A); and

"(ii) whose principal place of residence was the home of the individual described in subparagraph (A); or

"(D) an individual who was a dependent (within the meaning of section 152 of the Internal Revenue Code of 1986) of an individual described in subparagraph (A).

"(2) ADMINISTRATION.—On request, the Secretary of Agriculture shall provide to the Secretary such information as is necessary to carry out this subsection.

"(c) SATISFACTORY PROGRESS.—

"(1) IN GENERAL.—For the purpose of subsection (a)(3), a student is maintaining satisfactory progress if—

"(A) the institution at which the student is in attendance reviews the progress of the student at the end of each academic year, or its equivalent, as determined by the institution; and

"(B) the student has at least a cumulative C average or its equivalent, or academic standing consistent with the requirements for graduation, as determined by the institution, at the end of the second such academic year.

"(2) SPECIAL RULE.—Whenever a student fails to meet the eligibility requirements of subsection (a)(3) as a result of the application of this subsection and subsequent to that failure the student has academic standing consistent with the requirements for graduation, as determined by the institution, for any grading period, the student may, subject to this subsection, again be eligible under subsection (a)(3) for a grant under this subpart.

"(3) WAIVER.—Any institution of higher education at which the student is in attendance may waive paragraph (1) or (2) for undue hardship based on—

"(A) the death of a relative of the student;

"(B) the personal injury or illness of the student; or

"(C) special circumstances as determined by the institution.

"(d) STUDENTS WHO ARE NOT SECONDARY SCHOOL GRADUATES.—In order for a student who does not have a certificate of graduation from a school providing secondary education, or the recognized equivalent of the certificate, to be eligible for any assistance under this subpart, the student shall meet either 1 of the following standards:

"(1) EXAMINATION.—The student shall take an independently administered examination and shall achieve a score, specified by the Secretary, demonstrating that the student can benefit from the education or training being offered. The examination shall be approved by the Secretary on the basis of compliance with such standards for development, administration, and scoring as the Secretary may prescribe in regulations.

"(2) DETERMINATION.—The student shall be determined as having the ability to benefit from the education or training in accordance with such process as the State shall prescribe. Any such process described or approved by a State for the purposes of this section shall be effective 6 months after the date of submission to the Secretary unless the Secretary disapproves the process. In determining whether to approve or disapprove the process, the Secretary shall take into account the effectiveness of the process in enabling students without secondary school diplomas or the recognized equivalent to benefit from the instruction offered by institutions utilizing the process, and shall also take into account the cultural diversity, economic circumstances, and educational preparation of the populations served by the institutions.

"(e) SPECIAL RULE FOR CORRESPONDENCE COURSES.—A student shall not be eligible to receive a grant under this subpart for a correspondence course unless the course is part of a program leading to an associate, bachelor, or graduate degree.

"(f) COURSES OFFERED THROUGH TELECOMMUNICATIONS.—

"(1) RELATION TO CORRESPONDENCE COURSES.—A student enrolled in a course of instruction at an eligible institution of higher education (other than an institute or school that meets the definition in section 521(4)(C) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471(4)(C))) that is offered in whole or in part through telecommunications and leads to a recognized associate, bachelor, or graduate degree conferred by the institution shall not be considered to be enrolled in correspondence courses unless the total amount of telecommunications and correspondence courses at the institution equals or exceeds 50 percent of the courses.

"(2) RESTRICTION OR REDUCTIONS OF FINANCIAL AID.—A student's eligibility to receive a grant under this subpart may be reduced if a financial aid officer determines under the discretionary authority provided in section 479A that telecommunications instruction results in a substantially reduced cost of attendance to the student.

"(3) DEFINITION.—For the purposes of this subsection, the term 'telecommunications' means the use of television, audio, or computer transmission, including open broadcast, closed circuit, cable, microwave, or satellite, audio conferencing, computer conferencing, or video cassettes or discs, except that the term does not include a course that is delivered using video cassette or disc recordings at the institution and that is not delivered in person to other students of that institution.

"(g) STUDY ABROAD.—Nothing in this subpart shall be construed to limit or otherwise prohibit access to study abroad programs approved by the home institution at which a student is enrolled. An otherwise eligible student who is engaged in a program of study abroad approved for academic credit by the home institution at which the student is enrolled shall be eligible to receive a grant under this subpart, without regard to whether the study abroad program is required as part of the student's degree program.

"(h) VERIFICATION OF SOCIAL SECURITY NUMBER.—The Secretary, in cooperation with the Commissioner of Social Security, shall verify any social security number provided by a student to an eligible institution under subsection (a)(5)(B) and shall enforce the following conditions:

"(1) PENDING VERIFICATION.—Except as provided in paragraphs (2) and (3), an institution shall not deny, reduce, delay, or terminate a student's eligibility for assistance under this subpart because social security number verification is pending.

"(2) DENIAL OR TERMINATION.—If there is a determination by the Secretary that the social security number provided to an eligible institution by a student is incorrect, the institution shall deny or terminate the student's eligibility for any grant under this subpart until such time as the student provides documented evidence of a social security number that is determined by the institution to be correct.

"(3) CONSTRUCTION.—Nothing in this subsection shall be construed to permit the Secretary to take any compliance, disallowance, penalty, or other regulatory action against—

"(A) any institution of higher education with respect to any error in a social security

number, unless the error was a result of fraud on the part of the institution; or

"(B) any student with respect to any error in a social security number, unless the error was a result of fraud on the part of the student.".

Subtitle D—Immunity

SEC. 1041. GENERAL IMMUNITY FOR TOBACCO PRODUCERS AND TOBACCO WAREHOUSE OWNERS.

Notwithstanding any other provision of this title, a participating tobacco producer, tobacco-related growers association, or tobacco warehouse owner or employee may not be subject to liability in any Federal or State court for any cause of action resulting from the failure of any tobacco product manufacturer, distributor, or retailer to comply with the National Tobacco Policy and Youth Smoking Reduction Act.

TITLE XI—MISCELLANEOUS PROVISIONS

Subtitle A—International Provisions

SEC. 1101. POLICY.

It shall be the policy of the United States government to pursue bilateral and multilateral agreements that include measures designed to—

(1) restrict or eliminate tobacco advertising and promotion aimed at children;

(2) require effective warning labels on packages and advertisements of tobacco products;

(3) require disclosure of tobacco ingredient information to the public;

(4) limit access to tobacco products by young people;

(5) reduce smuggling of tobacco and tobacco products;

(6) ensure public protection from environmental tobacco smoke; and

(7) promote tobacco product policy and program information sharing between or among the parties to those agreements.

SEC. 1102. TOBACCO CONTROL NEGOTIATIONS.

The President, in consultation with the Secretary of State, the Secretary of Health and Human Services, and the United States Trade Representative, shall—

(1) act as the lead negotiator for the United States in the area of international tobacco control;

(2) coordinate among U.S. foreign policy and trade negotiators in the area of effective international tobacco control policy;

(3) work closely with non-governmental groups, including public health groups; and

(4) report annually to the Congress on the progress of negotiations to achieve effective international tobacco control policy.

SEC. 1103. REPORT TO CONGRESS.

Not later than 150 days after the enactment of this Act and annually thereafter, the Secretary of Health and Human Services shall transmit to the Congress a report identifying the international fora wherein international tobacco control efforts may be negotiated.

SEC. 1104. FUNDING.

There are authorized such sums as are necessary to carry out the provisions of this subtitle.

SEC. 1105. PROHIBITION OF FUNDS TO FACILITATE THE EXPORTATION OR PROMOTION OF TOBACCO.

(a) IN GENERAL.—No officer, employee, department, or agency of the United States may promote the sale or export of tobacco or tobacco products, or seek the reduction or removal by any foreign country of restrictions on the marketing of tobacco or tobacco products, unless such restrictions are not applied equally to all tobacco and tobacco products. The United States Trade Representative shall consult with the Secretary regarding inquiries, negotiations, and representations with respect to tobacco and tobacco products, including whether proposed restrictions are reasonable protections of public health.

(b) NOTIFICATION.—Whenever such inquiries, negotiations, or representations are made, the United States Trade Representative shall notify the Congress within 10 days afterwards regarding the nature of the inquiry, negotiation, or representation.

SEC. 1106. HEALTH LABELING OF TOBACCO PRODUCTS FOR EXPORT.

(a) IN GENERAL.—

(1) EXPORTS MUST BE LABELED.—It shall be unlawful for any United States person, directly or through approval or facilitation of a transaction by a foreign person, to make use of the United States mail or of any instrument of interstate commerce to authorize or contribute to the export from the United States any tobacco product unless the tobacco product packaging contains a warning label that—

(A) complies with Federal requirements for labeling of similar tobacco products manufactured, imported, or packaged for sale or distribution in the United States; or

(B) complies with the specific health hazard warning labeling requirements of the foreign country to which the product is exported.

(2) U.S. REQUIREMENTS APPLY IF THE DESTINATION COUNTRY DOES NOT REQUIRE SPECIFIC HEALTH HAZARD WARNING LABELS.—Subparagraph (B) of paragraph (1) does not apply to exports to a foreign country that does not have any specific health hazard warning label requirements for the tobacco product being exported.

(b) UNITED STATES PERSON DEFINED.—For purposes of this section, the term "United States person" means—

(1) an individual who is a citizen, national, or resident of the United States; and

(2) a corporation, partnership, association, joint-stock company, business trust, unincorporated organization, or sole proprietorship which has its principal place of business in the United States.

(c) REPORT TO CONGRESS ON ENFORCEMENT; FEASIBILITY REGULATIONS.—

(1) THE PRESIDENT.—The President shall—

(A) report to the Congress within 90 days after the date of enactment of this Act—

(i) regarding methods to ensure compliance with subsection (a); and

(ii) listing countries whose health warnings related to tobacco products are substantially similar to those in the United States; and

(B) promulgate regulations within 1 year after the date of enactment of this Act that will ensure compliance with subsection (a).

(2) THE SECRETARY.—The Secretary shall determine through regulation the feasibility and practicability of requiring health warning labeling in the language of the country of destination weighing the health and other benefits and economic and other costs. To the greatest extent practicable, the Secretary should design a system that requires the language of the country of destination while minimizing the dislocative effects of such a system.

SEC. 1107. INTERNATIONAL TOBACCO CONTROL AWARENESS.

(a) ESTABLISHMENT OF INTERNATIONAL TOBACCO CONTROL AWARENESS.—The Secretary is authorized to establish an international tobacco control awareness effort. The Secretary shall—

(1) promote efforts to share information and provide education internationally about the health, economic, social, and other costs of tobacco use, including scientific and epidemiological data related to tobacco and tobacco use and enhancing countries' capacity to collect, analyze, and disseminating such data;

(2) promote policies and support and coordinate international efforts, including international agreements or arrangements, that seek to enhance the awareness and understanding of the costs associated with tobacco use;

(3) support the development of appropriate governmental control activities in foreign countries, such as assisting countries to design, implement, and evaluate programs and policies used in the United States or other countries; including the training of United States diplomatic and commercial representatives outside the United States;

(4) undertake other activities as appropriate in foreign countries that help achieve a reduction of tobacco use;

(5) permit United States participation in annual meetings of government and non-government representatives concerning international tobacco use and efforts to reduce tobacco use;

(6) promote mass media campaigns, including paid counter-tobacco advertisements to reverse the image appeal of pro-tobacco messages, especially those that glamorize and "Westernize" tobacco use to young people; and

(7) create capacity and global commitment to reduce international tobacco use and prevent youth smoking, including the use of models of previous public health efforts to address global health problems.

(b) ACTIVITIES.—

(1) IN GENERAL.—The activities under subsection (a) shall include—

(A) public health and education programs;

(B) technical assistance;

(C) cooperative efforts and support for related activities of multilateral organization and international organizations;

(D) training; and

(E) such other activities that support the objectives of this section as may be appropriate.

(2) GRANTS AND CONTRACTS.—In carrying out this section, the Secretary shall make grants to, enter into and carry out agreements with, and enter into other transactions with any individual, corporation, or other entity, whether within or outside the United States, including governmental and nongovernmental organizations, international organizations, and multilateral organizations.

(3) TRANSFER OF FUNDS TO AGENCIES.—The Secretary may transfer to any agency of the United States any part of any funds appropriated for the purpose of carrying out this section. Funds authorized to be appropriated by this section shall be available for obligation and expenditure in accordance with the provisions of this section or in accordance with the authority governing the activities of the agency to which such funds are transferred.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, from the National Tobacco Trust Fund, to carry out the provisions of this section, including the administrative costs incurred by any agency of the United States in carrying out this section, $350,000,000 for each of the fiscal years 1999 through 2004, and such sums as may be necessary for each fiscal year thereafter. A substantial amount of such

funds shall be granted to non-governmental organizations. Any amount appropriated pursuant to this authorization shall remain available without fiscal year limitation until expended.

Subtitle B—Anti-smuggling Provisions

SEC. 1131. DEFINITIONS.

(a) INCORPORATION OF CERTAIN DEFINITIONS.—In this subtitle, the terms "cigar", "cigarette", "person", "pipe tobacco", "roll-your-own tobacco", "smokeless tobacco", "State", "tobacco product", and "United States", shall have the meanings given such terms in sections 5702(a), 5702(b), 7701(a)(1), 5702(o), 5702(n)(1), 5702(p), 3306(j)(1), 5702(c), and 3306(j)(2) respectively of the Internal Revenue Code of 1986.

(b) OTHER DEFINITIONS.—In this subtitle:

(1) AFFILIATE.—The term "affiliate" means any one of 2 or more persons if 1 of such persons has actual or legal control, directly or indirectly, whether by stock ownership or otherwise, of other or others of such persons, and any 2 or more of such persons subject to common control, actual or legal, directly or indirectly, whether by stock ownership or otherwise.

(2) INTERSTATE OR FOREIGN COMMERCE.—The term "interstate or foreign commerce" means any commerce between any State and any place outside thereof, or commerce within any Territory or the District of Columbia, or between points within the same State but through any place outside thereof.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Treasury.

(4) PACKAGE.—The term "package" means the innermost sealed container irrespective of the material from which such container is made, in which a tobacco product is placed by the manufacturer and in which such tobacco product is offered for sale to a member of the general public.

(5) RETAILER.—The term "retailer" means any dealer who sells, or offers for sale, any tobacco product at retail. The term "retailer" includes any duty free store that sells, offers for sale, or otherwise distributes at retail in any single transaction 30 or less packages, or its equivalent for other tobacco products.

(6) EXPORTER.—The term "exporter" means any person engaged in the business of exporting tobacco products from the United States for purposes of sale or distribution; and the term "licensed exporter" means any such person licensed under the provisions of this subtitle. Any duty-free store that sells, offers for sale, or otherwise distributes to any person in any single transaction more than 30 packages of cigarettes, or its equivalent for other tobacco products as the Secretary shall by regulation prescribe, shall be deemed an "exporter" under this subtitle.

(7) IMPORTER.—The term "importer" means any person engaged in the business of importing tobacco products into the United States for purposes of sale or distribution; and the term "licensed importer" means any such person licensed under the provisions of this subtitle.

(8) INTENTIONALLY.—The term "intentionally" means doing an act, or omitting to do an act, deliberately, and not due to accident, inadvertence, or mistake. An intentional act does not require that a person knew that his act constituted an offense.

(9) MANUFACTURER.— The term "manufacturer" means any person engaged in the business of manufacturing a tobacco product for purposes of sale or distribution, except that such term shall not include a person who manufactures less than 30,000 cigarettes, or its equivalent as determined by regulations, in any twelve month period;; and the term "licensed manufacturer" means any such person licensed under the provisions of this subtitle, except that such term shall not include a person who produces cigars, cigarettes, smokeless tobacco, or pipe tobacco solely for his own personal consumption or use.

(10) WHOLESALER.—The term "wholesaler" means any person engaged in the business of purchasing tobacco products for resale at wholesale, or any person acting as an agent or broker for any person engaged in the business of purchasing tobacco products for resale at wholesale, and the term "licensed wholesaler" means any such person licensed under the provisions of this subtitle.

SEC. 1132. TOBACCO PRODUCT LABELING REQUIREMENTS.

(a) IN GENERAL.—It is unlawful for any person to sell, or ship or deliver for sale or shipment, or otherwise introduce in interstate or foreign commerce, or to receive therein, or to remove from Customs custody for use, any tobacco product unless such product is packaged and labeled in conformity with this section.

(b) LABELING.—

(1) IDENTIFICATION.—Not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate regulations that require each manufacturer or importer of tobacco products to legibly print a unique serial number on all packages of tobacco products manufactured or imported for sale or distribution. The serial number shall be designed to enable the Secretary to identify the manufacturer or importer of the product, and the location and date of manufacture or importation. The Secretary shall determine the size and location of the serial number.

(2) MARKING REQUIREMENTS FOR EXPORTS.—Each package of a tobacco product that is exported shall be marked for export from the United States. The Secretary shall promulgate regulations to determine the size and location of the mark and under what circumstances a waiver of this paragraph shall be granted.

(c) PROHIBITION ON ALTERATION.—It is unlawful for any person to alter, mutilate, destroy, obliterate, or remove any mark or label required under this subtitle upon a tobacco product in or affecting commerce, except pursuant to regulations of the Secretary authorizing relabeling for purposes of compliance with the requirements of this section or of State law.

SEC. 1133. TOBACCO PRODUCT LICENSES.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall establish a program under which tobacco product licenses are issued to manufacturers, importers, exporters, and wholesalers of tobacco products.

(b)(1) ELIGIBILITY.—A person is entitled to a license unless the Secretary finds—

(A) that such person has been previously convicted of a Federal crime relating to tobacco, including the taxation thereof;

(B) that such person has, within 5 years prior to the date of application, been previously convicted of any felony under Federal or State law; or

(C) that such person is, by virtue of his business experience, financial standing, or trade connections, not likely to maintain such operations in conformity with Federal law.

(2) CONDITIONS.—The issuance of a license under this section shall be conditioned upon the compliance with the requirements of this subtitle, all Federal laws relating to the taxation of tobacco products, chapter 114 of title 18, United States Code, and any regulations issued pursuant to such statutes.

(c) REVOCATION, SUSPENSION, AND ANNULMENT.—The program established under subsection (a) shall permit the Secretary to revoke, suspend, or annul a license issued under this section if the Secretary determines that the terms or conditions of the license have not been complied with. Prior to any action under this subsection, the Secretary shall provide the licensee with due notice and the opportunity for a hearing.

(d) RECORDS AND AUDITS.—The Secretary shall, under the program established under subsection (a), require all license holders to keep records concerning the chain of custody of the tobacco products that are the subject of the license and make such records available to the Secretary for inspection and audit.

(e) RETAILERS.—This section does not apply to retailers of tobacco products, except that retailers shall maintain records of receipt, and such records shall be available to the Secretary for inspection and audit. An ordinary commercial record or invoice will satisfy this requirement provided such record shows the date of receipt, from whom such products were received and the quantity of tobacco products received.

SEC. 1134. PROHIBITIONS.

(a) IMPORTATION AND SALE.—It is unlawful, except pursuant to a license issued by the Secretary under this subtitle—

(1) to engage in the business of importing tobacco products into the United States; or

(2) for any person so engaged to sell, offer, or deliver for sale, contract to sell, or ship, in or affecting commerce, directly or indirectly or through an affiliate, tobacco products so imported.

(b) MANUFACTURE AND SALE.—It is unlawful, except pursuant to a license issued by the Secretary under this subtitle—

(1) to engage in the business of manufacturing, packaging or warehousing tobacco products; or

(2) for any person so engaged to sell, offer, or deliver for sale, contract to sell, or ship, in or affecting commerce, directly or indirectly or through an affiliate, tobacco products so manufactured, packaged, or warehoused.

(c) WHOLESALE.—It is unlawful, except pursuant to a license issued by the Secretary under this subtitle—

(1) to engage in the business of purchasing for resale at wholesale tobacco products, or, as a principal or agent, to sell, offer for sale, negotiate for, or hold out by solicitation, advertisement, or otherwise as selling, providing, or arranging for, the purchase for resale at wholesale of tobacco products; or

(2) for any person so engaged to receive or sell, offer or deliver for sale, contract to sell, or ship, in or affecting commerce, directly or indirectly or through an affiliate, tobacco products so purchased.

(d) EXPORTATION.—

(1) IN GENERAL.—It is unlawful, except pursuant to a license issued by the Secretary under this subtitle—

(A) to engage in the business of exporting tobacco products from the United States; or

(B) for any person so engaged to sell, offer, or deliver for sale, contract to sell, or ship, in or affecting commerce, directly or indirectly or through an affiliate, tobacco products received for export.

(2) REPORT.—Prior to exportation of tobacco products from the United States, the exporter shall submit a report in such manner and form as the Secretary may by regulation prescribe to enable the Secretary to

identify the shipment and assure that it reaches its intended destination.

(3) AGREEMENTS WITH FOREIGN GOVERNMENTS.—The Secretary is authorized to enter into agreements with foreign governments to exchange or share information contained in reports received from exporters of tobacco products if the Secretary believes that such an agreement will assist in—

(A) insuring compliance with any law or regulation enforced or administered by an agency of the United States; or

(B) preventing or detecting violation of the laws or regulations of a foreign government with which the Secretary has entered into an agreement.

Such information may be exchanged or shared with a foreign government only if the Secretary obtains assurances from such government that the information will be held in confidence and used only for the purpose of preventing or detecting violations of the laws or regulations of such government or the United States and, provided further that no information may be exchanged or shared with any government that has violated such assurances.

(e) UNLAWFUL ACTS.—

(1) UNLICENSED RECEIPT OR DELIVERY.—It is unlawful for any licensed importer, licensed manufacturer, or licensed wholesaler intentionally to ship, transport, deliver or receive any tobacco products from or to any person other than a person licensed under this chapter or a retailer licensed under the provisions of this Act, except a licensed importer may receive foreign tobacco products from a foreign manufacturer or a foreign distributor that have not previously entered the United States.

(2) RECEIPT OF RE-IMPORTED GOODS.—It is unlawful for any person, except a licensed manufacturer or a licensed exporter to receive any tobacco products that have previously been exported and returned to the United States.

(3) DELIVERY BY EXPORTER.—It is unlawful for any licensed exporter intentionally to ship, transport, sell or deliver for sale any tobacco products to any person other than a licensed manufacturer or foreign purchaser.

(4) SHIPMENT OF EXPORT-ONLY GOODS.—It is unlawful for any person other than a licensed exporter intentionally to ship, transport, receive or possess, for purposes of resale, any tobacco product in packages marked "FOR EXPORT FROM THE UNITED STATES," other than for direct return to the manufacturer or exporter for re-packing or for re-exportation.

(5) FALSE STATEMENTS.—It is unlawful for any licensed manufacturer, licensed exporter, licensed importer, or licensed wholesaler to make intentionally any false entry in, to fail willfully to make appropriate entry in, or to fail willfully to maintain properly any record or report that he is required to keep as required by this chapter or the regulations promulgated thereunder.

(h) EFFECTIVE DATE.—The provisions of this section shall become effective on the date that is 365 days after the date of enactment of this Act.

SEC. 1135. LABELING OF PRODUCTS SOLD BY NATIVE AMERICANS.

The Secretary, in consultation with the Secretary of the Interior, shall promulgate regulations that require that each package of a tobacco product that is sold on an Indian reservation (as defined in section 403(9) of the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3202(9)) be labeled as such. Such regulations shall include requirements for the size and location of the label.

SEC. 1136. LIMITATION ON ACTIVITIES INVOLVING TOBACCO PRODUCTS IN FOREIGN TRADE ZONES.

(a) MANUFACTURE OF TOBACCO PRODUCTS IN FOREIGN TRADE ZONES.—No person shall manufacture a tobacco product in any foreign trade zone, as defined for purposes of the Act of June 18, 1934 (19 U.S.C. 81a et seq.).

(b) EXPORTING OR IMPORTING FROM OR INTO A FOREIGN TRADE ZONE.—Any person exporting or importing tobacco products from or into a foreign trade zone, as defined for purposes of the Act of June 18, 1934 (19 U.S.C. 81a et seq.), shall comply with the requirements provided in this subtitle. In any case where the person operating in a foreign trade zone is acting on behalf of a person licensed under this subtitle, qualification as an importer or exporter will not be required, if such person complies with the requirements set forth in section 1134(d)(2) and (3) of this subtitle.

SEC. 1137. JURISDICTION; PENALTIES; COMPROMISE OF LIABILITY.

(a) JURISDICTION.—The District Courts of the United States, and the United States Court for any Territory, of the District where the offense is committed or of which the offender is an inhabitant or has its principal place of business, are vested with jurisdiction of any suit brought by the Attorney General in the name of the United States, to prevent and restrain violations of any of the provisions of this subtitle.

(b) PENALTIES.—Any person violating any of the provisions of this subtitle shall, upon conviction, be fined as provided in section 3571 of title 18, United States Code, imprisoned for not more than 5 years, or both.

(c) CIVIL PENALTIES.—The Secretary may, in lieu of referring violations of this subtitle for criminal prosecution, impose a civil penalty of not more than $10,000 for each offense.

(d) COMPROMISE OF LIABILITY.—The Secretary is authorized, with respect to any violation of this subtitle, to compromise the liability arising with respect to a violation of this subtitle—

(1) upon payment of a sum not in excess of $10,000 for each offense, to be collected by the Secretary and to be paid into the Treasury as miscellaneous receipts; and

(2) in the case of repetitious violations and in order to avoid multiplicity of criminal proceedings, upon agreement to a stipulation, that the United States may, on its own motion upon 5 days notice to the violator, cause a consent decree to be entered by any court of competent jurisdiction enjoining the repetition of such violation.

(e) FORFEITURE.—

(1) The Secretary may seize and forfeit any conveyance, tobacco products, or monetary instrument (as defined in section 5312 of title 31, United States Code) involved in a violation of this subtitle, or any property, real or personal, which constitutes or is derived from proceeds traceable to a violation of this chapter. For purposes of this paragraph, the provisions of subsections (a)(2), (b)(2), and (c) through (j) of section 981 of title 18, United States Code, apply to seizures and forfeitures under this paragraph insofar as they are applicable and not inconsistent with the provisions of this subtitle.

(2) The court, in imposing sentence upon a person convicted of an offense under this subtitle, shall order that the person forfeit to the United States any property described in paragraph (1). The seizure and forfeiture of such property shall be governed by subsections (b), (c), and (e) through (p) of section 853 of title 21, United States Code, insofar as they are applicable and not inconsistent with the provisions of this subtitle.

SEC. 1138. AMENDMENTS TO THE CONTRABAND CIGARETTE TRAFFICKING ACT.

(a) DEFINITIONS.—Section 2341 of title 18, United States Code, is amended—

(1) by striking "60,000" and inserting "30,000" in paragraph (2);

(2) by inserting after "payment of cigarette taxes," in paragraph (2) the following: "or in the case of a State that does not require any such indication of tax payment, if the person in possession of the cigarettes is unable to provide any evidence that the cigarettes are moving legally in interstate commerce,";

(3) by striking "and" at the end of paragraph (4);

(4) by striking "Treasury." in paragraph (5) and inserting "Treasury;"; and

(5) by adding at the end thereof the following:

"(6) the term 'tobacco product' means cigars, cigarettes, smokeless tobacco, roll your own and pipe tobacco (as such terms are defined in section 5701 of the Internal Revenue Code of 1986); and

"(7) the term 'contraband tobacco product' means—

"(A) a quantity in excess of 30,000 of any tobacco product that is manufactured, sold, shipped, delivered, transferred, or possessed in violation of Federal laws relating to the distribution of tobacco products; and

"(B) a quantity of tobacco product that is equivalent to an excess of 30,000 cigarettes, as determined by regulation, which bears no evidence of the payment of applicable State tobacco taxes in the State where such tobacco products are found, if such State requires a stamp, impression, or other indication to be placed on packages or other containers of product to evidence payment of tobacco taxes, or in the case of a State that does not require any such indication of tax payment, if the person in possession of the tobacco product is unable to provide any evidence that the tobacco products are moving legally in interstate commerce and which are in the possession of any person other than a person defined in paragraph (2) of this section.".

(b) UNLAWFUL ACTS.—Section 2342 of title 18, United States Code, is amended—

(1) by inserting "or contraband tobacco products" before the period in subsection (a); and

(2) by adding at the end thereof the following:

"(c) It is unlawful for any person—

"(1) knowingly to make any false statement or representation with respect to the information required by this chapter to be kept in the records or reports of any person who ships, sells, or distributes any quantity of cigarettes in excess of 30,000 in a single transaction, or tobacco products in such equivalent quantities as shall be determined by regulation; or

"(2) knowingly to fail or knowingly to fail to maintain distribution records or reports, alter or obliterate required markings, or interfere with any inspection as required with respect to such quantity of cigarettes or other tobacco products.

"(d) It shall be unlawful for any person knowingly to transport cigarettes or other tobacco products under a false bill of lading or without any bill of lading.".

(d) RECORDKEEPING.—Section 2343 of title 18, United States Code, is amended—

(1) by striking "60,000" in subsection (a) and inserting "30,000";

(2) by inserting after "transaction" in subsection (a) the following: "or, in the case of other tobacco products an equivalent quantity as determined by regulation,";

(3) by striking the last sentence of subsection (a) and inserting the following:

"Except as provided in subsection (c) of this section, nothing contained herein shall authorize the Secretary to require reporting under this section.";

(4) by striking "60,000" in subsection (b) and inserting "30,000";

(5) by inserting after "transaction" in subsection (b) the following: "or, in the case of other tobacco products an equivalent quantity as determined by regulation,"; and

(6) by adding at the end thereof the following:

"(c)(1) Any person who ships, sells, or distributes for resale tobacco products in interstate commerce, whereby such tobacco products are shipped into a State taxing the sale or use of such tobacco products or who advertises or offers tobacco products for such sale or transfer and shipment shall—

"(A) first file with the tobacco tax administrator of the State into which such shipment is made or in which such advertisement or offer is disseminated, a statement setting for the persons name, and trade name (if any), and the address of the persons principal place of business and of any other place of business; and

"(B) not later than the 10th day of each month, file with the tobacco tax administrator of the State into which such shipment is made a memorandum or a copy of the invoice covering each and every shipment of tobacco products made during the previous month into such State; the memorandum or invoice in each case to include the name and address of the person to whom the shipment was made, the brand, and the quantity thereof.

"(2) The fact that any person ships or delivers for shipment any tobacco products shall, if such shipment is into a State in which such person has filed a statement with the tobacco tax administrator under paragraph (1)(A) of this subsection, be presumptive evidence that such tobacco products were sold, shipped, or distributed for resale by such person.

"(3) For purposes of this subsection—

"(A) the term 'use' includes consumption, storage, handling, or disposal of tobacco products; and

"(B) the term 'tobacco tax administrator' means the State official authorized to administer tobacco tax laws of the State.".

(e) PENALTIES.—Section 2344 of title 18, United States Code, is amended—

(1) by inserting "or (c)" in subsection (b) after "section 2344(b)";

(2) by inserting "or contraband tobacco products" after "cigarettes" in subsection (c); and

(3) by adding at the end thereof the following:

"(d) Any proceeds from the unlawful distribution of tobacco shall be subject to seizure and forfeiture under section 981(a)(1)(C).".

(f) REPEAL OF FEDERAL LAW RELATING TO COLLECTION OF STATE CIGARETTE TAXES.—The Act of October 19, 1949, (63 Stat. 884; 15 U.S.C. 375-378) is hereby repealed.

SEC. 1139. FUNDING.

(a) LICENSE FEES.—The Secretary may, in the Secretary's sole discretion, set the fees for licenses required by this chapter, in such amounts as are necessary to recover the costs of administering the provisions of this chapter, including preventing trafficking in contraband tobacco products.

(b) DISPOSITION OF FEES.—Fees collected by the Secretary under this chapter shall be deposited in an account with the Treasury of the United States that is specially designated for paying the costs associated with the administration or enforcement of this chapter or any other Federal law relating to the unlawful trafficking of tobacco products. The Secretary is authorized and directed to pay out of any funds available in such account any expenses incurred by the Federal Government in administering and enforcing this chapter or any other Federal law relating to the unlawful trafficking in tobacco products (including expenses incurred for the salaries and expenses of individuals employed to provide such services). None of the funds deposited into such account shall be available for any purpose other than making payments authorized under the preceding sentence.

SEC. 1140. RULES AND REGULATIONS.

The Secretary shall prescribe all needful rules and regulations for the enforcement of this chapter, including all rules and regulations that are necessary to ensure the lawful distribution of tobacco products in interstate or foreign commerce.

Subtitle C—Other Provisions

SEC. 1161. IMPROVING CHILD CARE AND EARLY CHILDHOOD DEVELOPMENT.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary from the National Tobacco Trust Fund such sums as may be necessary for each fiscal year to be used by the Secretary for the following purposes:

(1) Improving the affordability of child care through increased appropriations for child care under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9859 et seq.).

(2) Enhancing the quality of child care and early childhood development through the provision of grants to States under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9859 et seq.).

(3) Expanding the availability and quality of school-age care through the provision of grants to States under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9859 et seq.).

(4) Assisting young children by providing grants to local collaboratives under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9859 et seq.) for the purpose of improving parent education and supportive services, strengthening the quality of child care, improving health services, and improving services for children with disabilities.

(b) SUPPLEMENT NOT SUPPLANT.—Amounts made available to a State under this section shall be used to supplement and not supplant other Federal, State, and local funds provided for programs that serve the health and developmental needs of children. Amounts provided to the State under any of the provisions of law referred to in this section shall not be reduced solely as a result of the availability of funds under this section.

SEC. 1162. BAN OF SALE OF TOBACCO PRODUCTS THROUGH THE USE OF VENDING MACHINES.

(a) BAN OF SALE OF TOBACCO PRODUCTS THROUGH THE USE OF VENDING MACHINES.—Effective 12 months after the date of enactment of this Act, it shall be unlawful to sell tobacco products through the use of a vending machine.

(b) COMPENSATION FOR BANNED VENDING MACHINES.—

(1) IN GENERAL.—The owners and operators of tobacco vending machines shall be reimbursed, subject to the availability of appropriations under subsection (d), for the fair market value of their tobacco vending machines.

(2) TOBACCO VENDING REIMBURMENT CORPORATION.—

(A) CORPORATION.—Reimbursment shall be directed through a private, nonprofit corporation established in the District of Columbia, known as the Tobacco Vending Reimburment Corporation (in this section referred to as the "Corporation"). Except as otherwise provided in this section, the Corporation is subject to, and has all the powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act (D.C. Code section 29-501 et seq.).

(B) DUTIES.—The Corporation shall—

(i) disburse compensation funds to vending companies under this section;

(ii) verify operational machines; and

(iii) maintain complete records of machine verification and accountings of disbursements and administration of the compensation fund established under paragraph (4).

(3) MANAGEMENT OF CORPORATION.—

(A) BOARD OF DIRECTORS.—The Corporation shall be managed by a Board of Directors that—

(i) consists of distinguished Americans with experience in finance, public policy, or fund management;

(ii) includes at least 1 member of the United States tobacco vending machine industry;

(iii) shall be paid an annual salary in an amount determined by the President of the Corporation not to exceed $40,000 individually, out of amounts transferred to the Corporation under paragraph (4)(A);

(iv) shall appoint a President to manage the day-to-day activities of the Corporation;

(v) shall develop guidelines by which the President shall direct the Corporation;

(vi) shall retain a national accounting firm to verify the distribution of funds and audit the compensation fund established under paragraph (4);

(vii) shall retain such legal, management, or consulting assistance as is necessary and reasonable; and

(viii) shall periodically report to Congress regarding the activities of the Corporation.

(B) DUTIES OF THE PRESIDENT OF THE CORPORATION.—The President of the Corporation shall—

(i) hire appropriate staff;

(ii) prepare the report of the Board of Directors of the Corporation required under subparagraph (A)(viii); and

(iii) oversee Corporation functions, including verification of machines, administration and disbursement of funds, maintenance of complete records, operation of appeals procedures, and other directed functions.

(4) COMPENSATION FUND.—

(A) RULES FOR DISBURSEMENT OF FUNDS.—

(i) PAYMENTS TO OWNERS AND OPERATORS.—The Corporation shall disburse funds to compensate the owners and operators of tobacco vending machines in accordance with the following:

(I) The fair market value of each tobacco vending machine verified by the Corporation President in accordance with subparagraph (C), and proven to have been in operation before August 10, 1995, shall be disbursed to the owner of the machine seeking compensation.

(II) No compensation shall be made for a spiral glass front vending machine.

(ii) OTHER PAYMENTS.—Funds appropriated to the Corporation under subsection (d) may be used to pay the administrative costs of the Corporation that are necessary and proper or required by law. The total amount paid by the Corporation for administrative and overhead costs, including accounting fees, legal fees, consultant fees, and associated administrative costs shall not exceed 1 percent

of the total amount appropriated to the Corporation under subsection (d).

(B) VERIFICATION OF VENDING MACHINES.—Verification of vending machines shall be based on copies of official State vending licenses, company computerized or handwritten sales records, or physical inspection by the Corporation President or by an inspection agent designated by the President. The Corporation President and the Board of Directors of the Corporation shall work vigorously to prevent and prosecute any fraudulent claims submitted for compensation.

(C) RETURN OF ACCOUNT FUNDS NOT DISTRIBUTED TO VENDORS.—The Corporation shall be dissolved on the date that is 4 years after the date of enactment of this Act. Any funds not dispersed or allocated to claims pending as of that date shall be transferred to a public anti-smoking trust, or used for such other purposes as Congress may designate.

(c) SETTLEMENT OF LEGAL CLAIMS PENDING AGAINST THE UNITED STATES.—Acceptance of a compensation payment from the Corporation by a vending machine owner or operator shall settle all pending and future claims of the owner or operator against the United States that are based on, or related to, the ban of the use of tobacco vending machines imposed under this section and any other laws or regulations that limit the use of tobacco vending machines.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Corporation from funds not otherwise obligated in the Treasury or out of the National Tobacco Trust Fund, such sums as may be necessary to carry out this section.

SEC. 1163. AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is amended by adding at the end the following new section:

"SEC. 713. REQUIRED COVERAGE FOR MINIMUM HOSPITAL STAY FOR MASTECTOMIES AND LYMPH NODE DISSECTIONS FOR THE TREATMENT OF BREAST CANCER AND COVERAGE FOR RECONSTRUCTIVE SURGERY FOLLOWING MASTECTOMIES.

"(a) INPATIENT CARE.—

"(1) IN GENERAL.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, that provides medical and surgical benefits shall ensure that inpatient coverage with respect to the surgical treatment of breast cancer (including a mastectomy, lumpectomy, or lymph node dissection for the treatment of breast cancer) is provided for a period of time as is determined by the attending physician, in his or her professional judgment consistent with generally accepted medical standards, in consultation with the patient, and subject to subsection (d), to be medically appropriate.

"(2) EXCEPTION.—Nothing in this section shall be construed as requiring the provision of inpatient coverage if the attending physician in consultation with the patient determine that a shorter period of hospital stay is medically appropriate.

"(b) RECONSTRUCTIVE SURGERY.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, that provides medical and surgical benefits with respect to a mastectomy shall ensure that, in a case in which a mastectomy patient elects breast reconstruction, coverage is provided for—

"(1) all stages of reconstruction of the breast on which the mastectomy has been performed;

"(2) surgery and reconstruction of the other breast to produce a symmetrical appearance; and

"(3) the costs of prostheses and complications of mastectomy including lymphedemas;

in the manner determined by the attending physician and the patient to be appropriate. Such coverage may be subject to annual deductibles and coinsurance provisions as may be deemed appropriate and as are consistent with those established for other benefits under the plan or coverage. Written notice of the availability of such coverage shall be delivered to the participant upon enrollment and annually thereafter.

"(c) NOTICE.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan shall provide notice to each participant and beneficiary under such plan regarding the coverage required by this section in accordance with regulations promulgated by the Secretary. Such notice shall be in writing and prominently positioned in any literature or correspondence made available or distributed by the plan or issuer and shall be transmitted—

"(1) in the next mailing made by the plan or issuer to the participant or beneficiary;

"(2) as part of any yearly informational packet sent to the participant or beneficiary; or

"(3) not later than January 1, 1998;

whichever is earlier.

"(d) NO AUTHORIZATION REQUIRED.—

"(1) IN GENERAL.—An attending physician shall not be required to obtain authorization from the plan or issuer for prescribing any length of stay in connection with a mastectomy, a lumpectomy, or a lymph node dissection for the treatment of breast cancer.

"(2) PRENOTIFICATION.—Nothing in this section shall be construed as preventing a group health plan from requiring prenotification of an inpatient stay referred to in this section if such requirement is consistent with terms and conditions applicable to other inpatient benefits under the plan, except that the provision of such inpatient stay benefits shall not be contingent upon such notification.

"(e) PROHIBITIONS.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, may not—

"(1) deny to a patient eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of this section;

"(2) provide monetary payments or rebates to individuals to encourage such individuals to accept less than the minimum protections available under this section;

"(3) penalize or otherwise reduce or limit the reimbursement of an attending provider because such provider provided care to an individual participant or beneficiary in accordance with this section;

"(4) provide incentives (monetary or otherwise) to an attending provider to induce such provider to provide care to an individual participant or beneficiary in a manner inconsistent with this section; and

"(5) subject to subsection (f)(3), restrict benefits for any portion of a period within a hospital length of stay required under subsection (a) in a manner which is less favorable than the benefits provided for any preceding portion of such stay.

"(f) RULES OF CONSTRUCTION.—

"(1) IN GENERAL.—Nothing in this section shall be construed to require a patient who is a participant or beneficiary—

"(A) to undergo a mastectomy or lymph node dissection in a hospital; or

"(B) to stay in the hospital for a fixed period of time following a mastectomy or lymph node dissection.

"(2) LIMITATION.—This section shall not apply with respect to any group health plan, or any group health insurance coverage offered by a health insurance issuer, which does not provide benefits for hospital lengths of stay in connection with a mastectomy or lymph node dissection for the treatment of breast cancer.

"(3) COST SHARING.—Nothing in this section shall be construed as preventing a group health plan or issuer from imposing deductibles, coinsurance, or other cost-sharing in relation to benefits for hospital lengths of stay in connection with a mastectomy or lymph node dissection for the treatment of breast cancer under the plan (or under health insurance coverage offered in connection with a group health plan), except that such coinsurance or other cost-sharing for any portion of a period within a hospital length of stay required under subsection (a) may not be greater than such coinsurance or cost-sharing for any preceding portion of such stay.

"(4) LEVEL AND TYPE OF REIMBURSEMENTS.—Nothing in this section shall be construed to prevent a group health plan or a health insurance issuer offering group health insurance coverage from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

"(g) PREEMPTION, RELATION TO STATE LAWS.—

"(1) IN GENERAL.—Nothing in this section shall be construed to preempt any State law in effect on the date of enactment of this section with respect to health insurance coverage that—

"(A) such State law requires such coverage to provide for at least a 48-hour hospital length of stay following a mastectomy performed for treatment of breast cancer and at least a 24-hour hospital length of stay following a lymph node dissection of breast cancer;

"(B) requires coverage of at least the coverage of reconstructive breast surgery otherwise required under this section; or

"(C) requires coverage for breast cancer treatments (including breast reconstruction) in accordance with scientific evidence-based practices or guidelines recommended by established medical associations.

"(2) APPLICATION OF SECTION.—With respect to a State law—

"(A) described in paragraph (1)(A), the provisions of this section relating to breast reconstruction shall apply in such State; and

"(B) described in paragraph (1)(B), the provisions of this section relating to length of stays for surgical breast treatment shall apply in such State.

"(3) ERISA.—Nothing in this section shall be construed to affect or modify the provisions of section 514 with respect to group health plans.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 note) is amended by inserting after the item relating to section 712 the following new item:

"Sec. 713. Required coverage for minimum hospital stay for mastectomies and lymph node dissections for the treatment of breast cancer and coverage for reconstructive surgery following mastectomies.".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to plan years beginning on or after the date of enactment of this Act.

(2) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers, any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

TITLE XII—ASBESTOS-RELATED TOBACCO CLAIMS

SEC. 1201. NATIONAL TOBACCO TRUST FUNDS AVAILABLE UNDER FUTURE LEGISLATION.

If the Congress enacts qualifying legislation after the date of enactment of this Act to provide for the payment of asbestos claims, then amounts in the National Tobacco Trust Fund established by title IV of this Act set aside for public health expenditures shall be available, as provided by appropriation Acts, to make those payments. For purposes of this section, the term "qualifying legislation" means a public law that amends this Act and changes the suballocations of funds set aside for public health expenditures under title IV of this Act to provide for the payment of those claims.

TITLE XIII—VETERANS' BENEFITS

SEC. 1301. RECOVERY BY SECRETARY OF VETERANS AFFAIRS.

Title 38, United States Code, is amended by adding after part VI the following:

"PART VII—RECOVERY OF COSTS FOR TOBACCO-RELATED DISABILITY OR DEATH

"CHAPTER 91—TORT LIABILITY FOR DISABILITY, INJURY, DISEASE, OR DEATH DUE TO TOBACCO USE

"Sec.

"9101. Recovery by Secretary of Veterans Affairs

"9102. Regulations

"9103. Limitation or repeal of other provisions for recovery of compensation

"9104. Exemption from annual limitation on damages

"§ 9101. Recovery by Secretary of Veterans Affairs

"(a) CONDITIONS; EXCEPTIONS; PERSONS LIABLE; AMOUNT OF RECOVERY; SUBROGATION.—In any case in which the Secretary is authorized or required by law to provide compensation and medical care services under this title for disability or death from injury or disease attributable in whole or in part to the use of tobacco products by a veteran during the veterans active military, naval, or air service under circumstances creating a tort liability upon a tobacco product manufacturer (other than or in addition to the United States) to pay damages therefor, the Secretary shall have a right to recover (independent of the rights of the injured or diseased veteran) from said tobacco product manufacturer the cost of the compensation paid or to be paid and the costs of medical care services provided, and shall, as to this right, be subrogated to any right or claim that the injured or diseased veteran, his or her guardian, personal representative, estate, dependents, or survivors has against such third person to the extent of the cost of the compensation paid or to be paid and the costs of medical services provided.

"(b) ENFORCEMENT PROCEDURE; INTERVENTION; JOINDER OF PARTIES; STATE OR FEDERAL COURT PROCEEDINGS.—The Secretary may, to enforce such right under subsection (a) of this section—

"(1) intervene or join in any action or proceeding brought by the injured or diseased veteran, his or her guardian, personal representative, estate, dependents, or survivors, against the tobacco product manufacturer who is liable for the injury or disease; or

"(2) if such action or proceeding is not commenced within 6 months after the first day on which compensation is paid, or the medical care services are provided, by the Secretary in connection with the injury or disease involved, institute and prosecute legal proceedings against the tobacco product manufacturer who is liable for the injury or disease, in a State or Federal court, either alone (in its own name or in the name of the injured veteran, his or her guardian, personal representative, estate, dependents, or survivors) or in conjunction with the injured or diseased veteran, his or her guardian, personal representative, estate, dependents, or survivors.

"(c) CREDITS TO APPROPRIATIONS.—Any amount recovered or collected under this section for compensation paid, and medical care services provided, by the Secretary shall be credited to a revolving fund established in the Treasury of the United States known as the Department of Veterans Affairs Tobacco Recovery Fund (hereafter called the Fund). The Fund shall be available to the Secretary without fiscal year limitation for purposes of veterans programs, including administrative costs. The Secretary may transfer such funds as deemed necessary to the various Department of Veterans Affairs appropriations, which shall remain available until expended.

"§ 9102. Regulations

"(a) DETERMINATION AND ESTABLISHMENT OF PRESENT VALUE OF COMPENSATION AND MEDICAL CARE SERVICES TO BE PAID.—The Secretary may prescribe regulations to carry out this chapter, including regulations with respect to the determination and establishment of the present value of compensation to be paid to an injured or diseased veteran or his or her surviving spouse, child, or parent, and medical care services provided to a veteran.

"(b) SETTLEMENT, RELEASE AND WAIVER OF CLAIMS.—To the extent prescribed by regulations under subsection (a) of this section, the Secretary may—

"(1) compromise, or settle and execute a release of, any claim which the Secretary has by virtue of the right established by section 9101 of this title; or

"(2) waive any such claim, in whole or in part, for the convenience of the Government, or if he or she determines that collection would result in undue hardship upon the veteran who suffered the injury or disease or his or her surviving spouse, child or parent resulting in payment of compensation, or receipt of medical care services.

"(c) DAMAGES RECOVERABLE FOR PERSONAL INJURY UNAFFECTED.—No action taken by the Secretary in connection with the rights afforded under this chapter shall operate to deny to the injured veteran or his or her surviving spouse, child or parent the recovery for that portion of his or her damage not covered hereunder.

"§ 9103. Limitation or repeal of other provisions for recovery of compensation and medical care services

"This chapter does not limit or repeal any other provision of law providing for recovery by the Secretary of the cost of compensation and medical care services described in section 9101 of this title.

"§ 9104. Exemption from annual limitation on damages

"Any amount recovered under section 9101 of this title for compensation paid or to be paid, and the cost of medical care services provided, by the Secretary for disability or death from injury or disease attributable in whole or in part to the use of tobacco products by a veteran during the veterans active military, naval, or air service shall not be subject to the limitation on the annual amount of damages for which the tobacco product manufacturers may be found liable as provided in the National Tobacco Policy and Youth Smoking Reduction Act and shall not be counted in computing the annual amount of damages for purposes of that section.".

TITLE XIV—EXCHANGE OF BENEFITS FOR AGREEMENT TO TAKE ADDITIONAL MEASURES TO REDUCE YOUTH SMOKING

SEC. 1401. CONFERRAL OF BENEFITS ON PARTICIPATING TOBACCO PRODUCT MANUFACTURERS IN RETURN FOR THEIR ASSUMPTION OF SPECIFIC OBLIGATIONS.

Participating tobacco product manufacturers shall receive the benefits, and assume the obligations, set forth in this title.

SEC. 1402. PARTICIPATING TOBACCO PRODUCT MANUFACTURER.

(a) IN GENERAL.—Except as provided in subsection (b), a tobacco product manufacturer that—

(1) executes a protocol with the Secretary of Health and Human Services that meets the requirements of sections 1403, 1404, and 1405; and

(2) makes the payment required under section 402(a)(1),

is, for purposes of this title, a participating tobacco products manufacturer.

(b) DISQUALIFICATION.—

(1) INELIGIBILITY.—Notwithstanding subsection (a), a tobacco product manufacturer may not become a participating tobacco products manufacturer if—

(A) the tobacco product manufacturer or any of its principal officers (acting in that official's corporate capacity), is convicted of—

(i) manufacturing or distributing misbranded tobacco products in violation of the criminal prohibitions on such misbranding established under section 301 or 303 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331 or 333);

(ii) violating reporting requirements established under section 5762(a)(4) of the Internal Revenue Code of 1986 (26 U.S.C. 5762(a)(4));

(iii) violating, or aiding and abetting the violation of chapter 114 of title 18, United States Code; or

(iv) violating Federal prohibitions on mail fraud, wire fraud, or the making of false statements to Federal officials in the course of making reports or disclosures required by this Act; or

(B) the tobacco product manufacturer, at the end of the 1-year period beginning on the date on which such manufacturer fails to make a required assessment payment under title IV of this Act, has not fully made such payment.

(2) DISQUALIFICATION.—A tobacco product manufacturer that has become a participating tobacco product manufacturer shall cease to be treated as a participating tobacco product manufacturer if—

(A) it, or any of its principal officers (acting in that official's corporate capacity) is convicted of an offense described in paragraph (1)(A); or

(B) it fails to make such a payment within the time period described in paragraph (1)(B).

(c) NON-PARTICIPATING TOBACCO MANUFACTURERS.—Any tobacco product manufacturer that—

(1) does not execute a protocol in accordance with subsection (a);

(2) fails to make the payment required by section 402(a)(1) (if applicable to that manufacturer);

(3) is not eligible, under subsection (b)(1), to become a participating tobacco product manufacturer; or

(4) ceases to be treated as a participating tobacco product manufacturer under subsection (b)(2),

is, for purposes of this title, a non-participating tobacco product manufacturer.

SEC. 1403. GENERAL PROVISIONS OF PROTOCOL.

(a) IN GENERAL.—For purposes of section 1402, a protocol meets the requirements of this section if it—

(1) contains the provisions described in subsection (b); and

(2) is enforceable at law.

(b) REQUIRED PROVISIONS.—The protocol shall include the following provisions:

(1) The tobacco product manufacturer executing the protocol will not engage in any conduct that was, either on the date of enactment of this Act, or at any time after the date of enactment of this Act—

(A) prohibited by this Act;

(B) prohibited by any regulation promulgated by the Food and Drug Administration that applies to tobacco products; or

(C) prohibited by any other statute.

(2) The tobacco product manufacturer executing the protocol will contract with only such distributors and retailers who have operated in compliance with the applicable provisions of Federal, State, or local law regarding the marketing and sale of tobacco products and who agree to comply with advertising and marketing provisions in paragraph (3).

(3) The tobacco product manufacturer executing the protocol will be bound in marketing tobacco products by the following provisions, whether or not these provisions have legal force and effect against manufacturers who are not signatories to the protocol—

(A) the advertising and marketing provisions of part 897 of title 21, Code of Federal Regulations, that were published in the Federal Register on August 28, 1996, and which shall be adopted and incorporated as independent terms of the protocol;

(B) the requirements of section 1404; and

(C) the requirements of section 1405.

(4) The tobacco product manufacturer executing the protocol will make any payments to the National Tobacco Trust Fund in title IV that are required to be made under that title or in any other title of this Act.

(5) The tobacco product manufacturer executing the protocol will be bound by the provisions of title IV, and any other title of this Act with respect to payments required under title IV, without regard to whether those provisions have legal force and effect against manufacturers who have not become signatories.

(6) The tobacco product manufacturer executing the protocol will make the industry-wide and manufacturer-specific look-back assessment payments that may be required under title II.

(7) The tobacco product manufacturer executing the protocol will be bound by the provisions of title II that require a manufacturer to make look-back assessments, and any other title of this Act with respect to such assessments, without regard to whether such terms have legal force and effect against manufacturers who have not become signatories.

(8) The tobacco product manufacturer executing the protocol will, within 180 days after the date of enactment of this Act and in conjunction with other participating tobacco product manufacturers, establish a National Tobacco Document Depository in the Washington, D.C. area—

(A) that is not affiliated with, or controlled by, any tobacco product manufacturer;

(B) the establishment and operational costs of which are allocated among participating tobacco product manufacturers; and

(C) that will make any document submitted to it under title IX of this Act and finally determined not to be subject to attorney-client privilege, attorney work product, or trade secret exclusions, available to the public using the Internet or other means within 30 days after receiving the document.

(c) PROVISIONS APPLICABLE TO DOCUMENTS.—The provisions of section 2116(a) and (b) of title 44, United States Code, apply to records and documents submitted to the Depository (or, to the alternative depository, if any, established by the Secretary by regulation under title IX of this Act) in the same manner and to the same extent as if they were records submitted to the National Archives of the United States required by statute to be retained indefinitely.

SEC. 1404. TOBACCO PRODUCT LABELING AND ADVERTISING REQUIREMENTS OF PROTOCOL.

(a) IN GENERAL.—For purposes of section 1402, a protocol meets the requirements of this section if it requires that—

(1) no tobacco product will be sold or distributed in the United States unless its advertising and labeling (including the package)—

(A) contain no human image, animal image, or cartoon character;

(B) are not outdoor advertising, including advertising in enclosed stadia and on mass transit vehicles, and advertising from within a retail establishment that is directed toward or visible from the outside of the establishment;

(C) at the time the advertising or labeling is first used are submitted to the Secretary so that the Secretary may conduct regular review of the advertising and labeling;

(D) comply with any applicable requirement of the Federal Food, Drug, and Cosmetic Act, the Federal Cigarette Labeling and Advertising Act, and any regulation promulgated under either of those Acts;

(E) do not appear on the international computer network of both Federal and non-Federal interoperable packet switches data networks (the "Internet"), unless such advertising is designed to be inaccessible in or from the United States to all individuals under the age of 18 years;

(F) use only black text on white background, other than—

(i) those locations other than retail stores where no person under the age of 18 is permitted or present at any time, if the advertising is not visible from outside the establishment and is affixed to a wall or fixture in the establishment; and

(ii) advertisements appearing in any publication which the tobacco product manufacturer, distributor, or retailer demonstrates to the Secretary is a newspaper, magazine, periodical, or other publication whose readers under the age of 18 years constitute 15 percent or less of the total readership as measured by competent and reliable survey evidence, and that is read by less than 2 million persons under the age of 18 years as measured by competent and reliable survey evidence;

(G) for video formats, use only static black text on a white background, and any accompanying audio uses only words without music or sound effects;

(8) for audio formats, use only words without music or sound effects;

(2) if a logo, symbol, motto, selling message, recognizable color or pattern of colors, or any other indicia of brand-name product identification of the tobacco product is contained in a movie, program, or video game for which a direct or indirect payment has been made to ensure its placement;

(3) if a direct or indirect payment has been made by any tobacco product manufacturer, distributor, or retailer to any entity for the purpose of promoting use of the tobacco product through print or film media that appeals to individuals under the age of 18 years or through a live performance by an entertainment artist that appeals to such individuals;

(4) if a logo, symbol, motto, selling message, recognizable color or pattern of colors, or any other indicia or product identification identical to, similar to, or identifiable with the tobacco product is used for any item (other than a tobacco product) or service marketed, licensed, distributed or sold or caused to be marketed, licensed, distributed, or sold by the tobacco product manufacturer or distributor of the tobacco product; and

(5)(A) except as provided in subparagraph (B), if advertising or labeling for such product that is otherwise in accordance with the requirements of this section bears a tobacco product brand name (alone or in conjunction with any other word) or any other indicia of tobacco product identification and is disseminated in a medium other than newspapers, magazines, periodicals or other publications (whether periodic or limited distribution), nonpoint-of-sale promotional material (including direct mail), point-of-sale promotional material, or audio or video formats delivered at a point-of-sale; but

(B) notwithstanding subparagraph (A), advertising or labeling for cigarettes or smokeless tobacco may be disseminated in a medium that is not specified in paragraph (1) if the tobacco product manufacturer, distributor, or retailer notifies the Secretary not later than 30 days prior to the use of such medium, and the notice describes the medium and the extent to which the advertising or labeling may be seen by persons under the age of 18 years.

(b) COLOR PRINT ADS ON MAGAZINES.—The protocol shall also provide that no tobacco product may be sold or distributed in the United States if any advertising for that product on the outside back cover of a magazine appears in any color or combination of colors.

SEC. 1405. POINT-OF-SALE REQUIREMENTS.

(a) IN GENERAL.—For purposes of section 1402, a protocol meets the requirements of

this section if it provides that, except as provided in subsection (b), point-of-sale advertising of any tobacco product in any retail establishment is prohibited.

(b) PERMITTED POS LOCATIONS.—

(1) PLACEMENT.—One point-of-sale advertisement may be placed in or at each retail establishment for its brand or the contracted house retailer or private label brand of its wholesaler.

(2) SIZE.—The display area of any such point-of-sale advertisement (either individually or in the aggregate) shall not be larger than 576 square inches and shall consist of black letters on white background or another recognized typography.

(3) PROXIMITY TO CANDY.—Any such point-of-sale advertisement shall not be attached to or located within 2 feet of any display fixture on which candy is displayed for sale.

(c) AUDIO OR VIDEO.—Any audio or video format permitted under regulations promulgated by the Secretary may be played or shown in, but not distributed, at any location where tobacco products are offered for sale.

(d) NO RESTRICTIVE COVENANTS.—No tobacco product manufacturer or distributor of tobacco products may enter into any arrangement with a retailer that limits the retailer's ability to display any form of advertising or promotional material originating with another supplier and permitted by law to be displayed in a retail establishment.

(e) DEFINITIONS.—As used in this section, the terms "point-of-sale advertisement" and "point-of-sale advertising" mean all printed or graphical materials (other than a pack, box, carton, or container of any kind in which cigarettes or smokeless tobacco is offered for sale, sold, or otherwise distributed to consumers) bearing the brand name (alone or in conjunction with any other word), logo, symbol, motto, selling message, or any other indicia of product identification identical or similar to, or identifiable with, those used for any brand of cigarettes or smokeless tobacco, which, when used for its intended purpose, can reasonably be anticipated to be seen by customers at a location where tobacco products are offered for sale.

SEC. 1406. APPLICATION OF TITLE.

(a) IN GENERAL.—The provisions of this title apply to any civil action involving a tobacco claim brought pursuant to title VII of this Act, including any such claim that has not reached final judgment or final settlement as of the date of enactment of this Act, only if such claim is brought or maintained against—

(1) a participating tobacco product manufacturer or its predecessors;

(2) an importer, distributor, wholesaler, or retailer of tobacco products—

(A) that, after the date of enactment of this Act, does not import, distribute, or sell tobacco products made or sold by a non-participating tobacco manufacturer;

(B) whose business practices with respect to sales or operations occurring within the United States, conform to the applicable requirements of the protocol; and

(C) that is not itself a non-participating tobacco product manufacturer;

(3) a supplier of component or constituent parts of tobacco products—

(A) whose business practices with respect to sales or operations occurring within the United States, conform to the applicable requirements of the protocol; and

(B) that is not itself a non-participating tobacco product manufacturer;

(4) a grower of tobacco products, unless such person is itself a non-participating tobacco product manufacturer; or

(5) an insurer of any person described in paragraph (1), (2), (3), or (4) based on, arising out of, or related to tobacco products manufactured, imported, distributed, or sold (or tobacco grown) by such person (other than an action brought by the insured person), unless such insurer is itself a non-participating tobacco product manufacturer.

(b) EXCEPTIONS.—The provisions of this title shall not apply to any tobacco claim—

(1) brought against any person other than those described in subsection (a) or to any tobacco claim that reached final judgment or final settlement prior to the date of enactment of this Act;

(2) against an employer under valid workers' compensation laws;

(3) arising under the securities laws of a State or the United State;

(4) brought by the United States;

(5) brought under this title by a State or a participating tobacco product manufacturer to enforce this Act;

(6) asserting damage to the environment from exposures other than environmental smoke or second-hand smoke; or

(7) brought against a supplier of a component or constituent part of a tobacco product, if the component or constituent part was sold after the date of enactment of this Act, and the supplier knew that the tobacco product giving rise to the claim would be manufactured in the United States by a non-participating tobacco product manufacturer.

SEC. 1407. GOVERNMENTAL CLAIMS.

(a) IN GENERAL.—Except as provided in subsection (b) and (c), no State, political subdivision of a State, municipal corporation, governmental entity or corporation, Indian tribe, or agency or subdivision thereof, or other entity acting in *parens patriae*, may file or maintain any civil action involving a tobacco claim against a participating tobacco product manufacturer.

(b) EFFECT ON EXISTING STATE SUITS OF SETTLEMENT AGREEMENT OR CONSENT DECREE.—Within 30 days after the date of enactment of this Act, any State that has filed a civil action involving a tobacco claim against a participating tobacco product manufacturer may elect to settle such action against said tobacco product manufacturer. If a State makes such an election to enter into a settlement or a consent decree, it may maintain a civil action involving a tobacco claim only to the extent necessary to permit continuing court jurisdiction over the settlement or consent decree. Nothing herein shall preclude any State from bringing suit or seeking a court order to enforce the terms of such settlement or decree.

(c) STATE OPTION FOR ONE-TIME OPT OUT.—Any State that does not make the election described in subsection (b) may continue its lawsuit, notwithstanding subsection (a) of this section. A State that does not make such an election shall not be eligible to receive payments from the trust fund in title IV.

(d) 30-DAY DELAY.—No settlement or consent decree entered into under subsection (b) may take effect until 30 days after the date of enactment of this Act.

(f) PRESERVATION OF INSURANCE CLAIMS.—

(1) IN GENERAL.—If all participating tobacco product manufacturers fail to make the payments required by title IV for any calendar year, then—

(A) beginning on the first day of the next calendar year, subsection (a) does not apply to any insurance claim (including a direct action claim) that is a tobacco claim, regardless of when that claim arose;

(B) any statute of limitations or doctrine of laches under applicable law shall be tolled for the period—

(i) beginning on the date of enactment of this Act; and

(ii) ending on the last day of that calendar year; and

(C) an insurance claim (including a direct action claim) that is a tobacco claim and that is pending on the date of enactment of this Act shall be preserved.

(2) APPLICATION OF TITLE 11, UNITED STATES CODE.—For purposes of this subsection, nothing in this Act shall be construed to modify, suspend, or otherwise affect the application of title 11, United States Code, to participating tobacco manufacturers that fail to make such payments.

(3) STATE LAW NOT AFFECTED.—Nothing in this subsection shall be construed to expand or abridge State law.

SEC. 1408. ADDICTION AND DEPENDENCY CLAIMS; CASTANO CIVIL ACTIONS.

(a) ADDICTION AND DEPENDENCE CLAIMS BARRED.—In any civil action to which this title applies, no addiction claim or dependence claim may be filed or maintained against a participating tobacco product manufacturer.

(b) CASTANO CIVIL ACTIONS.—

(1) The rights and benefits afforded in this Act, and the various research activities envisioned by this Act, are provided in settlement of, and shall constitute the exclusive remedy for the purpose of determining civil liability as to those claims asserted in the Castano Civil Actions, and all bases for any such claim under the laws of any State are preempted (including State substantive, procedural, remedial, and evidentiary provisions) and settled. The Castano Civil Actions shall be dismissed with full reservation of the rights of individual class members to pursue claims not based on addiction or dependency in civil actions, as defined in section 1417(2), in accordance with this Act. For purposes of determining application of statutes of limitation or repose, individual actions filed within one year after the effective date of this Act by those who were included within a Castano Civil Action shall be considered to have been filed as of the date of the Castano Civil Action applicable to said individual.

(2) For purposes of awarding attorneys fees and expenses for those actions subject to this subsection, the matter at issue shall be submitted to arbitration before one panel of arbitrators. In any such arbitration, the arbitration panel shall consist of 3 persons, one of whom shall be chosen by the attorneys of the Castano Plaintiffs' Litigation Committee who were signatories to the Memorandum of Understanding dated June 20, 1997, by and between tobacco product manufacturers, the Attorneys General, and private attorneys, one of whom shall be chosen by the participating tobacco product manufacturers, and one of whom shall be chosen jointly by those 2 arbitrators.

(3) The participating tobacco product manufacturers shall pay the arbitration award.

SEC. 1409. SUBSTANTIAL NON-ATTAINMENT OF REQUIRED REDUCTIONS.

(a) ACTION BY SECRETARY.—If the Secretary determines under title II that the non-attainment percentage for any year is greater than 20 percentage points for cigarettes or smokeless tobacco, then the Secretary shall determine, on a brand-by-brand basis, using data that reflects a 1999 baseline, which tobacco product manufacturers are responsible within the 2 categories of tobacco products for the excess. The Secretary may commence

an action under this section against the tobacco product manufacturer or manufacturers of the brand or brands of cigarettes or smokeless tobacco products for which the non-attainment percentage exceeded 20 percentage points.

(b) PROCEDURES.—Any action under this section shall be commenced by the Secretary in the United States District Court for the District of Columbia within 90 days after publication in the Federal Register of the determination that the non-attainment percentage for the tobacco product in question is greater than 20 percentage points. Any such action shall be heard and determined by a 3-judge court under section 2284 of title 28, United States Code.

(c) DETERMINATION BY COURT.—In any action under this section, the court shall determine whether a tobacco product manufacturer has shown, by a preponderance of the evidence that it—

(1) has complied substantially with the provisions of this Act regarding underage tobacco use, of any rules or regulations promulgated thereunder, or of any Federal or State laws regarding underage tobacco use;

(2) has not taken any material action to undermine the achievement of the required percentage reduction for the tobacco product in question; and

(3) has used its best efforts to reduce underage tobacco use to a degree at least equal to the required percentage reductions.

(d) REMOVAL OF ANNUAL AGGREGATE PAYMENT LIMITATION.—Except as provided in subsections (e) and (g), if the court determines that a tobacco product manufacturer has failed to make the showing described in subsection (c) then sections 1411 and 1412 of this Act do not apply to the enforcement against, or the payment by, such tobacco product manufacturer of any judgment or settlement that becomes final after that determination is made.

(e) DEFENSE.—An action under this section shall be dismissed, and subsection (d) shall not apply, if the court finds that the Secretary's determination under subsection (a) was unlawful under subparagraph (A), (B), (C), or (D) of section 706(2) of title 5, United States Code. Any judgments paid under section 1412 of this Act prior to a final judgment determining that the Secretary's determination was erroneous shall be fully credited, with interest, under section 1412 of this Act.

(f) REVIEW.—Decisions of the court under this section are reviewable only by the Supreme Court by writ of certiorari granted upon the petition of any party. The applicability of subsection (d) shall be stayed during the pendency of any such petition or review.

(g) CONTINUING EFFECT.—Subsection (d) shall cease to apply to a tobacco product manufacturer found to have engaged in conduct described in subsection (c) upon the later of—

(1) a determination by the Secretary under section 201 after the commencement of action under subsection (a) that the non-attainment percentage for the tobacco product in question is 20 or fewer percentage points; or

(2) a finding by the court in an action filed against the Secretary by the manufacturer, not earlier than 2 years after the determination described in subsection (c) becomes final, that the manufacturer has shown by a preponderance of the evidence that, in the period since that determination, the manufacturer—

(A) has complied with the provisions of this Act regarding underage tobacco use, of any rules or regulations promulgated thereunder, and of any other applicable Federal, State, or local laws, rules, or regulations;

(B) has not taken any action to undermine the achievement of the required percentage reduction for the tobacco product in question; and

(C) has used its best efforts to attain the required percentage reduction for the tobacco product in question.

A judgment or settlement against the tobacco product manufacturer that becomes final after a determination or finding described in paragraph (1) or (2) of this subsection is not subject to subsection (d). An action under paragraph (2) of this subsection shall be commenced in the United States District Court for the District of Columbia, and shall be heard and determined by a 3-judge court under section 2284 of title 28, United States Code. A decision by the court under paragraph (2) of this subsection is reviewable only by the Supreme Court by writ of certiorari granted upon the petition of any party, and the decision shall be stayed during the pendency of the petition or review. A determination or finding described in paragraph (1) or (2) of this subsection does not limit the Secretary's authority to bring a subsequent action under this section against any tobacco product manufacturer or the applicability of subsection (d) with respect to any such subsequent action.

SEC. 1410. PUBLIC HEALTH EMERGENCY.

If the Secretary, in consultation with the Commissioner of Food and Drugs, the Surgeon General, the Director of the Center for Disease Control or the Director's delegate, and the Director of the Health and Human Services Office of Minority Health determines at any time that a tobacco product manufacturer's actions or inactions with respect to its compliance with the Act are of such a nature as to create a clear and present danger that the manufacturer will not attain the targets for underage smoking reduction, the Secretary may bring an action under section 1409 seeking the immediate suspension of the tobacco product manufacturer's annual limitation cap on civil judgments. If the court determines that the Secretary has proved by clear and convincing evidence that the subject manufacturer's actions or inactions are of such a nature that they present a clear and present danger that the manufacturer will not attain the targets for underage smoking reduction, the court may suspend the subject manufacturer's annual limitation cap on civil judgments.

SEC. 1411. TOBACCO CLAIMS BROUGHT AGAINST PARTICIPATING TOBACCO PRODUCT MANUFACTURERS.

(a) PERMISSIBLE DEFENDANTS.—In any civil action to which this title applies, tobacco claims may be filed or maintained only against—

(1) a participating tobacco product manufacturer; or

(2) a surviving entity established by a participating tobacco product manufacturer.

(b) ACTIONS INVOLVING PARTICIPATING AND NON-PARTICIPATING MANUFACTURERS.—In any civil action involving both a tobacco claim against a participating tobacco product manufacturer based in whole or in part upon conduct occurring prior to the date of enactment of this Act and a claim against 1 or more non-participating tobacco product manufacturers, the court, upon application of a participating tobacco product manufacturer, shall require the jury to or shall itself apportion liability as between the participating tobacco product manufacturer and non-participating tobacco product manufacturers.

SEC. 1412. PAYMENT OF TOBACCO CLAIM SETTLEMENTS AND JUDGMENTS.

(a) IN GENERAL.—Except as provided in this section, any judgment or settlement in any civil action to which this subtitle applies shall be subject to the process for payment of judgments and settlements set forth in this section. No participating tobacco product manufacturer shall be obligated to pay a judgment or settlement on a tobacco claim in any civil action to which this title applies except in accordance with this section. This section shall not apply to the portion, if any, of a judgment that imposes punitive damages based on any conduct that—

(1) occurs after the date of enactment of this Act; and

(2) is other than the manufacture, development, advertising, marketing, or sale of tobacco products in compliance with this Act and any agreement incident thereto.

(b) REGISTRATION WITH THE SECRETARY OF THE TREASURY.—

(1) The Secretary shall maintain a record of settlements, judgments, and payments in civil actions to which this title applies.

(2) Any party claiming entitlement to a monetary payment under a final judgment or final settlement on a tobacco claim shall register such claim with the Secretary by filing a true and correct copy of the final judgment or final settlement agreement with the Secretary and providing a copy of such filing to all other parties to the judgment or settlement.

(3) Any participating tobacco product manufacturer making a payment on any final judgment or final settlement to which this section applies shall certify such payment to the Secretary by filing a true and correct copy of the proof of payment and a statement of the remaining unpaid portion, if any, of such final judgment or final settlement with the Secretary and shall provide a copy of such filing to all other parties to the judgment or settlement.

(c) LIABILITY CAP.—

(1) IN GENERAL.—The aggregate payments made by all participating tobacco product manufacturers in any calendar year may not exceed $8,000,000,000.

(2) IMPLEMENTATION.—The Secretary shall initiate a rulemaking within 30 days after the date of enactment of this Act to establish a mechanism for implementing this subsection in such a way to ensure the fair and equitable payment of final judgments or final settlements on tobacco claims under this title. Amounts not payable because of the application of this subsection, shall be carried forward and paid in the next year, subject to the provisions of this subsection.

(3) INFLATION ADJUSTMENT.—

(A) IN GENERAL.—The amount in paragraph (1) shall be increased annually, beginning with the second calendar year beginning after the date of enactment of this Act, by the greater of 3 percent or the annual increase in the CPI.

(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.

(d) INJUNCTIVE RELIEF.—A participating tobacco product manufacturer may commence an action to enjoin any State court proceeding to enforce or execute any judgment or settlement where payment has not been authorized under this section. Such an action shall arise under the laws of the United

States and may be commenced in the district court of the United States for the district in which the State court proceeding is pending.

(e) JOINT AND SEVERAL LIABILITY.—All participating tobacco product manufacturers shall be jointly and severally liable for, and shall enter into an agreement to apportion among them, any amounts payable under judgments and settlements governed by this section arising in whole or in part from conduct occurring prior to the date of enactment of this Act.

(f) BANKRUPTCY OF PARTICIPATING MANUFACTURER.—No participating tobacco product manufacturer shall cease operations without establishing a surviving entity against which a tobacco claim may be brought. Any obligation , interest, or debt of a participating, tobacco product manufacturer arising under such liability apportionment agreement shall be given priority and shall not be rejected, avoided, discharged, or otherwise modified or diminished in a proceeding, under title 11, United States Code, or in any liquidation, reorganization, receivership, or other insolvency proceeding under State law. A trustee or receiver in any proceeding under title 11, United States Code, or in liquidation, reorganization, receivership, or other insolvency proceeding under State law, may avoid any transfer of an interest of the participating tobacco product manufacturer, or any obligation incurred by such manufacturer, that was made or incurred on or within 2 years before the date of the filing of a bankruptcy petition, if such manufacturer made such transfer or incurred such obligation to hinder or defeat in any fashion the payment of any obligation, interest, or debt of the manufacturer arising under the liability apportionment agreement. Any property vesting in the participating tobacco product manufacturer following such a proceeding shall be subject to all claims and interest of creditors arising under the liability apportionment agreement.

(f) LIMITATION ON STATE COURTS.—No court of any State, Tribe, or political subdivision of a State may take any action to inhibit the effective operation of subsection (c).

SEC. 1413. ATTORNEYS' FEES AND EXPENSES.

(a) ARBITRATION PANEL.—

(1) RIGHT TO ESTABLISH .—For the purpose of awarding of attorneys' fees and expenses relating to litigation affected by, or legal services that, in whole or in part, resulted in or created a model for programs in, this Act, and with respect to which litigation or services the attorney involved is unable to agree with the plaintiff who employed that attorney with respect to any dispute that may arise between them regarding the fee agreement, the matter at issue shall be submitted to arbitration. In any such arbitration, the arbitration panel shall consist of 3 persons, one of whom shall be chosen by the plaintiff, one of whom shall be chosen by the attorney, and one of whom shall be chosen jointly by those 2 arbitrators.

(2) OPERATION.—Not later than 30 days after the date on which all members of an arbitration panel are appointed under paragraph (1), the panel shall establish the procedures under which the panel will operate which shall include—

(A) a requirement that any finding by the arbitration panel must be in writing and supported by written reasons;

(B) procedures for the exchanging of exhibits and witness lists by the various claimants for awards;

(C) to the maximum extent practicable, requirements that proceedings before the panel be based on affidavits rather than live testimony; and

(D) a requirement that all claims be submitted to an arbitration panel not later than 3 months after the date of this Act and a determination made by the panel with respect to such claims not later than 7 months after such date of enactment.

(3) RIGHT TO PETITION.—Any individual attorney or group of attorneys involved in litigation affected by this Act shall have the right to petition an arbitration panel for attorneys' fees and expenses.

(4) CRITERIA.—In making any award under this section, an arbitration panel shall consider the following criteria:

(A) The time and labor required by the claimant.

(B) The novelty and difficulty of the questions involved in the action for which the claimant is making a claim.

(C) The skill requisite to perform the legal service involved properly.

(D) The preclusion of other employment by the attorney due to acceptance of the action involved.

(E) Whether the fee is fixed or a percentage.

(F) Time limitations imposed by the client or the circumstances.

(G) The amount involved and the results obtained.

(H) The experience, reputation, and ability of the attorneys involved.

(I) The undesirability of the action.

(J) Such other factors as justice may require.

(5) APPEAL AND ENFORCEMENT.—The findings of an arbitration panel shall be final, binding, nonappealable, and payable within 30 days after the date on which the finding is made public, except that if an award is to be paid in installments, the first installment shall be payable within such 30 day period and succeeding installments shall be paid annually thereafter.

(b) VALIDITY AND ENFORCEABILITY OF PRIVATE AGREEMENTS.—Notwithstanding any other provision of this Act, nothing in this section shall be construed to abrogate or restrict in any way the rights of any parties to mediate, negotiate, or settle any fee or expense disputes or issues to which this section applies, or to enter into private agreements with respect to the allocation or division of fees among the attorneys party to any such agreement.

(c) OFFSET FOR AMOUNTS ALREADY PAID.—In making a determination under this section with regard to a dispute between a State that pursued independent civil action against tobacco product manufacturers and its attorney, the arbitration panel shall take into account any amounts already paid by the State under the agreement in dispute.

SEC. 1414. EFFECT OF COURT DECISIONS.

(a) SEVERABILITY.—If any provision of titles I through XIII, or the application thereof to any person, manufacturer or circumstance, is held invalid, the remainder of the provisions of those titles, and the application of such provision to other persons or circumstances, shall not be affected thereby.

(b) NONSEVERABILITY.—If a court of competent jurisdiction enters a final decision substantially limiting or impairing the essential elements of title XIV, specifically the requirements of sections 1404 and 1405, then the provisions of section 1412 are null and void and of no effect.

SEC. 1415. CRIMINAL LAWS NOT AFFECTED.

Nothing in this title shall be construed to limit the criminal liability of tobacco product manufacturers, retailers, or distributors or their directors, officers, employees, successors, or assigns.

SEC. 1416. CONGRESS RESERVES THE RIGHT TO ENACT LAWS IN THE FUTURE.

The right to alter, amend, or repeal any provision of this Act is hereby reserved to the Congress in accordance with the provisions of Article I of the Constitution of the United States and more than 200 years of history.

SEC. 1417. DEFINITIONS.

In this title:

(1) TERMS DEFINED IN TITLE VII.—Any term used in this title that is defined in title VII has the meaning given to it in title VII.

(2) ADDITIONAL DEFINITIONS.—

(A) ADDICTION CLAIM; DEPENDENCE CLAIM.—The term "addiction claim" or "dependence claim" refers only to any cause of action to the extent that the prayer for relief seeks a cessation program, or other public health program that is to be available to members of the general public and is designed to reduce or eliminate the users' addiction to, or dependence on, tobacco products, and as used herein is brought by those who claim the need for nicotine reduction assistance. Neither addiction or dependence claims include claims related to or involving manifestation of illness or tobacco-related diseases.

(B) COMPENSATORY DAMAGES.—The term "compensatory damages" refers to those damages necessary to reimburse an injured party, and includes actual, general, and special damages.

(C) PROTOCOL.—The term "protocol" means the agreement to be entered into by the Secretary of Health and Human Services with a participating tobacco product manufacturers under this title.

(D) PUNITIVE DAMAGES.—The term "punitive damages" means damages in addition to compensatory damages having the character of punishment or penalty.

(E) SECRETARY.—The term "Secretary" means the Secretary of the Treasury, except where the context otherwise requires.

AMENDMENT NO. 2620

(a) Strike all after the first word and insert the following:

TITLE X—LONG-TERM ECONOMIC ASSISTANCE FOR FARMERS

SEC. 1001. SHORT TITLE.

This title may be cited as the "Long-Term Economic Assistance for Farmers Act" or the "LEAF Act".

SEC. 1002. DEFINITIONS.

In this title:

(1) PARTICIPATING TOBACCO PRODUCER.—The term "participating tobacco producer" means a quota holder, quota lessee, or quota tenant.

(2) QUOTA HOLDER.—The term "quota holder" means an owner of a farm on January 1, 1998, for which a tobacco farm marketing quota or farm acreage allotment was established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.).

(3) QUOTA LESSEE.—The term "quota lessee" means—

(A) a producer that owns a farm that produced tobacco pursuant to a lease and transfer to that farm of all or part of a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years; or

(B) a producer that rented land from a farm operator to produce tobacco under a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years.

(4) QUOTA TENANT.—The term "quota tenant" means a producer that—

(A) is the principal producer, as determined by the Secretary, of tobacco on a farm where tobacco is produced pursuant to a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years; and

(B) is not a quota holder or quota lessee.

(5) SECRETARY.—The term "Secretary" means—

(A) in subtitles A and B, the Secretary of Agriculture; and

(B) in section 1031, the Secretary of Labor.

(6) TOBACCO PRODUCT IMPORTER.—The term "tobacco product importer" has the meaning given the term "importer" in section 5702 of the Internal Revenue Code of 1986.

(7) TOBACCO PRODUCT MANUFACTURER.—

(A) IN GENERAL.—The term "tobacco product manufacturer" has the meaning given the term "manufacturer of tobacco products" in section 5702 of the Internal Revenue Code of 1986.

(B) EXCLUSION.—The term "tobacco product manufacturer" does not include a person that manufactures cigars or pipe tobacco.

(8) TOBACCO WAREHOUSE OWNER.—The term "tobacco warehouse owner" means a warehouseman that participated in an auction market (as defined in the first section of the Tobacco Inspection Act (7 U.S.C. 511)) during the 1998 marketing year.

(9) FLUE-CURED TOBACCO.—The term "flue-cured tobacco" includes type 21 and type 37 tobacco.

Subtitle A—Tobacco Community Revitalization

SEC. 1011. AUTHORIZATION OF APPROPRIATIONS.

There are appropriated and transferred to the Secretary for each fiscal year such amounts from the National Tobacco Trust Fund established by section 401, other than from amounts in the State Litigation Settlement Account, as may be necessary to carry out the provisions of this title.

SEC. 1012. EXPENDITURES.

The Secretary is authorized, subject to appropriations, to make payments under—

(1) section 1021 for payments for lost tobacco quota for each of fiscal years 1999 through 2023, but not to exceed $1,650,000,000 for any fiscal year except to the extent the payments are made in accordance with subsection (d)(12) or (e)(9) of section 1021;

(2) section 1022 for industry payments for all costs of the Department of Agriculture associated with the production of tobacco;

(3) section 1023 for tobacco community economic development grants, but not to exceed—

(A) $375,000,000 for each of fiscal years 1999 through 2008, less any amount required to be paid under section 1022 for the fiscal year; and

(B) $450,000,000 for each of fiscal year 2009 through 2023, less any amount required to be paid under section 1022 during the fiscal year;

(4) section 1031 for assistance provided under the tobacco worker transition program, but not to exceed $25,000,000 for any fiscal year; and

(5) subpart 9 of part A of title IV of the Higher Education Act of 1965 for farmer opportunity grants, but not to exceed—

(A) $42,500,000 for each of the academic years 1999–2000 through 2003–2004;

(B) $50,000,000 for each of the academic years 2004–2005 through 2008–2009;

(C) $57,500,000 for each of the academic years 2009–2010 through 2013–2014;

(D) $65,000,000 for each of the academic years 2014–2015 through 2018–2019; and

(E) $72,500,000 for each of the academic years 2019–2020 through 2023–2024.

SEC. 1013. BUDGETARY TREATMENT.

This subtitle constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide payments to States and eligible persons in accordance with this title.

Subtitle B—Tobacco Market Transition Assistance

SEC. 1021. PAYMENTS FOR LOST TOBACCO QUOTA.

(a) IN GENERAL.—Beginning with the 1999 marketing year, the Secretary shall make payments for lost tobacco quota to eligible quota holders, quota lessees, and quota tenants as reimbursement for lost tobacco quota.

(b) ELIGIBILITY.—To be eligible to receive payments under this section, a quota holder, quota lessee, or quota tenant shall—

(1) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including information sufficient to make the demonstration required under paragraph (2); and

(2) demonstrate to the satisfaction of the Secretary that, with respect to the 1997 marketing year—

(A) the producer was a quota holder and realized income (or would have realized income, as determined by the Secretary, but for a medical hardship or crop disaster during the 1997 marketing year) from the production of tobacco through—

(i) the active production of tobacco;

(ii) the lease and transfer of tobacco quota to another farm;

(iii) the rental of all or part of the farm of the quota holder, including the right to produce tobacco, to another tobacco producer; or

(iv) the hiring of a quota tenant to produce tobacco;

(B) the producer was a quota lessee; or

(C) the producer was a quota tenant.

(c) BASE QUOTA LEVEL.—

(1) IN GENERAL.—The Secretary shall determine, for each quota holder, quota lessee, and quota tenant, the base quota level for the 1995 through 1997 marketing years.

(2) QUOTA HOLDERS.—The base quota level for a quota holder shall be equal to the average tobacco farm marketing quota established for the farm owned by the quota holder for the 1995 through 1997 marketing years.

(3) QUOTA LESSEES.—The base quota level for a quota lessee shall be equal to—

(A) 50 percent of the average number of pounds of tobacco quota established for the farm for the 1995 through 1997 marketing years—

(i) that was leased and transferred to a farm owned by the quota lessee; or

(ii) that was rented to the quota lessee for the right to produce the tobacco; less

(B) 25 percent of the average number of pounds of tobacco quota described in subparagraph (A) for which a quota tenant was the principal producer of the tobacco quota.

(4) QUOTA TENANTS.—The base quota level for a quota tenant shall be equal to the sum of—

(A) 50 percent of the average number of pounds of tobacco quota established for a farm for the 1995 through 1997 marketing years—

(i) that was owned by a quota holder; and

(ii) for which the quota tenant was the principal producer of the tobacco on the farm; and

(B) 25 percent of the average number of pounds of tobacco quota for the 1995 through 1997 marketing years—

(i)(I) that was leased and transferred to a farm owned by the quota lessee; or

(II) for which the rights to produce the tobacco were rented to the quota lessee; and

(ii) for which the quota tenant was the principal producer of the tobacco on the farm.

(5) MARKETING QUOTAS OTHER THAN POUNDAGE QUOTAS.—

(A) IN GENERAL.—For each type of tobacco for which there is a marketing quota or allotment (on an acreage basis), the base quota level for each quota holder, quota lessee, or quota tenant shall be determined in accordance with this subsection (based on a poundage conversion) by multiplying—

(i) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; and

(ii) the average yield per acre for the farm for the type of tobacco for the marketing years.

(B) YIELDS NOT AVAILABLE.—If the average yield per acre is not available for a farm, the Secretary shall calculate the base quota for the quota holder, quota lessee, or quota tenant (based on a poundage conversion) by determining the amount equal to the product obtained by multiplying—

(i) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; and

(ii) the average county yield per acre for the county in which the farm is located for the type of tobacco for the marketing years.

(d) PAYMENTS FOR LOST TOBACCO QUOTA FOR TYPES OF TOBACCO OTHER THAN FLUE-CURED TOBACCO.—

(1) ALLOCATION OF FUNDS.—Of the amounts made available under section 1011(d)(1) for payments for lost tobacco quota, the Secretary shall make available for payments under this subsection an amount that bears the same ratio to the amounts made available as—

(A) the sum of all national marketing quotas for all types of tobacco other than flue-cured tobacco during the 1995 through 1997 marketing years; bears to

(B) the sum of all national marketing quotas for all types of tobacco during the 1995 through 1997 marketing years.

(2) OPTION TO RELINQUISH QUOTA.—

(A) IN GENERAL.—Each quota holder, for types of tobacco other than flue-cured tobacco, shall be given the option to relinquish the farm marketing quota or farm acreage allotment of the quota holder in exchange for a payment made under paragraph (3).

(B) NOTIFICATION.—A quota holder shall give notification of the intention of the quota holder to exercise the option at such time and in such manner as the Secretary may require, but not later than January 15, 1999.

(3) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA HOLDERS EXERCISING OPTIONS TO RELINQUISH QUOTA.—

(A) IN GENERAL.—Subject to subparagraph (E), for each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost tobacco quota to each quota holder that has relinquished the farm marketing quota or farm acreage allotment of the quota holder under paragraph (2).

(B) AMOUNT.—The amount of a payment made to a quota holder described in subparagraph (A) for a marketing year shall equal 1/10 of the lifetime limitation established under subparagraph (E).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the farm marketing quota or farm acreage allotment is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(E) LIFETIME LIMITATION ON PAYMENTS.—The total amount of payments made under this paragraph to a quota holder shall not exceed the product obtained by multiplying the base quota level for the quota holder by $8 per pound.

(4) REISSUANCE OF QUOTA.—

(A) REALLOCATION TO LESSEE OR TENANT.—If a quota holder exercises an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), a quota lessee or quota tenant that was the primary producer during the 1997 marketing year of tobacco pursuant to the farm marketing quota or farm acreage allotment, as determined by the Secretary, shall be given the option of having an allotment of the farm marketing quota or farm acreage allotment reallocated to a farm owned by the quota lessee or quota tenant.

(B) CONDITIONS FOR REALLOCATION.—

(i) TIMING.—A quota lessee or quota tenant that is given the option of having an allotment of a farm marketing quota or farm acreage allotment reallocated to a farm owned by the quota lessee or quota tenant under subparagraph (A) shall have 1 year from the date on which a farm marketing quota or farm acreage allotment is relinquished under paragraph (2) to exercise the option.

(ii) LIMITATION ON ACREAGE ALLOTMENT.—In the case of a farm acreage allotment, the acreage allotment determined for any farm subsequent to any reallocation under subparagraph (A) shall not exceed 50 percent of the acreage of cropland of the farm owned by the quota lessee or quota tenant.

(iii) LIMITATION ON MARKETING QUOTA.—In the case of a farm marketing quota, the marketing quota determined for any farm subsequent to any reallocation under subparagraph (A) shall not exceed an amount determined by multiplying—

(I) the average county farm yield, as determined by the Secretary; and

(II) 50 percent of the acreage of cropland of the farm owned by the quota lessee or quota tenant.

(C) ELIGIBILITY OF LESSEE OR TENANT FOR PAYMENTS.—If a farm marketing quota or farm acreage allotment is reallocated to a quota lessee or quota tenant under subparagraph (A)—

(i) the quota lessee or quota tenant shall not be eligible for any additional payments under paragraph (5) or (6) as a result of the reallocation; and

(ii) the base quota level for the quota lessee or quota tenant shall not be increased as a result of the reallocation.

(D) REALLOCATION TO QUOTA HOLDERS WITHIN SAME COUNTY OR STATE.—

(i) IN GENERAL.—Except as provided in clause (ii), if there was no quota lessee or quota tenant for the farm marketing quota or farm acreage allotment for a type of tobacco, or if no quota lessee or quota tenant exercises an option of having an allotment of the farm marketing quota or farm acreage allotment for a type of tobacco reallocated, the Secretary shall reapportion the farm marketing quota or farm acreage allotment among the remaining quota holders for the type of tobacco within the same county.

(ii) CROSS-COUNTY LEASING.—In a State in which cross-county leasing is authorized pursuant to section 319(l) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(*l*)), the Secretary shall reapportion the farm marketing quota among the remaining quota holders for the type of tobacco within the same State.

(iii) ELIGIBILITY OF QUOTA HOLDER FOR PAYMENTS.—If a farm marketing quota is reapportioned to a quota holder under this subparagraph—

(I) the quota holder shall not be eligible for any additional payments under paragraph (5) or (6) as a result of the reapportionment; and

(II) the base quota level for the quota holder shall not be increased as a result of the reapportionment.

(E) SPECIAL RULE FOR TENANT OF LEASED TOBACCO.—If a quota holder exercises an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), the farm marketing quota or farm acreage allotment shall be divided evenly between, and the option of reallocating the farm marketing quota or farm acreage allotment shall be offered in equal portions to, the quota lessee and to the quota tenant, if—

(i) during the 1997 marketing year, the farm marketing quota or farm acreage allotment was leased and transferred to a farm owned by the quota lessee; and

(ii) the quota tenant was the primary producer, as determined by the Secretary, of tobacco pursuant to the farm marketing quota or farm acreage allotment.

(5) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA HOLDERS.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for a type of tobacco is less than the average national marketing quota for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota holder, for types of tobacco other than flue-cured tobacco, that is eligible under subsection (b), and has not exercised an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), in an amount that is equal to the product obtained by multiplying—

(i) the number of pounds by which the basic farm marketing quota (or poundage conversion) is less than the base quota level for the quota holder; and

(ii) $4 per pound.

(B) POUNDAGE CONVERSION FOR MARKETING QUOTAS OTHER THAN POUNDAGE QUOTAS.—

(i) IN GENERAL.—For each type of tobacco for which there is a marketing quota or allotment (on an acreage basis), the poundage conversion for each quota holder during a marketing year shall be determined by multiplying—

(I) the basic farm acreage allotment for the farm for the marketing year; and

(II) the average yield per acre for the farm for the type of tobacco.

(ii) YIELD NOT AVAILABLE.—If the average yield per acre is not available for a farm, the Secretary shall calculate the poundage conversion for each quota holder during a marketing year by multiplying—

(I) the basic farm acreage allotment for the farm for the marketing year; and

(II) the average county yield per acre for the county in which the farm is located for the type of tobacco.

(6) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for a type of tobacco is less than the average national marketing quota for the type of tobacco for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota lessee and quota tenant, for types of tobacco other than flue-cured tobacco, that is eligible under subsection (b) in an amount that is equal to the product obtained by multiplying—

(A) the percentage by which the national marketing quota for the type of tobacco is less than the average national marketing quota for the type of tobacco for the 1995 through 1997 marketing years;

(B) the base quota level for the quota lessee or quota tenant; and

(C) $4 per pound.

(7) LIFETIME LIMITATION ON PAYMENTS.—Except as otherwise provided in this subsection, the total amount of payments made under this subsection to a quota holder, quota lessee, or quota tenant during the lifetime of the quota holder, quota lessee, or quota tenant shall not exceed the product obtained by multiplying—

(A) the base quota level for the quota holder, quota lessee, or quota tenant; and

(B) $8 per pound.

(8) LIMITATIONS ON AGGREGATE ANNUAL PAYMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the total amount payable under this subsection for any marketing year shall not exceed the amount made available under paragraph (1).

(B) ACCELERATED PAYMENTS.—Paragraph (1) shall not apply if accelerated payments for lost tobacco quota are made in accordance with paragraph (12).

(C) REDUCTIONS.—If the sum of the amounts determined under paragraphs (3), (5), and (6) for a marketing year exceeds the amount made available under paragraph (1), the Secretary shall make a pro rata reduction in the amounts payable under paragraphs (5) and (6) to quota holders, quota lessees, and quota tenants under this subsection to ensure that the total amount of payments for lost tobacco quota does not exceed the amount made available under paragraph (1).

(D) ROLLOVER OF PAYMENTS FOR LOST TOBACCO QUOTA.—Subject to subparagraph (A), if the Secretary makes a reduction in accordance with subparagraph (C), the amount of the reduction shall be applied to the next marketing year and added to the payments for lost tobacco quota for the marketing year.

(E) ADDITIONAL PAYMENTS TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTA.—If the amount made available under paragraph (1) exceeds the sum of the amounts determined under paragraphs (3), (5), and (6) for a marketing year, the Secretary shall distribute the amount of the excess pro rata to quota holders that have exercised an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2) by increasing the amount payable to each such holder under paragraph (3).

(9) SUBSEQUENT SALE AND TRANSFER OF QUOTA.—Effective beginning with the 1999 marketing year, on the sale and transfer of a farm marketing quota or farm acreage allotment under section 316(g) or 319(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(g), 1314e(g))—

(A) the person that sold and transferred the quota or allotment shall have—

(i) the base quota level attributable to the person reduced by the base quota level attributable to the quota that is sold and transferred; and

(ii) the lifetime limitation on payments established under paragraph (7) attributable to the person reduced by the product obtained by multiplying—

(I) the base quota level attributable to the quota; and

(II) $8 per pound; and

(B) if the quota or allotment has never been relinquished by a previous quota holder under paragraph (2), the person that acquired the quota shall have—

(i) the base quota level attributable to the person increased by the base quota level attributable to the quota that is sold and transferred; and

(ii) the lifetime limitation on payments established under paragraph (7) attributable to the person—

(I) increased by the product obtained by multiplying—

(aa) the base quota level attributable to the quota; and

(bb) $8 per pound; but

(II) decreased by any payments under paragraph (5) for lost tobacco quota previously made that are attributable to the quota that is sold and transferred.

(10) SALE OR TRANSFER OF FARM.—On the sale or transfer of ownership of a farm that is owned by a quota holder, the base quota level established under subsection (c), the right to payments under paragraph (5), and the lifetime limitation on payments established under paragraph (7) shall transfer to the new owner of the farm to the same extent and in the same manner as those provisions applied to the previous quota holder.

(11) DEATH OF QUOTA LESSEE OR QUOTA TENANT.—If a quota lessee or quota tenant that is entitled to payments under this subsection dies and is survived by a spouse or 1 or more dependents, the right to receive the payments shall transfer to the surviving spouse or, if there is no surviving spouse, to the surviving dependents in equal shares.

(12) ACCELERATION OF PAYMENTS.—

(A) IN GENERAL.—On the occurrence of any of the events described in subparagraph (B), the Secretary shall make an accelerated lump sum payment for lost tobacco quota as established under paragraphs (5) and (6) to each quota holder, quota lessee, and quota tenant for any affected type of tobacco in accordance with subparagraph (C).

(B) TRIGGERING EVENTS.—The Secretary shall make accelerated payments under subparagraph (A) if after the date of enactment of this Act—

(i) subject to subparagraph (D), for 3 consecutive marketing years, the national marketing quota or national acreage allotment for a type of tobacco is less than 50 percent of the national marketing quota or national acreage allotment for the type of tobacco for the 1998 marketing year; or

(ii) Congress repeals or makes ineffective, directly or indirectly, any provision of—

(I) section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b);

(II) section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e);

(III) section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445);

(IV) section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445–1); or

(V) section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2).

(C) AMOUNT.—The amount of the accelerated payments made to each quota holder, quota lessee, and quota tenant under this subsection shall be equal to—

(i) the amount of the lifetime limitation established for the quota holder, quota lessee, or quota tenant under paragraph (7); less

(ii) any payments for lost tobacco quota received by the quota holder, quota lessee, or quota tenant before the occurrence of any of the events described in subparagraph (B).

(D) REFERENDUM VOTE NOT A TRIGGERING EVENT.—A referendum vote of producers for any type of tobacco that results in the national marketing quota or national acreage allotment not being in effect for the type of tobacco shall not be considered a triggering event under this paragraph.

(13) BAN ON SUBSEQUENT SALE OR LEASING OF FARM MARKETING QUOTA OR FARM ACREAGE ALLOTMENT TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTA.—No quota holder that exercises the option to relinquish a farm marketing quota or farm acreage allotment for any type of tobacco under paragraph (2) shall be eligible to acquire a farm marketing quota or farm acreage allotment for the type of tobacco, or to obtain the lease or transfer of a farm marketing quota or farm acreage allotment for the type of tobacco, for a period of 25 crop years after the date on which the quota or allotment was relinquished.

(e) PAYMENTS FOR LOST TOBACCO QUOTA FOR FLUE-CURED TOBACCO.—

(1) ALLOCATION OF FUNDS.—Of the amounts made available under section 1011(d)(1) for payments for lost tobacco quota, the Secretary shall make available for payments under this subsection an amount that bears the same ratio to the amounts made available as—

(A) the sum of all national marketing quotas for flue-cured tobacco during the 1995 through 1997 marketing years; bears to

(B) the sum of all national marketing quotas for all types of tobacco during the 1995 through 1997 marketing years.

(2) RELINQUISHMENT OF QUOTA.—

(A) IN GENERAL.—Each quota holder of flue-cured tobacco shall relinquish the farm marketing quota or farm acreage allotment in exchange for a payment made under paragraph (3) due to the transition from farm marketing quotas as provided under section 317 of the Agricultural Adjustment Act of 1938 for flue-cured tobacco to individual tobacco production permits as provided under section 317A of the Agricultural Adjustment Act of 1938 for flue-cured tobacco.

(B) NOTIFICATION.—The Secretary shall notify the quota holders of the relinquishment of their quota or allotment at such time and in such manner as the Secretary may require, but not later than November 15, 1998.

(3) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA HOLDERS THAT RELINQUISH QUOTA.—

(A) IN GENERAL.—For each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost flue-cured tobacco to each quota holder that has relinquished the farm marketing quota or farm acreage allotment of the quota holder under paragraph (2).

(B) AMOUNT.—The amount of a payment made to a quota holder described in subparagraph (A) for a marketing year shall equal 1/10 of the lifetime limitation established under paragraph (6).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the farm marketing quota or farm acreage allotment is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(4) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS THAT HAVE NOT RELINQUISHED PERMITS.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for flue-cured tobacco is less than the average national marketing quota for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota lessee or quota tenant that—

(i) is eligible under subsection (b);

(ii) has been issued an individual tobacco production permit under section 317A(b) of the Agricultural Adjustment Act of 1938; and

(iii) has not exercised an option to relinquish the permit.

(B) AMOUNT.—The amount of a payment made to a quota lessee or quota tenant described in subparagraph (A) for a marketing year shall be equal to the product obtained by multiplying—

(i) the number of pounds by which the individual marketing limitation established for the permit is less than twice the base quota level for the quota lessee or quota tenant; and

(ii) $2 per pound.

(5) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS THAT HAVE RELINQUISHED PERMITS.—

(A) IN GENERAL.—For each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost flue-cured tobacco quota to each quota lessee and quota tenant that has relinquished an individual tobacco production permit under section 317A(b)(5) of the Agricultural Adjustment Act of 1938.

(B) AMOUNT.—The amount of a payment made to a quota lessee or quota tenant described in subparagraph (A) for a marketing year shall be equal to 1/10 of the lifetime limitation established under paragraph (6).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the individual tobacco production permit is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(E) PROHIBITION AGAINST PERMIT EXPANSION.—A quota lessee or quota tenant that receives a payment under this paragraph shall be ineligible to receive any new or increased tobacco production permit from the county production pool established under section 317A(b)(8) of the Agricultural Adjustment Act of 1938.

(6) LIFETIME LIMITATION ON PAYMENTS.—Except as otherwise provided in this subsection, the total amount of payments made under this subsection to a quota holder, quota lessee, or quota tenant during the lifetime of the quota holder, quota lessee, or quota tenant shall not exceed the product obtained by multiplying—

(A) the base quota level for the quota holder, quota lessee, or quota tenant; and

(B) $8 per pound.

(7) LIMITATIONS ON AGGREGATE ANNUAL PAYMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the total amount payable under this subsection for any marketing year shall not exceed the amount made available under paragraph (1).

(B) ACCELERATED PAYMENTS.—Paragraph (1) shall not apply if accelerated payments for lost flue-cured tobacco quota are made in accordance with paragraph (9).

(C) REDUCTIONS.—If the sum of the amounts determined under paragraphs (3), (4), and (5) for a marketing year exceeds the amount made available under paragraph (1), the Secretary shall make a pro rata reduction in the amounts payable under paragraph

(4) to quota lessees and quota tenants under this subsection to ensure that the total amount of payments for lost flue-cured tobacco quota does not exceed the amount made available under paragraph (1).

(D) ROLLOVER OF PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA.—Subject to subparagraph (A), if the Secretary makes a reduction in accordance with subparagraph (C), the amount of the reduction shall be applied to the next marketing year and added to the payments for lost flue-cured tobacco quota for the marketing year.

(E) ADDITIONAL PAYMENTS TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTAS OR PERMITS, OR TO QUOTA LESSEES OR QUOTA TENANTS RELINQUISHING PERMITS.—If the amount made available under paragraph (1) exceeds the sum of the amounts determined under paragraphs (3), (4), and (5) for a marketing year, the Secretary shall distribute the amount of the excess pro rata to quota holders by increasing the amount payable to each such holder under paragraphs (3) and (5).

(8) DEATH OF QUOTA HOLDER, QUOTA LESSEE, OR QUOTA TENANT.—If a quota holder, quota lessee or quota tenant that is entitled to payments under paragraph (4) or (5) dies and is survived by a spouse or 1 or more descendants, the right to receive the payments shall transfer to the surviving spouse or, if there is no surviving spouse, to the surviving descendants in equal shares.

(9) ACCELERATION OF PAYMENTS.—

(A) IN GENERAL.—On the occurrence of any of the events described in subparagraph (B), the Secretary shall make an accelerated lump sum payment for lost flue-cured tobacco quota as established under paragraphs (3), (4), and (5) to each quota holder, quota lessee, and quota tenant for flue-cured tobacco in accordance with subparagraph (C).

(B) TRIGGERING EVENTS.—The Secretary shall make accelerated payments under subparagraph (A) if after the date of enactment of this Act—

(i) subject to subparagraph (D), for 3 consecutive marketing years, the national marketing quota or national acreage allotment for flue-cured tobacco is less than 50 percent of the national marketing quota or national acreage allotment for flue-cured tobacco for the 1998 marketing year; or

(ii) Congress repeals or makes ineffective, directly or indirectly, any provision of—

(I) section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b);

(II) section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e);

(III) section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445);

(IV) section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445–1);

(V) section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2); or

(VI) section 317A of the Agricultural Adjustment Act of 1938.

(C) AMOUNT.—The amount of the accelerated payments made to each quota holder, quota lessee, and quota tenant under this subsection shall be equal to—

(i) the amount of the lifetime limitation established for the quota holder, quota lessee, or quota tenant under paragraph (6); less

(ii) any payments for lost flue-cured tobacco quota received by the quota holder, quota lessee, or quota tenant before the occurrence of any of the events described in subparagraph (B).

(D) REFERENDUM VOTE NOT A TRIGGERING EVENT.—A referendum vote of producers for flue-cured tobacco that results in the national marketing quota or national acreage allotment not being in effect for flue-cured tobacco shall not be considered a triggering event under this paragraph.

SEC. 1022. INDUSTRY PAYMENTS FOR ALL DEPARTMENT COSTS ASSOCIATED WITH TOBACCO PRODUCTION.

(a) IN GENERAL.—The Secretary shall use such amounts remaining unspent and obligated at the end of each fiscal year to reimburse the Secretary for—

(1) costs associated with the administration of programs established under this title and amendments made by this title;

(2) costs associated with the administration of the tobacco quota and price support programs administered by the Secretary;

(3) costs to the Federal Government of carrying out crop insurance programs for tobacco;

(4) costs associated with all agricultural research, extension, or education activities associated with tobacco;

(5) costs associated with the administration of loan association and cooperative programs for tobacco producers, as approved by the Secretary; and

(6) any other costs incurred by the Department of Agriculture associated with the production of tobacco.

(b) LIMITATIONS.—Amounts made available under subsection (a) may not be used—

(1) to provide direct benefits to quota holders, quota lessees, or quota tenants; or

(2) in a manner that results in a decrease, or an increase relative to other crops, in the amount of the crop insurance premiums assessed to participating tobacco producers under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(c) DETERMINATIONS.—Not later than September 30, 1998, and each fiscal year thereafter, the Secretary shall determine—

(1) the amount of costs described in subsection (a); and

(2) the amount that will be provided under this section as reimbursement for the costs.

SEC. 1023. TOBACCO COMMUNITY ECONOMIC DEVELOPMENT GRANTS.

(a) AUTHORITY.—The Secretary shall make grants to tobacco-growing States in accordance with this section to enable the States to carry out economic development initiatives in tobacco-growing communities.

(b) APPLICATION.—To be eligible to receive payments under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

(1) a description of the activities that the State will carry out using amounts received under the grant;

(2) a designation of an appropriate State agency to administer amounts received under the grant; and

(3) a description of the steps to be taken to ensure that the funds are distributed in accordance with subsection (e).

(c) AMOUNT OF GRANT.—

(1) IN GENERAL.—From the amounts available to carry out this section for a fiscal year, the Secretary shall allot to each State an amount that bears the same ratio to the amounts available as the total farm income of the State derived from the production of tobacco during the 1995 through 1997 marketing years (as determined under paragraph (2)) bears to the total farm income of all States derived from the production of tobacco during the 1995 through 1997 marketing years.

(2) TOBACCO INCOME.—For the 1995 through 1997 marketing years, the Secretary shall determine the amount of farm income derived from the production of tobacco in each State and in all States.

(d) PAYMENTS.—

(1) IN GENERAL.—A State that has an application approved by the Secretary under subsection (b) shall be entitled to a payment under this section in an amount that is equal to its allotment under subsection (c).

(2) FORM OF PAYMENTS.—The Secretary may make payments under this section to a State in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(3) REALLOTMENTS.—Any portion of the allotment of a State under subsection (c) that the Secretary determines will not be used to carry out this section in accordance with an approved State application required under subsection (b), shall be reallotted by the Secretary to other States in proportion to the original allotments to the other States.

(e) USE AND DISTRIBUTION OF FUNDS.—

(1) IN GENERAL.—Amounts received by a State under this section shall be used to carry out economic development activities, including—

(A) rural business enterprise activities described in subsections (c) and (e) of section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932);

(B) down payment loan assistance programs that are similar to the program described in section 310E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1935);

(C) activities designed to help create productive farm or off-farm employment in rural areas to provide a more viable economic base and enhance opportunities for improved incomes, living standards, and contributions by rural individuals to the economic and social development of tobacco communities;

(D) activities that expand existing infrastructure, facilities, and services to capitalize on opportunities to diversify economies in tobacco communities and that support the development of new industries or commercial ventures;

(E) activities by agricultural organizations that provide assistance directly to participating tobacco producers to assist in developing other agricultural activities that supplement tobacco-producing activities;

(F) initiatives designed to create or expand locally owned value-added processing and marketing operations in tobacco communities;

(G) technical assistance activities by persons to support farmer-owned enterprises, or agriculture-based rural development enterprises, of the type described in section 252 or 253 of the Trade Act of 1974 (19 U.S.C. 2342, 2343); and

(H) initiatives designed to partially compensate tobacco warehouse owners for lost revenues and assist the tobacco warehouse owners in establishing successful business enterprises.

(2) TOBACCO-GROWING COUNTIES.—Assistance may be provided by a State under this section only to assist a county in the State that has been determined by the Secretary to have in excess of $100,000 in income derived from the production of tobacco during 1 or more of the 1995 through 1997 marketing years. For purposes of this section, the term "tobacco-growing county" includes a political subdivision surrounded within a State by a county that has been determined by the Secretary to have in excess of $100,000 in income derived from the production of tobacco

during 1 or more of the 1995 through 1997 marketing years.

(3) DISTRIBUTION.—

(A) ECONOMIC DEVELOPMENT ACTIVITIES.—Not less than 20 percent of the amounts received by a State under this section shall be used to carry out—

(i) economic development activities described in subparagraph (E) or (F) of paragraph (1); or

(ii) agriculture-based rural development activities described in paragraph (1)(G).

(B) TECHNICAL ASSISTANCE ACTIVITIES.—Not less than 4 percent of the amounts received by a State under this section shall be used to carry out technical assistance activities described in paragraph (1)(G).

(C) TOBACCO WAREHOUSE OWNER INITIATIVES.—Not less than 6 percent of the amounts received by a State under this section during each of fiscal years 1999 through 2008 shall be used to carry out initiatives described in paragraph (1)(H).

(D) TOBACCO-GROWING COUNTIES.—To be eligible to receive payments under this section, a State shall demonstrate to the Secretary that funding will be provided, during each 5-year period for which funding is provided under this section, for activities in each county in the State that has been determined under paragraph (2) to have in excess of $100,000 in income derived from the production of tobacco, in amounts that are at least equal to the product obtained by multiplying—

(i) the ratio that the tobacco production income in the county determined under paragraph (2) bears to the total tobacco production income for the State determined under subsection (c); and

(ii) 50 percent of the total amounts received by a State under this section during the 5-year period.

(f) PREFERENCES IN HIRING.—A State may require recipients of funds under this section to provide a preference in employment to—

(1) an individual who—

(A) during the 1998 calendar year, was employed in the manufacture, processing, or warehousing of tobacco or tobacco products, or resided, in a county described in subsection (e)(2); and

(B) is eligible for assistance under the tobacco worker transition program established under section 1031; or

(2) an individual who—

(A) during the 1998 marketing year, carried out tobacco quota or relevant tobacco production activities in a county described in subsection (e)(2);

(B) is eligible for a farmer opportunity grant under subpart 9 of part A of title IV of the Higher Education Act of 1965; and

(C) has successfully completed a course of study at an institution of higher education.

(g) MAINTENANCE OF EFFORT.—

(1) IN GENERAL.—Subject to paragraph (2), a State shall provide an assurance to the Secretary that the amount of funds expended by the State and all counties in the State described in subsection (e)(2) for any activities funded under this section for a fiscal year is not less than 90 percent of the amount of funds expended by the State and counties for the activities for the preceding fiscal year.

(2) REDUCTION OF GRANT AMOUNT.—If a State does not provide an assurance described in paragraph (1), the Secretary shall reduce the amount of the grant determined under subsection (c) by an amount equal to the amount by which the amount of funds expended by the State and counties for the activities is less than 90 percent of the amount of funds expended by the State and counties for the activities for the preceding fiscal year, as determined by the Secretary.

(3) FEDERAL FUNDS.—For purposes of this subsection, the amount of funds expended by a State or county shall not include any amounts made available by the Federal Government.

SEC. 1024. FLUE-CURED TOBACCO PRODUCTION PERMITS.

The Agricultural Adjustment Act of 1938 is amended by inserting after section 317 (7 U.S.C. 1314c) the following:

"SEC. 317A. FLUE-CURED TOBACCO PRODUCTION PERMITS.

"(a) DEFINITIONS.—In this section:

"(1) INDIVIDUAL ACREAGE LIMITATION.—The term 'individual acreage limitation' means the number of acres of flue-cured tobacco that may be planted by the holder of a permit during a marketing year, calculated—

"(A) prior to—

"(i) any increase or decrease in the number due to undermarketings or overmarketings; and

"(ii) any reduction under subsection (i); and

"(B) in a manner that ensures that—

"(i) the total of all individual acreage limitations is equal to the national acreage allotment, less the reserve provided under subsection (h); and

"(ii) the individual acreage limitation for a marketing year bears the same ratio to the individual acreage limitation for the previous marketing year as the ratio that the national acreage allotment for the marketing year bears to the national acreage allotment for the previous marketing year, subject to adjustments by the Secretary to account for any reserve provided under subsection (h).

"(2) INDIVIDUAL MARKETING LIMITATION.—The term 'individual marketing limitation' means the number of pounds of flue-cured tobacco that may be marketed by the holder of a permit during a marketing year, calculated—

"(A) prior to—

"(i) any increase or decrease in the number due to undermarketings or overmarketings; and

"(ii) any reduction under subsection (i); and

"(B) in a manner that ensures that—

"(i) the total of all individual marketing limitations is equal to the national marketing quota, less the reserve provided under subsection (h); and

"(ii) the individual marketing limitation for a marketing year is obtained by multiplying the individual acreage limitation by the permit yield, prior to any adjustment for undermarketings or overmarketings.

"(3) INDIVIDUAL TOBACCO PRODUCTION PERMIT.—The term 'individual tobacco production permit' means a permit issued by the Secretary to a person authorizing the production of flue-cured tobacco for any marketing year during which this section is effective.

"(4) NATIONAL ACREAGE ALLOTMENT.—The term 'national acreage allotment' means the quantity determined by dividing—

"(A) the national marketing quota; by

"(B) the national average yield goal.

"(5) NATIONAL AVERAGE YIELD GOAL.—The term 'national average yield goal' means the national average yield for flue-cured tobacco during the 5 marketing years immediately preceding the marketing year for which the determination is being made.

"(6) NATIONAL MARKETING QUOTA.—For the 1999 and each subsequent crop of flue-cured tobacco, the term 'national marketing quota' for a marketing year means the quantity of flue-cured tobacco, as determined by the Secretary, that is not more than 103 percent nor less than 97 percent of the total of—

"(A) the aggregate of the quantities of flue-cured tobacco that domestic manufacturers of cigarettes estimate that the manufacturers intend to purchase on the United States auction markets or from producers during the marketing year, as compiled and determined under section 320A;

"(B) the average annual quantity of flue-cured tobacco exported from the United States during the 3 marketing years immediately preceding the marketing year for which the determination is being made; and

"(C) the quantity, if any, of flue-cured tobacco that the Secretary, in the discretion of the Secretary, determines is necessary to increase or decrease the inventory of the producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of flue-cured tobacco to establish or maintain the inventory at the reserve stock level for flue-cured tobacco.

"(7) PERMIT YIELD.—The term 'permit yield' means the yield of tobacco per acre for an individual tobacco production permit holder that is—

"(A) based on a preliminary permit yield that is equal to the average yield during the 5 marketing years immediately preceding the marketing year for which the determination is made in the county where the holder of the permit is authorized to plant flue-cured tobacco, as determined by the Secretary, on the basis of actual yields of farms in the county; and

"(B) adjusted by a weighted national yield factor calculated by—

"(i) multiplying each preliminary permit yield by the individual acreage limitation, prior to adjustments for overmarketings, undermarketings, or reductions required under subsection (i); and

"(ii) dividing the sum of the products under clause (i) for all flue-cured individual tobacco production permit holders by the national acreage allotment.

"(b) INITIAL ISSUANCE OF PERMITS.—

"(1) TERMINATION OF FLUE-CURED MARKETING QUOTAS.—On the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act, farm marketing quotas as provided under section 317 shall no longer be in effect for flue-cured tobacco.

"(2) ISSUANCE OF PERMITS TO QUOTA HOLDERS THAT WERE PRINCIPAL PRODUCERS.—

"(A) IN GENERAL.—By January 15, 1999, each individual quota holder under section 317 that was a principal producer of flue-cured tobacco during the 1998 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

"(B) NOTIFICATION.—The Secretary shall notify the holder of each permit of the individual acreage limitation and the individual marketing limitation applicable to the holder for each marketing year.

"(C) INDIVIDUAL ACREAGE LIMITATION FOR 1999 MARKETING YEAR.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

"(D) INDIVIDUAL MARKETING LIMITATION FOR 1999 MARKETING YEAR.—In establishing the individual marketing limitation for the 1999

marketing year under this section, the farm marketing quota that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual marketing limitation for the previous marketing year.

"(3) QUOTA HOLDERS THAT WERE NOT PRINCIPAL PRODUCERS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), on approval through a referendum under subsection (c)—

"(i) each person that was a quota holder under section 317 but that was not a principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall not be eligible to own a permit; and

"(ii) the Secretary shall not issue any permit during the 25-year period beginning on the date of enactment of this Act to any person that was a quota holder and was not the principal producer of flue-cured tobacco during the 1997 marketing year.

"(B) MEDICAL HARDSHIPS AND CROP DISASTERS.—Subparagraph (A) shall not apply to a person that would have been the principal producer of flue-cured tobacco during the 1997 marketing year but for a medical hardship or crop disaster that occurred during the 1997 marketing year.

"(C) ADMINISTRATION.—The Secretary shall issue regulations—

"(i) defining the term 'person' for the purpose of this paragraph; and

"(ii) prescribing such rules as the Secretary determines are necessary to ensure a fair and reasonable application of the prohibition established under this paragraph.

"(4) ISSUANCE OF PERMITS TO PRINCIPAL PRODUCERS OF FLUE-CURED TOBACCO.—

"(A) IN GENERAL.—By January 15, 1999, each individual quota lessee or quota tenant (as defined in section 1002 of the LEAF Act) that was the principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

"(B) INDIVIDUAL ACREAGE LIMITATIONS.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by a quota holder for whom the quota lessee or quota tenant was the principal producer of flue-cured tobacco during the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

"(C) INDIVIDUAL MARKETING LIMITATIONS.—In establishing the individual marketing limitation for the 1999 marketing year under this section, the individual marketing limitation for the previous year for an individual described in this paragraph shall be calculated by multiplying—

"(i) the farm marketing quota that was allotted to a farm owned by a quota holder for whom the quota lessee or quota holder was the principal producer of flue-cured tobacco during the 1997 marketing year, by

"(ii) the ratio that—

"(I) the sum of all flue-cured tobacco farm marketing quotas for the 1997 marketing year prior to adjusting for undermarketing and overmarketing; bears to

"(II) the sum of all flue-cured tobacco farm marketing quotas for the 1998 marketing year, after adjusting for undermarketing and overmarketing.

"(D) SPECIAL RULE FOR TENANT OF LEASED FLUE-CURED TOBACCO.—If the farm marketing quota or farm acreage allotment of a quota holder was produced pursuant to an agreement under which a quota lessee rented land from a quota holder and a quota tenant was the primary producer, as determined by the Secretary, of flue-cured tobacco pursuant to the farm marketing quota or farm acreage allotment, the farm marketing quota or farm acreage allotment shall be divided proportionately between the quota lessee and quota tenant for purposes of issuing individual tobacco production permits under this paragraph.

"(5) OPTION OF QUOTA LESSEE OR QUOTA TENANT TO RELINQUISH PERMIT.—

"(A) IN GENERAL.—Each quota lessee or quota tenant that is issued an individual tobacco production permit under paragraph (4) shall be given the option of relinquishing the permit in exchange for payments made under section 1021(e)(5) of the LEAF Act.

"(B) NOTIFICATION.—A quota lessee or quota tenant that is issued an individual tobacco production permit shall give notification of the intention to exercise the option at such time and in such manner as the Secretary may require, but not later than 45 days after the permit is issued.

"(C) REALLOCATION OF PERMIT.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit relinquished under this paragraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

"(6) ACTIVE PRODUCER REQUIREMENT.—

"(A) REQUIREMENT FOR SHARING RISK.—No individual tobacco production permit shall be issued to, or maintained by, a person that does not fully share in the risk of producing a crop of flue-cured tobacco.

"(B) CRITERIA FOR SHARING RISK.—For purposes of this paragraph, a person shall be considered to have fully shared in the risk of production of a crop if—

"(i) the investment of the person in the production of the crop is not less than 100 percent of the costs of production associated with the crop;

"(ii) the amount of the person's return on the investment is dependent solely on the sale price of the crop; and

"(iii) the person may not receive any of the return before the sale of the crop.

"(C) PERSONS NOT SHARING RISK.—

"(i) FORFEITURE.—Any person that fails to fully share in the risks of production under this paragraph shall forfeit an individual tobacco production permit if, after notice and opportunity for a hearing, the appropriate county committee determines that the conditions for forfeiture exist.

"(ii) REALLOCATION.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit forfeited under this subparagraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

"(D) NOTICE.—Notice of any determination made by a county committee under subparagraph (C) shall be mailed, as soon as practicable, to the person involved.

"(E) REVIEW.—If the person is dissatisfied with the determination, the person may request, not later than 15 days after notice of the determination is received, a review of the determination by a local review committee under the procedures established under section 363 for farm marketing quotas.

"(7) COUNTY OF ORIGIN REQUIREMENT.—For the 1999 and each subsequent crop of flue-cured tobacco, all tobacco produced pursuant to an individual tobacco production permit shall be produced in the same county in which was produced the tobacco produced during the 1997 marketing year pursuant to the farm marketing quota or farm acreage allotment on which the individual tobacco production permit is based.

"(8) COUNTY PRODUCTION POOL.—

"(A) IN GENERAL.—The authority to produce flue-cured tobacco under an individual tobacco production permit that is forfeited, relinquished, or surrendered within a county may be reallocated by the appropriate county committee to tobacco producers located in the same county that apply to the committee to produce flue-cured tobacco under the authority.

"(B) PRIORITY.—In reallocating individual tobacco production permits under this paragraph, a county committee shall provide a priority to—

"(i) an active tobacco producer that controls the authority to produce a quantity of flue-cured tobacco under an individual tobacco production permit that is equal to or less than the average number of pounds of flue-cured tobacco that was produced by the producer during each of the 1995 through 1997 marketing years, as determined by the Secretary; and

"(ii) a new tobacco producer.

"(C) CRITERIA.—Individual tobacco production permits shall be reallocated by the appropriate county committee under this paragraph in a fair and equitable manner after taking into consideration—

"(i) the experience of the producer;

"(ii) the availability of land, labor, and equipment for the production of tobacco;

"(iii) crop rotation practices; and

"(iv) the soil and other physical factors affecting the production of tobacco.

"(D) MEDICAL HARDSHIPS AND CROP DISASTERS.—Notwithstanding any other provision of this Act, the Secretary may issue an individual tobacco production permit under this paragraph to a producer that is otherwise ineligible for the permit due to a medical hardship or crop disaster that occurred during the 1997 marketing year.

"(c) REFERENDUM.—

"(1) ANNOUNCEMENT OF QUOTA AND ALLOTMENT.—Not later than December 15, 1998, the Secretary pursuant to subsection (b) shall determine and announce—

"(A) the quantity of the national marketing quota for flue-cured tobacco for the 1999 marketing year; and

"(B) the national acreage allotment and national average yield goal for the 1999 crop of flue-cured tobacco.

"(2) SPECIAL REFERENDUM.—Not later than 30 days after the announcement of the quantity of the national marketing quota in 2001, the Secretary shall conduct a special referendum of the tobacco production permit holders that were the principal producers of flue-cured tobacco of the 1997 crop to determine whether the producers approve or oppose the continuation of individual tobacco production permits on an acreage-poundage basis as provided in this section for the 2002 through 2004 marketing years.

"(3) APPROVAL OF PERMITS.—If the Secretary determines that more than 66⅔ percent of the producers voting in the special referendum approve the establishment of individual tobacco production permits on an acreage-poundage basis—

"(A) individual tobacco production permits on an acreage-poundage basis as provided in this section shall be in effect for the 2002 through 2004 marketing years; and

"(B) marketing quotas on an acreage-poundage basis shall cease to be in effect for the 2002 through 2004 marketing years.

"(4) DISAPPROVAL OF PERMITS.—If individual tobacco production permits on an

acreage-poundage basis are not approved by more than 66⅔ percent of the producers voting in the referendum, no marketing quotas on an acreage-poundage basis shall continue in effect that were proclaimed under section 317 prior to the referendum.

"(5) APPLICABLE MARKETING YEARS.—If individual tobacco production permits have been made effective for flue-cured tobacco on an acreage-poundage basis pursuant to this subsection, the Secretary shall, not later than December 15 of any future marketing year, announce a national marketing quota for that type of tobacco for the next 3 succeeding marketing years if the marketing year is the last year of 3 consecutive years for which individual tobacco production permits previously proclaimed will be in effect.

"(d) ANNUAL ANNOUNCEMENT OF NATIONAL MARKETING QUOTA.—The Secretary shall determine and announce the national marketing quota, national acreage allotment, and national average yield goal for the second and third marketing years of any 3-year period for which individual tobacco production permits are in effect on or before the December 15 immediately preceding the beginning of the marketing year to which the quota, allotment, and goal apply.

"(e) ANNUAL ANNOUNCEMENT OF INDIVIDUAL TOBACCO PRODUCTION PERMITS.—If a national marketing quota, national acreage allotment, and national average yield goal are determined and announced, the Secretary shall provide for the determination of individual tobacco production permits, individual acreage limitations, and individual marketing limitations under this section for the crop and marketing year covered by the determinations.

"(f) ASSIGNMENT OF TOBACCO PRODUCTION PERMITS.—

"(1) LIMITATION TO SAME COUNTY.—Each individual tobacco production permit holder shall assign the individual acreage limitation and individual marketing limitation to 1 or more farms located within the county of origin of the individual tobacco production permit.

"(2) FILING WITH COUNTY COMMITTEE.—The assignment of an individual acreage limitation and individual marketing limitation shall not be effective until evidence of the assignment, in such form as required by the Secretary, is filed with and determined by the county committee for the county in which the farm involved is located.

"(3) LIMITATION ON TILLABLE CROPLAND.—The total acreage assigned to any farm under this subsection shall not exceed the acreage of cropland on the farm.

"(g) PROHIBITION ON SALE OR LEASING OF INDIVIDUAL TOBACCO PRODUCTION PERMITS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Secretary shall not permit the sale and transfer, or lease and transfer, of an individual tobacco production permit issued under this section.

"(2) TRANSFER TO DESCENDANTS.—

"(A) DEATH.—In the case of the death of a person to whom an individual tobacco production permit has been issued under this section, the permit shall transfer to the surviving spouse of the person or, if there is no surviving spouse, to surviving direct descendants of the person.

"(B) TEMPORARY INABILITY TO FARM.—In the case of the death of a person to whom an individual tobacco production permit has been issued under this section and whose descendants are temporarily unable to produce a crop of tobacco, the Secretary may hold the license in the name of the descendants for a period of not more than 18 months.

"(3) VOLUNTARY TRANSFERS.—A person that is eligible to obtain an individual tobacco production permit under this section may at any time transfer all or part of the permit to the person's spouse or direct descendants that are actively engaged in the production of tobacco.

"(h) RESERVE.—

"(1) IN GENERAL.—For each marketing year for which individual tobacco production permits are in effect under this section, the Secretary may establish a reserve from the national marketing quota in a quantity equal to not more than 1 percent of the national marketing quota to be available for—

"(A) making corrections of errors in individual acreage limitations and individual marketing limitations;

"(B) adjusting inequities; and

"(C) establishing individual tobacco production permits for new tobacco producers (except that not less than two-thirds of the reserve shall be for establishing such permits for new tobacco producers).

"(2) ELIGIBLE PERSONS.—To be eligible for a new individual tobacco production permit, a producer must not have been the principal producer of tobacco during the immediately preceding 5 years.

"(3) APPORTIONMENT FOR NEW PRODUCERS.—The part of the reserve held for apportionment to new individual tobacco producers shall be allotted on the basis of—

"(A) land, labor, and equipment available for the production of tobacco;

"(B) crop rotation practices;

"(C) soil and other physical factors affecting the production of tobacco; and

"(D) the past tobacco-producing experience of the producer.

"(4) PERMIT YIELD.—The permit yield for any producer for which a new individual tobacco production permit is established shall be determined on the basis of available productivity data for the land involved and yields for similar farms in the same county.

"(i) PENALTIES.—

"(1) PRODUCTION ON OTHER FARMS.—If any quantity of tobacco is marketed as having been produced under an individual acreage limitation or individual marketing limitation assigned to a farm but was produced on a different farm, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

"(2) FALSE REPORT.—If a person to which an individual tobacco production permit is issued files, or aids or acquiesces in the filing of, a false report with respect to the assignment of an individual acreage limitation or individual marketing limitation for a quantity of tobacco, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

"(j) MARKETING PENALTIES.—

"(1) IN GENERAL.—When individual tobacco production permits under this section are in effect, provisions with respect to penalties for the marketing of excess tobacco and the other provisions contained in section 314 shall apply in the same manner and to the same extent as they would apply under section 317(g) if farm marketing quotas were in effect.

"(2) PRODUCTION ON OTHER FARMS.—If a producer falsely identifies tobacco as having been produced on or marketed from a farm to which an individual acreage limitation or individual marketing limitation has been assigned, future individual acreage limitations and individual marketing limitations shall be forfeited.".

SEC. 1025. MODIFICATIONS IN FEDERAL TOBACCO PROGRAMS.

(a) PROGRAM REFERENDA.—Section 312(c) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1312(c)) is amended—

(1) by striking "(c) Within thirty" and inserting the following:

"(c) REFERENDA ON QUOTAS.—

"(1) IN GENERAL.—Not later than 30"; and

(2) by adding at the end the following:

"(2) REFERENDA ON PROGRAM CHANGES.—

"(A) IN GENERAL.—In the case of any type of tobacco for which marketing quotas are in effect, on the receipt of a petition from more than 5 percent of the producers of that type of tobacco in a State, the Secretary shall conduct a statewide referendum on any proposal related to the lease and transfer of tobacco quota within a State requested by the petition that is authorized under this part.

"(B) APPROVAL OF PROPOSALS.—If a majority of producers of the type of tobacco in the State approve a proposal in a referendum conducted under subparagraph (A), the Secretary shall implement the proposal in a manner that applies to all producers and quota holders of that type of tobacco in the State.".

(b) PURCHASE REQUIREMENTS.—Section 320B of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314h) is amended—

(1) in subsection (c)—

(A) by striking "(c) The amount" and inserting "(c) AMOUNT OF PENALTY.—For the 1998 and subsequent marketing years, the amount"; and

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

"(1) 105 percent of the average market price for the type of tobacco involved during the preceding marketing year; and".

(c) ELIMINATION OF TOBACCO MARKETING ASSESSMENT.—

(1) IN GENERAL.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by striking subsection (g).

(2) CONFORMING AMENDMENT.—Section 422(c) of the Uruguay Round Agreements Act (Public Law 103-465; 7 U.S.C. 1445 note) is amended by striking "section 106(g), 106A, or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445(g), 1445-1, or 1445-2)" and inserting "section 106A or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445-1, 1445-2)".

(d) ADJUSTMENT FOR LAND RENTAL COSTS.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by adding at the end the following:

"(h) ADJUSTMENT FOR LAND RENTAL COSTS.—For each of the 1999 and 2000 marketing years for flue-cured tobacco, after consultation with producers, State farm organizations and cooperative associations, the Secretary shall make an adjustment in the price support level for flue-cured tobacco equal to the annual change in the average cost per pound to flue-cured producers, as determined by the Secretary, under agreements through which producers rent land to produce flue-cured tobacco.".

(e) FIRE-CURED AND DARK AIR-CURED TOBACCO PROGRAMS.—

(1) LIMITATION ON TRANSFERS.—Section 318(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d(g)) is amended—

(A) by striking "ten" and inserting "30"; and

(B) by inserting "during any crop year" after "transferred to any farm".

(2) LOSS OF ALLOTMENT OR QUOTA THROUGH UNDERPLANTING.—Section 318 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d) is amended by adding at the end the following:

"(k) LOSS OF ALLOTMENT OR QUOTA THROUGH UNDERPLANTING.—Effective for the

1999 and subsequent marketing years, no acreage allotment or acreage-poundage quota, other than a new marketing quota, shall be established for a farm on which no fire-cured or dark air-cured tobacco was planted or considered planted during at least 2 of the 3 crop years immediately preceding the crop year for which the acreage allotment or acreage-poundage quota would otherwise be established.".

(f) EXPANSION OF TYPES OF TOBACCO SUBJECT TO NO NET COST ASSESSMENT.—

(1) NO NET COST TOBACCO FUND.—Section 106A(d)(1)(A) of the Agricultural Act of 1949 (7 U.S.C. 1445-1(d)(1)(A)) is amended—

(A) in clause (ii), by inserting after "Burley quota tobacco" the following: "and fire-cured and dark air-cured quota tobacco"; and

(B) in clause (iii)—

(i) in the matter preceding subclause (I), by striking "Flue-cured or Burley tobacco" and inserting "each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,"; and

(ii) by striking subclause (II) and inserting the following:

"(II) the sum of the amount of the per pound producer contribution and purchaser assessment (if any) for the kind of tobacco payable under clauses (i) and (ii); and".

(2) NO NET COST TOBACCO ACCOUNT.—Section 106B(d)(1) of the Agricultural Act of 1949 (7 U.S.C. 1445-2(d)(1)) is amended—

(A) in subparagraph (B), by inserting after "Burley quota tobacco" the following: "and fire-cured and dark air-cured tobacco"; and

(B) in subparagraph (C), by striking "Flue-cured and Burley tobacco" and inserting "each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,".

Subtitle C—Farmer and Worker Transition Assistance

SEC. 1031. TOBACCO WORKER TRANSITION PROGRAM.

(a) GROUP ELIGIBILITY REQUIREMENTS.—

(1) CRITERIA.—A group of workers (including workers in any firm or subdivision of a firm involved in the manufacture, processing, or warehousing of tobacco or tobacco products) shall be certified as eligible to apply for adjustment assistance under this section pursuant to a petition filed under subsection (b) if the Secretary of Labor determines that a significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated, and—

(A) the sales or production, or both, of the firm or subdivision have decreased absolutely; and

(B) the implementation of the national tobacco settlement contributed importantly to the workers' separation or threat of separation and to the decline in the sales or production of the firm or subdivision.

(2) DEFINITION OF CONTRIBUTED IMPORTANTLY.—In paragraph (1)(B), the term "contributed importantly" means a cause that is important but not necessarily more important than any other cause.

(3) REGULATIONS.—The Secretary shall issue regulations relating to the application of the criteria described in paragraph (1) in making preliminary findings under subsection (b) and determinations under subsection (c).

(b) PRELIMINARY FINDINGS AND BASIC ASSISTANCE.—

(1) FILING OF PETITIONS.—A petition for certification of eligibility to apply for adjustment assistance under this section may be filed by a group of workers (including workers in any firm or subdivision of a firm involved in the manufacture, processing, or warehousing of tobacco or tobacco products) or by their certified or recognized union or other duly authorized representative with the Governor of the State in which the workers' firm or subdivision thereof is located.

(2) FINDINGS AND ASSISTANCE.—On receipt of a petition under paragraph (1), the Governor shall—

(A) notify the Secretary that the Governor has received the petition;

(B) within 10 days after receiving the petition—

(i) make a preliminary finding as to whether the petition meets the criteria described in subsection (a)(1); and

(ii) transmit the petition, together with a statement of the finding under clause (i) and reasons for the finding, to the Secretary for action under subsection (c); and

(C) if the preliminary finding under subparagraph (B)(i) is affirmative, ensure that rapid response and basic readjustment services authorized under other Federal laws are made available to the workers.

(c) REVIEW OF PETITIONS BY SECRETARY; CERTIFICATIONS.—

(1) IN GENERAL.—The Secretary, within 30 days after receiving a petition under subsection (b)(2)(B)(ii), shall determine whether the petition meets the criteria described in subsection (a)(1). On a determination that the petition meets the criteria, the Secretary shall issue to workers covered by the petition a certification of eligibility to apply for the assistance described in subsection (d).

(2) DENIAL OF CERTIFICATION.—On the denial of a certification with respect to a petition under paragraph (1), the Secretary shall review the petition in accordance with the requirements of other applicable assistance programs to determine if the workers may be certified under the other programs.

(d) COMPREHENSIVE ASSISTANCE.—

(1) IN GENERAL.—Workers covered by a certification issued by the Secretary under subsection (c)(1) shall be provided with benefits and services described in paragraph (2) in the same manner and to the same extent as workers covered under a certification under subchapter A of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.), except that the total amount of payments under this section for any fiscal year shall not exceed $25,000,000.

(2) BENEFITS AND SERVICES.—The benefits and services described in this paragraph are the following:

(A) Employment services of the type described in section 235 of the Trade Act of 1974 (19 U.S.C. 2295).

(B) Training described in section 236 of the Trade Act of 1974 (19 U.S.C. 2296), except that notwithstanding the provisions of section 236(a)(2)(A) of that Act, the total amount of payments for training under this section for any fiscal year shall not exceed $12,500,000.

(C) Tobacco worker readjustment allowances, which shall be provided in the same manner as trade readjustment allowances are provided under part I of subchapter B of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2291 et seq.), except that—

(i) the provisions of sections 231(a)(5)(C) and 231(c) of that Act (19 U.S.C. 2291(a)(5)(C), 2291(c)), authorizing the payment of trade readjustment allowances on a finding that it is not feasible or appropriate to approve a training program for a worker, shall not be applicable to payment of allowances under this section; and

(ii) notwithstanding the provisions of section 233(b) of that Act (19 U.S.C. 2293(b)), in order for a worker to qualify for tobacco readjustment allowances under this section, the worker shall be enrolled in a training program approved by the Secretary of the type described in section 236(a) of that Act (19 U.S.C. 2296(a)) by the later of—

(I) the last day of the 16th week of the worker's initial unemployment compensation benefit period; or

(II) the last day of the 6th week after the week in which the Secretary issues a certification covering the worker.

In cases of extenuating circumstances relating to enrollment of a worker in a training program under this section, the Secretary may extend the time for enrollment for a period of not to exceed 30 days.

(D) Job search allowances of the type described in section 237 of the Trade Act of 1974 (19 U.S.C. 2297).

(E) Relocation allowances of the type described in section 238 of the Trade Act of 1974 (19 U.S.C. 2298).

(e) INELIGIBILITY OF INDIVIDUALS RECEIVING PAYMENTS FOR LOST TOBACCO QUOTA.—No benefits or services may be provided under this section to any individual who has received payments for lost tobacco quota under section 1021.

(f) FUNDING.—Of the amounts appropriated to carry out this title, the Secretary may use not to exceed $25,000,000 for each of fiscal years 1999 through 2008 to provide assistance under this section.

(g) EFFECTIVE DATE.—This section shall take effect on the date that is the later of—

(1) October 1, 1998; or

(2) the date of enactment of this Act.

(h) TERMINATION DATE.—No assistance, vouchers, allowances, or other payments may be provided under this section after the date that is the earlier of—

(1) the date that is 10 years after the effective date of this section under subsection (g); or

(2) the date on which legislation establishing a program providing dislocated workers with comprehensive assistance substantially similar to the assistance provided by this section becomes effective.

SEC. 1032. FARMER OPPORTUNITY GRANTS.

Part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) is amended by adding at the end the following:

"Subpart 9—Farmer Opportunity Grants

"SEC. 420D. STATEMENT OF PURPOSE.

"It is the purpose of this subpart to assist in making available the benefits of postsecondary education to eligible students (determined in accordance with section 420F) in institutions of higher education by providing farmer opportunity grants to all eligible students.

"SEC. 420E. PROGRAM AUTHORITY; AMOUNT AND DETERMINATIONS; APPLICATIONS.

"(a) PROGRAM AUTHORITY AND METHOD OF DISTRIBUTION.—

"(1) PROGRAM AUTHORITY.—From amounts made available under section 1011(d)(5) of the LEAF Act, the Secretary, during the period beginning July 1, 1999, and ending September 30, 2024, shall pay to each eligible institution such sums as may be necessary to pay to each eligible student (determined in accordance with section 420F) for each academic year during which that student is in attendance at an institution of higher education, as an undergraduate, a farmer opportunity grant in the amount for which that student is eligible, as determined pursuant to subsection (b). Not less than 85 percent of the

sums shall be advanced to eligible institutions prior to the start of each payment period and shall be based on an amount requested by the institution as needed to pay eligible students, except that this sentence shall not be construed to limit the authority of the Secretary to place an institution on a reimbursement system of payment.

"(2) CONSTRUCTION.—Nothing in this section shall be construed to prohibit the Secretary from paying directly to students, in advance of the beginning of the academic term, an amount for which the students are eligible, in cases where the eligible institution elects not to participate in the disbursement system required by paragraph (1).

"(3) DESIGNATION.—Grants made under this subpart shall be known as 'farmer opportunity grants'.

"(b) AMOUNT OF GRANTS.—

"(1) AMOUNTS.—

"(A) IN GENERAL.—The amount of the grant for a student eligible under this subpart shall be—

"(i) $1,700 for each of the academic years 1999–2000 through 2003–2004;

"(ii) $2,000 for each of the academic years 2004–2005 through 2008–2009;

"(iii) $2,300 for each of the academic years 2009–2010 through 2013–2014;

"(iv) $2,600 for each of the academic years 2014–2015 through 2018–2019; and

"(v) $2,900 for each of the academic years 2019–2020 through 2023–2024.

"(B) PART-TIME RULE.—In any case where a student attends an institution of higher education on less than a full-time basis (including a student who attends an institution of higher education on less than a half-time basis) during any academic year, the amount of the grant for which that student is eligible shall be reduced in proportion to the degree to which that student is not so attending on a full-time basis, in accordance with a schedule of reductions established by the Secretary for the purposes of this subparagraph, computed in accordance with this subpart. The schedule of reductions shall be established by regulation and published in the Federal Register.

"(2) MAXIMUM.—No grant under this subpart shall exceed the cost of attendance (as described in section 472) at the institution at which that student is in attendance. If, with respect to any student, it is determined that the amount of a grant exceeds the cost of attendance for that year, the amount of the grant shall be reduced to an amount equal to the cost of attendance at the institution.

"(3) PROHIBITION.—No grant shall be awarded under this subpart to any individual who is incarcerated in any Federal, State, or local penal institution.

"(c) PERIOD OF ELIGIBILITY FOR GRANTS.—

"(1) IN GENERAL.—The period during which a student may receive grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student at the institution at which the student is in attendance, except that any period during which the student is enrolled in a noncredit or remedial course of study as described in paragraph (2) shall not be counted for the purpose of this paragraph.

"(2) CONSTRUCTION.—Nothing in this section shall be construed to—

"(A) exclude from eligibility courses of study that are noncredit or remedial in nature and that are determined by the institution to be necessary to help the student be prepared for the pursuit of a first undergraduate baccalaureate degree or certificate or, in the case of courses in English language instruction, to be necessary to enable the student to utilize already existing knowledge, training, or skills; and

"(B) exclude from eligibility programs of study abroad that are approved for credit by the home institution at which the student is enrolled.

"(3) PROHIBITION.—No student is entitled to receive farmer opportunity grant payments concurrently from more than 1 institution or from the Secretary and an institution.

"(d) APPLICATIONS FOR GRANTS.—

"(1) IN GENERAL.—The Secretary shall from time to time set dates by which students shall file applications for grants under this subpart. The filing of applications under this subpart shall be coordinated with the filing of applications under section 401(c).

"(2) INFORMATION AND ASSURANCES.—Each student desiring a grant for any year shall file with the Secretary an application for the grant containing such information and assurances as the Secretary may deem necessary to enable the Secretary to carry out the Secretary's functions and responsibilities under this subpart.

"(e) DISTRIBUTION OF GRANTS TO STUDENTS.—Payments under this section shall be made in accordance with regulations promulgated by the Secretary for such purpose, in such manner as will best accomplish the purpose of this section. Any disbursement allowed to be made by crediting the student's account shall be limited to tuition and fees and, in the case of institutionally owned housing, room and board. The student may elect to have the institution provide other such goods and services by crediting the student's account.

"(f) INSUFFICIENT FUNDING.—If, for any fiscal year, the funds made available to carry out this subpart are insufficient to satisfy fully all grants for students determined to be eligible under section 420F, the amount of the grant provided under subsection (b) shall be reduced on a pro rata basis among all eligible students.

"(g) TREATMENT OF INSTITUTIONS AND STUDENTS UNDER OTHER LAWS.—Any institution of higher education that enters into an agreement with the Secretary to disburse to students attending that institution the amounts those students are eligible to receive under this subpart shall not be deemed, by virtue of the agreement, to be a contractor maintaining a system of records to accomplish a function of the Secretary. Recipients of farmer opportunity grants shall not be considered to be individual grantees for purposes of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq.).

"SEC. 420F. STUDENT ELIGIBILITY.

"(a) IN GENERAL.—In order to receive any grant under this subpart, a student shall—

"(1) be a member of a tobacco farm family in accordance with subsection (b);

"(2) be enrolled or accepted for enrollment in a degree, certificate, or other program (including a program of study abroad approved for credit by the eligible institution at which the student is enrolled) leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with section 487, and not be enrolled in an elementary or secondary school;

"(3) if the student is presently enrolled at an institution of higher education, be maintaining satisfactory progress in the course of study the student is pursuing in accordance with subsection (c);

"(4) not owe a refund on grants previously received at any institution of higher education under this title, or be in default on any loan from a student loan fund at any institution provided for in part D, or a loan made, insured, or guaranteed by the Secretary under this title for attendance at any institution;

"(5) file with the institution of higher education that the student intends to attend, or is attending, a document, that need not be notarized, but that shall include—

"(A) a statement of educational purpose stating that the money attributable to the grant will be used solely for expenses related to attendance or continued attendance at the institution; and

"(B) the student's social security number; and

"(6) be a citizen of the United States.

"(b) TOBACCO FARM FAMILIES.—

"(1) IN GENERAL.—For the purpose of subsection (a)(1), a student is a member of a tobacco farm family if during calendar year 1998 the student was—

"(A) an individual who—

"(i) is a participating tobacco producer (as defined in section 1002 of the LEAF Act) who is a principal producer of tobacco on a farm; or

"(ii) is otherwise actively engaged in the production of tobacco;

"(B) a spouse, son, daughter, stepson, or stepdaughter of an individual described in subparagraph (A);

"(C) an individual who was a dependent (within the meaning of section 152 of the Internal Revenue Code of 1986) of an individual described in subparagraph (A).

"(2) ADMINISTRATION.—On request, the Secretary of Agriculture shall provide to the Secretary such information as is necessary to carry out this subsection.

"(c) SATISFACTORY PROGRESS.—

"(1) IN GENERAL.—For the purpose of subsection (a)(3), a student is maintaining satisfactory progress if—

"(A) the institution at which the student is in attendance reviews the progress of the student at the end of each academic year, or its equivalent, as determined by the institution; and

"(B) the student has at least a cumulative C average or its equivalent, or academic standing consistent with the requirements for graduation, as determined by the institution, at the end of the second such academic year.

"(2) SPECIAL RULE.—Whenever a student fails to meet the eligibility requirements of subsection (a)(3) as a result of the application of this subsection and subsequent to that failure the student has academic standing consistent with the requirements for graduation, as determined by the institution, for any grading period, the student may, subject to this subsection, again be eligible under subsection (a)(3) for a grant under this subpart.

"(3) WAIVER.—Any institution of higher education at which the student is in attendance may waive paragraph (1) or (2) for undue hardship based on—

"(A) the death of a relative of the student;

"(B) the personal injury or illness of the student; or

"(C) special circumstances as determined by the institution.

"(d) STUDENTS WHO ARE NOT SECONDARY SCHOOL GRADUATES.—In order for a student who does not have a certificate of graduation from a school providing secondary education, or the recognized equivalent of the certificate, to be eligible for any assistance under this subpart, the student shall meet either 1 of the following standards:

"(1) EXAMINATION.—The student shall take an independently administered examination

and shall achieve a score, specified by the Secretary, demonstrating that the student can benefit from the education or training being offered. The examination shall be approved by the Secretary on the basis of compliance with such standards for development, administration, and scoring as the Secretary may prescribe in regulations.

"(2) DETERMINATION.—The student shall be determined as having the ability to benefit from the education or training in accordance with such process as the State shall prescribe. Any such process described or approved by a State for the purposes of this section shall be effective 6 months after the date of submission to the Secretary unless the Secretary disapproves the process. In determining whether to approve or disapprove the process, the Secretary shall take into account the effectiveness of the process in enabling students without secondary school diplomas or the recognized equivalent to benefit from the instruction offered by institutions utilizing the process, and shall also take into account the cultural diversity, economic circumstances, and educational preparation of the populations served by the institutions.

"(e) SPECIAL RULE FOR CORRESPONDENCE COURSES.—A student shall not be eligible to receive a grant under this subpart for a correspondence course unless the course is part of a program leading to an associate, bachelor, or graduate degree.

"(f) COURSES OFFERED THROUGH TELECOMMUNICATIONS.—

"(1) RELATION TO CORRESPONDENCE COURSES.—A student enrolled in a course of instruction at an eligible institution of higher education (other than an institute or school that meets the definition in section 521(4)(C) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471(4)(C))) that is offered in whole or in part through telecommunications and leads to a recognized associate, bachelor, or graduate degree conferred by the institution shall not be considered to be enrolled in correspondence courses unless the total amount of telecommunications and correspondence courses at the institution equals or exceeds 50 percent of the courses.

"(2) RESTRICTION OR REDUCTIONS OF FINANCIAL AID.—A student's eligibility to receive a grant under this subpart may be reduced if a financial aid officer determines under the discretionary authority provided in section 479A that telecommunications instruction results in a substantially reduced cost of attendance to the student.

"(3) DEFINITION.—For the purposes of this subsection, the term 'telecommunications' means the use of television, audio, or computer transmission, including open broadcast, closed circuit, cable, microwave, or satellite, audio conferencing, computer conferencing, or video cassettes or discs, except that the term does not include a course that is delivered using video cassette or disc recordings at the institution and that is not delivered in person to other students of that institution.

"(g) STUDY ABROAD.—Nothing in this subpart shall be construed to limit or otherwise prohibit access to study abroad programs approved by the home institution at which a student is enrolled. An otherwise eligible student who is engaged in a program of study abroad approved for academic credit by the home institution at which the student is enrolled shall be eligible to receive a grant under this subpart, without regard to whether the study abroad program is required as part of the student's degree program.

"(h) VERIFICATION OF SOCIAL SECURITY NUMBER.—The Secretary, in cooperation with the Commissioner of Social Security, shall verify any social security number provided by a student to an eligible institution under subsection (a)(5)(B) and shall enforce the following conditions:

"(1) PENDING VERIFICATION.—Except as provided in paragraphs (2) and (3), an institution shall not deny, reduce, delay, or terminate a student's eligibility for assistance under this subpart because social security number verification is pending.

"(2) DENIAL OR TERMINATION.—If there is a determination by the Secretary that the social security number provided to an eligible institution by a student is incorrect, the institution shall deny or terminate the student's eligibility for any grant under this subpart until such time as the student provides documented evidence of a social security number that is determined by the institution to be correct.

"(3) CONSTRUCTION.—Nothing in this subsection shall be construed to permit the Secretary to take any compliance, disallowance, penalty, or other regulatory action against—

"(A) any institution of higher education with respect to any error in a social security number, unless the error was a result of fraud on the part of the institution; or

"(B) any student with respect to any error in a social security number, unless the error was a result of fraud on the part of the student.".

Subtitle D—Immunity

SEC. 1041. GENERAL IMMUNITY FOR TOBACCO PRODUCERS AND TOBACCO WAREHOUSE OWNERS.

Notwithstanding any other provision of this title, a participating tobacco producer, tobacco-related growers association, or tobacco warehouse owner or employee may not be subject to liability in any Federal or State court for any cause of action resulting from the failure of any tobacco product manufacturer, distributor, or retailer to comply with the National Tobacco Policy and Youth Smoking Reduction Act.

Subtitle E—Applicability

SEC. 1051. Notwithstanding any other provision of law, Title XV shall have no force and effect.

FORD (AND OTHERS) AMENDMENTS NOS. 2621–2622

(Ordered to lie on the table.)

Mr. FORD (for himself, Mr. HOLLINGS, and Mr. ROBB) submitted two amendments intended to be proposed by them to amendment No. 2501 proposed by Mr. LUGAR to the bill, S. 1415, supra; as follows:

AMENDMENT NO. 2621

In lieu of the matter proposed to be inserted, insert the following:

TITLE X—LONG-TERM ECONOMIC ASSISTANCE FOR FARMERS

SEC. 1001. SHORT TITLE.

This title may be cited as the "Long-Term Economic Assistance for Farmers Act" or the "LEAF Act".

SEC. 1002. DEFINITIONS.

In this title:

(1) PARTICIPATING TOBACCO PRODUCER.—The term "participating tobacco producer" means a quota holder, quota lessee, or quota tenant.

(2) QUOTA HOLDER.—The term "quota holder" means an owner of a farm on January 1, 1998, for which a tobacco farm marketing quota or farm acreage allotment was established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.).

(3) QUOTA LESSEE.—The term "quota lessee" means—

(A) a producer that owns a farm that produced tobacco pursuant to a lease and transfer to that farm of all or part of a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years; or

(B) a producer that rented land from a farm operator to produce tobacco under a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years.

(4) QUOTA TENANT.—The term "quota tenant" means a producer that—

(A) is the principal producer, as determined by the Secretary, of tobacco on a farm where tobacco is produced pursuant to a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years; and

(B) is not a quota holder or quota lessee.

(5) SECRETARY.—The term "Secretary" means—

(A) in subtitles A and B, the Secretary of Agriculture; and

(B) in section 1031, the Secretary of Labor.

(6) TOBACCO PRODUCT IMPORTER.—The term "tobacco product importer" has the meaning given the term "importer" in section 5702 of the Internal Revenue Code of 1986.

(7) TOBACCO PRODUCT MANUFACTURER.—

(A) IN GENERAL.—The term "tobacco product manufacturer" has the meaning given the term "manufacturer of tobacco products" in section 5702 of the Internal Revenue Code of 1986.

(B) EXCLUSION.—The term "tobacco product manufacturer" does not include a person that manufactures cigars or pipe tobacco.

(8) TOBACCO WAREHOUSE OWNER.—The term "tobacco warehouse owner" means a warehouseman that participated in an auction market (as defined in the first section of the Tobacco Inspection Act (7 U.S.C. 511)) during the 1998 marketing year.

(9) FLUE-CURED TOBACCO.—The term "flue-cured tobacco" includes type 21 and type 37 tobacco.

Subtitle A—Tobacco Community Revitalization

SEC. 1011. AUTHORIZATION OF APPROPRIATIONS.

There are appropriated and transferred to the Secretary for each fiscal year such amounts from the National Tobacco Trust Fund established by section 401, other than from amounts in the State Litigation Settlement Account, as may be necessary to carry out the provisions of this title.

SEC. 1012. EXPENDITURES.

The Secretary is authorized, subject to appropriations, to make payments under—

(1) section 1021 for payments for lost tobacco quota for each of fiscal years 1999 through 2023, but not to exceed $1,650,000,000 for any fiscal year except to the extent the payments are made in accordance with subsection (d)(12) or (e)(9) of section 1021;

(2) section 1022 for industry payments for all costs of the Department of Agriculture associated with the production of tobacco;

(3) section 1023 for tobacco community economic development grants, but not to exceed—

(A) $375,000,000 for each of fiscal years 1999 through 2008, less any amount required to be

paid under section 1022 for the fiscal year; and

(B) $450,000,000 for each of fiscal year 2009 through 2023, less any amount required to be paid under section 1022 during the fiscal year;

(4) section 1031 for assistance provided under the tobacco worker transition program, but not to exceed $25,000,000 for any fiscal year; and

(5) subpart 9 of part A of title IV of the Higher Education Act of 1965 for farmer opportunity grants, but not to exceed—

(A) $42,500,000 for each of the academic years 1999–2000 through 2003–2004;

(B) $50,000,000 for each of the academic years 2004–2005 through 2008–2009;

(C) $57,500,000 for each of the academic years 2009–2010 through 2013–2014;

(D) $65,000,000 for each of the academic years 2014–2015 through 2018–2019; and

(E) $72,500,000 for each of the academic years 2019–2020 through 2023–2024.

SEC. 1013. BUDGETARY TREATMENT.

This subtitle constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide payments to States and eligible persons in accordance with this title.

Subtitle B—Tobacco Market Transition Assistance

SEC. 1021. PAYMENTS FOR LOST TOBACCO QUOTA.

(a) IN GENERAL.—Beginning with the 1999 marketing year, the Secretary shall make payments for lost tobacco quota to eligible quota holders, quota lessees, and quota tenants as reimbursement for lost tobacco quota.

(b) ELIGIBILITY.—To be eligible to receive payments under this section, a quota holder, quota lessee, or quota tenant shall—

(1) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including information sufficient to make the demonstration required under paragraph (2); and

(2) demonstrate to the satisfaction of the Secretary that, with respect to the 1997 marketing year—

(A) the producer was a quota holder and realized income (or would have realized income, as determined by the Secretary, but for a medical hardship or crop disaster during the 1997 marketing year) from the production of tobacco through—

(i) the active production of tobacco;

(ii) the lease and transfer of tobacco quota to another farm;

(iii) the rental of all or part of the farm of the quota holder, including the right to produce tobacco, to another tobacco producer; or

(iv) the hiring of a quota tenant to produce tobacco;

(B) the producer was a quota lessee; or

(C) the producer was a quota tenant.

(c) BASE QUOTA LEVEL.—

(1) IN GENERAL.—The Secretary shall determine, for each quota holder, quota lessee, and quota tenant, the base quota level for the 1995 through 1997 marketing years.

(2) QUOTA HOLDERS.—The base quota level for a quota holder shall be equal to the average tobacco farm marketing quota established for the farm owned by the quota holder for the 1995 through 1997 marketing years.

(3) QUOTA LESSEES.—The base quota level for a quota lessee shall be equal to—

(A) 50 percent of the average number of pounds of tobacco quota established for the farm for the 1995 through 1997 marketing years—

(i) that was leased and transferred to a farm owned by the quota lessee; or

(ii) that was rented to the quota lessee for the right to produce the tobacco; less

(B) 25 percent of the average number of pounds of tobacco quota described in subparagraph (A) for which a quota tenant was the principal producer of the tobacco quota.

(4) QUOTA TENANTS.—The base quota level for a quota tenant shall be equal to the sum of—

(A) 50 percent of the average number of pounds of tobacco quota established for a farm for the 1995 through 1997 marketing years—

(i) that was owned by a quota holder; and

(ii) for which the quota tenant was the principal producer of the tobacco on the farm; and

(B) 25 percent of the average number of pounds of tobacco quota for the 1995 through 1997 marketing years—

(i)(I) that was leased and transferred to a farm owned by the quota lessee; or

(II) for which the rights to produce the tobacco were rented to the quota lessee; and

(ii) for which the quota tenant was the principal producer of the tobacco on the farm.

(5) MARKETING QUOTAS OTHER THAN POUNDAGE QUOTAS.—

(A) IN GENERAL.—For each type of tobacco for which there is a marketing quota or allotment (on an acreage basis), the base quota level for each quota holder, quota lessee, or quota tenant shall be determined in accordance with this subsection (based on a poundage conversion) by multiplying—

(i) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; and

(ii) the average yield per acre for the farm for the type of tobacco for the marketing years.

(B) YIELDS NOT AVAILABLE.—If the average yield per acre is not available for a farm, the Secretary shall calculate the base quota for the quota holder, quota lessee, or quota tenant (based on a poundage conversion) by determining the amount equal to the product obtained by multiplying—

(i) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; and

(ii) the average county yield per acre for the county in which the farm is located for the type of tobacco for the marketing years.

(d) PAYMENTS FOR LOST TOBACCO QUOTA FOR TYPES OF TOBACCO OTHER THAN FLUE-CURED TOBACCO.—

(1) ALLOCATION OF FUNDS.—Of the amounts made available under section 1011(d)(1) for payments for lost tobacco quota, the Secretary shall make available for payments under this subsection an amount that bears the same ratio to the amounts made available as—

(A) the sum of all national marketing quotas for all types of tobacco other than flue-cured tobacco during the 1995 through 1997 marketing years; bears to

(B) the sum of all national marketing quotas for all types of tobacco during the 1995 through 1997 marketing years.

(2) OPTION TO RELINQUISH QUOTA.—

(A) IN GENERAL.—Each quota holder, for types of tobacco other than flue-cured tobacco, shall be given the option to relinquish the farm marketing quota or farm acreage allotment of the quota holder in exchange for a payment made under paragraph (3).

(B) NOTIFICATION.—A quota holder shall give notification of the intention of the quota holder to exercise the option at such time and in such manner as the Secretary may require, but not later than January 15, 1999.

(3) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA HOLDERS EXERCISING OPTIONS TO RELINQUISH QUOTA.—

(A) IN GENERAL.—Subject to subparagraph (E), for each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost tobacco quota to each quota holder that has relinquished the farm marketing quota or farm acreage allotment of the quota holder under paragraph (2).

(B) AMOUNT.—The amount of a payment made to a quota holder described in subparagraph (A) for a marketing year shall equal $\frac{1}{10}$ of the lifetime limitation established under subparagraph (E).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the farm marketing quota or farm acreage allotment is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(E) LIFETIME LIMITATION ON PAYMENTS.—The total amount of payments made under this paragraph to a quota holder shall not exceed the product obtained by multiplying the base quota level for the quota holder by $8 per pound.

(4) REISSUANCE OF QUOTA.—

(A) REALLOCATION TO LESSEE OR TENANT.—If a quota holder exercises an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), a quota lessee or quota tenant that was the primary producer during the 1997 marketing year of tobacco pursuant to the farm marketing quota or farm acreage allotment, as determined by the Secretary, shall be given the option of having an allotment of the farm marketing quota or farm acreage allotment reallocated to a farm owned by the quota lessee or quota tenant.

(B) CONDITIONS FOR REALLOCATION.—

(i) TIMING.—A quota lessee or quota tenant that is given the option of having an allotment of a farm marketing quota or farm acreage allotment reallocated to a farm owned by the quota lessee or quota tenant under subparagraph (A) shall have 1 year from the date on which a farm marketing quota or farm acreage allotment is relinquished under paragraph (2) to exercise the option.

(ii) LIMITATION ON ACREAGE ALLOTMENT.—In the case of a farm acreage allotment, the acreage allotment determined for any farm subsequent to any reallocation under subparagraph (A) shall not exceed 50 percent of the acreage of cropland of the farm owned by the quota lessee or quota tenant.

(iii) LIMITATION ON MARKETING QUOTA.—In the case of a farm marketing quota, the marketing quota determined for any farm subsequent to any reallocation under subparagraph (A) shall not exceed an amount determined by multiplying—

(I) the average county farm yield, as determined by the Secretary; and

(II) 50 percent of the acreage of cropland of the farm owned by the quota lessee or quota tenant.

(C) ELIGIBILITY OF LESSEE OR TENANT FOR PAYMENTS.—If a farm marketing quota or farm acreage allotment is reallocated to a quota lessee or quota tenant under subparagraph (A)—

(i) the quota lessee or quota tenant shall not be eligible for any additional payments under paragraph (5) or (6) as a result of the reallocation; and

(ii) the base quota level for the quota lessee or quota tenant shall not be increased as a result of the reallocation.

(D) REALLOCATION TO QUOTA HOLDERS WITHIN SAME COUNTY OR STATE.—

(i) IN GENERAL.—Except as provided in clause (ii), if there was no quota lessee or quota tenant for the farm marketing quota or farm acreage allotment for a type of tobacco, or if no quota lessee or quota tenant exercises an option of having an allotment of the farm marketing quota or farm acreage allotment for a type of tobacco reallocated, the Secretary shall reapportion the farm marketing quota or farm acreage allotment among the remaining quota holders for the type of tobacco within the same county.

(ii) CROSS-COUNTY LEASING.—In a State in which cross-county leasing is authorized pursuant to section 319(l) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(*l*)), the Secretary shall reapportion the farm marketing quota among the remaining quota holders for the type of tobacco within the same State.

(iii) ELIGIBILITY OF QUOTA HOLDER FOR PAYMENTS.—If a farm marketing quota is reapportioned to a quota holder under this subparagraph—

(I) the quota holder shall not be eligible for any additional payments under paragraph (5) or (6) as a result of the reapportionment; and

(II) the base quota level for the quota holder shall not be increased as a result of the reapportionment.

(E) SPECIAL RULE FOR TENANT OF LEASED TOBACCO.—If a quota holder exercises an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), the farm marketing quota or farm acreage allotment shall be divided evenly between, and the option of reallocating the farm marketing quota or farm acreage allotment shall be offered in equal portions to, the quota lessee and to the quota tenant, if—

(i) during the 1997 marketing year, the farm marketing quota or farm acreage allotment was leased and transferred to a farm owned by the quota lessee; and

(ii) the quota tenant was the primary producer, as determined by the Secretary, of tobacco pursuant to the farm marketing quota or farm acreage allotment.

(5) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA HOLDERS.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for a type of tobacco is less than the average national marketing quota for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota holder, for types of tobacco other than flue-cured tobacco, that is eligible under subsection (b), and has not exercised an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), in an amount that is equal to the product obtained by multiplying—

(i) the number of pounds by which the basic farm marketing quota (or poundage conversion) is less than the base quota level for the quota holder; and

(ii) $4 per pound.

(B) POUNDAGE CONVERSION FOR MARKETING QUOTAS OTHER THAN POUNDAGE QUOTAS.—

(i) IN GENERAL.—For each type of tobacco for which there is a marketing quota or allotment (on an acreage basis), the poundage conversion for each quota holder during a marketing year shall be determined by multiplying—

(I) the basic farm acreage allotment for the farm for the marketing year; and

(II) the average yield per acre for the farm for the type of tobacco.

(ii) YIELD NOT AVAILABLE.—If the average yield per acre is not available for a farm, the Secretary shall calculate the poundage conversion for each quota holder during a marketing year by multiplying—

(I) the basic farm acreage allotment for the farm for the marketing year; and

(II) the average county yield per acre for the county in which the farm is located for the type of tobacco.

(6) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for a type of tobacco is less than the average national marketing quota for the type of tobacco for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota lessee and quota tenant, for types of tobacco other than flue-cured tobacco, that is eligible under subsection (b) in an amount that is equal to the product obtained by multiplying—

(A) the percentage by which the national marketing quota for the type of tobacco is less than the average national marketing quota for the type of tobacco for the 1995 through 1997 marketing years;

(B) the base quota level for the quota lessee or quota tenant; and

(C) $4 per pound.

(7) LIFETIME LIMITATION ON PAYMENTS.—Except as otherwise provided in this subsection, the total amount of payments made under this subsection to a quota holder, quota lessee, or quota tenant during the lifetime of the quota holder, quota lessee, or quota tenant shall not exceed the product obtained by multiplying—

(A) the base quota level for the quota holder, quota lessee, or quota tenant; and

(B) $8 per pound.

(8) LIMITATIONS ON AGGREGATE ANNUAL PAYMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the total amount payable under this subsection for any marketing year shall not exceed the amount made available under paragraph (1).

(B) ACCELERATED PAYMENTS.—Paragraph (1) shall not apply if accelerated payments for lost tobacco quota are made in accordance with paragraph (12).

(C) REDUCTIONS.—If the sum of the amounts determined under paragraphs (3), (5), and (6) for a marketing year exceeds the amount made available under paragraph (1), the Secretary shall make a pro rata reduction in the amounts payable under paragraphs (5) and (6) to quota holders, quota lessees, and quota tenants under this subsection to ensure that the total amount of payments for lost tobacco quota does not exceed the amount made available under paragraph (1).

(D) ROLLOVER OF PAYMENTS FOR LOST TOBACCO QUOTA.—Subject to subparagraph (A), if the Secretary makes a reduction in accordance with subparagraph (C), the amount of the reduction shall be applied to the next marketing year and added to the payments for lost tobacco quota for the marketing year.

(E) ADDITIONAL PAYMENTS TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTA.—If the amount made available under paragraph (1) exceeds the sum of the amounts determined under paragraphs (3), (5), and (6) for a marketing year, the Secretary shall distribute the amount of the excess pro rata to quota holders that have exercised an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2) by increasing the amount payable to each such holder under paragraph (3).

(9) SUBSEQUENT SALE AND TRANSFER OF QUOTA.—Effective beginning with the 1999 marketing year, on the sale and transfer of a farm marketing quota or farm acreage allotment under section 316(g) or 319(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(g), 1314e(g))—

(A) the person that sold and transferred the quota or allotment shall have—

(i) the base quota level attributable to the person reduced by the base quota level attributable to the quota that is sold and transferred; and

(ii) the lifetime limitation on payments established under paragraph (7) attributable to the person reduced by the product obtained by multiplying—

(I) the base quota level attributable to the quota; and

(II) $8 per pound; and

(B) if the quota or allotment has never been relinquished by a previous quota holder under paragraph (2), the person that acquired the quota shall have—

(i) the base quota level attributable to the person increased by the base quota level attributable to the quota that is sold and transferred; and

(ii) the lifetime limitation on payments established under paragraph (7) attributable to the person—

(I) increased by the product obtained by multiplying—

(aa) the base quota level attributable to the quota; and

(bb) $8 per pound; but

(II) decreased by any payments under paragraph (5) for lost tobacco quota previously made that are attributable to the quota that is sold and transferred.

(10) SALE OR TRANSFER OF FARM.—On the sale or transfer of ownership of a farm that is owned by a quota holder, the base quota level established under subsection (c), the right to payments under paragraph (5), and the lifetime limitation on payments established under paragraph (7) shall transfer to the new owner of the farm to the same extent and in the same manner as those provisions applied to the previous quota holder.

(11) DEATH OF QUOTA LESSEE OR QUOTA TENANT.—If a quota lessee or quota tenant that is entitled to payments under this subsection dies and is survived by a spouse or 1 or more dependents, the right to receive the payments shall transfer to the surviving spouse or, if there is no surviving spouse, to the surviving dependents in equal shares.

(12) ACCELERATION OF PAYMENTS.—

(A) IN GENERAL.—On the occurrence of any of the events described in subparagraph (B), the Secretary shall make an accelerated lump sum payment for lost tobacco quota as established under paragraphs (5) and (6) to each quota holder, quota lessee, and quota tenant for any affected type of tobacco in accordance with subparagraph (C).

(B) TRIGGERING EVENTS.—The Secretary shall make accelerated payments under subparagraph (A) if after the date of enactment of this Act—

(i) subject to subparagraph (D), for 3 consecutive marketing years, the national marketing quota or national acreage allotment for a type of tobacco is less than 50 percent of the national marketing quota or national acreage allotment for the type of tobacco for the 1998 marketing year; or

(ii) Congress repeals or makes ineffective, directly or indirectly, any provision of—

(I) section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b);

(II) section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e);

(III) section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445);

(IV) section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445–1); or

(V) section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2).

(C) AMOUNT.—The amount of the accelerated payments made to each quota holder, quota lessee, and quota tenant under this subsection shall be equal to—

(i) the amount of the lifetime limitation established for the quota holder, quota lessee, or quota tenant under paragraph (7); less

(ii) any payments for lost tobacco quota received by the quota holder, quota lessee, or quota tenant before the occurrence of any of the events described in subparagraph (B).

(D) REFERENDUM VOTE NOT A TRIGGERING EVENT.—A referendum vote of producers for any type of tobacco that results in the national marketing quota or national acreage allotment not being in effect for the type of tobacco shall not be considered a triggering event under this paragraph.

(13) BAN ON SUBSEQUENT SALE OR LEASING OF FARM MARKETING QUOTA OR FARM ACREAGE ALLOTMENT TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTA.—No quota holder that exercises the option to relinquish a farm marketing quota or farm acreage allotment for any type of tobacco under paragraph (2) shall be eligible to acquire a farm marketing quota or farm acreage allotment for the type of tobacco, or to obtain the lease or transfer of a farm marketing quota or farm acreage allotment for the type of tobacco, for a period of 25 crop years after the date on which the quota or allotment was relinquished.

(e) PAYMENTS FOR LOST TOBACCO QUOTA FOR FLUE-CURED TOBACCO.—

(1) ALLOCATION OF FUNDS.—Of the amounts made available under section 1011(d)(1) for payments for lost tobacco quota, the Secretary shall make available for payments under this subsection an amount that bears the same ratio to the amounts made available as—

(A) the sum of all national marketing quotas for flue-cured tobacco during the 1995 through 1997 marketing years; bears to

(B) the sum of all national marketing quotas for all types of tobacco during the 1995 through 1997 marketing years.

(2) RELINQUISHMENT OF QUOTA.—

(A) IN GENERAL.—Each quota holder of flue-cured tobacco shall relinquish the farm marketing quota or farm acreage allotment in exchange for a payment made under paragraph (3) due to the transition from farm marketing quotas as provided under section 317 of the Agricultural Adjustment Act of 1938 for flue-cured tobacco to individual tobacco production permits as provided under section 317A of the Agricultural Adjustment Act of 1938 for flue-cured tobacco.

(B) NOTIFICATION.—The Secretary shall notify the quota holders of the relinquishment of their quota or allotment at such time and in such manner as the Secretary may require, but not later than November 15, 1998.

(3) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA HOLDERS THAT RELINQUISH QUOTA.—

(A) IN GENERAL.—For each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost flue-cured tobacco to each quota holder that has relinquished the farm marketing quota or farm acreage allotment of the quota holder under paragraph (2).

(B) AMOUNT.—The amount of a payment made to a quota holder described in subparagraph (A) for a marketing year shall equal 1/10 of the lifetime limitation established under paragraph (6).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the farm marketing quota or farm acreage allotment is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(4) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS THAT HAVE NOT RELINQUISHED PERMITS.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for flue-cured tobacco is less than the average national marketing quota for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota lessee or quota tenant that—

(i) is eligible under subsection (b);

(ii) has been issued an individual tobacco production permit under section 317A(b) of the Agricultural Adjustment Act of 1938; and

(iii) has not exercised an option to relinquish the permit.

(B) AMOUNT.—The amount of a payment made to a quota lessee or quota tenant described in subparagraph (A) for a marketing year shall be equal to the product obtained by multiplying—

(i) the number of pounds by which the individual marketing limitation established for the permit is less than twice the base quota level for the quota lessee or quota tenant; and

(ii) $2 per pound.

(5) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS THAT HAVE RELINQUISHED PERMITS.—

(A) IN GENERAL.—For each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost flue-cured tobacco quota to each quota lessee and quota tenant that has relinquished an individual tobacco production permit under section 317A(b)(5) of the Agricultural Adjustment Act of 1938.

(B) AMOUNT.—The amount of a payment made to a quota lessee or quota tenant described in subparagraph (A) for a marketing year shall be equal to 1/10 of the lifetime limitation established under paragraph (6).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the individual tobacco production permit is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(E) PROHIBITION AGAINST PERMIT EXPANSION.—A quota lessee or quota tenant that receives a payment under this paragraph shall be ineligible to receive any new or increased tobacco production permit from the county production pool established under section 317A(b)(8) of the Agricultural Adjustment Act of 1938.

(6) LIFETIME LIMITATION ON PAYMENTS.—Except as otherwise provided in this subsection, the total amount of payments made under this subsection to a quota holder, quota lessee, or quota tenant during the lifetime of the quota holder, quota lessee, or quota tenant shall not exceed the product obtained by multiplying—

(A) the base quota level for the quota holder, quota lessee, or quota tenant; and

(B) $8 per pound.

(7) LIMITATIONS ON AGGREGATE ANNUAL PAYMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the total amount payable under this subsection for any marketing year shall not exceed the amount made available under paragraph (1).

(B) ACCELERATED PAYMENTS.—Paragraph (1) shall not apply if accelerated payments for lost flue-cured tobacco quota are made in accordance with paragraph (9).

(C) REDUCTIONS.—If the sum of the amounts determined under paragraphs (3), (4), and (5) for a marketing year exceeds the amount made available under paragraph (1), the Secretary shall make a pro rata reduction in the amounts payable under paragraph (4) to quota lessees and quota tenants under this subsection to ensure that the total amount of payments for lost flue-cured tobacco quota does not exceed the amount made available under paragraph (1).

(D) ROLLOVER OF PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA.—Subject to subparagraph (A), if the Secretary makes a reduction in accordance with subparagraph (C), the amount of the reduction shall be applied to the next marketing year and added to the payments for lost flue-cured tobacco quota for the marketing year.

(E) ADDITIONAL PAYMENTS TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTAS OR PERMITS, OR TO QUOTA LESSEES OR QUOTA TENANTS RELINQUISHING PERMITS.—If the amount made available under paragraph (1) exceeds the sum of the amounts determined under paragraphs (3), (4), and (5) for a marketing year, the Secretary shall distribute the amount of the excess pro rata to quota holders by increasing the amount payable to each such holder under paragraphs (3) and (5).

(8) DEATH OF QUOTA HOLDER, QUOTA LESSEE, OR QUOTA TENANT.—If a quota holder, quota lessee or quota tenant that is entitled to payments under paragraph (4) or (5) dies and is survived by a spouse or 1 or more descendants, the right to receive the payments shall transfer to the surviving spouse or, if there is no surviving spouse, to the surviving descendants in equal shares.

(9) ACCELERATION OF PAYMENTS.—

(A) IN GENERAL.—On the occurrence of any of the events described in subparagraph (B), the Secretary shall make an accelerated lump sum payment for lost flue-cured tobacco quota as established under paragraphs (3), (4), and (5) to each quota holder, quota lessee, and quota tenant for flue-cured tobacco in accordance with subparagraph (C).

(B) TRIGGERING EVENTS.—The Secretary shall make accelerated payments under subparagraph (A) if after the date of enactment of this Act—

(i) subject to subparagraph (D), for 3 consecutive marketing years, the national marketing quota or national acreage allotment for flue-cured tobacco is less than 50 percent of the national marketing quota or national acreage allotment for flue-cured tobacco for the 1998 marketing year; or

(ii) Congress repeals or makes ineffective, directly or indirectly, any provision of—

(I) section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b);

(II) section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e);

(III) section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445);

(IV) section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445–1);

(V) section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2); or

(VI) section 317A of the Agricultural Adjustment Act of 1938.

(C) AMOUNT.—The amount of the accelerated payments made to each quota holder, quota lessee, and quota tenant under this subsection shall be equal to—

(i) the amount of the lifetime limitation established for the quota holder, quota lessee, or quota tenant under paragraph (6); less

(ii) any payments for lost flue-cured tobacco quota received by the quota holder, quota lessee, or quota tenant before the occurrence of any of the events described in subparagraph (B).

(D) REFERENDUM VOTE NOT A TRIGGERING EVENT.—A referendum vote of producers for flue-cured tobacco that results in the national marketing quota or national acreage allotment not being in effect for flue-cured tobacco shall not be considered a triggering event under this paragraph.

SEC. 1022. INDUSTRY PAYMENTS FOR ALL DEPARTMENT COSTS ASSOCIATED WITH TOBACCO PRODUCTION.

(a) IN GENERAL.—The Secretary shall use such amounts remaining unspent and obligated at the end of each fiscal year to reimburse the Secretary for—

(1) costs associated with the administration of programs established under this title and amendments made by this title;

(2) costs associated with the administration of the tobacco quota and price support programs administered by the Secretary;

(3) costs to the Federal Government of carrying out crop insurance programs for tobacco;

(4) costs associated with all agricultural research, extension, or education activities associated with tobacco;

(5) costs associated with the administration of loan association and cooperative programs for tobacco producers, as approved by the Secretary; and

(6) any other costs incurred by the Department of Agriculture associated with the production of tobacco.

(b) LIMITATIONS.—Amounts made available under subsection (a) may not be used—

(1) to provide direct benefits to quota holders, quota lessees, or quota tenants; or

(2) in a manner that results in a decrease, or an increase relative to other crops, in the amount of the crop insurance premiums assessed to participating tobacco producers under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(c) DETERMINATIONS.—Not later than September 30, 1998, and each fiscal year thereafter, the Secretary shall determine—

(1) the amount of costs described in subsection (a); and

(2) the amount that will be provided under this section as reimbursement for the costs.

SEC. 1023. TOBACCO COMMUNITY ECONOMIC DEVELOPMENT GRANTS.

(a) AUTHORITY.—The Secretary shall make grants to tobacco-growing States in accordance with this section to enable the States to carry out economic development initiatives in tobacco-growing communities.

(b) APPLICATION.—To be eligible to receive payments under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

(1) a description of the activities that the State will carry out using amounts received under the grant;

(2) a designation of an appropriate State agency to administer amounts received under the grant; and

(3) a description of the steps to be taken to ensure that the funds are distributed in accordance with subsection (e).

(c) AMOUNT OF GRANT.—

(1) IN GENERAL.—From the amounts available to carry out this section for a fiscal year, the Secretary shall allot to each State an amount that bears the same ratio to the amounts available as the total farm income of the State derived from the production of tobacco during the 1995 through 1997 marketing years (as determined under paragraph (2)) bears to the total farm income of all States derived from the production of tobacco during the 1995 through 1997 marketing years.

(2) TOBACCO INCOME.—For the 1995 through 1997 marketing years, the Secretary shall determine the amount of farm income derived from the production of tobacco in each State and in all States.

(d) PAYMENTS.—

(1) IN GENERAL.—A State that has an application approved by the Secretary under subsection (b) shall be entitled to a payment under this section in an amount that is equal to its allotment under subsection (c).

(2) FORM OF PAYMENTS.—The Secretary may make payments under this section to a State in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(3) REALLOTMENTS.—Any portion of the allotment of a State under subsection (c) that the Secretary determines will not be used to carry out this section in accordance with an approved State application required under subsection (b), shall be reallotted by the Secretary to other States in proportion to the original allotments to the other States.

(e) USE AND DISTRIBUTION OF FUNDS.—

(1) IN GENERAL.—Amounts received by a State under this section shall be used to carry out economic development activities, including—

(A) rural business enterprise activities described in subsections (c) and (e) of section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932);

(B) down payment loan assistance programs that are similar to the program described in section 310E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1935);

(C) activities designed to help create productive farm or off-farm employment in rural areas to provide a more viable economic base and enhance opportunities for improved incomes, living standards, and contributions by rural individuals to the economic and social development of tobacco communities;

(D) activities that expand existing infrastructure, facilities, and services to capitalize on opportunities to diversify economies in tobacco communities and that support the development of new industries or commercial ventures;

(E) activities by agricultural organizations that provide assistance directly to participating tobacco producers to assist in developing other agricultural activities that supplement tobacco-producing activities;

(F) initiatives designed to create or expand locally owned value-added processing and marketing operations in tobacco communities;

(G) technical assistance activities by persons to support farmer-owned enterprises, or agriculture-based rural development enterprises, of the type described in section 252 or 253 of the Trade Act of 1974 (19 U.S.C. 2342, 2343); and

(H) initiatives designed to partially compensate tobacco warehouse owners for lost revenues and assist the tobacco warehouse owners in establishing successful business enterprises.

(2) TOBACCO-GROWING COUNTIES.—Assistance may be provided by a State under this section only to assist a county in the State that has been determined by the Secretary to have in excess of $100,000 in income derived from the production of tobacco during 1 or more of the 1995 through 1997 marketing years. For purposes of this section, the term "tobacco-growing county" includes a political subdivision surrounded within a State by a county that has been determined by the Secretary to have in excess of $100,000 in income derived from the production of tobacco during 1 or more of the 1995 through 1997 marketing years.

(3) DISTRIBUTION.—

(A) ECONOMIC DEVELOPMENT ACTIVITIES.—Not less than 20 percent of the amounts received by a State under this section shall be used to carry out—

(i) economic development activities described in subparagraph (E) or (F) of paragraph (1); or

(ii) agriculture-based rural development activities described in paragraph (1)(G).

(B) TECHNICAL ASSISTANCE ACTIVITIES.—Not less than 4 percent of the amounts received by a State under this section shall be used to carry out technical assistance activities described in paragraph (1)(G).

(C) TOBACCO WAREHOUSE OWNER INITIATIVES.—Not less than 6 percent of the amounts received by a State under this section during each of fiscal years 1999 through 2008 shall be used to carry out initiatives described in paragraph (1)(H).

(D) TOBACCO-GROWING COUNTIES.—To be eligible to receive payments under this section, a State shall demonstrate to the Secretary that funding will be provided, during each 5-year period for which funding is provided under this section, for activities in each county in the State that has been determined under paragraph (2) to have in excess of $100,000 in income derived from the production of tobacco, in amounts that are at least equal to the product obtained by multiplying—

(i) the ratio that the tobacco production income in the county determined under paragraph (2) bears to the total tobacco production income for the State determined under subsection (c); and

(ii) 50 percent of the total amounts received by a State under this section during the 5-year period.

(f) PREFERENCES IN HIRING.—A State may require recipients of funds under this section to provide a preference in employment to—

(1) an individual who—

(A) during the 1998 calendar year, was employed in the manufacture, processing, or warehousing of tobacco or tobacco products, or resided, in a county described in subsection (e)(2); and

(B) is eligible for assistance under the tobacco worker transition program established under section 1031; or

(2) an individual who—

(A) during the 1998 marketing year, carried out tobacco quota or relevant tobacco production activities in a county described in subsection (e)(2);

(B) is eligible for a farmer opportunity grant under subpart 9 of part A of title IV of the Higher Education Act of 1965; and

(C) has successfully completed a course of study at an institution of higher education.

(g) MAINTENANCE OF EFFORT.—

(1) IN GENERAL.—Subject to paragraph (2), a State shall provide an assurance to the Secretary that the amount of funds expended by the State and all counties in the State described in subsection (e)(2) for any activities funded under this section for a fiscal year is not less than 90 percent of the amount of funds expended by the State and counties for the activities for the preceding fiscal year.

(2) REDUCTION OF GRANT AMOUNT.—If a State does not provide an assurance described in paragraph (1), the Secretary shall reduce the amount of the grant determined under subsection (c) by an amount equal to the amount by which the amount of funds expended by the State and counties for the activities is less than 90 percent of the amount of funds expended by the State and counties for the activities for the preceding fiscal year, as determined by the Secretary.

(3) FEDERAL FUNDS.—For purposes of this subsection, the amount of funds expended by a State or county shall not include any amounts made available by the Federal Government.

SEC. 1024. FLUE-CURED TOBACCO PRODUCTION PERMITS.

The Agricultural Adjustment Act of 1938 is amended by inserting after section 317 (7 U.S.C. 1314c) the following:

"SEC. 317A. FLUE-CURED TOBACCO PRODUCTION PERMITS.

"(a) DEFINITIONS.—In this section:

"(1) INDIVIDUAL ACREAGE LIMITATION.—The term 'individual acreage limitation' means the number of acres of flue-cured tobacco that may be planted by the holder of a permit during a marketing year, calculated—

"(A) prior to—

"(i) any increase or decrease in the number due to undermarketings or overmarketings; and

"(ii) any reduction under subsection (i); and

"(B) in a manner that ensures that—

"(i) the total of all individual acreage limitations is equal to the national acreage allotment, less the reserve provided under subsection (h); and

"(ii) the individual acreage limitation for a marketing year bears the same ratio to the individual acreage limitation for the previous marketing year as the ratio that the national acreage allotment for the marketing year bears to the national acreage allotment for the previous marketing year, subject to adjustments by the Secretary to account for any reserve provided under subsection (h).

"(2) INDIVIDUAL MARKETING LIMITATION.—The term 'individual marketing limitation' means the number of pounds of flue-cured tobacco that may be marketed by the holder of a permit during a marketing year, calculated—

"(A) prior to—

"(i) any increase or decrease in the number due to undermarketings or overmarketings; and

"(ii) any reduction under subsection (i); and

"(B) in a manner that ensures that—

"(i) the total of all individual marketing limitations is equal to the national marketing quota, less the reserve provided under subsection (h); and

"(ii) the individual marketing limitation for a marketing year is obtained by multiplying the individual acreage limitation by the permit yield, prior to any adjustment for undermarketings or overmarketings.

"(3) INDIVIDUAL TOBACCO PRODUCTION PERMIT.—The term 'individual tobacco production permit' means a permit issued by the Secretary to a person authorizing the production of flue-cured tobacco for any marketing year during which this section is effective.

"(4) NATIONAL ACREAGE ALLOTMENT.—The term 'national acreage allotment' means the quantity determined by dividing—

"(A) the national marketing quota; by

"(B) the national average yield goal.

"(5) NATIONAL AVERAGE YIELD GOAL.—The term 'national average yield goal' means the national average yield for flue-cured tobacco during the 5 marketing years immediately preceding the marketing year for which the determination is being made.

"(6) NATIONAL MARKETING QUOTA.—For the 1999 and each subsequent crop of flue-cured tobacco, the term 'national marketing quota' for a marketing year means the quantity of flue-cured tobacco, as determined by the Secretary, that is not more than 103 percent nor less than 97 percent of the total of—

"(A) the aggregate of the quantities of flue-cured tobacco that domestic manufacturers of cigarettes estimate that the manufacturers intend to purchase on the United States auction markets or from producers during the marketing year, as compiled and determined under section 320A;

"(B) the average annual quantity of flue-cured tobacco exported from the United States during the 3 marketing years immediately preceding the marketing year for which the determination is being made; and

"(C) the quantity, if any, of flue-cured tobacco that the Secretary, in the discretion of the Secretary, determines is necessary to increase or decrease the inventory of the producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of flue-cured tobacco to establish or maintain the inventory at the reserve stock level for flue-cured tobacco.

"(7) PERMIT YIELD.—The term 'permit yield' means the yield of tobacco per acre for an individual tobacco production permit holder that is—

"(A) based on a preliminary permit yield that is equal to the average yield during the 5 marketing years immediately preceding the marketing year for which the determination is made in the county where the holder of the permit is authorized to plant flue-cured tobacco, as determined by the Secretary, on the basis of actual yields of farms in the county; and

"(B) adjusted by a weighted national yield factor calculated by—

"(i) multiplying each preliminary permit yield by the individual acreage limitation, prior to adjustments for overmarketings, undermarketings, or reductions required under subsection (i); and

"(ii) dividing the sum of the products under clause (i) for all flue-cured individual tobacco production permit holders by the national acreage allotment.

"(b) INITIAL ISSUANCE OF PERMITS.—

"(1) TERMINATION OF FLUE-CURED MARKETING QUOTAS.—On the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act, farm marketing quotas as provided under section 317 shall no longer be in effect for flue-cured tobacco.

"(2) ISSUANCE OF PERMITS TO QUOTA HOLDERS THAT WERE PRINCIPAL PRODUCERS.—

"(A) IN GENERAL.—By January 15, 1999, each individual quota holder under section 317 that was a principal producer of flue-cured tobacco during the 1998 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

"(B) NOTIFICATION.—The Secretary shall notify the holder of each permit of the individual acreage limitation and the individual marketing limitation applicable to the holder for each marketing year.

"(C) INDIVIDUAL ACREAGE LIMITATION FOR 1999 MARKETING YEAR.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

"(D) INDIVIDUAL MARKETING LIMITATION FOR 1999 MARKETING YEAR.—In establishing the individual marketing limitation for the 1999 marketing year under this section, the farm marketing quota that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual marketing limitation for the previous marketing year.

"(3) QUOTA HOLDERS THAT WERE NOT PRINCIPAL PRODUCERS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), on approval through a referendum under subsection (c)—

"(i) each person that was a quota holder under section 317 but that was not a principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall not be eligible to own a permit; and

"(ii) the Secretary shall not issue any permit during the 25-year period beginning on the date of enactment of this Act to any person that was a quota holder and was not the principal producer of flue-cured tobacco during the 1997 marketing year.

"(B) MEDICAL HARDSHIPS AND CROP DISASTERS.—Subparagraph (A) shall not apply to a person that would have been the principal producer of flue-cured tobacco during the 1997 marketing year but for a medical hardship or crop disaster that occurred during the 1997 marketing year.

"(C) ADMINISTRATION.—The Secretary shall issue regulations—

"(i) defining the term 'person' for the purpose of this paragraph; and

"(ii) prescribing such rules as the Secretary determines are necessary to ensure a fair and reasonable application of the prohibition established under this paragraph.

"(4) ISSUANCE OF PERMITS TO PRINCIPAL PRODUCERS OF FLUE-CURED TOBACCO.—

"(A) IN GENERAL.—By January 15, 1999, each individual quota lessee or quota tenant (as defined in section 1002 of the LEAF Act) that was the principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

"(B) INDIVIDUAL ACREAGE LIMITATIONS.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by a quota holder for whom the quota lessee or quota tenant was the principal producer of flue-cured tobacco during the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

"(C) INDIVIDUAL MARKETING LIMITATIONS.—In establishing the individual marketing limitation for the 1999 marketing year under this section, the individual marketing limitation for the previous year for an individual described in this paragraph shall be calculated by multiplying—

"(i) the farm marketing quota that was allotted to a farm owned by a quota holder for whom the quota lessee or quota holder was the principal producer of flue-cured tobacco during the 1997 marketing year, by

"(ii) the ratio that—

"(I) the sum of all flue-cured tobacco farm marketing quotas for the 1997 marketing year prior to adjusting for undermarketing and overmarketing; bears to

"(II) the sum of all flue-cured tobacco farm marketing quotas for the 1998 marketing year, after adjusting for undermarketing and overmarketing.

"(D) SPECIAL RULE FOR TENANT OF LEASED FLUE-CURED TOBACCO.—If the farm marketing quota or farm acreage allotment of a quota holder was produced pursuant to an agreement under which a quota lessee rented land from a quota holder and a quota tenant was the primary producer, as determined by the Secretary, of flue-cured tobacco pursuant to the farm marketing quota or farm acreage allotment, the farm marketing quota or farm acreage allotment shall be divided proportionately between the quota lessee and quota tenant for purposes of issuing individual tobacco production permits under this paragraph.

"(5) OPTION OF QUOTA LESSEE OR QUOTA TENANT TO RELINQUISH PERMIT.—

"(A) IN GENERAL.—Each quota lessee or quota tenant that is issued an individual tobacco production permit under paragraph (4) shall be given the option of relinquishing the permit in exchange for payments made under section 1021(e)(5) of the LEAF Act.

"(B) NOTIFICATION.—A quota lessee or quota tenant that is issued an individual tobacco production permit shall give notification of the intention to exercise the option at such time and in such manner as the Secretary may require, but not later than 45 days after the permit is issued.

"(C) REALLOCATION OF PERMIT.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit relinquished under this paragraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

"(6) ACTIVE PRODUCER REQUIREMENT.—

"(A) REQUIREMENT FOR SHARING RISK.—No individual tobacco production permit shall be issued to, or maintained by, a person that does not fully share in the risk of producing a crop of flue-cured tobacco.

"(B) CRITERIA FOR SHARING RISK.—For purposes of this paragraph, a person shall be considered to have fully shared in the risk of production of a crop if—

"(i) the investment of the person in the production of the crop is not less than 100 percent of the costs of production associated with the crop;

"(ii) the amount of the person's return on the investment is dependent solely on the sale price of the crop; and

"(iii) the person may not receive any of the return before the sale of the crop.

"(C) PERSONS NOT SHARING RISK.—

"(i) FORFEITURE.—Any person that fails to fully share in the risks of production under this paragraph shall forfeit an individual tobacco production permit if, after notice and opportunity for a hearing, the appropriate county committee determines that the conditions for forfeiture exist.

"(ii) REALLOCATION.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit forfeited under this subparagraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

"(D) NOTICE.—Notice of any determination made by a county committee under subparagraph (C) shall be mailed, as soon as practicable, to the person involved.

"(E) REVIEW.—If the person is dissatisfied with the determination, the person may request, not later than 15 days after notice of the determination is received, a review of the determination by a local review committee under the procedures established under section 363 for farm marketing quotas.

"(7) COUNTY OF ORIGIN REQUIREMENT.—For the 1999 and each subsequent crop of flue-cured tobacco, all tobacco produced pursuant to an individual tobacco production permit shall be produced in the same county in which was produced the tobacco produced during the 1997 marketing year pursuant to the farm marketing quota or farm acreage allotment on which the individual tobacco production permit is based.

"(8) COUNTY PRODUCTION POOL.—

"(A) IN GENERAL.—The authority to produce flue-cured tobacco under an individual tobacco production permit that is forfeited, relinquished, or surrendered within a county may be reallocated by the appropriate county committee to tobacco producers located in the same county that apply to the committee to produce flue-cured tobacco under the authority.

"(B) PRIORITY.—In reallocating individual tobacco production permits under this paragraph, a county committee shall provide a priority to—

"(i) an active tobacco producer that controls the authority to produce a quantity of flue-cured tobacco under an individual tobacco production permit that is equal to or less than the average number of pounds of flue-cured tobacco that was produced by the producer during each of the 1995 through 1997 marketing years, as determined by the Secretary; and

"(ii) a new tobacco producer.

"(C) CRITERIA.—Individual tobacco production permits shall be reallocated by the appropriate county committee under this paragraph in a fair and equitable manner after taking into consideration—

"(i) the experience of the producer;

"(ii) the availability of land, labor, and equipment for the production of tobacco;

"(iii) crop rotation practices; and

"(iv) the soil and other physical factors affecting the production of tobacco.

"(D) MEDICAL HARDSHIPS AND CROP DISASTERS.—Notwithstanding any other provision of this Act, the Secretary may issue an individual tobacco production permit under this paragraph to a producer that is otherwise ineligible for the permit due to a medical hardship or crop disaster that occurred during the 1997 marketing year.

"(c) REFERENDUM.—

"(1) ANNOUNCEMENT OF QUOTA AND ALLOTMENT.—Not later than December 15, 1998, the Secretary pursuant to subsection (b) shall determine and announce—

"(A) the quantity of the national marketing quota for flue-cured tobacco for the 1999 marketing year; and

"(B) the national acreage allotment and national average yield goal for the 1999 crop of flue-cured tobacco.

"(2) SPECIAL REFERENDUM.—Not later than 30 days after the announcement of the quantity of the national marketing quota in 2001, the Secretary shall conduct a special referendum of the tobacco production permit holders that were the principal producers of flue-cured tobacco of the 1997 crop to determine whether the producers approve or oppose the continuation of individual tobacco production permits on an acreage-poundage basis as provided in this section for the 2002 through 2004 marketing years.

"(3) APPROVAL OF PERMITS.—If the Secretary determines that more than 66⅔ percent of the producers voting in the special referendum approve the establishment of individual tobacco production permits on an acreage-poundage basis—

"(A) individual tobacco production permits on an acreage-poundage basis as provided in this section shall be in effect for the 2002 through 2004 marketing years; and

"(B) marketing quotas on an acreage-poundage basis shall cease to be in effect for the 2002 through 2004 marketing years.

"(4) DISAPPROVAL OF PERMITS.—If individual tobacco production permits on an acreage-poundage basis are not approved by more than 66⅔ percent of the producers voting in the referendum, no marketing quotas on an acreage-poundage basis shall continue in effect that were proclaimed under section 317 prior to the referendum.

"(5) APPLICABLE MARKETING YEARS.—If individual tobacco production permits have been made effective for flue-cured tobacco on an acreage-poundage basis pursuant to this subsection, the Secretary shall, not later than December 15 of any future marketing year, announce a national marketing quota for that type of tobacco for the next 3 succeeding marketing years if the marketing year is the last year of 3 consecutive years for which individual tobacco production permits previously proclaimed will be in effect.

"(d) ANNUAL ANNOUNCEMENT OF NATIONAL MARKETING QUOTA.—The Secretary shall determine and announce the national marketing quota, national acreage allotment, and national average yield goal for the second and third marketing years of any 3-year period for which individual tobacco production permits are in effect on or before the December 15 immediately preceding the beginning of the marketing year to which the quota, allotment, and goal apply.

"(e) ANNUAL ANNOUNCEMENT OF INDIVIDUAL TOBACCO PRODUCTION PERMITS.—If a national marketing quota, national acreage allotment, and national average yield goal are determined and announced, the Secretary shall provide for the determination of individual tobacco production permits, individual acreage limitations, and individual marketing limitations under this section for the crop and marketing year covered by the determinations.

"(f) ASSIGNMENT OF TOBACCO PRODUCTION PERMITS.—

"(1) LIMITATION TO SAME COUNTY.—Each individual tobacco production permit holder shall assign the individual acreage limitation and individual marketing limitation to 1 or more farms located within the county of origin of the individual tobacco production permit.

"(2) FILING WITH COUNTY COMMITTEE.—The assignment of an individual acreage limitation and individual marketing limitation shall not be effective until evidence of the assignment, in such form as required by the Secretary, is filed with and determined by the county committee for the county in which the farm involved is located.

"(3) LIMITATION ON TILLABLE CROPLAND.—The total acreage assigned to any farm under this subsection shall not exceed the acreage of cropland on the farm.

"(g) PROHIBITION ON SALE OR LEASING OF INDIVIDUAL TOBACCO PRODUCTION PERMITS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Secretary shall not permit the sale and transfer, or lease and

transfer, of an individual tobacco production permit issued under this section.

"(2) TRANSFER TO DESCENDANTS.—

"(A) DEATH.—In the case of the death of a person to whom an individual tobacco production permit has been issued under this section, the permit shall transfer to the surviving spouse of the person or, if there is no surviving spouse, to surviving direct descendants of the person.

"(B) TEMPORARY INABILITY TO FARM.—In the case of the death of a person to whom an individual tobacco production permit has been issued under this section and whose descendants are temporarily unable to produce a crop of tobacco, the Secretary may hold the license in the name of the descendants for a period of not more than 18 months.

"(3) VOLUNTARY TRANSFERS.—A person that is eligible to obtain an individual tobacco production permit under this section may at any time transfer all or part of the permit to the person's spouse or direct descendants that are actively engaged in the production of tobacco.

"(h) RESERVE.—

"(1) IN GENERAL.—For each marketing year for which individual tobacco production permits are in effect under this section, the Secretary may establish a reserve from the national marketing quota in a quantity equal to not more than 1 percent of the national marketing quota to be available for—

"(A) making corrections of errors in individual acreage limitations and individual marketing limitations;

"(B) adjusting inequities; and

"(C) establishing individual tobacco production permits for new tobacco producers (except that not less than two-thirds of the reserve shall be for establishing such permits for new tobacco producers).

"(2) ELIGIBLE PERSONS.—To be eligible for a new individual tobacco production permit, a producer must not have been the principal producer of tobacco during the immediately preceding 5 years.

"(3) APPORTIONMENT FOR NEW PRODUCERS.—The part of the reserve held for apportionment to new individual tobacco producers shall be allotted on the basis of—

"(A) land, labor, and equipment available for the production of tobacco;

"(B) crop rotation practices;

"(C) soil and other physical factors affecting the production of tobacco; and

"(D) the past tobacco-producing experience of the producer.

"(4) PERMIT YIELD.—The permit yield for any producer for which a new individual tobacco production permit is established shall be determined on the basis of available productivity data for the land involved and yields for similar farms in the same county.

"(i) PENALTIES.—

"(1) PRODUCTION ON OTHER FARMS.—If any quantity of tobacco is marketed as having been produced under an individual acreage limitation or individual marketing limitation assigned to a farm but was produced on a different farm, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

"(2) FALSE REPORT.—If a person to which an individual tobacco production permit is issued files, or aids or acquiesces in the filing of, a false report with respect to the assignment of an individual acreage limitation or individual marketing limitation for a quantity of tobacco, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

"(j) MARKETING PENALTIES.—

"(1) IN GENERAL.—When individual tobacco production permits under this section are in effect, provisions with respect to penalties for the marketing of excess tobacco and the other provisions contained in section 314 shall apply in the same manner and to the same extent as they would apply under section 317(g) if farm marketing quotas were in effect.

"(2) PRODUCTION ON OTHER FARMS.—If a producer falsely identifies tobacco as having been produced on or marketed from a farm to which an individual acreage limitation or individual marketing limitation has been assigned, future individual acreage limitations and individual marketing limitations shall be forfeited.".

SEC. 1025. MODIFICATIONS IN FEDERAL TOBACCO PROGRAMS.

(a) PROGRAM REFERENDA.—Section 312(c) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1312(c)) is amended—

(1) by striking "(c) Within thirty" and inserting the following:

"(c) REFERENDA ON QUOTAS.—

"(1) IN GENERAL.—Not later than 30"; and

(2) by adding at the end the following:

"(2) REFERENDA ON PROGRAM CHANGES.—

"(A) IN GENERAL.—In the case of any type of tobacco for which marketing quotas are in effect, on the receipt of a petition from more than 5 percent of the producers of that type of tobacco in a State, the Secretary shall conduct a statewide referendum on any proposal related to the lease and transfer of tobacco quota within a State requested by the petition that is authorized under this part.

"(B) APPROVAL OF PROPOSALS.—If a majority of producers of the type of tobacco in the State approve a proposal in a referendum conducted under subparagraph (A), the Secretary shall implement the proposal in a manner that applies to all producers and quota holders of that type of tobacco in the State.".

(b) PURCHASE REQUIREMENTS.—Section 320B of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314h) is amended—

(1) in subsection (c)—

(A) by striking "(c) The amount" and inserting "(c) AMOUNT OF PENALTY.—For the 1998 and subsequent marketing years, the amount"; and

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

"(1) 105 percent of the average market price for the type of tobacco involved during the preceding marketing year; and".

(c) ELIMINATION OF TOBACCO MARKETING ASSESSMENT.—

(1) IN GENERAL.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by striking subsection (g).

(2) CONFORMING AMENDMENT.—Section 422(c) of the Uruguay Round Agreements Act (Public Law 103-465; 7 U.S.C. 1445 note) is amended by striking "section 106(g), 106A, or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445(g), 1445-1, or 1445-2)" and inserting "section 106A or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445-1, 1445-2)".

(d) ADJUSTMENT FOR LAND RENTAL COSTS.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by adding at the end the following:

"(h) ADJUSTMENT FOR LAND RENTAL COSTS.—For each of the 1999 and 2000 marketing years for flue-cured tobacco, after consultation with producers, State farm organizations and cooperative associations, the Secretary shall make an adjustment in the price support level for flue-cured tobacco equal to the annual change in the average cost per pound to flue-cured producers, as determined by the Secretary, under agreements through which producers rent land to produce flue-cured tobacco.".

(e) FIRE-CURED AND DARK AIR-CURED TOBACCO PROGRAMS.—

(1) LIMITATION ON TRANSFERS.—Section 318(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d(g)) is amended—

(A) by striking "ten" and inserting "30"; and

(B) by inserting "during any crop year" after "transferred to any farm".

(2) LOSS OF ALLOTMENT OR QUOTA THROUGH UNDERPLANTING.—Section 318 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d) is amended by adding at the end the following:

"(k) LOSS OF ALLOTMENT OR QUOTA THROUGH UNDERPLANTING.—Effective for the 1999 and subsequent marketing years, no acreage allotment or acreage-poundage quota, other than a new marketing quota, shall be established for a farm on which no fire-cured or dark air-cured tobacco was planted or considered planted during at least 2 of the 3 crop years immediately preceding the crop year for which the acreage allotment or acreage-poundage quota would otherwise be established.".

(f) EXPANSION OF TYPES OF TOBACCO SUBJECT TO NO NET COST ASSESSMENT.—

(1) NO NET COST TOBACCO FUND.—Section 106A(d)(1)(A) of the Agricultural Act of 1949 (7 U.S.C. 1445-1(d)(1)(A)) is amended—

(A) in clause (ii), by inserting after "Burley quota tobacco" the following: "and fire-cured and dark air-cured quota tobacco"; and

(B) in clause (iii)—

(i) in the matter preceding subclause (I), by striking "Flue-cured or Burley tobacco" and inserting "each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,"; and

(ii) by striking subclause (II) and inserting the following:

"(II) the sum of the amount of the per pound producer contribution and purchaser assessment (if any) for the kind of tobacco payable under clauses (i) and (ii); and".

(2) NO NET COST TOBACCO ACCOUNT.—Section 106B(d)(1) of the Agricultural Act of 1949 (7 U.S.C. 1445-2(d)(1)) is amended—

(A) in subparagraph (B), by inserting after "Burley quota tobacco" the following: "and fire-cured and dark air-cured tobacco"; and

(B) in subparagraph (C), by striking "Flue-cured and Burley tobacco" and inserting "each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,".

Subtitle C—Farmer and Worker Transition Assistance

SEC. 1031. TOBACCO WORKER TRANSITION PROGRAM.

(a) GROUP ELIGIBILITY REQUIREMENTS.—

(1) CRITERIA.—A group of workers (including workers in any firm or subdivision of a firm involved in the manufacture, processing, or warehousing of tobacco or tobacco products) shall be certified as eligible to apply for adjustment assistance under this section pursuant to a petition filed under subsection (b) if the Secretary of Labor determines that a significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated, and—

(A) the sales or production, or both, of the firm or subdivision have decreased absolutely; and

(B) the implementation of the national tobacco settlement contributed importantly to the workers' separation or threat of separation and to the decline in the sales or production of the firm or subdivision.

(2) DEFINITION OF CONTRIBUTED IMPORTANTLY.—In paragraph (1)(B), the term "contributed importantly" means a cause that is important but not necessarily more important than any other cause.

(3) REGULATIONS.—The Secretary shall issue regulations relating to the application of the criteria described in paragraph (1) in making preliminary findings under subsection (b) and determinations under subsection (c).

(b) PRELIMINARY FINDINGS AND BASIC ASSISTANCE.—

(1) FILING OF PETITIONS.—A petition for certification of eligibility to apply for adjustment assistance under this section may be filed by a group of workers (including workers in any firm or subdivision of a firm involved in the manufacture, processing, or warehousing of tobacco or tobacco products) or by their certified or recognized union or other duly authorized representative with the Governor of the State in which the workers' firm or subdivision thereof is located.

(2) FINDINGS AND ASSISTANCE.—On receipt of a petition under paragraph (1), the Governor shall—

(A) notify the Secretary that the Governor has received the petition;

(B) within 10 days after receiving the petition—

(i) make a preliminary finding as to whether the petition meets the criteria described in subsection (a)(1); and

(ii) transmit the petition, together with a statement of the finding under clause (i) and reasons for the finding, to the Secretary for action under subsection (c); and

(C) if the preliminary finding under subparagraph (B)(i) is affirmative, ensure that rapid response and basic readjustment services authorized under other Federal laws are made available to the workers.

(c) REVIEW OF PETITIONS BY SECRETARY; CERTIFICATIONS.—

(1) IN GENERAL.—The Secretary, within 30 days after receiving a petition under subsection (b)(2)(B)(ii), shall determine whether the petition meets the criteria described in subsection (a)(1). On a determination that the petition meets the criteria, the Secretary shall issue to workers covered by the petition a certification of eligibility to apply for the assistance described in subsection (d).

(2) DENIAL OF CERTIFICATION.—On the denial of a certification with respect to a petition under paragraph (1), the Secretary shall review the petition in accordance with the requirements of other applicable assistance programs to determine if the workers may be certified under the other programs.

(d) COMPREHENSIVE ASSISTANCE.—

(1) IN GENERAL.—Workers covered by a certification issued by the Secretary under subsection (c)(1) shall be provided with benefits and services described in paragraph (2) in the same manner and to the same extent as workers covered under a certification under subchapter A of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.), except that the total amount of payments under this section for any fiscal year shall not exceed $25,000,000.

(2) BENEFITS AND SERVICES.—The benefits and services described in this paragraph are the following:

(A) Employment services of the type described in section 235 of the Trade Act of 1974 (19 U.S.C. 2295).

(B) Training described in section 236 of the Trade Act of 1974 (19 U.S.C. 2296), except that notwithstanding the provisions of section 236(a)(2)(A) of that Act, the total amount of payments for training under this section for any fiscal year shall not exceed $12,500,000.

(C) Tobacco worker readjustment allowances, which shall be provided in the same manner as trade readjustment allowances are provided under part I of subchapter B of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2291 et seq.), except that—

(i) the provisions of sections 231(a)(5)(C) and 231(c) of that Act (19 U.S.C. 2291(a)(5)(C), 2291(c)), authorizing the payment of trade readjustment allowances on a finding that it is not feasible or appropriate to approve a training program for a worker, shall not be applicable to payment of allowances under this section; and

(ii) notwithstanding the provisions of section 233(b) of that Act (19 U.S.C. 2293(b)), in order for a worker to qualify for tobacco readjustment allowances under this section, the worker shall be enrolled in a training program approved by the Secretary of the type described in section 236(a) of that Act (19 U.S.C. 2296(a)) by the later of—

(I) the last day of the 16th week of the worker's initial unemployment compensation benefit period; or

(II) the last day of the 6th week after the week in which the Secretary issues a certification covering the worker.

In cases of extenuating circumstances relating to enrollment of a worker in a training program under this section, the Secretary may extend the time for enrollment for a period of not to exceed 30 days.

(D) Job search allowances of the type described in section 237 of the Trade Act of 1974 (19 U.S.C. 2297).

(E) Relocation allowances of the type described in section 238 of the Trade Act of 1974 (19 U.S.C. 2298).

(e) INELIGIBILITY OF INDIVIDUALS RECEIVING PAYMENTS FOR LOST TOBACCO QUOTA.—No benefits or services may be provided under this section to any individual who has received payments for lost tobacco quota under section 1021.

(f) FUNDING.—Of the amounts appropriated to carry out this title, the Secretary may use not to exceed $25,000,000 for each of fiscal years 1999 through 2008 to provide assistance under this section.

(g) EFFECTIVE DATE.—This section shall take effect on the date that is the later of—

(1) October 1, 1998; or

(2) the date of enactment of this Act.

(h) TERMINATION DATE.—No assistance, vouchers, allowances, or other payments may be provided under this section after the date that is the earlier of—

(1) the date that is 10 years after the effective date of this section under subsection (g); or

(2) the date on which legislation establishing a program providing dislocated workers with comprehensive assistance substantially similar to the assistance provided by this section becomes effective.

SEC. 1032. FARMER OPPORTUNITY GRANTS.

Part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) is amended by adding at the end the following:

"Subpart 9—Farmer Opportunity Grants

"SEC. 420D. STATEMENT OF PURPOSE.

"It is the purpose of this subpart to assist in making available the benefits of postsecondary education to eligible students (determined in accordance with section 420F) in institutions of higher education by providing farmer opportunity grants to all eligible students.

"SEC. 420E. PROGRAM AUTHORITY; AMOUNT AND DETERMINATIONS; APPLICATIONS.

"(a) PROGRAM AUTHORITY AND METHOD OF DISTRIBUTION.—

"(1) PROGRAM AUTHORITY.—From amounts made available under section 1011(d)(5) of the LEAF Act, the Secretary, during the period beginning July 1, 1999, and ending September 30, 2024, shall pay to each eligible institution such sums as may be necessary to pay to each eligible student (determined in accordance with section 420F) for each academic year during which that student is in attendance at an institution of higher education, as an undergraduate, a farmer opportunity grant in the amount for which that student is eligible, as determined pursuant to subsection (b). Not less than 85 percent of the sums shall be advanced to eligible institutions prior to the start of each payment period and shall be based on an amount requested by the institution as needed to pay eligible students, except that this sentence shall not be construed to limit the authority of the Secretary to place an institution on a reimbursement system of payment.

"(2) CONSTRUCTION.—Nothing in this section shall be construed to prohibit the Secretary from paying directly to students, in advance of the beginning of the academic term, an amount for which the students are eligible, in cases where the eligible institution elects not to participate in the disbursement system required by paragraph (1).

"(3) DESIGNATION.—Grants made under this subpart shall be known as 'farmer opportunity grants'.

"(b) AMOUNT OF GRANTS.—

"(1) AMOUNTS.—

"(A) IN GENERAL.—The amount of the grant for a student eligible under this subpart shall be—

"(i) $1,700 for each of the academic years 1999–2000 through 2003–2004;

"(ii) $2,000 for each of the academic years 2004–2005 through 2008–2009;

"(iii) $2,300 for each of the academic years 2009–2010 through 2013–2014;

"(iv) $2,600 for each of the academic years 2014–2015 through 2018–2019; and

"(v) $2,900 for each of the academic years 2019–2020 through 2023–2024.

"(B) PART-TIME RULE.—In any case where a student attends an institution of higher education on less than a full-time basis (including a student who attends an institution of higher education on less than a half-time basis) during any academic year, the amount of the grant for which that student is eligible shall be reduced in proportion to the degree to which that student is not so attending on a full-time basis, in accordance with a schedule of reductions established by the Secretary for the purposes of this subparagraph, computed in accordance with this subpart. The schedule of reductions shall be established by regulation and published in the Federal Register.

"(2) MAXIMUM.—No grant under this subpart shall exceed the cost of attendance (as described in section 472) at the institution at which that student is in attendance. If, with respect to any student, it is determined that the amount of a grant exceeds the cost of attendance for that year, the amount of the grant shall be reduced to an amount equal to the cost of attendance at the institution.

"(3) PROHIBITION.—No grant shall be awarded under this subpart to any individual who is incarcerated in any Federal, State, or local penal institution.

"(c) PERIOD OF ELIGIBILITY FOR GRANTS.—

"(1) IN GENERAL.—The period during which a student may receive grants shall be the period required for the completion of the first

undergraduate baccalaureate course of study being pursued by that student at the institution at which the student is in attendance, except that any period during which the student is enrolled in a noncredit or remedial course of study as described in paragraph (2) shall not be counted for the purpose of this paragraph.

"(2) CONSTRUCTION.—Nothing in this section shall be construed to—

"(A) exclude from eligibility courses of study that are noncredit or remedial in nature and that are determined by the institution to be necessary to help the student be prepared for the pursuit of a first undergraduate baccalaureate degree or certificate or, in the case of courses in English language instruction, to be necessary to enable the student to utilize already existing knowledge, training, or skills; and

"(B) exclude from eligibility programs of study abroad that are approved for credit by the home institution at which the student is enrolled.

"(3) PROHIBITION.—No student is entitled to receive farmer opportunity grant payments concurrently from more than 1 institution or from the Secretary and an institution.

"(d) APPLICATIONS FOR GRANTS.—

"(1) IN GENERAL.—The Secretary shall from time to time set dates by which students shall file applications for grants under this subpart. The filing of applications under this subpart shall be coordinated with the filing of applications under section 401(c).

"(2) INFORMATION AND ASSURANCES.—Each student desiring a grant for any year shall file with the Secretary an application for the grant containing such information and assurances as the Secretary may deem necessary to enable the Secretary to carry out the Secretary's functions and responsibilities under this subpart.

"(e) DISTRIBUTION OF GRANTS TO STUDENTS.—Payments under this section shall be made in accordance with regulations promulgated by the Secretary for such purpose, in such manner as will best accomplish the purpose of this section. Any disbursement allowed to be made by crediting the student's account shall be limited to tuition and fees and, in the case of institutionally owned housing, room and board. The student may elect to have the institution provide other such goods and services by crediting the student's account.

"(f) INSUFFICIENT FUNDING.—If, for any fiscal year, the funds made available to carry out this subpart are insufficient to satisfy fully all grants for students determined to be eligible under section 420F, the amount of the grant provided under subsection (b) shall be reduced on a pro rata basis among all eligible students.

"(g) TREATMENT OF INSTITUTIONS AND STUDENTS UNDER OTHER LAWS.—Any institution of higher education that enters into an agreement with the Secretary to disburse to students attending that institution the amounts those students are eligible to receive under this subpart shall not be deemed, by virtue of the agreement, to be a contractor maintaining a system of records to accomplish a function of the Secretary. Recipients of farmer opportunity grants shall not be considered to be individual grantees for purposes of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq.).

"SEC. 420F. STUDENT ELIGIBILITY.

"(a) IN GENERAL.—In order to receive any grant under this subpart, a student shall—

"(1) be a member of a tobacco farm family in accordance with subsection (b);

"(2) be enrolled or accepted for enrollment in a degree, certificate, or other program (including a program of study abroad approved for credit by the eligible institution at which the student is enrolled) leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with section 487, and not be enrolled in an elementary or secondary school;

"(3) if the student is presently enrolled at an institution of higher education, be maintaining satisfactory progress in the course of study the student is pursuing in accordance with subsection (c);

"(4) not owe a refund on grants previously received at any institution of higher education under this title, or be in default on any loan from a student loan fund at any institution provided for in part D, or a loan made, insured, or guaranteed by the Secretary under this title for attendance at any institution;

"(5) file with the institution of higher education that the student intends to attend, or is attending, a document, that need not be notarized, but that shall include—

"(A) a statement of educational purpose stating that the money attributable to the grant will be used solely for expenses related to attendance or continued attendance at the institution; and

"(B) the student's social security number; and

"(6) be a citizen of the United States.

"(b) TOBACCO FARM FAMILIES.—

"(1) IN GENERAL.—For the purpose of subsection (a)(1), a student is a member of a tobacco farm family if during calendar year 1998 the student was—

"(A) an individual who—

"(i) is a participating tobacco producer (as defined in section 1002 of the LEAF Act) who is a principal producer of tobacco on a farm; or

"(ii) is otherwise actively engaged in the production of tobacco;

"(B) a spouse, son, daughter, stepson, or stepdaughter of an individual described in subparagraph (A);

"(C) an individual who was a dependent (within the meaning of section 152 of the Internal Revenue Code of 1986) of an individual described in subparagraph (A).

"(2) ADMINISTRATION.—On request, the Secretary of Agriculture shall provide to the Secretary such information as is necessary to carry out this subsection.

"(c) SATISFACTORY PROGRESS.—

"(1) IN GENERAL.—For the purpose of subsection (a)(3), a student is maintaining satisfactory progress if—

"(A) the institution at which the student is in attendance reviews the progress of the student at the end of each academic year, or its equivalent, as determined by the institution; and

"(B) the student has at least a cumulative C average or its equivalent, or academic standing consistent with the requirements for graduation, as determined by the institution, at the end of the second such academic year.

"(2) SPECIAL RULE.—Whenever a student fails to meet the eligibility requirements of subsection (a)(3) as a result of the application of this subsection and subsequent to that failure the student has academic standing consistent with the requirements for graduation, as determined by the institution, for any grading period, the student may, subject to this subsection, again be eligible under subsection (a)(3) for a grant under this subpart.

"(3) WAIVER.—Any institution of higher education at which the student is in attendance may waive paragraph (1) or (2) for undue hardship based on—

"(A) the death of a relative of the student;

"(B) the personal injury or illness of the student; or

"(C) special circumstances as determined by the institution.

"(d) STUDENTS WHO ARE NOT SECONDARY SCHOOL GRADUATES.—In order for a student who does not have a certificate of graduation from a school providing secondary education, or the recognized equivalent of the certificate, to be eligible for any assistance under this subpart, the student shall meet either 1 of the following standards:

"(1) EXAMINATION.—The student shall take an independently administered examination and shall achieve a score, specified by the Secretary, demonstrating that the student can benefit from the education or training being offered. The examination shall be approved by the Secretary on the basis of compliance with such standards for development, administration, and scoring as the Secretary may prescribe in regulations.

"(2) DETERMINATION.—The student shall be determined as having the ability to benefit from the education or training in accordance with such process as the State shall prescribe. Any such process described or approved by a State for the purposes of this section shall be effective 6 months after the date of submission to the Secretary unless the Secretary disapproves the process. In determining whether to approve or disapprove the process, the Secretary shall take into account the effectiveness of the process in enabling students without secondary school diplomas or the recognized equivalent to benefit from the instruction offered by institutions utilizing the process, and shall also take into account the cultural diversity, economic circumstances, and educational preparation of the populations served by the institutions.

"(e) SPECIAL RULE FOR CORRESPONDENCE COURSES.—A student shall not be eligible to receive a grant under this subpart for a correspondence course unless the course is part of a program leading to an associate, bachelor, or graduate degree.

"(f) COURSES OFFERED THROUGH TELECOMMUNICATIONS.—

"(1) RELATION TO CORRESPONDENCE COURSES.—A student enrolled in a course of instruction at an eligible institution of higher education (other than an institute or school that meets the definition in section 521(4)(C) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471(4)(C))) that is offered in whole or in part through telecommunications and leads to a recognized associate, bachelor, or graduate degree conferred by the institution shall not be considered to be enrolled in correspondence courses unless the total amount of telecommunications and correspondence courses at the institution equals or exceeds 50 percent of the courses.

"(2) RESTRICTION OR REDUCTIONS OF FINANCIAL AID.—A student's eligibility to receive a grant under this subpart may be reduced if a financial aid officer determines under the discretionary authority provided in section 479A that telecommunications instruction results in a substantially reduced cost of attendance to the student.

"(3) DEFINITION.—For the purposes of this subsection, the term 'telecommunications' means the use of television, audio, or computer transmission, including open broadcast, closed circuit, cable, microwave, or satellite, audio conferencing, computer conferencing, or video cassettes or discs, except

that the term does not include a course that is delivered using video cassette or disc recordings at the institution and that is not delivered in person to other students of that institution.

"(g) STUDY ABROAD.—Nothing in this subpart shall be construed to limit or otherwise prohibit access to study abroad programs approved by the home institution at which a student is enrolled. An otherwise eligible student who is engaged in a program of study abroad approved for academic credit by the home institution at which the student is enrolled shall be eligible to receive a grant under this subpart, without regard to whether the study abroad program is required as part of the student's degree program.

"(h) VERIFICATION OF SOCIAL SECURITY NUMBER.—The Secretary, in cooperation with the Commissioner of Social Security, shall verify any social security number provided by a student to an eligible institution under subsection (a)(5)(B) and shall enforce the following conditions:

"(1) PENDING VERIFICATION.—Except as provided in paragraphs (2) and (3), an institution shall not deny, reduce, delay, or terminate a student's eligibility for assistance under this subpart because social security number verification is pending.

"(2) DENIAL OR TERMINATION.—If there is a determination by the Secretary that the social security number provided to an eligible institution by a student is incorrect, the institution shall deny or terminate the student's eligibility for any grant under this subpart until such time as the student provides documented evidence of a social security number that is determined by the institution to be correct.

"(3) CONSTRUCTION.—Nothing in this subsection shall be construed to permit the Secretary to take any compliance, disallowance, penalty, or other regulatory action against—

"(A) any institution of higher education with respect to any error in a social security number, unless the error was a result of fraud on the part of the institution; or

"(B) any student with respect to any error in a social security number, unless the error was a result of fraud on the part of the student.".

Subtitle D—Immunity

SEC. 1041. GENERAL IMMUNITY FOR TOBACCO PRODUCERS AND TOBACCO WAREHOUSE OWNERS.

Notwithstanding any other provision of this title, a participating tobacco producer, tobacco-related growers association, or tobacco warehouse owner or employee may not be subject to liability in any Federal or State court for any cause of action resulting from the failure of any tobacco product manufacturer, distributor, or retailer to comply with the National Tobacco Policy and Youth Smoking Reduction Act.

Subtitle E—Applicability

SEC. 1051. APPLICABILITY OF TITLE XV.

Notwithstanding any other provision of this Act, title XV of this Act shall have no force or effect.

SEC. 1052. EFFECTIVE DATE.

This subtitle takes effect on the day after the date of enactment of this Act, but shall apply as of such date of enactment.

AMENDMENT NO. 2622

In lieu of the matter proposed to be inserted, insert the following:

TITLE X—LONG-TERM ECONOMIC ASSISTANCE FOR FARMERS

SEC. 1001. SHORT TITLE.

This title may be cited as the "Long-Term Economic Assistance for Farmers Act" or the "LEAF Act".

SEC. 1002. DEFINITIONS.

In this title:

(1) PARTICIPATING TOBACCO PRODUCER.—The term "participating tobacco producer" means a quota holder, quota lessee, or quota tenant.

(2) QUOTA HOLDER.—The term "quota holder" means an owner of a farm on January 1, 1998, for which a tobacco farm marketing quota or farm acreage allotment was established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.).

(3) QUOTA LESSEE.—The term "quota lessee" means—

(A) a producer that owns a farm that produced tobacco pursuant to a lease and transfer to that farm of all or part of a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years; or

(B) a producer that rented land from a farm operator to produce tobacco under a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years.

(4) QUOTA TENANT.—The term "quota tenant" means a producer that—

(A) is the principal producer, as determined by the Secretary, of tobacco on a farm where tobacco is produced pursuant to a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years; and

(B) is not a quota holder or quota lessee.

(5) SECRETARY.—The term "Secretary" means—

(A) in subtitles A and B, the Secretary of Agriculture; and

(B) in section 1031, the Secretary of Labor.

(6) TOBACCO PRODUCT IMPORTER.—The term "tobacco product importer" has the meaning given the term "importer" in section 5702 of the Internal Revenue Code of 1986.

(7) TOBACCO PRODUCT MANUFACTURER.—

(A) IN GENERAL.—The term "tobacco product manufacturer" has the meaning given the term "manufacturer of tobacco products" in section 5702 of the Internal Revenue Code of 1986.

(B) EXCLUSION.—The term "tobacco product manufacturer" does not include a person that manufactures cigars or pipe tobacco.

(8) TOBACCO WAREHOUSE OWNER.—The term "tobacco warehouse owner" means a warehouseman that participated in an auction market (as defined in the first section of the Tobacco Inspection Act (7 U.S.C. 511)) during the 1998 marketing year.

(9) FLUE-CURED TOBACCO.—The term "flue-cured tobacco" includes type 21 and type 37 tobacco.

Subtitle A—Tobacco Community Revitalization

SEC. 1011. AUTHORIZATION OF APPROPRIATIONS.

There are appropriated and transferred to the Secretary for each fiscal year such amounts from the National Tobacco Trust Fund established by section 401, other than from amounts in the State Litigation Settlement Account, as may be necessary to carry out the provisions of this title.

SEC. 1012. EXPENDITURES.

The Secretary is authorized, subject to appropriations, to make payments under—

(1) section 1021 for payments for lost tobacco quota for each of fiscal years 1999 through 2023, but not to exceed $1,650,000,000 for any fiscal year except to the extent the payments are made in accordance with subsection (d)(12) or (e)(9) of section 1021;

(2) section 1022 for industry payments for all costs of the Department of Agriculture associated with the production of tobacco;

(3) section 1023 for tobacco community economic development grants, but not to exceed—

(A) $375,000,000 for each of fiscal years 1999 through 2008, less any amount required to be paid under section 1022 for the fiscal year; and

(B) $450,000,000 for each of fiscal year 2009 through 2023, less any amount required to be paid under section 1022 during the fiscal year;

(4) section 1031 for assistance provided under the tobacco worker transition program, but not to exceed $25,000,000 for any fiscal year; and

(5) subpart 9 of part A of title IV of the Higher Education Act of 1965 for farmer opportunity grants, but not to exceed—

(A) $42,500,000 for each of the academic years 1999–2000 through 2003–2004;

(B) $50,000,000 for each of the academic years 2004–2005 through 2008–2009;

(C) $57,500,000 for each of the academic years 2009–2010 through 2013–2014;

(D) $65,000,000 for each of the academic years 2014–2015 through 2018–2019; and

(E) $72,500,000 for each of the academic years 2019–2020 through 2023–2024.

SEC. 1013. BUDGETARY TREATMENT.

This subtitle constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide payments to States and eligible persons in accordance with this title.

Subtitle B—Tobacco Market Transition Assistance

SEC. 1021. PAYMENTS FOR LOST TOBACCO QUOTA.

(a) IN GENERAL.—Beginning with the 1999 marketing year, the Secretary shall make payments for lost tobacco quota to eligible quota holders, quota lessees, and quota tenants as reimbursement for lost tobacco quota.

(b) ELIGIBILITY.—To be eligible to receive payments under this section, a quota holder, quota lessee, or quota tenant shall—

(1) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including information sufficient to make the demonstration required under paragraph (2); and

(2) demonstrate to the satisfaction of the Secretary that, with respect to the 1997 marketing year—

(A) the producer was a quota holder and realized income (or would have realized income, as determined by the Secretary, but for a medical hardship or crop disaster during the 1997 marketing year) from the production of tobacco through—

(i) the active production of tobacco;

(ii) the lease and transfer of tobacco quota to another farm;

(iii) the rental of all or part of the farm of the quota holder, including the right to produce tobacco, to another tobacco producer; or

(iv) the hiring of a quota tenant to produce tobacco;

(B) the producer was a quota lessee; or

(C) the producer was a quota tenant.

(c) BASE QUOTA LEVEL.—

(1) IN GENERAL.—The Secretary shall determine, for each quota holder, quota lessee,

and quota tenant, the base quota level for the 1995 through 1997 marketing years.

(2) QUOTA HOLDERS.—The base quota level for a quota holder shall be equal to the average tobacco farm marketing quota established for the farm owned by the quota holder for the 1995 through 1997 marketing years.

(3) QUOTA LESSEES.—The base quota level for a quota lessee shall be equal to—

(A) 50 percent of the average number of pounds of tobacco quota established for the farm for the 1995 through 1997 marketing years—

(i) that was leased and transferred to a farm owned by the quota lessee; or

(ii) that was rented to the quota lessee for the right to produce the tobacco; less

(B) 25 percent of the average number of pounds of tobacco quota described in subparagraph (A) for which a quota tenant was the principal producer of the tobacco quota.

(4) QUOTA TENANTS.—The base quota level for a quota tenant shall be equal to the sum of—

(A) 50 percent of the average number of pounds of tobacco quota established for a farm for the 1995 through 1997 marketing years—

(i) that was owned by a quota holder; and

(ii) for which the quota tenant was the principal producer of the tobacco on the farm; and

(B) 25 percent of the average number of pounds of tobacco quota for the 1995 through 1997 marketing years—

(i)(I) that was leased and transferred to a farm owned by the quota lessee; or

(II) for which the rights to produce the tobacco were rented to the quota lessee; and

(ii) for which the quota tenant was the principal producer of the tobacco on the farm.

(5) MARKETING QUOTAS OTHER THAN POUNDAGE QUOTAS.—

(A) IN GENERAL.—For each type of tobacco for which there is a marketing quota or allotment (on an acreage basis), the base quota level for each quota holder, quota lessee, or quota tenant shall be determined in accordance with this subsection (based on a poundage conversion) by multiplying—

(i) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; and

(ii) the average yield per acre for the farm for the type of tobacco for the marketing years.

(B) YIELDS NOT AVAILABLE.—If the average yield per acre is not available for a farm, the Secretary shall calculate the base quota for the quota holder, quota lessee, or quota tenant (based on a poundage conversion) by determining the amount equal to the product obtained by multiplying—

(i) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; and

(ii) the average county yield per acre for the county in which the farm is located for the type of tobacco for the marketing years.

(d) PAYMENTS FOR LOST TOBACCO QUOTA FOR TYPES OF TOBACCO OTHER THAN FLUE-CURED TOBACCO.—

(1) ALLOCATION OF FUNDS.—Of the amounts made available under section 1011(d)(1) for payments for lost tobacco quota, the Secretary shall make available for payments under this subsection an amount that bears the same ratio to the amounts made available as—

(A) the sum of all national marketing quotas for all types of tobacco other than flue-cured tobacco during the 1995 through 1997 marketing years; bears to

(B) the sum of all national marketing quotas for all types of tobacco during the 1995 through 1997 marketing years.

(2) OPTION TO RELINQUISH QUOTA.—

(A) IN GENERAL.—Each quota holder, for types of tobacco other than flue-cured tobacco, shall be given the option to relinquish the farm marketing quota or farm acreage allotment of the quota holder in exchange for a payment made under paragraph (3).

(B) NOTIFICATION.—A quota holder shall give notification of the intention of the quota holder to exercise the option at such time and in such manner as the Secretary may require, but not later than January 15, 1999.

(3) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA HOLDERS EXERCISING OPTIONS TO RELINQUISH QUOTA.—

(A) IN GENERAL.—Subject to subparagraph (E), for each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost tobacco quota to each quota holder that has relinquished the farm marketing quota or farm acreage allotment of the quota holder under paragraph (2).

(B) AMOUNT.—The amount of a payment made to a quota holder described in subparagraph (A) for a marketing year shall equal 1/10 of the lifetime limitation established under subparagraph (E).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the farm marketing quota or farm acreage allotment is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(E) LIFETIME LIMITATION ON PAYMENTS.—The total amount of payments made under this paragraph to a quota holder shall not exceed the product obtained by multiplying the base quota level for the quota holder by $8 per pound.

(4) REISSUANCE OF QUOTA.—

(A) REALLOCATION TO LESSEE OR TENANT.—If a quota holder exercises an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), a quota lessee or quota tenant that was the primary producer during the 1997 marketing year of tobacco pursuant to the farm marketing quota or farm acreage allotment, as determined by the Secretary, shall be given the option of having an allotment of the farm marketing quota or farm acreage allotment reallocated to a farm owned by the quota lessee or quota tenant.

(B) CONDITIONS FOR REALLOCATION.—

(i) TIMING.—A quota lessee or quota tenant that is given the option of having an allotment of a farm marketing quota or farm acreage allotment reallocated to a farm owned by the quota lessee or quota tenant under subparagraph (A) shall have 1 year from the date on which a farm marketing quota or farm acreage allotment is relinquished under paragraph (2) to exercise the option.

(ii) LIMITATION ON ACREAGE ALLOTMENT.—In the case of a farm acreage allotment, the acreage allotment determined for any farm subsequent to any reallocation under subparagraph (A) shall not exceed 50 percent of the acreage of cropland of the farm owned by the quota lessee or quota tenant.

(iii) LIMITATION ON MARKETING QUOTA.—In the case of a farm marketing quota, the marketing quota determined for any farm subsequent to any reallocation under subparagraph (A) shall not exceed an amount determined by multiplying—

(I) the average county farm yield, as determined by the Secretary; and

(II) 50 percent of the acreage of cropland of the farm owned by the quota lessee or quota tenant.

(C) ELIGIBILITY OF LESSEE OR TENANT FOR PAYMENTS.—If a farm marketing quota or farm acreage allotment is reallocated to a quota lessee or quota tenant under subparagraph (A)—

(i) the quota lessee or quota tenant shall not be eligible for any additional payments under paragraph (5) or (6) as a result of the reallocation; and

(ii) the base quota level for the quota lessee or quota tenant shall not be increased as a result of the reallocation.

(D) REALLOCATION TO QUOTA HOLDERS WITHIN SAME COUNTY OR STATE.—

(i) IN GENERAL.—Except as provided in clause (ii), if there was no quota lessee or quota tenant for the farm marketing quota or farm acreage allotment for a type of tobacco, or if no quota lessee or quota tenant exercises an option of having an allotment of the farm marketing quota or farm acreage allotment for a type of tobacco reallocated, the Secretary shall reapportion the farm marketing quota or farm acreage allotment among the remaining quota holders for the type of tobacco within the same county.

(ii) CROSS-COUNTY LEASING.—In a State in which cross-county leasing is authorized pursuant to section 319(l) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(*l*)), the Secretary shall reapportion the farm marketing quota among the remaining quota holders for the type of tobacco within the same State.

(iii) ELIGIBILITY OF QUOTA HOLDER FOR PAYMENTS.—If a farm marketing quota is reapportioned to a quota holder under this subparagraph—

(I) the quota holder shall not be eligible for any additional payments under paragraph (5) or (6) as a result of the reapportionment; and

(II) the base quota level for the quota holder shall not be increased as a result of the reapportionment.

(E) SPECIAL RULE FOR TENANT OF LEASED TOBACCO.—If a quota holder exercises an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), the farm marketing quota or farm acreage allotment shall be divided evenly between, and the option of reallocating the farm marketing quota or farm acreage allotment shall be offered in equal portions to, the quota lessee and to the quota tenant, if—

(i) during the 1997 marketing year, the farm marketing quota or farm acreage allotment was leased and transferred to a farm owned by the quota lessee; and

(ii) the quota tenant was the primary producer, as determined by the Secretary, of tobacco pursuant to the farm marketing quota or farm acreage allotment.

(5) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA HOLDERS.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for a type of tobacco is less than the average national marketing quota for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota holder, for types of tobacco other than flue-cured tobacco, that is eligible under subsection (b), and has not exercised an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), in an amount that is equal to the product obtained by multiplying—

(i) the number of pounds by which the basic farm marketing quota (or poundage conversion) is less than the base quota level for the quota holder; and

(ii) $4 per pound.

(B) POUNDAGE CONVERSION FOR MARKETING QUOTAS OTHER THAN POUNDAGE QUOTAS.—

(i) IN GENERAL.—For each type of tobacco for which there is a marketing quota or allotment (on an acreage basis), the poundage conversion for each quota holder during a marketing year shall be determined by multiplying—

(I) the basic farm acreage allotment for the farm for the marketing year; and

(II) the average yield per acre for the farm for the type of tobacco.

(ii) YIELD NOT AVAILABLE.—If the average yield per acre is not available for a farm, the Secretary shall calculate the poundage conversion for each quota holder during a marketing year by multiplying—

(I) the basic farm acreage allotment for the farm for the marketing year; and

(II) the average county yield per acre for the county in which the farm is located for the type of tobacco.

(6) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for a type of tobacco is less than the average national marketing quota for the type of tobacco for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota lessee and quota tenant, for types of tobacco other than flue-cured tobacco, that is eligible under subsection (b) in an amount that is equal to the product obtained by multiplying—

(A) the percentage by which the national marketing quota for the type of tobacco is less than the average national marketing quota for the type of tobacco for the 1995 through 1997 marketing years;

(B) the base quota level for the quota lessee or quota tenant; and

(C) $4 per pound.

(7) LIFETIME LIMITATION ON PAYMENTS.—Except as otherwise provided in this subsection, the total amount of payments made under this subsection to a quota holder, quota lessee, or quota tenant during the lifetime of the quota holder, quota lessee, or quota tenant shall not exceed the product obtained by multiplying—

(A) the base quota level for the quota holder, quota lessee, or quota tenant; and

(B) $8 per pound.

(8) LIMITATIONS ON AGGREGATE ANNUAL PAYMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the total amount payable under this subsection for any marketing year shall not exceed the amount made available under paragraph (1).

(B) ACCELERATED PAYMENTS.—Paragraph (1) shall not apply if accelerated payments for lost tobacco quota are made in accordance with paragraph (12).

(C) REDUCTIONS.—If the sum of the amounts determined under paragraphs (3), (5), and (6) for a marketing year exceeds the amount made available under paragraph (1), the Secretary shall make a pro rata reduction in the amounts payable under paragraphs (5) and (6) to quota holders, quota lessees, and quota tenants under this subsection to ensure that the total amount of payments for lost tobacco quota does not exceed the amount made available under paragraph (1).

(D) ROLLOVER OF PAYMENTS FOR LOST TOBACCO QUOTA.—Subject to subparagraph (A), if the Secretary makes a reduction in accordance with subparagraph (C), the amount of the reduction shall be applied to the next marketing year and added to the payments for lost tobacco quota for the marketing year.

(E) ADDITIONAL PAYMENTS TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTA.—If the amount made available under paragraph (1) exceeds the sum of the amounts determined under paragraphs (3), (5), and (6) for a marketing year, the Secretary shall distribute the amount of the excess pro rata to quota holders that have exercised an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2) by increasing the amount payable to each such holder under paragraph (3).

(9) SUBSEQUENT SALE AND TRANSFER OF QUOTA.—Effective beginning with the 1999 marketing year, on the sale and transfer of a farm marketing quota or farm acreage allotment under section 316(g) or 319(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(g), 1314e(g))—

(A) the person that sold and transferred the quota or allotment shall have—

(i) the base quota level attributable to the person reduced by the base quota level attributable to the quota that is sold and transferred; and

(ii) the lifetime limitation on payments established under paragraph (7) attributable to the person reduced by the product obtained by multiplying—

(I) the base quota level attributable to the quota; and

(II) $8 per pound; and

(B) if the quota or allotment has never been relinquished by a previous quota holder under paragraph (2), the person that acquired the quota shall have—

(i) the base quota level attributable to the person increased by the base quota level attributable to the quota that is sold and transferred; and

(ii) the lifetime limitation on payments established under paragraph (7) attributable to the person—

(I) increased by the product obtained by multiplying—

(aa) the base quota level attributable to the quota; and

(bb) $8 per pound; but

(II) decreased by any payments under paragraph (5) for lost tobacco quota previously made that are attributable to the quota that is sold and transferred.

(10) SALE OR TRANSFER OF FARM.—On the sale or transfer of ownership of a farm that is owned by a quota holder, the base quota level established under subsection (c), the right to payments under paragraph (5), and the lifetime limitation on payments established under paragraph (7) shall transfer to the new owner of the farm to the same extent and in the same manner as those provisions applied to the previous quota holder.

(11) DEATH OF QUOTA LESSEE OR QUOTA TENANT.—If a quota lessee or quota tenant that is entitled to payments under this subsection dies and is survived by a spouse or 1 or more dependents, the right to receive the payments shall transfer to the surviving spouse or, if there is no surviving spouse, to the surviving dependents in equal shares.

(12) ACCELERATION OF PAYMENTS.—

(A) IN GENERAL.—On the occurrence of any of the events described in subparagraph (B), the Secretary shall make an accelerated lump sum payment for lost tobacco quota as established under paragraphs (5) and (6) to each quota holder, quota lessee, and quota tenant for any affected type of tobacco in accordance with subparagraph (C).

(B) TRIGGERING EVENTS.—The Secretary shall make accelerated payments under subparagraph (A) if after the date of enactment of this Act—

(i) subject to subparagraph (D), for 3 consecutive marketing years, the national marketing quota or national acreage allotment for a type of tobacco is less than 50 percent of the national marketing quota or national acreage allotment for the type of tobacco for the 1998 marketing year; or

(ii) Congress repeals or makes ineffective, directly or indirectly, any provision of—

(I) section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b);

(II) section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e);

(III) section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445);

(IV) section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445–1); or

(V) section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2).

(C) AMOUNT.—The amount of the accelerated payments made to each quota holder, quota lessee, and quota tenant under this subsection shall be equal to—

(i) the amount of the lifetime limitation established for the quota holder, quota lessee, or quota tenant under paragraph (7); less

(ii) any payments for lost tobacco quota received by the quota holder, quota lessee, or quota tenant before the occurrence of any of the events described in subparagraph (B).

(D) REFERENDUM VOTE NOT A TRIGGERING EVENT.—A referendum vote of producers for any type of tobacco that results in the national marketing quota or national acreage allotment not being in effect for the type of tobacco shall not be considered a triggering event under this paragraph.

(13) BAN ON SUBSEQUENT SALE OR LEASING OF FARM MARKETING QUOTA OR FARM ACREAGE ALLOTMENT TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTA.—No quota holder that exercises the option to relinquish a farm marketing quota or farm acreage allotment for any type of tobacco under paragraph (2) shall be eligible to acquire a farm marketing quota or farm acreage allotment for the type of tobacco, or to obtain the lease or transfer of a farm marketing quota or farm acreage allotment for the type of tobacco, for a period of 25 crop years after the date on which the quota or allotment was relinquished.

(e) PAYMENTS FOR LOST TOBACCO QUOTA FOR FLUE-CURED TOBACCO.—

(1) ALLOCATION OF FUNDS.—Of the amounts made available under section 1011(d)(1) for payments for lost tobacco quota, the Secretary shall make available for payments under this subsection an amount that bears the same ratio to the amounts made available as—

(A) the sum of all national marketing quotas for flue-cured tobacco during the 1995 through 1997 marketing years; bears to

(B) the sum of all national marketing quotas for all types of tobacco during the 1995 through 1997 marketing years.

(2) RELINQUISHMENT OF QUOTA.—

(A) IN GENERAL.—Each quota holder of flue-cured tobacco shall relinquish the farm marketing quota or farm acreage allotment in exchange for a payment made under paragraph (3) due to the transition from farm marketing quotas as provided under section 317 of the Agricultural Adjustment Act of 1938 for flue-cured tobacco to individual tobacco production permits as provided under section 317A of the Agricultural Adjustment Act of 1938 for flue-cured tobacco.

(B) NOTIFICATION.—The Secretary shall notify the quota holders of the relinquishment of their quota or allotment at such time and in such manner as the Secretary may require, but not later than November 15, 1998.

(3) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA HOLDERS THAT RELINQUISH QUOTA.—

(A) IN GENERAL.—For each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost flue-cured tobacco to each quota holder that has relinquished the farm marketing quota or farm acreage allotment of the quota holder under paragraph (2).

(B) AMOUNT.—The amount of a payment made to a quota holder described in subparagraph (A) for a marketing year shall equal 1/10 of the lifetime limitation established under paragraph (6).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the farm marketing quota or farm acreage allotment is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(4) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS THAT HAVE NOT RELINQUISHED PERMITS.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for flue-cured tobacco is less than the average national marketing quota for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota lessee or quota tenant that—

(i) is eligible under subsection (b);

(ii) has been issued an individual tobacco production permit under section 317A(b) of the Agricultural Adjustment Act of 1938; and

(iii) has not exercised an option to relinquish the permit.

(B) AMOUNT.—The amount of a payment made to a quota lessee or quota tenant described in subparagraph (A) for a marketing year shall be equal to the product obtained by multiplying—

(i) the number of pounds by which the individual marketing limitation established for the permit is less than twice the base quota level for the quota lessee or quota tenant; and

(ii) $2 per pound.

(5) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS THAT HAVE RELINQUISHED PERMITS.—

(A) IN GENERAL.—For each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost flue-cured tobacco quota to each quota lessee and quota tenant that has relinquished an individual tobacco production permit under section 317A(b)(5) of the Agricultural Adjustment Act of 1938.

(B) AMOUNT.—The amount of a payment made to a quota lessee or quota tenant described in subparagraph (A) for a marketing year shall be equal to 1/10 of the lifetime limitation established under paragraph (6).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the individual tobacco production permit is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(E) PROHIBITION AGAINST PERMIT EXPANSION.—A quota lessee or quota tenant that receives a payment under this paragraph shall be ineligible to receive any new or increased tobacco production permit from the county production pool established under section 317A(b)(8) of the Agricultural Adjustment Act of 1938.

(6) LIFETIME LIMITATION ON PAYMENTS.—Except as otherwise provided in this subsection, the total amount of payments made under this subsection to a quota holder, quota lessee, or quota tenant during the lifetime of the quota holder, quota lessee, or quota tenant shall not exceed the product obtained by multiplying—

(A) the base quota level for the quota holder, quota lessee, or quota tenant; and

(B) $8 per pound.

(7) LIMITATIONS ON AGGREGATE ANNUAL PAYMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the total amount payable under this subsection for any marketing year shall not exceed the amount made available under paragraph (1).

(B) ACCELERATED PAYMENTS.—Paragraph (1) shall not apply if accelerated payments for lost flue-cured tobacco quota are made in accordance with paragraph (9).

(C) REDUCTIONS.—If the sum of the amounts determined under paragraphs (3), (4), and (5) for a marketing year exceeds the amount made available under paragraph (1), the Secretary shall make a pro rata reduction in the amounts payable under paragraph (4) to quota lessees and quota tenants under this subsection to ensure that the total amount of payments for lost flue-cured tobacco quota does not exceed the amount made available under paragraph (1).

(D) ROLLOVER OF PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA.—Subject to subparagraph (A), if the Secretary makes a reduction in accordance with subparagraph (C), the amount of the reduction shall be applied to the next marketing year and added to the payments for lost flue-cured tobacco quota for the marketing year.

(E) ADDITIONAL PAYMENTS TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTAS OR PERMITS, OR TO QUOTA LESSEES OR QUOTA TENANTS RELINQUISHING PERMITS.—If the amount made available under paragraph (1) exceeds the sum of the amounts determined under paragraphs (3), (4), and (5) for a marketing year, the Secretary shall distribute the amount of the excess pro rata to quota holders by increasing the amount payable to each such holder under paragraphs (3) and (5).

(8) DEATH OF QUOTA HOLDER, QUOTA LESSEE, OR QUOTA TENANT.—If a quota holder, quota lessee or quota tenant that is entitled to payments under paragraph (4) or (5) dies and is survived by a spouse or 1 or more descendants, the right to receive the payments shall transfer to the surviving spouse or, if there is no surviving spouse, to the surviving descendants in equal shares.

(9) ACCELERATION OF PAYMENTS.—

(A) IN GENERAL.—On the occurrence of any of the events described in subparagraph (B), the Secretary shall make an accelerated lump sum payment for lost flue-cured tobacco quota as established under paragraphs (3), (4), and (5) to each quota holder, quota lessee, and quota tenant for flue-cured tobacco in accordance with subparagraph (C).

(B) TRIGGERING EVENTS.—The Secretary shall make accelerated payments under subparagraph (A) if after the date of enactment of this Act—

(i) subject to subparagraph (D), for 3 consecutive marketing years, the national marketing quota or national acreage allotment for flue-cured tobacco is less than 50 percent of the national marketing quota or national acreage allotment for flue-cured tobacco for the 1998 marketing year; or

(ii) Congress repeals or makes ineffective, directly or indirectly, any provision of—

(I) section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b);

(II) section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e);

(III) section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445);

(IV) section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445–1);

(V) section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2); or

(VI) section 317A of the Agricultural Adjustment Act of 1938.

(C) AMOUNT.—The amount of the accelerated payments made to each quota holder, quota lessee, and quota tenant under this subsection shall be equal to—

(i) the amount of the lifetime limitation established for the quota holder, quota lessee, or quota tenant under paragraph (6); less

(ii) any payments for lost flue-cured tobacco quota received by the quota holder, quota lessee, or quota tenant before the occurrence of any of the events described in subparagraph (B).

(D) REFERENDUM VOTE NOT A TRIGGERING EVENT.—A referendum vote of producers for flue-cured tobacco that results in the national marketing quota or national acreage allotment not being in effect for flue-cured tobacco shall not be considered a triggering event under this paragraph.

SEC. 1022. INDUSTRY PAYMENTS FOR ALL DEPARTMENT COSTS ASSOCIATED WITH TOBACCO PRODUCTION.

(a) IN GENERAL.—The Secretary shall use such amounts remaining unspent and obligated at the end of each fiscal year to reimburse the Secretary for—

(1) costs associated with the administration of programs established under this title and amendments made by this title;

(2) costs associated with the administration of the tobacco quota and price support programs administered by the Secretary;

(3) costs to the Federal Government of carrying out crop insurance programs for tobacco;

(4) costs associated with all agricultural research, extension, or education activities associated with tobacco;

(5) costs associated with the administration of loan association and cooperative programs for tobacco producers, as approved by the Secretary; and

(6) any other costs incurred by the Department of Agriculture associated with the production of tobacco.

(b) LIMITATIONS.—Amounts made available under subsection (a) may not be used—

(1) to provide direct benefits to quota holders, quota lessees, or quota tenants; or

(2) in a manner that results in a decrease, or an increase relative to other crops, in the amount of the crop insurance premiums assessed to participating tobacco producers under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(c) DETERMINATIONS.—Not later than September 30, 1998, and each fiscal year thereafter, the Secretary shall determine—

(1) the amount of costs described in subsection (a); and

(2) the amount that will be provided under this section as reimbursement for the costs.

SEC. 1023. TOBACCO COMMUNITY ECONOMIC DEVELOPMENT GRANTS.

(a) AUTHORITY.—The Secretary shall make grants to tobacco-growing States in accordance with this section to enable the States

to carry out economic development initiatives in tobacco-growing communities.

(b) APPLICATION.—To be eligible to receive payments under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

(1) a description of the activities that the State will carry out using amounts received under the grant;

(2) a designation of an appropriate State agency to administer amounts received under the grant; and

(3) a description of the steps to be taken to ensure that the funds are distributed in accordance with subsection (e).

(c) AMOUNT OF GRANT.—

(1) IN GENERAL.—From the amounts available to carry out this section for a fiscal year, the Secretary shall allot to each State an amount that bears the same ratio to the amounts available as the total farm income of the State derived from the production of tobacco during the 1995 through 1997 marketing years (as determined under paragraph (2)) bears to the total farm income of all States derived from the production of tobacco during the 1995 through 1997 marketing years.

(2) TOBACCO INCOME.—For the 1995 through 1997 marketing years, the Secretary shall determine the amount of farm income derived from the production of tobacco in each State and in all States.

(d) PAYMENTS.—

(1) IN GENERAL.—A State that has an application approved by the Secretary under subsection (b) shall be entitled to a payment under this section in an amount that is equal to its allotment under subsection (c).

(2) FORM OF PAYMENTS.—The Secretary may make payments under this section to a State in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(3) REALLOTMENTS.—Any portion of the allotment of a State under subsection (c) that the Secretary determines will not be used to carry out this section in accordance with an approved State application required under subsection (b), shall be reallotted by the Secretary to other States in proportion to the original allotments to the other States.

(e) USE AND DISTRIBUTION OF FUNDS.—

(1) IN GENERAL.—Amounts received by a State under this section shall be used to carry out economic development activities, including—

(A) rural business enterprise activities described in subsections (c) and (e) of section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932);

(B) down payment loan assistance programs that are similar to the program described in section 310E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1935);

(C) activities designed to help create productive farm or off-farm employment in rural areas to provide a more viable economic base and enhance opportunities for improved incomes, living standards, and contributions by rural individuals to the economic and social development of tobacco communities;

(D) activities that expand existing infrastructure, facilities, and services to capitalize on opportunities to diversify economies in tobacco communities and that support the development of new industries or commercial ventures;

(E) activities by agricultural organizations that provide assistance directly to participating tobacco producers to assist in developing other agricultural activities that supplement tobacco-producing activities;

(F) initiatives designed to create or expand locally owned value-added processing and marketing operations in tobacco communities;

(G) technical assistance activities by persons to support farmer-owned enterprises, or agriculture-based rural development enterprises, of the type described in section 252 or 253 of the Trade Act of 1974 (19 U.S.C. 2342, 2343); and

(H) initiatives designed to partially compensate tobacco warehouse owners for lost revenues and assist the tobacco warehouse owners in establishing successful business enterprises.

(2) TOBACCO-GROWING COUNTIES.—Assistance may be provided by a State under this section only to assist a county in the State that has been determined by the Secretary to have in excess of $100,000 in income derived from the production of tobacco during 1 or more of the 1995 through 1997 marketing years. For purposes of this section, the term "tobacco-growing county" includes a political subdivision surrounded within a State by a county that has been determined by the Secretary to have in excess of $100,000 in income derived from the production of tobacco during 1 or more of the 1995 through 1997 marketing years.

(3) DISTRIBUTION.—

(A) ECONOMIC DEVELOPMENT ACTIVITIES.—Not less than 20 percent of the amounts received by a State under this section shall be used to carry out—

(i) economic development activities described in subparagraph (E) or (F) of paragraph (1); or

(ii) agriculture-based rural development activities described in paragraph (1)(G).

(B) TECHNICAL ASSISTANCE ACTIVITIES.—Not less than 4 percent of the amounts received by a State under this section shall be used to carry out technical assistance activities described in paragraph (1)(G).

(C) TOBACCO WAREHOUSE OWNER INITIATIVES.—Not less than 6 percent of the amounts received by a State under this section during each of fiscal years 1999 through 2008 shall be used to carry out initiatives described in paragraph (1)(H).

(D) TOBACCO-GROWING COUNTIES.—To be eligible to receive payments under this section, a State shall demonstrate to the Secretary that funding will be provided, during each 5-year period for which funding is provided under this section, for activities in each county in the State that has been determined under paragraph (2) to have in excess of $100,000 in income derived from the production of tobacco, in amounts that are at least equal to the product obtained by multiplying—

(i) the ratio that the tobacco production income in the county determined under paragraph (2) bears to the total tobacco production income for the State determined under subsection (c); and

(ii) 50 percent of the total amounts received by a State under this section during the 5-year period.

(f) PREFERENCES IN HIRING.—A State may require recipients of funds under this section to provide a preference in employment to—

(1) an individual who—

(A) during the 1998 calendar year, was employed in the manufacture, processing, or warehousing of tobacco or tobacco products, or resided, in a county described in subsection (e)(2); and

(B) is eligible for assistance under the tobacco worker transition program established under section 1031; or

(2) an individual who—

(A) during the 1998 marketing year, carried out tobacco quota or relevant tobacco production activities in a county described in subsection (e)(2);

(B) is eligible for a farmer opportunity grant under subpart 9 of part A of title IV of the Higher Education Act of 1965; and

(C) has successfully completed a course of study at an institution of higher education.

(g) MAINTENANCE OF EFFORT.—

(1) IN GENERAL.—Subject to paragraph (2), a State shall provide an assurance to the Secretary that the amount of funds expended by the State and all counties in the State described in subsection (e)(2) for any activities funded under this section for a fiscal year is not less than 90 percent of the amount of funds expended by the State and counties for the activities for the preceding fiscal year.

(2) REDUCTION OF GRANT AMOUNT.—If a State does not provide an assurance described in paragraph (1), the Secretary shall reduce the amount of the grant determined under subsection (c) by an amount equal to the amount by which the amount of funds expended by the State and counties for the activities is less than 90 percent of the amount of funds expended by the State and counties for the activities for the preceding fiscal year, as determined by the Secretary.

(3) FEDERAL FUNDS.—For purposes of this subsection, the amount of funds expended by a State or county shall not include any amounts made available by the Federal Government.

SEC. 1024. FLUE-CURED TOBACCO PRODUCTION PERMITS.

The Agricultural Adjustment Act of 1938 is amended by inserting after section 317 (7 U.S.C. 1314c) the following:

"SEC. 317A. FLUE-CURED TOBACCO PRODUCTION PERMITS.

"(a) DEFINITIONS.—In this section:

"(1) INDIVIDUAL ACREAGE LIMITATION.—The term 'individual acreage limitation' means the number of acres of flue-cured tobacco that may be planted by the holder of a permit during a marketing year, calculated—

"(A) prior to—

"(i) any increase or decrease in the number due to undermarketings or overmarketings; and

"(ii) any reduction under subsection (i); and

"(B) in a manner that ensures that—

"(i) the total of all individual acreage limitations is equal to the national acreage allotment, less the reserve provided under subsection (h); and

"(ii) the individual acreage limitation for a marketing year bears the same ratio to the individual acreage limitation for the previous marketing year as the ratio that the national acreage allotment for the marketing year bears to the national acreage allotment for the previous marketing year, subject to adjustments by the Secretary to account for any reserve provided under subsection (h).

"(2) INDIVIDUAL MARKETING LIMITATION.—The term 'individual marketing limitation' means the number of pounds of flue-cured tobacco that may be marketed by the holder of a permit during a marketing year, calculated—

"(A) prior to—

"(i) any increase or decrease in the number due to undermarketings or overmarketings; and

"(ii) any reduction under subsection (i); and

"(B) in a manner that ensures that—

"(i) the total of all individual marketing limitations is equal to the national marketing quota, less the reserve provided under subsection (h); and

"(ii) the individual marketing limitation for a marketing year is obtained by multiplying the individual acreage limitation by the permit yield, prior to any adjustment for undermarketings or overmarketings.

"(3) INDIVIDUAL TOBACCO PRODUCTION PERMIT.—The term 'individual tobacco production permit' means a permit issued by the Secretary to a person authorizing the production of flue-cured tobacco for any marketing year during which this section is effective.

"(4) NATIONAL ACREAGE ALLOTMENT.—The term 'national acreage allotment' means the quantity determined by dividing—

"(A) the national marketing quota; by

"(B) the national average yield goal.

"(5) NATIONAL AVERAGE YIELD GOAL.—The term 'national average yield goal' means the national average yield for flue-cured tobacco during the 5 marketing years immediately preceding the marketing year for which the determination is being made.

"(6) NATIONAL MARKETING QUOTA.—For the 1999 and each subsequent crop of flue-cured tobacco, the term 'national marketing quota' for a marketing year means the quantity of flue-cured tobacco, as determined by the Secretary, that is not more than 103 percent nor less than 97 percent of the total of—

"(A) the aggregate of the quantities of flue-cured tobacco that domestic manufacturers of cigarettes estimate that the manufacturers intend to purchase on the United States auction markets or from producers during the marketing year, as compiled and determined under section 320A;

"(B) the average annual quantity of flue-cured tobacco exported from the United States during the 3 marketing years immediately preceding the marketing year for which the determination is being made; and

"(C) the quantity, if any, of flue-cured tobacco that the Secretary, in the discretion of the Secretary, determines is necessary to increase or decrease the inventory of the producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of flue-cured tobacco to establish or maintain the inventory at the reserve stock level for flue-cured tobacco.

"(7) PERMIT YIELD.—The term 'permit yield' means the yield of tobacco per acre for an individual tobacco production permit holder that is—

"(A) based on a preliminary permit yield that is equal to the average yield during the 5 marketing years immediately preceding the marketing year for which the determination is made in the county where the holder of the permit is authorized to plant flue-cured tobacco, as determined by the Secretary, on the basis of actual yields of farms in the county; and

"(B) adjusted by a weighted national yield factor calculated by—

"(i) multiplying each preliminary permit yield by the individual acreage limitation, prior to adjustments for overmarketings, undermarketings, or reductions required under subsection (i); and

"(ii) dividing the sum of the products under clause (i) for all flue-cured individual tobacco production permit holders by the national acreage allotment.

"(b) INITIAL ISSUANCE OF PERMITS.—

"(1) TERMINATION OF FLUE-CURED MARKETING QUOTAS.—On the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act, farm marketing quotas as provided under section 317 shall no longer be in effect for flue-cured tobacco.

"(2) ISSUANCE OF PERMITS TO QUOTA HOLDERS THAT WERE PRINCIPAL PRODUCERS.—

"(A) IN GENERAL.—By January 15, 1999, each individual quota holder under section 317 that was a principal producer of flue-cured tobacco during the 1998 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

"(B) NOTIFICATION.—The Secretary shall notify the holder of each permit of the individual acreage limitation and the individual marketing limitation applicable to the holder for each marketing year.

"(C) INDIVIDUAL ACREAGE LIMITATION FOR 1999 MARKETING YEAR.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

"(D) INDIVIDUAL MARKETING LIMITATION FOR 1999 MARKETING YEAR.—In establishing the individual marketing limitation for the 1999 marketing year under this section, the farm marketing quota that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual marketing limitation for the previous marketing year.

"(3) QUOTA HOLDERS THAT WERE NOT PRINCIPAL PRODUCERS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), on approval through a referendum under subsection (c)—

"(i) each person that was a quota holder under section 317 but that was not a principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall not be eligible to own a permit; and

"(ii) the Secretary shall not issue any permit during the 25-year period beginning on the date of enactment of this Act to any person that was a quota holder and was not the principal producer of flue-cured tobacco during the 1997 marketing year.

"(B) MEDICAL HARDSHIPS AND CROP DISASTERS.—Subparagraph (A) shall not apply to a person that would have been the principal producer of flue-cured tobacco during the 1997 marketing year but for a medical hardship or crop disaster that occurred during the 1997 marketing year.

"(C) ADMINISTRATION.—The Secretary shall issue regulations—

"(i) defining the term 'person' for the purpose of this paragraph; and

"(ii) prescribing such rules as the Secretary determines are necessary to ensure a fair and reasonable application of the prohibition established under this paragraph.

"(4) ISSUANCE OF PERMITS TO PRINCIPAL PRODUCERS OF FLUE-CURED TOBACCO.—

"(A) IN GENERAL.—By January 15, 1999, each individual quota lessee or quota tenant (as defined in section 1002 of the LEAF Act) that was the principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

"(B) INDIVIDUAL ACREAGE LIMITATIONS.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by a quota holder for whom the quota lessee or quota tenant was the principal producer of flue-cured tobacco during the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

"(C) INDIVIDUAL MARKETING LIMITATIONS.—In establishing the individual marketing limitation for the 1999 marketing year under this section, the individual marketing limitation for the previous year for an individual described in this paragraph shall be calculated by multiplying—

"(i) the farm marketing quota that was allotted to a farm owned by a quota holder for whom the quota lessee or quota holder was the principal producer of flue-cured tobacco during the 1997 marketing year, by

"(ii) the ratio that—

"(I) the sum of all flue-cured tobacco farm marketing quotas for the 1997 marketing year prior to adjusting for undermarketing and overmarketing; bears to

"(II) the sum of all flue-cured tobacco farm marketing quotas for the 1998 marketing year, after adjusting for undermarketing and overmarketing.

"(D) SPECIAL RULE FOR TENANT OF LEASED FLUE-CURED TOBACCO.—If the farm marketing quota or farm acreage allotment of a quota holder was produced pursuant to an agreement under which a quota lessee rented land from a quota holder and a quota tenant was the primary producer, as determined by the Secretary, of flue-cured tobacco pursuant to the farm marketing quota or farm acreage allotment, the farm marketing quota or farm acreage allotment shall be divided proportionately between the quota lessee and quota tenant for purposes of issuing individual tobacco production permits under this paragraph.

"(5) OPTION OF QUOTA LESSEE OR QUOTA TENANT TO RELINQUISH PERMIT.—

"(A) IN GENERAL.—Each quota lessee or quota tenant that is issued an individual tobacco production permit under paragraph (4) shall be given the option of relinquishing the permit in exchange for payments made under section 1021(e)(5) of the LEAF Act.

"(B) NOTIFICATION.—A quota lessee or quota tenant that is issued an individual tobacco production permit shall give notification of the intention to exercise the option at such time and in such manner as the Secretary may require, but not later than 45 days after the permit is issued.

"(C) REALLOCATION OF PERMIT.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit relinquished under this paragraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

"(6) ACTIVE PRODUCER REQUIREMENT.—

"(A) REQUIREMENT FOR SHARING RISK.—No individual tobacco production permit shall be issued to, or maintained by, a person that does not fully share in the risk of producing a crop of flue-cured tobacco.

"(B) CRITERIA FOR SHARING RISK.—For purposes of this paragraph, a person shall be considered to have fully shared in the risk of production of a crop if—

"(i) the investment of the person in the production of the crop is not less than 100 percent of the costs of production associated with the crop;

"(ii) the amount of the person's return on the investment is dependent solely on the sale price of the crop; and

"(iii) the person may not receive any of the return before the sale of the crop.

"(C) PERSONS NOT SHARING RISK.—

"(i) FORFEITURE.—Any person that fails to fully share in the risks of production under

this paragraph shall forfeit an individual tobacco production permit if, after notice and opportunity for a hearing, the appropriate county committee determines that the conditions for forfeiture exist.

"(ii) REALLOCATION.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit forfeited under this subparagraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

"(D) NOTICE.—Notice of any determination made by a county committee under subparagraph (C) shall be mailed, as soon as practicable, to the person involved.

"(E) REVIEW.—If the person is dissatisfied with the determination, the person may request, not later than 15 days after notice of the determination is received, a review of the determination by a local review committee under the procedures established under section 363 for farm marketing quotas.

"(7) COUNTY OF ORIGIN REQUIREMENT.—For the 1999 and each subsequent crop of flue-cured tobacco, all tobacco produced pursuant to an individual tobacco production permit shall be produced in the same county in which was produced the tobacco produced during the 1997 marketing year pursuant to the farm marketing quota or farm acreage allotment on which the individual tobacco production permit is based.

"(8) COUNTY PRODUCTION POOL.—

"(A) IN GENERAL.—The authority to produce flue-cured tobacco under an individual tobacco production permit that is forfeited, relinquished, or surrendered within a county may be reallocated by the appropriate county committee to tobacco producers located in the same county that apply to the committee to produce flue-cured tobacco under the authority.

"(B) PRIORITY.—In reallocating individual tobacco production permits under this paragraph, a county committee shall provide a priority to—

"(i) an active tobacco producer that controls the authority to produce a quantity of flue-cured tobacco under an individual tobacco production permit that is equal to or less than the average number of pounds of flue-cured tobacco that was produced by the producer during each of the 1995 through 1997 marketing years, as determined by the Secretary; and

"(ii) a new tobacco producer.

"(C) CRITERIA.—Individual tobacco production permits shall be reallocated by the appropriate county committee under this paragraph in a fair and equitable manner after taking into consideration—

"(i) the experience of the producer;

"(ii) the availability of land, labor, and equipment for the production of tobacco;

"(iii) crop rotation practices; and

"(iv) the soil and other physical factors affecting the production of tobacco.

"(D) MEDICAL HARDSHIPS AND CROP DISASTERS.—Notwithstanding any other provision of this Act, the Secretary may issue an individual tobacco production permit under this paragraph to a producer that is otherwise ineligible for the permit due to a medical hardship or crop disaster that occurred during the 1997 marketing year.

"(c) REFERENDUM.—

"(1) ANNOUNCEMENT OF QUOTA AND ALLOTMENT.—Not later than December 15, 1998, the Secretary pursuant to subsection (b) shall determine and announce—

"(A) the quantity of the national marketing quota for flue-cured tobacco for the 1999 marketing year; and

"(B) the national acreage allotment and national average yield goal for the 1999 crop of flue-cured tobacco.

"(2) SPECIAL REFERENDUM.—Not later than 30 days after the announcement of the quantity of the national marketing quota in 2001, the Secretary shall conduct a special referendum of the tobacco production permit holders that were the principal producers of flue-cured tobacco of the 1997 crop to determine whether the producers approve or oppose the continuation of individual tobacco production permits on an acreage-poundage basis as provided in this section for the 2002 through 2004 marketing years.

"(3) APPROVAL OF PERMITS.—If the Secretary determines that more than 66⅔ percent of the producers voting in the special referendum approve the establishment of individual tobacco production permits on an acreage-poundage basis—

"(A) individual tobacco production permits on an acreage-poundage basis as provided in this section shall be in effect for the 2002 through 2004 marketing years; and

"(B) marketing quotas on an acreage-poundage basis shall cease to be in effect for the 2002 through 2004 marketing years.

"(4) DISAPPROVAL OF PERMITS.—If individual tobacco production permits on an acreage-poundage basis are not approved by more than 66⅔ percent of the producers voting in the referendum, no marketing quotas on an acreage-poundage basis shall continue in effect that were proclaimed under section 317 prior to the referendum.

"(5) APPLICABLE MARKETING YEARS.—If individual tobacco production permits have been made effective for flue-cured tobacco on an acreage-poundage basis pursuant to this subsection, the Secretary shall, not later than December 15 of any future marketing year, announce a national marketing quota for that type of tobacco for the next 3 succeeding marketing years if the marketing year is the last year of 3 consecutive years for which individual tobacco production permits previously proclaimed will be in effect.

"(d) ANNUAL ANNOUNCEMENT OF NATIONAL MARKETING QUOTA.—The Secretary shall determine and announce the national marketing quota, national acreage allotment, and national average yield goal for the second and third marketing years of any 3-year period for which individual tobacco production permits are in effect on or before the December 15 immediately preceding the beginning of the marketing year to which the quota, allotment, and goal apply.

"(e) ANNUAL ANNOUNCEMENT OF INDIVIDUAL TOBACCO PRODUCTION PERMITS.—If a national marketing quota, national acreage allotment, and national average yield goal are determined and announced, the Secretary shall provide for the determination of individual tobacco production permits, individual acreage limitations, and individual marketing limitations under this section for the crop and marketing year covered by the determinations.

"(f) ASSIGNMENT OF TOBACCO PRODUCTION PERMITS.—

"(1) LIMITATION TO SAME COUNTY.—Each individual tobacco production permit holder shall assign the individual acreage limitation and individual marketing limitation to 1 or more farms located within the county of origin of the individual tobacco production permit.

"(2) FILING WITH COUNTY COMMITTEE.—The assignment of an individual acreage limitation and individual marketing limitation shall not be effective until evidence of the assignment, in such form as required by the Secretary, is filed with and determined by the county committee for the county in which the farm involved is located.

"(3) LIMITATION ON TILLABLE CROPLAND.—The total acreage assigned to any farm under this subsection shall not exceed the acreage of cropland on the farm.

"(g) PROHIBITION ON SALE OR LEASING OF INDIVIDUAL TOBACCO PRODUCTION PERMITS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Secretary shall not permit the sale and transfer, or lease and transfer, of an individual tobacco production permit issued under this section.

"(2) TRANSFER TO DESCENDANTS.—

"(A) DEATH.—In the case of the death of a person to whom an individual tobacco production permit has been issued under this section, the permit shall transfer to the surviving spouse of the person or, if there is no surviving spouse, to surviving direct descendants of the person.

"(B) TEMPORARY INABILITY TO FARM.—In the case of the death of a person to whom an individual tobacco production permit has been issued under this section and whose descendants are temporarily unable to produce a crop of tobacco, the Secretary may hold the license in the name of the descendants for a period of not more than 18 months.

"(3) VOLUNTARY TRANSFERS.—A person that is eligible to obtain an individual tobacco production permit under this section may at any time transfer all or part of the permit to the person's spouse or direct descendants that are actively engaged in the production of tobacco.

"(h) RESERVE.—

"(1) IN GENERAL.—For each marketing year for which individual tobacco production permits are in effect under this section, the Secretary may establish a reserve from the national marketing quota in a quantity equal to not more than 1 percent of the national marketing quota to be available for—

"(A) making corrections of errors in individual acreage limitations and individual marketing limitations;

"(B) adjusting inequities; and

"(C) establishing individual tobacco production permits for new tobacco producers (except that not less than two-thirds of the reserve shall be for establishing such permits for new tobacco producers).

"(2) ELIGIBLE PERSONS.—To be eligible for a new individual tobacco production permit, a producer must not have been the principal producer of tobacco during the immediately preceding 5 years.

"(3) APPORTIONMENT FOR NEW PRODUCERS.—The part of the reserve held for apportionment to new individual tobacco producers shall be allotted on the basis of—

"(A) land, labor, and equipment available for the production of tobacco;

"(B) crop rotation practices;

"(C) soil and other physical factors affecting the production of tobacco; and

"(D) the past tobacco-producing experience of the producer.

"(4) PERMIT YIELD.—The permit yield for any producer for which a new individual tobacco production permit is established shall be determined on the basis of available productivity data for the land involved and yields for similar farms in the same county.

"(i) PENALTIES.—

"(1) PRODUCTION ON OTHER FARMS.—If any quantity of tobacco is marketed as having been produced under an individual acreage limitation or individual marketing limitation assigned to a farm but was produced on a different farm, the individual acreage limitation or individual marketing limitation

for the following marketing year shall be forfeited.

"(2) FALSE REPORT.—If a person to which an individual tobacco production permit is issued files, or aids or acquiesces in the filing of, a false report with respect to the assignment of an individual acreage limitation or individual marketing limitation for a quantity of tobacco, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

"(j) MARKETING PENALTIES.—

"(1) IN GENERAL.—When individual tobacco production permits under this section are in effect, provisions with respect to penalties for the marketing of excess tobacco and the other provisions contained in section 314 shall apply in the same manner and to the same extent as they would apply under section 317(g) if farm marketing quotas were in effect.

"(2) PRODUCTION ON OTHER FARMS.—If a producer falsely identifies tobacco as having been produced on or marketed from a farm to which an individual acreage limitation or individual marketing limitation has been assigned, future individual acreage limitations and individual marketing limitations shall be forfeited.".

SEC. 1025. MODIFICATIONS IN FEDERAL TOBACCO PROGRAMS.

(a) PROGRAM REFERENDA.—Section 312(c) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1312(c)) is amended—

(1) by striking "(c) Within thirty" and inserting the following:

"(c) REFERENDA ON QUOTAS.—

"(1) IN GENERAL.—Not later than 30"; and

(2) by adding at the end the following:

"(2) REFERENDA ON PROGRAM CHANGES.—

"(A) IN GENERAL.—In the case of any type of tobacco for which marketing quotas are in effect, on the receipt of a petition from more than 5 percent of the producers of that type of tobacco in a State, the Secretary shall conduct a statewide referendum on any proposal related to the lease and transfer of tobacco quota within a State requested by the petition that is authorized under this part.

"(B) APPROVAL OF PROPOSALS.—If a majority of producers of the type of tobacco in the State approve a proposal in a referendum conducted under subparagraph (A), the Secretary shall implement the proposal in a manner that applies to all producers and quota holders of that type of tobacco in the State.".

(b) PURCHASE REQUIREMENTS.—Section 320B of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314h) is amended—

(1) in subsection (c)—

(A) by striking "(c) The amount" and inserting "(c) AMOUNT OF PENALTY.—For the 1998 and subsequent marketing years, the amount"; and

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

"(1) 105 percent of the average market price for the type of tobacco involved during the preceding marketing year; and".

(c) ELIMINATION OF TOBACCO MARKETING ASSESSMENT.—

(1) IN GENERAL.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by striking subsection (g).

(2) CONFORMING AMENDMENT.—Section 422(c) of the Uruguay Round Agreements Act (Public Law 103-465; 7 U.S.C. 1445 note) is amended by striking "section 106(g), 106A, or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445(g), 1445-1, or 1445-2)" and inserting "section 106A or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445-1, 1445-2)".

(d) ADJUSTMENT FOR LAND RENTAL COSTS.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by adding at the end the following:

"(h) ADJUSTMENT FOR LAND RENTAL COSTS.—For each of the 1999 and 2000 marketing years for flue-cured tobacco, after consultation with producers, State farm organizations and cooperative associations, the Secretary shall make an adjustment in the price support level for flue-cured tobacco equal to the annual change in the average cost per pound to flue-cured producers, as determined by the Secretary, under agreements through which producers rent land to produce flue-cured tobacco.".

(e) FIRE-CURED AND DARK AIR-CURED TOBACCO PROGRAMS.—

(1) LIMITATION ON TRANSFERS.—Section 318(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d(g)) is amended—

(A) by striking "ten" and inserting "30"; and

(B) by inserting "during any crop year" after "transferred to any farm".

(2) LOSS OF ALLOTMENT OR QUOTA THROUGH UNDERPLANTING.—Section 318 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d) is amended by adding at the end the following:

"(k) LOSS OF ALLOTMENT OR QUOTA THROUGH UNDERPLANTING.—Effective for the 1999 and subsequent marketing years, no acreage allotment or acreage-poundage quota, other than a new marketing quota, shall be established for a farm on which no fire-cured or dark air-cured tobacco was planted or considered planted during at least 2 of the 3 crop years immediately preceding the crop year for which the acreage allotment or acreage-poundage quota would otherwise be established.".

(f) EXPANSION OF TYPES OF TOBACCO SUBJECT TO NO NET COST ASSESSMENT.—

(1) NO NET COST TOBACCO FUND.—Section 106A(d)(1)(A) of the Agricultural Act of 1949 (7 U.S.C. 1445-1(d)(1)(A)) is amended—

(A) in clause (ii), by inserting after "Burley quota tobacco" the following: "and fire-cured and dark air-cured quota tobacco"; and

(B) in clause (iii)—

(i) in the matter preceding subclause (I), by striking "Flue-cured or Burley tobacco" and inserting "each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,"; and

(ii) by striking subclause (II) and inserting the following:

"(II) the sum of the amount of the per pound producer contribution and purchaser assessment (if any) for the kind of tobacco payable under clauses (i) and (ii); and".

COM008 (2) NO NET COST TOBACCO ACCOUNT.—Section 106B(d)(1) of the Agricultural Act of 1949 (7 U.S.C. 1445-2(d)(1)) is amended—

(A) in subparagraph (B), by inserting after "Burley quota tobacco" the following: "and fire-cured and dark air-cured tobacco"; and

(B) in subparagraph (C), by striking "Flue-cured and Burley tobacco" and inserting "each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,".

Subtitle C—Farmer and Worker Transition Assistance

SEC. 1031. TOBACCO WORKER TRANSITION PROGRAM.

(a) GROUP ELIGIBILITY REQUIREMENTS.—

(1) CRITERIA.—A group of workers (including workers in any firm or subdivision of a firm involved in the manufacture, processing, or warehousing of tobacco or tobacco products) shall be certified as eligible to apply for adjustment assistance under this section pursuant to a petition filed under subsection (b) if the Secretary of Labor determines that a significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated, and—

(A) the sales or production, or both, of the firm or subdivision have decreased absolutely; and

(B) the implementation of the national tobacco settlement contributed importantly to the workers' separation or threat of separation and to the decline in the sales or production of the firm or subdivision.

(2) DEFINITION OF CONTRIBUTED IMPORTANTLY.—In paragraph (1)(B), the term "contributed importantly" means a cause that is important but not necessarily more important than any other cause.

(3) REGULATIONS.—The Secretary shall issue regulations relating to the application of the criteria described in paragraph (1) in making preliminary findings under subsection (b) and determinations under subsection (c).

(b) PRELIMINARY FINDINGS AND BASIC ASSISTANCE.—

(1) FILING OF PETITIONS.—A petition for certification of eligibility to apply for adjustment assistance under this section may be filed by a group of workers (including workers in any firm or subdivision of a firm involved in the manufacture, processing, or warehousing of tobacco or tobacco products) or by their certified or recognized union or other duly authorized representative with the Governor of the State in which the workers' firm or subdivision thereof is located.

(2) FINDINGS AND ASSISTANCE.—On receipt of a petition under paragraph (1), the Governor shall—

(A) notify the Secretary that the Governor has received the petition;

(B) within 10 days after receiving the petition—

(i) make a preliminary finding as to whether the petition meets the criteria described in subsection (a)(1); and

(ii) transmit the petition, together with a statement of the finding under clause (i) and reasons for the finding, to the Secretary for action under subsection (c); and

(C) if the preliminary finding under subparagraph (B)(i) is affirmative, ensure that rapid response and basic readjustment services authorized under other Federal laws are made available to the workers.

(c) REVIEW OF PETITIONS BY SECRETARY; CERTIFICATIONS.—

(1) IN GENERAL.—The Secretary, within 30 days after receiving a petition under subsection (b)(2)(B)(ii), shall determine whether the petition meets the criteria described in subsection (a)(1). On a determination that the petition meets the criteria, the Secretary shall issue to workers covered by the petition a certification of eligibility to apply for the assistance described in subsection (d).

(2) DENIAL OF CERTIFICATION.—On the denial of a certification with respect to a petition under paragraph (1), the Secretary shall review the petition in accordance with the requirements of other applicable assistance programs to determine if the workers may be certified under the other programs.

(d) COMPREHENSIVE ASSISTANCE.—

(1) IN GENERAL.—Workers covered by a certification issued by the Secretary under subsection (c)(1) shall be provided with benefits and services described in paragraph (2) in the

same manner and to the same extent as workers covered under a certification under subchapter A of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.), except that the total amount of payments under this section for any fiscal year shall not exceed $25,000,000.

(2) BENEFITS AND SERVICES.—The benefits and services described in this paragraph are the following:

(A) Employment services of the type described in section 235 of the Trade Act of 1974 (19 U.S.C. 2295).

(B) Training described in section 236 of the Trade Act of 1974 (19 U.S.C. 2296), except that notwithstanding the provisions of section 236(a)(2)(A) of that Act, the total amount of payments for training under this section for any fiscal year shall not exceed $12,500,000.

(C) Tobacco worker readjustment allowances, which shall be provided in the same manner as trade readjustment allowances are provided under part I of subchapter B of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2291 et seq.), except that—

(i) the provisions of sections 231(a)(5)(C) and 231(c) of that Act (19 U.S.C. 2291(a)(5)(C), 2291(c)), authorizing the payment of trade readjustment allowances on a finding that it is not feasible or appropriate to approve a training program for a worker, shall not be applicable to payment of allowances under this section; and

(ii) notwithstanding the provisions of section 233(b) of that Act (19 U.S.C. 2293(b)), in order for a worker to qualify for tobacco readjustment allowances under this section, the worker shall be enrolled in a training program approved by the Secretary of the type described in section 236(a) of that Act (19 U.S.C. 2296(a)) by the later of—

(I) the last day of the 16th week of the worker's initial unemployment compensation benefit period; or

(II) the last day of the 6th week after the week in which the Secretary issues a certification covering the worker.

In cases of extenuating circumstances relating to enrollment of a worker in a training program under this section, the Secretary may extend the time for enrollment for a period of not to exceed 30 days.

(D) Job search allowances of the type described in section 237 of the Trade Act of 1974 (19 U.S.C. 2297).

(E) Relocation allowances of the type described in section 238 of the Trade Act of 1974 (19 U.S.C. 2298).

(e) INELIGIBILITY OF INDIVIDUALS RECEIVING PAYMENTS FOR LOST TOBACCO QUOTA.—No benefits or services may be provided under this section to any individual who has received payments for lost tobacco quota under section 1021.

(f) FUNDING.—Of the amounts appropriated to carry out this title, the Secretary may use not to exceed $25,000,000 for each of fiscal years 1999 through 2008 to provide assistance under this section.

(g) EFFECTIVE DATE.—This section shall take effect on the date that is the later of—

(1) October 1, 1998; or

(2) the date of enactment of this Act.

(h) TERMINATION DATE.—No assistance, vouchers, allowances, or other payments may be provided under this section after the date that is the earlier of—

(1) the date that is 10 years after the effective date of this section under subsection (g); or

(2) the date on which legislation establishing a program providing dislocated workers with comprehensive assistance substantially similar to the assistance provided by this section becomes effective.

SEC. 1032. FARMER OPPORTUNITY GRANTS.

Part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) is amended by adding at the end the following:

"Subpart 9—Farmer Opportunity Grants

"SEC. 420D. STATEMENT OF PURPOSE.

"It is the purpose of this subpart to assist in making available the benefits of postsecondary education to eligible students (determined in accordance with section 420F) in institutions of higher education by providing farmer opportunity grants to all eligible students.

"SEC. 420E. PROGRAM AUTHORITY; AMOUNT AND DETERMINATIONS; APPLICATIONS.

"(a) PROGRAM AUTHORITY AND METHOD OF DISTRIBUTION.—

"(1) PROGRAM AUTHORITY.—From amounts made available under section 1011(d)(5) of the LEAF Act, the Secretary, during the period beginning July 1, 1999, and ending September 30, 2024, shall pay to each eligible institution such sums as may be necessary to pay to each eligible student (determined in accordance with section 420F) for each academic year during which that student is in attendance at an institution of higher education, as an undergraduate, a farmer opportunity grant in the amount for which that student is eligible, as determined pursuant to subsection (b). Not less than 85 percent of the sums shall be advanced to eligible institutions prior to the start of each payment period and shall be based on an amount requested by the institution as needed to pay eligible students, except that this sentence shall not be construed to limit the authority of the Secretary to place an institution on a reimbursement system of payment.

"(2) CONSTRUCTION.—Nothing in this section shall be construed to prohibit the Secretary from paying directly to students, in advance of the beginning of the academic term, an amount for which the students are eligible, in cases where the eligible institution elects not to participate in the disbursement system required by paragraph (1).

"(3) DESIGNATION.—Grants made under this subpart shall be known as 'farmer opportunity grants'.

"(b) AMOUNT OF GRANTS.—

"(1) AMOUNTS.—

"(A) IN GENERAL.—The amount of the grant for a student eligible under this subpart shall be—

"(i) $1,700 for each of the academic years 1999–2000 through 2003–2004;

"(ii) $2,000 for each of the academic years 2004–2005 through 2008–2009;

"(iii) $2,300 for each of the academic years 2009–2010 through 2013–2014;

"(iv) $2,600 for each of the academic years 2014–2015 through 2018–2019; and

"(v) $2,900 for each of the academic years 2019–2020 through 2023–2024.

"(B) PART-TIME RULE.—In any case where a student attends an institution of higher education on less than a full-time basis (including a student who attends an institution of higher education on less than a half-time basis) during any academic year, the amount of the grant for which that student is eligible shall be reduced in proportion to the degree to which that student is not so attending on a full-time basis, in accordance with a schedule of reductions established by the Secretary for the purposes of this subparagraph, computed in accordance with this subpart. The schedule of reductions shall be established by regulation and published in the Federal Register.

"(2) MAXIMUM.—No grant under this subpart shall exceed the cost of attendance (as described in section 472) at the institution at which that student is in attendance. If, with respect to any student, it is determined that the amount of a grant exceeds the cost of attendance for that year, the amount of the grant shall be reduced to an amount equal to the cost of attendance at the institution.

"(3) PROHIBITION.—No grant shall be awarded under this subpart to any individual who is incarcerated in any Federal, State, or local penal institution.

"(c) PERIOD OF ELIGIBILITY FOR GRANTS.—

"(1) IN GENERAL.—The period during which a student may receive grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student at the institution at which the student is in attendance, except that any period during which the student is enrolled in a noncredit or remedial course of study as described in paragraph (2) shall not be counted for the purpose of this paragraph.

"(2) CONSTRUCTION.—Nothing in this section shall be construed to—

"(A) exclude from eligibility courses of study that are noncredit or remedial in nature and that are determined by the institution to be necessary to help the student be prepared for the pursuit of a first undergraduate baccalaureate degree or certificate or, in the case of courses in English language instruction, to be necessary to enable the student to utilize already existing knowledge, training, or skills; and

"(B) exclude from eligibility programs of study abroad that are approved for credit by the home institution at which the student is enrolled.

"(3) PROHIBITION.—No student is entitled to receive farmer opportunity grant payments concurrently from more than 1 institution or from the Secretary and an institution.

"(d) APPLICATIONS FOR GRANTS.—

"(1) IN GENERAL.—The Secretary shall from time to time set dates by which students shall file applications for grants under this subpart. The filing of applications under this subpart shall be coordinated with the filing of applications under section 401(c).

"(2) INFORMATION AND ASSURANCES.—Each student desiring a grant for any year shall file with the Secretary an application for the grant containing such information and assurances as the Secretary may deem necessary to enable the Secretary to carry out the Secretary's functions and responsibilities under this subpart.

"(e) DISTRIBUTION OF GRANTS TO STUDENTS.—Payments under this section shall be made in accordance with regulations promulgated by the Secretary for such purpose, in such manner as will best accomplish the purpose of this section. Any disbursement allowed to be made by crediting the student's account shall be limited to tuition and fees and, in the case of institutionally owned housing, room and board. The student may elect to have the institution provide other such goods and services by crediting the student's account.

"(f) INSUFFICIENT FUNDING.—If, for any fiscal year, the funds made available to carry out this subpart are insufficient to satisfy fully all grants for students determined to be eligible under section 420F, the amount of the grant provided under subsection (b) shall be reduced on a pro rata basis among all eligible students.

"(g) TREATMENT OF INSTITUTIONS AND STUDENTS UNDER OTHER LAWS.—Any institution of higher education that enters into an agreement with the Secretary to disburse to students attending that institution the amounts those students are eligible to receive under this subpart shall not be deemed,

by virtue of the agreement, to be a contractor maintaining a system of records to accomplish a function of the Secretary. Recipients of farmer opportunity grants shall not be considered to be individual grantees for purposes of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq.).

"SEC. 420F. STUDENT ELIGIBILITY.

"(a) IN GENERAL.—In order to receive any grant under this subpart, a student shall—

"(1) be a member of a tobacco farm family in accordance with subsection (b);

"(2) be enrolled or accepted for enrollment in a degree, certificate, or other program (including a program of study abroad approved for credit by the eligible institution at which the student is enrolled) leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with section 487, and not be enrolled in an elementary or secondary school;

"(3) if the student is presently enrolled at an institution of higher education, be maintaining satisfactory progress in the course of study the student is pursuing in accordance with subsection (c);

"(4) not owe a refund on grants previously received at any institution of higher education under this title, or be in default on any loan from a student loan fund at any institution provided for in part D, or a loan made, insured, or guaranteed by the Secretary under this title for attendance at any institution;

"(5) file with the institution of higher education that the student intends to attend, or is attending, a document, that need not be notarized, but that shall include—

"(A) a statement of educational purpose stating that the money attributable to the grant will be used solely for expenses related to attendance or continued attendance at the institution; and

"(B) the student's social security number; and

"(6) be a citizen of the United States.

"(b) TOBACCO FARM FAMILIES.—

"(1) IN GENERAL.—For the purpose of subsection (a)(1), a student is a member of a tobacco farm family if during calendar year 1998 the student was—

"(A) an individual who—

"(i) is a participating tobacco producer (as defined in section 1002 of the LEAF Act) who is a principal producer of tobacco on a farm; or

"(ii) is otherwise actively engaged in the production of tobacco;

"(B) a spouse, son, daughter, stepson, or stepdaughter of an individual described in subparagraph (A);

"(C) an individual who was a dependent (within the meaning of section 152 of the Internal Revenue Code of 1986) of an individual described in subparagraph (A).

"(2) ADMINISTRATION.—On request, the Secretary of Agriculture shall provide to the Secretary such information as is necessary to carry out this subsection.

"(c) SATISFACTORY PROGRESS.—

"(1) IN GENERAL.—For the purpose of subsection (a)(3), a student is maintaining satisfactory progress if—

"(A) the institution at which the student is in attendance reviews the progress of the student at the end of each academic year, or its equivalent, as determined by the institution; and

"(B) the student has at least a cumulative C average or its equivalent, or academic standing consistent with the requirements for graduation, as determined by the institution, at the end of the second such academic year.

"(2) SPECIAL RULE.—Whenever a student fails to meet the eligibility requirements of subsection (a)(3) as a result of the application of this subsection and subsequent to that failure the student has academic standing consistent with the requirements for graduation, as determined by the institution, for any grading period, the student may, subject to this subsection, again be eligible under subsection (a)(3) for a grant under this subpart.

"(3) WAIVER.—Any institution of higher education at which the student is in attendance may waive paragraph (1) or (2) for undue hardship based on—

"(A) the death of a relative of the student;

"(B) the personal injury or illness of the student; or

"(C) special circumstances as determined by the institution.

"(d) STUDENTS WHO ARE NOT SECONDARY SCHOOL GRADUATES.—In order for a student who does not have a certificate of graduation from a school providing secondary education, or the recognized equivalent of the certificate, to be eligible for any assistance under this subpart, the student shall meet either 1 of the following standards:

"(1) EXAMINATION.—The student shall take an independently administered examination and shall achieve a score, specified by the Secretary, demonstrating that the student can benefit from the education or training being offered. The examination shall be approved by the Secretary on the basis of compliance with such standards for development, administration, and scoring as the Secretary may prescribe in regulations.

"(2) DETERMINATION.—The student shall be determined as having the ability to benefit from the education or training in accordance with such process as the State shall prescribe. Any such process described or approved by a State for the purposes of this section shall be effective 6 months after the date of submission to the Secretary unless the Secretary disapproves the process. In determining whether to approve or disapprove the process, the Secretary shall take into account the effectiveness of the process in enabling students without secondary school diplomas or the recognized equivalent to benefit from the instruction offered by institutions utilizing the process, and shall also take into account the cultural diversity, economic circumstances, and educational preparation of the populations served by the institutions.

"(e) SPECIAL RULE FOR CORRESPONDENCE COURSES.—A student shall not be eligible to receive a grant under this subpart for a correspondence course unless the course is part of a program leading to an associate, bachelor, or graduate degree.

"(f) COURSES OFFERED THROUGH TELECOMMUNICATIONS.—

"(1) RELATION TO CORRESPONDENCE COURSES.—A student enrolled in a course of instruction at an eligible institution of higher education (other than an institute or school that meets the definition in section 521(4)(C) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471(4)(C))) that is offered in whole or in part through telecommunications and leads to a recognized associate, bachelor, or graduate degree conferred by the institution shall not be considered to be enrolled in correspondence courses unless the total amount of telecommunications and correspondence courses at the institution equals or exceeds 50 percent of the courses.

"(2) RESTRICTION OR REDUCTIONS OF FINANCIAL AID.—A student's eligibility to receive a grant under this subpart may be reduced if a financial aid officer determines under the discretionary authority provided in section 479A that telecommunications instruction results in a substantially reduced cost of attendance to the student.

"(3) DEFINITION.—For the purposes of this subsection, the term 'telecommunications' means the use of television, audio, or computer transmission, including open broadcast, closed circuit, cable, microwave, or satellite, audio conferencing, computer conferencing, or video cassettes or discs, except that the term does not include a course that is delivered using video cassette or disc recordings at the institution and that is not delivered in person to other students of that institution.

"(g) STUDY ABROAD.—Nothing in this subpart shall be construed to limit or otherwise prohibit access to study abroad programs approved by the home institution at which a student is enrolled. An otherwise eligible student who is engaged in a program of study abroad approved for academic credit by the home institution at which the student is enrolled shall be eligible to receive a grant under this subpart, without regard to whether the study abroad program is required as part of the student's degree program.

"(h) VERIFICATION OF SOCIAL SECURITY NUMBER.—The Secretary, in cooperation with the Commissioner of Social Security, shall verify any social security number provided by a student to an eligible institution under subsection (a)(5)(B) and shall enforce the following conditions:

"(1) PENDING VERIFICATION.—Except as provided in paragraphs (2) and (3), an institution shall not deny, reduce, delay, or terminate a student's eligibility for assistance under this subpart because social security number verification is pending.

"(2) DENIAL OR TERMINATION.—If there is a determination by the Secretary that the social security number provided to an eligible institution by a student is incorrect, the institution shall deny or terminate the student's eligibility for any grant under this subpart until such time as the student provides documented evidence of a social security number that is determined by the institution to be correct.

"(3) CONSTRUCTION.—Nothing in this subsection shall be construed to permit the Secretary to take any compliance, disallowance, penalty, or other regulatory action against—

"(A) any institution of higher education with respect to any error in a social security number, unless the error was a result of fraud on the part of the institution; or

"(B) any student with respect to any error in a social security number, unless the error was a result of fraud on the part of the student.".

Subtitle D—Immunity

SEC. 1041. GENERAL IMMUNITY FOR TOBACCO PRODUCERS AND TOBACCO WAREHOUSE OWNERS.

Notwithstanding any other provision of this title, a participating tobacco producer, tobacco-related growers association, or tobacco warehouse owner or employee may not be subject to liability in any Federal or State court for any cause of action resulting from the failure of any tobacco product manufacturer, distributor, or retailer to comply with the National Tobacco Policy and Youth Smoking Reduction Act.

Subtitle E—Applicability

SEC. 1051. APPLICABILITY OF TITLE XV.

Notwithstanding any other provision of this Act, title XV of this Act shall have no force or effect.

FORD (AND OTHERS) AMENDMENT NO. 2623

(Ordered to lie on the table.)

Mr. FORD (for himself, Mr. HOLLINGS, and Mr. ROBB) submitted an amendment intended to be proposed by them to amendment No. 2498 proposed by Mr. LUGAR to the bill, S. 1415, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

TITLE X—LONG-TERM ECONOMIC ASSISTANCE FOR FARMERS

SEC. 1001. SHORT TITLE.

This title may be cited as the "Long-Term Economic Assistance for Farmers Act" or the "LEAF Act".

SEC. 1002. DEFINITIONS.

In this title:

(1) PARTICIPATING TOBACCO PRODUCER.—The term "participating tobacco producer" means a quota holder, quota lessee, or quota tenant.

(2) QUOTA HOLDER.—The term "quota holder" means an owner of a farm on January 1, 1998, for which a tobacco farm marketing quota or farm acreage allotment was established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.).

(3) QUOTA LESSEE.—The term "quota lessee" means—

(A) a producer that owns a farm that produced tobacco pursuant to a lease and transfer to that farm of all or part of a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years; or

(B) a producer that rented land from a farm operator to produce tobacco under a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years.

(4) QUOTA TENANT.—The term "quota tenant" means a producer that—

(A) is the principal producer, as determined by the Secretary, of tobacco on a farm where tobacco is produced pursuant to a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years; and

(B) is not a quota holder or quota lessee.

(5) SECRETARY.—The term "Secretary" means—

(A) in subtitles A and B, the Secretary of Agriculture; and

(B) in section 1031, the Secretary of Labor.

(6) TOBACCO PRODUCT IMPORTER.—The term "tobacco product importer" has the meaning given the term "importer" in section 5702 of the Internal Revenue Code of 1986.

(7) TOBACCO PRODUCT MANUFACTURER.—

(A) IN GENERAL.—The term "tobacco product manufacturer" has the meaning given the term "manufacturer of tobacco products" in section 5702 of the Internal Revenue Code of 1986.

(B) EXCLUSION.—The term "tobacco product manufacturer" does not include a person that manufactures cigars or pipe tobacco.

(8) TOBACCO WAREHOUSE OWNER.—The term "tobacco warehouse owner" means a warehouseman that participated in an auction market (as defined in the first section of the Tobacco Inspection Act (7 U.S.C. 511)) during the 1998 marketing year.

(9) FLUE-CURED TOBACCO.—The term "flue-cured tobacco" includes type 21 and type 37 tobacco.

Subtitle A—Tobacco Community Revitalization

SEC. 1011. AUTHORIZATION OF APPROPRIATIONS.

There are appropriated and transferred to the Secretary for each fiscal year such amounts from the National Tobacco Trust Fund established by section 401, other than from amounts in the State Litigation Settlement Account, as may be necessary to carry out the provisions of this title.

SEC. 1012. EXPENDITURES.

The Secretary is authorized, subject to appropriations, to make payments under—

(1) section 1021 for payments for lost tobacco quota for each of fiscal years 1999 through 2023, but not to exceed $1,650,000,000 for any fiscal year except to the extent the payments are made in accordance with subsection (d)(12) or (e)(9) of section 1021;

(2) section 1022 for industry payments for all costs of the Department of Agriculture associated with the production of tobacco;

(3) section 1023 for tobacco community economic development grants, but not to exceed—

(A) $375,000,000 for each of fiscal years 1999 through 2008, less any amount required to be paid under section 1022 for the fiscal year; and

(B) $450,000,000 for each of fiscal year 2009 through 2023, less any amount required to be paid under section 1022 during the fiscal year;

(4) section 1031 for assistance provided under the tobacco worker transition program, but not to exceed $25,000,000 for any fiscal year; and

(5) subpart 9 of part A of title IV of the Higher Education Act of 1965 for farmer opportunity grants, but not to exceed—

(A) $42,500,000 for each of the academic years 1999–2000 through 2003–2004;

(B) $50,000,000 for each of the academic years 2004–2005 through 2008–2009;

(C) $57,500,000 for each of the academic years 2009–2010 through 2013–2014;

(D) $65,000,000 for each of the academic years 2014–2015 through 2018–2019; and

(E) $72,500,000 for each of the academic years 2019–2020 through 2023–2024.

SEC. 1013. BUDGETARY TREATMENT.

This subtitle constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide payments to States and eligible persons in accordance with this title.

Subtitle B—Tobacco Market Transition Assistance

SEC. 1021. PAYMENTS FOR LOST TOBACCO QUOTA.

(a) IN GENERAL.—Beginning with the 1999 marketing year, the Secretary shall make payments for lost tobacco quota to eligible quota holders, quota lessees, and quota tenants as reimbursement for lost tobacco quota.

(b) ELIGIBILITY.—To be eligible to receive payments under this section, a quota holder, quota lessee, or quota tenant shall—

(1) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including information sufficient to make the demonstration required under paragraph (2); and

(2) demonstrate to the satisfaction of the Secretary that, with respect to the 1997 marketing year—

(A) the producer was a quota holder and realized income (or would have realized income, as determined by the Secretary, but for a medical hardship or crop disaster during the 1997 marketing year) from the production of tobacco through—

(i) the active production of tobacco;

(ii) the lease and transfer of tobacco quota to another farm;

(iii) the rental of all or part of the farm of the quota holder, including the right to produce tobacco, to another tobacco producer; or

(iv) the hiring of a quota tenant to produce tobacco;

(B) the producer was a quota lessee; or

(C) the producer was a quota tenant.

(c) BASE QUOTA LEVEL.—

(1) IN GENERAL.—The Secretary shall determine, for each quota holder, quota lessee, and quota tenant, the base quota level for the 1995 through 1997 marketing years.

(2) QUOTA HOLDERS.—The base quota level for a quota holder shall be equal to the average tobacco farm marketing quota established for the farm owned by the quota holder for the 1995 through 1997 marketing years.

(3) QUOTA LESSEES.—The base quota level for a quota lessee shall be equal to—

(A) 50 percent of the average number of pounds of tobacco quota established for the farm for the 1995 through 1997 marketing years—

(i) that was leased and transferred to a farm owned by the quota lessee; or

(ii) that was rented to the quota lessee for the right to produce the tobacco; less

(B) 25 percent of the average number of pounds of tobacco quota described in subparagraph (A) for which a quota tenant was the principal producer of the tobacco quota.

(4) QUOTA TENANTS.—The base quota level for a quota tenant shall be equal to the sum of—

(A) 50 percent of the average number of pounds of tobacco quota established for a farm for the 1995 through 1997 marketing years—

(i) that was owned by a quota holder; and

(ii) for which the quota tenant was the principal producer of the tobacco on the farm; and

(B) 25 percent of the average number of pounds of tobacco quota for the 1995 through 1997 marketing years—

(i)(I) that was leased and transferred to a farm owned by the quota lessee; or

(II) for which the rights to produce the tobacco were rented to the quota lessee; and

(ii) for which the quota tenant was the principal producer of the tobacco on the farm.

(5) MARKETING QUOTAS OTHER THAN POUNDAGE QUOTAS.—

(A) IN GENERAL.—For each type of tobacco for which there is a marketing quota or allotment (on an acreage basis), the base quota level for each quota holder, quota lessee, or quota tenant shall be determined in accordance with this subsection (based on a poundage conversion) by multiplying—

(i) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; and

(ii) the average yield per acre for the farm for the type of tobacco for the marketing years.

(B) YIELDS NOT AVAILABLE.—If the average yield per acre is not available for a farm, the Secretary shall calculate the base quota for the quota holder, quota lessee, or quota tenant (based on a poundage conversion) by determining the amount equal to the product obtained by multiplying—

(i) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; and

(ii) the average county yield per acre for the county in which the farm is located for the type of tobacco for the marketing years.

(d) PAYMENTS FOR LOST TOBACCO QUOTA FOR TYPES OF TOBACCO OTHER THAN FLUE-CURED TOBACCO.—

(1) ALLOCATION OF FUNDS.—Of the amounts made available under section 1011(d)(1) for payments for lost tobacco quota, the Secretary shall make available for payments under this subsection an amount that bears the same ratio to the amounts made available as—

(A) the sum of all national marketing quotas for all types of tobacco other than flue-cured tobacco during the 1995 through 1997 marketing years; bears to

(B) the sum of all national marketing quotas for all types of tobacco during the 1995 through 1997 marketing years.

(2) OPTION TO RELINQUISH QUOTA.—

(A) IN GENERAL.—Each quota holder, for types of tobacco other than flue-cured tobacco, shall be given the option to relinquish the farm marketing quota or farm acreage allotment of the quota holder in exchange for a payment made under paragraph (3).

(B) NOTIFICATION.—A quota holder shall give notification of the intention of the quota holder to exercise the option at such time and in such manner as the Secretary may require, but not later than January 15, 1999.

(3) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA HOLDERS EXERCISING OPTIONS TO RELINQUISH QUOTA.—

(A) IN GENERAL.—Subject to subparagraph (E), for each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost tobacco quota to each quota holder that has relinquished the farm marketing quota or farm acreage allotment of the quota holder under paragraph (2).

(B) AMOUNT.—The amount of a payment made to a quota holder described in subparagraph (A) for a marketing year shall equal 1/10 of the lifetime limitation established under subparagraph (E).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the farm marketing quota or farm acreage allotment is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(E) LIFETIME LIMITATION ON PAYMENTS.—The total amount of payments made under this paragraph to a quota holder shall not exceed the product obtained by multiplying the base quota level for the quota holder by $8 per pound.

(4) REISSUANCE OF QUOTA.—

(A) REALLOCATION TO LESSEE OR TENANT.—If a quota holder exercises an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), a quota lessee or quota tenant that was the primary producer during the 1997 marketing year of tobacco pursuant to the farm marketing quota or farm acreage allotment, as determined by the Secretary, shall be given the option of having an allotment of the farm marketing quota or farm acreage allotment reallocated to a farm owned by the quota lessee or quota tenant.

(B) CONDITIONS FOR REALLOCATION.—

(i) TIMING.—A quota lessee or quota tenant that is given the option of having an allotment of a farm marketing quota or farm acreage allotment reallocated to a farm owned by the quota lessee or quota tenant under subparagraph (A) shall have 1 year from the date on which a farm marketing quota or farm acreage allotment is relinquished under paragraph (2) to exercise the option.

(ii) LIMITATION ON ACREAGE ALLOTMENT.—In the case of a farm acreage allotment, the acreage allotment determined for any farm subsequent to any reallocation under subparagraph (A) shall not exceed 50 percent of the acreage of cropland of the farm owned by the quota lessee or quota tenant.

(iii) LIMITATION ON MARKETING QUOTA.—In the case of a farm marketing quota, the marketing quota determined for any farm subsequent to any reallocation under subparagraph (A) shall not exceed an amount determined by multiplying—

(I) the average county farm yield, as determined by the Secretary; and

(II) 50 percent of the acreage of cropland of the farm owned by the quota lessee or quota tenant.

(C) ELIGIBILITY OF LESSEE OR TENANT FOR PAYMENTS.—If a farm marketing quota or farm acreage allotment is reallocated to a quota lessee or quota tenant under subparagraph (A)—

(i) the quota lessee or quota tenant shall not be eligible for any additional payments under paragraph (5) or (6) as a result of the reallocation; and

(ii) the base quota level for the quota lessee or quota tenant shall not be increased as a result of the reallocation.

(D) REALLOCATION TO QUOTA HOLDERS WITHIN SAME COUNTY OR STATE.—

(i) IN GENERAL.—Except as provided in clause (ii), if there was no quota lessee or quota tenant for the farm marketing quota or farm acreage allotment for a type of tobacco, or if no quota lessee or quota tenant exercises an option of having an allotment of the farm marketing quota or farm acreage allotment for a type of tobacco reallocated, the Secretary shall reapportion the farm marketing quota or farm acreage allotment among the remaining quota holders for the type of tobacco within the same county.

(ii) CROSS-COUNTY LEASING.—In a State in which cross-county leasing is authorized pursuant to section 319(l) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(*l*)), the Secretary shall reapportion the farm marketing quota among the remaining quota holders for the type of tobacco within the same State.

(iii) ELIGIBILITY OF QUOTA HOLDER FOR PAYMENTS.—If a farm marketing quota is reapportioned to a quota holder under this subparagraph—

(I) the quota holder shall not be eligible for any additional payments under paragraph (5) or (6) as a result of the reapportionment; and

(II) the base quota level for the quota holder shall not be increased as a result of the reapportionment.

(E) SPECIAL RULE FOR TENANT OF LEASED TOBACCO.—If a quota holder exercises an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), the farm marketing quota or farm acreage allotment shall be divided evenly between, and the option of reallocating the farm marketing quota or farm acreage allotment shall be offered in equal portions to, the quota lessee and to the quota tenant, if—

(i) during the 1997 marketing year, the farm marketing quota or farm acreage allotment was leased and transferred to a farm owned by the quota lessee; and

(ii) the quota tenant was the primary producer, as determined by the Secretary, of tobacco pursuant to the farm marketing quota or farm acreage allotment.

(5) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA HOLDERS.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for a type of tobacco is less than the average national marketing quota for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota holder, for types of tobacco other than flue-cured tobacco, that is eligible under subsection (b), and has not exercised an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), in an amount that is equal to the product obtained by multiplying—

(i) the number of pounds by which the basic farm marketing quota (or poundage conversion) is less than the base quota level for the quota holder; and

(ii) $4 per pound.

(B) POUNDAGE CONVERSION FOR MARKETING QUOTAS OTHER THAN POUNDAGE QUOTAS.—

(i) IN GENERAL.—For each type of tobacco for which there is a marketing quota or allotment (on an acreage basis), the poundage conversion for each quota holder during a marketing year shall be determined by multiplying—

(I) the basic farm acreage allotment for the farm for the marketing year; and

(II) the average yield per acre for the farm for the type of tobacco.

(ii) YIELD NOT AVAILABLE.—If the average yield per acre is not available for a farm, the Secretary shall calculate the poundage conversion for each quota holder during a marketing year by multiplying—

(I) the basic farm acreage allotment for the farm for the marketing year; and

(II) the average county yield per acre for the county in which the farm is located for the type of tobacco.

(6) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for a type of tobacco is less than the average national marketing quota for the type of tobacco for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota lessee and quota tenant, for types of tobacco other than flue-cured tobacco, that is eligible under subsection (b) in an amount that is equal to the product obtained by multiplying—

(A) the percentage by which the national marketing quota for the type of tobacco is less than the average national marketing quota for the type of tobacco for the 1995 through 1997 marketing years;

(B) the base quota level for the quota lessee or quota tenant; and

(C) $4 per pound.

(7) LIFETIME LIMITATION ON PAYMENTS.—Except as otherwise provided in this subsection, the total amount of payments made under this subsection to a quota holder, quota lessee, or quota tenant during the lifetime of the quota holder, quota lessee, or quota tenant shall not exceed the product obtained by multiplying—

(A) the base quota level for the quota holder, quota lessee, or quota tenant; and

(B) $8 per pound.

(8) LIMITATIONS ON AGGREGATE ANNUAL PAYMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the total amount payable under this subsection for any marketing year shall not exceed the amount made available under paragraph (1).

(B) ACCELERATED PAYMENTS.—Paragraph (1) shall not apply if accelerated payments for lost tobacco quota are made in accordance with paragraph (12).

(C) REDUCTIONS.—If the sum of the amounts determined under paragraphs (3), (5), and (6) for a marketing year exceeds the amount made available under paragraph (1), the Secretary shall make a pro rata reduction in the amounts payable under paragraphs (5) and (6) to quota holders, quota lessees, and quota tenants under this subsection to ensure that the total amount of payments for lost tobacco quota does not exceed the amount made available under paragraph (1).

(D) ROLLOVER OF PAYMENTS FOR LOST TOBACCO QUOTA.—Subject to subparagraph (A), if the Secretary makes a reduction in accordance with subparagraph (C), the amount of the reduction shall be applied to the next marketing year and added to the payments for lost tobacco quota for the marketing year.

(E) ADDITIONAL PAYMENTS TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTA.—If the amount made available under paragraph (1) exceeds the sum of the amounts determined under paragraphs (3), (5), and (6) for a marketing year, the Secretary shall distribute the amount of the excess pro rata to quota holders that have exercised an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2) by increasing the amount payable to each such holder under paragraph (3).

(9) SUBSEQUENT SALE AND TRANSFER OF QUOTA.—Effective beginning with the 1999 marketing year, on the sale and transfer of a farm marketing quota or farm acreage allotment under section 316(g) or 319(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(g), 1314e(g))—

(A) the person that sold and transferred the quota or allotment shall have—

(i) the base quota level attributable to the person reduced by the base quota level attributable to the quota that is sold and transferred; and

(ii) the lifetime limitation on payments established under paragraph (7) attributable to the person reduced by the product obtained by multiplying—

(I) the base quota level attributable to the quota; and

(II) $8 per pound; and

(B) if the quota or allotment has never been relinquished by a previous quota holder under paragraph (2), the person that acquired the quota shall have—

(i) the base quota level attributable to the person increased by the base quota level attributable to the quota that is sold and transferred; and

(ii) the lifetime limitation on payments established under paragraph (7) attributable to the person—

(I) increased by the product obtained by multiplying—

(aa) the base quota level attributable to the quota; and

(bb) $8 per pound; but

(II) decreased by any payments under paragraph (5) for lost tobacco quota previously made that are attributable to the quota that is sold and transferred.

(10) SALE OR TRANSFER OF FARM.—On the sale or transfer of ownership of a farm that is owned by a quota holder, the base quota level established under subsection (c), the right to payments under paragraph (5), and the lifetime limitation on payments established under paragraph (7) shall transfer to the new owner of the farm to the same extent and in the same manner as those provisions applied to the previous quota holder.

(11) DEATH OF QUOTA LESSEE OR QUOTA TENANT.—If a quota lessee or quota tenant that is entitled to payments under this subsection dies and is survived by a spouse or 1 or more dependents, the right to receive the payments shall transfer to the surviving spouse or, if there is no surviving spouse, to the surviving dependents in equal shares.

(12) ACCELERATION OF PAYMENTS.—

(A) IN GENERAL.—On the occurrence of any of the events described in subparagraph (B), the Secretary shall make an accelerated lump sum payment for lost tobacco quota as established under paragraphs (5) and (6) to each quota holder, quota lessee, and quota tenant for any affected type of tobacco in accordance with subparagraph (C).

(B) TRIGGERING EVENTS.—The Secretary shall make accelerated payments under subparagraph (A) if after the date of enactment of this Act—

(i) subject to subparagraph (D), for 3 consecutive marketing years, the national marketing quota or national acreage allotment for a type of tobacco is less than 50 percent of the national marketing quota or national acreage allotment for the type of tobacco for the 1998 marketing year; or

(ii) Congress repeals or makes ineffective, directly or indirectly, any provision of—

(I) section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b);

(II) section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e);

(III) section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445);

(IV) section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445–1); or

(V) section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2).

(C) AMOUNT.—The amount of the accelerated payments made to each quota holder, quota lessee, and quota tenant under this subsection shall be equal to—

(i) the amount of the lifetime limitation established for the quota holder, quota lessee, or quota tenant under paragraph (7); less

(ii) any payments for lost tobacco quota received by the quota holder, quota lessee, or quota tenant before the occurrence of any of the events described in subparagraph (B).

(D) REFERENDUM VOTE NOT A TRIGGERING EVENT.—A referendum vote of producers for any type of tobacco that results in the national marketing quota or national acreage allotment not being in effect for the type of tobacco shall not be considered a triggering event under this paragraph.

(13) BAN ON SUBSEQUENT SALE OR LEASING OF FARM MARKETING QUOTA OR FARM ACREAGE ALLOTMENT TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTA.—No quota holder that exercises the option to relinquish a farm marketing quota or farm acreage allotment for any type of tobacco under paragraph (2) shall be eligible to acquire a farm marketing quota or farm acreage allotment for the type of tobacco, or to obtain the lease or transfer of a farm marketing quota or farm acreage allotment for the type of tobacco, for a period of 25 crop years after the date on which the quota or allotment was relinquished.

(e) PAYMENTS FOR LOST TOBACCO QUOTA FOR FLUE-CURED TOBACCO.—

(1) ALLOCATION OF FUNDS.—Of the amounts made available under section 1011(d)(1) for payments for lost tobacco quota, the Secretary shall make available for payments under this subsection an amount that bears the same ratio to the amounts made available as—

(A) the sum of all national marketing quotas for flue-cured tobacco during the 1995 through 1997 marketing years; bears to

(B) the sum of all national marketing quotas for all types of tobacco during the 1995 through 1997 marketing years.

(2) RELINQUISHMENT OF QUOTA.—

(A) IN GENERAL.—Each quota holder of flue-cured tobacco shall relinquish the farm marketing quota or farm acreage allotment in exchange for a payment made under paragraph (3) due to the transition from farm marketing quotas as provided under section 317 of the Agricultural Adjustment Act of 1938 for flue-cured tobacco to individual tobacco production permits as provided under section 317A of the Agricultural Adjustment Act of 1938 for flue-cured tobacco.

(B) NOTIFICATION.—The Secretary shall notify the quota holders of the relinquishment of their quota or allotment at such time and in such manner as the Secretary may require, but not later than November 15, 1998.

(3) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA HOLDERS THAT RELINQUISH QUOTA.—

(A) IN GENERAL.—For each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost flue-cured tobacco to each quota holder that has relinquished the farm marketing quota or farm acreage allotment of the quota holder under paragraph (2).

(B) AMOUNT.—The amount of a payment made to a quota holder described in subparagraph (A) for a marketing year shall equal 1/10 of the lifetime limitation established under paragraph (6).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the farm marketing quota or farm acreage allotment is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(4) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS THAT HAVE NOT RELINQUISHED PERMITS.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for flue-cured tobacco is less than the average national marketing quota for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota lessee or quota tenant that—

(i) is eligible under subsection (b);

(ii) has been issued an individual tobacco production permit under section 317A(b) of the Agricultural Adjustment Act of 1938; and

(iii) has not exercised an option to relinquish the permit.

(B) AMOUNT.—The amount of a payment made to a quota lessee or quota tenant described in subparagraph (A) for a marketing year shall be equal to the product obtained by multiplying—

(i) the number of pounds by which the individual marketing limitation established for the permit is less than twice the base quota level for the quota lessee or quota tenant; and

(ii) $2 per pound.

(5) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS THAT HAVE RELINQUISHED PERMITS.—

(A) IN GENERAL.—For each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost flue-cured tobacco quota to each quota lessee and quota tenant that has relinquished an individual tobacco production permit under section 317A(b)(5) of the Agricultural Adjustment Act of 1938.

(B) AMOUNT.—The amount of a payment made to a quota lessee or quota tenant described in subparagraph (A) for a marketing year shall be equal to 1/10 of the lifetime limitation established under paragraph (6).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the individual tobacco production permit is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(E) PROHIBITION AGAINST PERMIT EXPANSION.—A quota lessee or quota tenant that receives a payment under this paragraph shall be ineligible to receive any new or increased tobacco production permit from the county production pool established under section 317A(b)(8) of the Agricultural Adjustment Act of 1938.

(6) LIFETIME LIMITATION ON PAYMENTS.—Except as otherwise provided in this subsection, the total amount of payments made under this subsection to a quota holder, quota lessee, or quota tenant during the lifetime of the quota holder, quota lessee, or quota tenant shall not exceed the product obtained by multiplying—

(A) the base quota level for the quota holder, quota lessee, or quota tenant; and

(B) $8 per pound.

(7) LIMITATIONS ON AGGREGATE ANNUAL PAYMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the total amount payable under this subsection for any marketing year shall not exceed the amount made available under paragraph (1).

(B) ACCELERATED PAYMENTS.—Paragraph (1) shall not apply if accelerated payments for lost flue-cured tobacco quota are made in accordance with paragraph (9).

(C) REDUCTIONS.—If the sum of the amounts determined under paragraphs (3), (4), and (5) for a marketing year exceeds the amount made available under paragraph (1), the Secretary shall make a pro rata reduction in the amounts payable under paragraph (4) to quota lessees and quota tenants under this subsection to ensure that the total amount of payments for lost flue-cured tobacco quota does not exceed the amount made available under paragraph (1).

(D) ROLLOVER OF PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA.—Subject to subparagraph (A), if the Secretary makes a reduction in accordance with subparagraph (C), the amount of the reduction shall be applied to the next marketing year and added to the payments for lost flue-cured tobacco quota for the marketing year.

(E) ADDITIONAL PAYMENTS TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTAS OR PERMITS, OR TO QUOTA LESSEES OR QUOTA TENANTS RELINQUISHING PERMITS.—If the amount made available under paragraph (1) exceeds the sum of the amounts determined under paragraphs (3), (4), and (5) for a marketing year, the Secretary shall distribute the amount of the excess pro rata to quota holders by increasing the amount payable to each such holder under paragraphs (3) and (5).

(8) DEATH OF QUOTA HOLDER, QUOTA LESSEE, OR QUOTA TENANT.—If a quota holder, quota lessee or quota tenant that is entitled to payments under paragraph (4) or (5) dies and is survived by a spouse or 1 or more descendants, the right to receive the payments shall transfer to the surviving spouse or, if there is no surviving spouse, to the surviving descendants in equal shares.

(9) ACCELERATION OF PAYMENTS.—

(A) IN GENERAL.—On the occurrence of any of the events described in subparagraph (B), the Secretary shall make an accelerated lump sum payment for lost flue-cured tobacco quota as established under paragraphs (3), (4), and (5) to each quota holder, quota lessee, and quota tenant for flue-cured tobacco in accordance with subparagraph (C).

(B) TRIGGERING EVENTS.—The Secretary shall make accelerated payments under subparagraph (A) if after the date of enactment of this Act—

(i) subject to subparagraph (D), for 3 consecutive marketing years, the national marketing quota or national acreage allotment for flue-cured tobacco is less than 50 percent of the national marketing quota or national acreage allotment for flue-cured tobacco for the 1998 marketing year; or

(ii) Congress repeals or makes ineffective, directly or indirectly, any provision of—

(I) section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b);

(II) section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e);

(III) section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445);

(IV) section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445–1);

(V) section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2); or

(VI) section 317A of the Agricultural Adjustment Act of 1938.

(C) AMOUNT.—The amount of the accelerated payments made to each quota holder, quota lessee, and quota tenant under this subsection shall be equal to—

(i) the amount of the lifetime limitation established for the quota holder, quota lessee, or quota tenant under paragraph (6); less

(ii) any payments for lost flue-cured tobacco quota received by the quota holder, quota lessee, or quota tenant before the occurrence of any of the events described in subparagraph (B).

(D) REFERENDUM VOTE NOT A TRIGGERING EVENT.—A referendum vote of producers for flue-cured tobacco that results in the national marketing quota or national acreage allotment not being in effect for flue-cured tobacco shall not be considered a triggering event under this paragraph.

SEC. 1022. INDUSTRY PAYMENTS FOR ALL DEPARTMENT COSTS ASSOCIATED WITH TOBACCO PRODUCTION.

(a) IN GENERAL.—The Secretary shall use such amounts remaining unspent and obligated at the end of each fiscal year to reimburse the Secretary for—

(1) costs associated with the administration of programs established under this title and amendments made by this title;

(2) costs associated with the administration of the tobacco quota and price support programs administered by the Secretary;

(3) costs to the Federal Government of carrying out crop insurance programs for tobacco;

(4) costs associated with all agricultural research, extension, or education activities associated with tobacco;

(5) costs associated with the administration of loan association and cooperative programs for tobacco producers, as approved by the Secretary; and

(6) any other costs incurred by the Department of Agriculture associated with the production of tobacco.

(b) LIMITATIONS.—Amounts made available under subsection (a) may not be used—

(1) to provide direct benefits to quota holders, quota lessees, or quota tenants; or

(2) in a manner that results in a decrease, or an increase relative to other crops, in the amount of the crop insurance premiums assessed to participating tobacco producers under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(c) DETERMINATIONS.—Not later than September 30, 1998, and each fiscal year thereafter, the Secretary shall determine—

(1) the amount of costs described in subsection (a); and

(2) the amount that will be provided under this section as reimbursement for the costs.

SEC. 1023. TOBACCO COMMUNITY ECONOMIC DEVELOPMENT GRANTS.

(a) AUTHORITY.—The Secretary shall make grants to tobacco-growing States in accordance with this section to enable the States to carry out economic development initiatives in tobacco-growing communities.

(b) APPLICATION.—To be eligible to receive payments under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

(1) a description of the activities that the State will carry out using amounts received under the grant;

(2) a designation of an appropriate State agency to administer amounts received under the grant; and

(3) a description of the steps to be taken to ensure that the funds are distributed in accordance with subsection (e).

(c) AMOUNT OF GRANT.—

(1) IN GENERAL.—From the amounts available to carry out this section for a fiscal year, the Secretary shall allot to each State an amount that bears the same ratio to the amounts available as the total farm income of the State derived from the production of tobacco during the 1995 through 1997 marketing years (as determined under paragraph (2)) bears to the total farm income of all States derived from the production of tobacco during the 1995 through 1997 marketing years.

(2) TOBACCO INCOME.—For the 1995 through 1997 marketing years, the Secretary shall determine the amount of farm income derived from the production of tobacco in each State and in all States.

(d) PAYMENTS.—

(1) IN GENERAL.—A State that has an application approved by the Secretary under subsection (b) shall be entitled to a payment under this section in an amount that is equal to its allotment under subsection (c).

(2) FORM OF PAYMENTS.—The Secretary may make payments under this section to a State in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(3) REALLOTMENTS.—Any portion of the allotment of a State under subsection (c) that the Secretary determines will not be used to carry out this section in accordance with an approved State application required under subsection (b), shall be reallotted by the Secretary to other States in proportion to the original allotments to the other States.

(e) USE AND DISTRIBUTION OF FUNDS.—

(1) IN GENERAL.—Amounts received by a State under this section shall be used to carry out economic development activities, including—

(A) rural business enterprise activities described in subsections (c) and (e) of section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932);

(B) down payment loan assistance programs that are similar to the program described in section 310E of the Consolidated

Farm and Rural Development Act (7 U.S.C. 1935);

(C) activities designed to help create productive farm or off-farm employment in rural areas to provide a more viable economic base and enhance opportunities for improved incomes, living standards, and contributions by rural individuals to the economic and social development of tobacco communities;

(D) activities that expand existing infrastructure, facilities, and services to capitalize on opportunities to diversify economies in tobacco communities and that support the development of new industries or commercial ventures;

(E) activities by agricultural organizations that provide assistance directly to participating tobacco producers to assist in developing other agricultural activities that supplement tobacco-producing activities;

(F) initiatives designed to create or expand locally owned value-added processing and marketing operations in tobacco communities;

(G) technical assistance activities by persons to support farmer-owned enterprises, or agriculture-based rural development enterprises, of the type described in section 252 or 253 of the Trade Act of 1974 (19 U.S.C. 2342, 2343); and

(H) initiatives designed to partially compensate tobacco warehouse owners for lost revenues and assist the tobacco warehouse owners in establishing successful business enterprises.

(2) TOBACCO-GROWING COUNTIES.—Assistance may be provided by a State under this section only to assist a county in the State that has been determined by the Secretary to have in excess of $100,000 in income derived from the production of tobacco during 1 or more of the 1995 through 1997 marketing years. For purposes of this section, the term "tobacco-growing county" includes a political subdivision surrounded within a State by a county that has been determined by the Secretary to have in excess of $100,000 in income derived from the production of tobacco during 1 or more of the 1995 through 1997 marketing years.

(3) DISTRIBUTION.—

(A) ECONOMIC DEVELOPMENT ACTIVITIES.—Not less than 20 percent of the amounts received by a State under this section shall be used to carry out—

(i) economic development activities described in subparagraph (E) or (F) of paragraph (1); or

(ii) agriculture-based rural development activities described in paragraph (1)(G).

(B) TECHNICAL ASSISTANCE ACTIVITIES.—Not less than 4 percent of the amounts received by a State under this section shall be used to carry out technical assistance activities described in paragraph (1)(G).

(C) TOBACCO WAREHOUSE OWNER INITIATIVES.—Not less than 6 percent of the amounts received by a State under this section during each of fiscal years 1999 through 2008 shall be used to carry out initiatives described in paragraph (1)(H).

(D) TOBACCO-GROWING COUNTIES.—To be eligible to receive payments under this section, a State shall demonstrate to the Secretary that funding will be provided, during each 5-year period for which funding is provided under this section, for activities in each county in the State that has been determined under paragraph (2) to have in excess of $100,000 in income derived from the production of tobacco, in amounts that are at least equal to the product obtained by multiplying—

(i) the ratio that the tobacco production income in the county determined under paragraph (2) bears to the total tobacco production income for the State determined under subsection (c); and

(ii) 50 percent of the total amounts received by a State under this section during the 5-year period.

(f) PREFERENCES IN HIRING.—A State may require recipients of funds under this section to provide a preference in employment to—

(1) an individual who—

(A) during the 1998 calendar year, was employed in the manufacture, processing, or warehousing of tobacco or tobacco products, or resided, in a county described in subsection (e)(2); and

(B) is eligible for assistance under the tobacco worker transition program established under section 1031; or

(2) an individual who—

(A) during the 1998 marketing year, carried out tobacco quota or relevant tobacco production activities in a county described in subsection (e)(2);

(B) is eligible for a farmer opportunity grant under subpart 9 of part A of title IV of the Higher Education Act of 1965; and

(C) has successfully completed a course of study at an institution of higher education.

(g) MAINTENANCE OF EFFORT.—

(1) IN GENERAL.—Subject to paragraph (2), a State shall provide an assurance to the Secretary that the amount of funds expended by the State and all counties in the State described in subsection (e)(2) for any activities funded under this section for a fiscal year is not less than 90 percent of the amount of funds expended by the State and counties for the activities for the preceding fiscal year.

(2) REDUCTION OF GRANT AMOUNT.—If a State does not provide an assurance described in paragraph (1), the Secretary shall reduce the amount of the grant determined under subsection (c) by an amount equal to the amount by which the amount of funds expended by the State and counties for the activities is less than 90 percent of the amount of funds expended by the State and counties for the activities for the preceding fiscal year, as determined by the Secretary.

(3) FEDERAL FUNDS.—For purposes of this subsection, the amount of funds expended by a State or county shall not include any amounts made available by the Federal Government.

SEC. 1024. FLUE-CURED TOBACCO PRODUCTION PERMITS.

The Agricultural Adjustment Act of 1938 is amended by inserting after section 317 (7 U.S.C. 1314c) the following:

"SEC. 317A. FLUE-CURED TOBACCO PRODUCTION PERMITS.

"(a) DEFINITIONS.—In this section:

"(1) INDIVIDUAL ACREAGE LIMITATION.—The term 'individual acreage limitation' means the number of acres of flue-cured tobacco that may be planted by the holder of a permit during a marketing year, calculated—

"(A) prior to—

"(i) any increase or decrease in the number due to undermarketings or overmarketings; and

"(ii) any reduction under subsection (i); and

"(B) in a manner that ensures that—

"(i) the total of all individual acreage limitations is equal to the national acreage allotment, less the reserve provided under subsection (h); and

"(ii) the individual acreage limitation for a marketing year bears the same ratio to the individual acreage limitation for the previous marketing year as the ratio that the national acreage allotment for the marketing year bears to the national acreage allotment for the previous marketing year, subject to adjustments by the Secretary to account for any reserve provided under subsection (h).

"(2) INDIVIDUAL MARKETING LIMITATION.—The term 'individual marketing limitation' means the number of pounds of flue-cured tobacco that may be marketed by the holder of a permit during a marketing year, calculated—

"(A) prior to—

"(i) any increase or decrease in the number due to undermarketings or overmarketings; and

"(ii) any reduction under subsection (i); and

"(B) in a manner that ensures that—

"(i) the total of all individual marketing limitations is equal to the national marketing quota, less the reserve provided under subsection (h); and

"(ii) the individual marketing limitation for a marketing year is obtained by multiplying the individual acreage limitation by the permit yield, prior to any adjustment for undermarketings or overmarketings.

"(3) INDIVIDUAL TOBACCO PRODUCTION PERMIT.—The term 'individual tobacco production permit' means a permit issued by the Secretary to a person authorizing the production of flue-cured tobacco for any marketing year during which this section is effective.

"(4) NATIONAL ACREAGE ALLOTMENT.—The term 'national acreage allotment' means the quantity determined by dividing—

"(A) the national marketing quota; by

"(B) the national average yield goal.

"(5) NATIONAL AVERAGE YIELD GOAL.—The term 'national average yield goal' means the national average yield for flue-cured tobacco during the 5 marketing years immediately preceding the marketing year for which the determination is being made.

"(6) NATIONAL MARKETING QUOTA.—For the 1999 and each subsequent crop of flue-cured tobacco, the term 'national marketing quota' for a marketing year means the quantity of flue-cured tobacco, as determined by the Secretary, that is not more than 103 percent nor less than 97 percent of the total of—

"(A) the aggregate of the quantities of flue-cured tobacco that domestic manufacturers of cigarettes estimate that the manufacturers intend to purchase on the United States auction markets or from producers during the marketing year, as compiled and determined under section 320A;

"(B) the average annual quantity of flue-cured tobacco exported from the United States during the 3 marketing years immediately preceding the marketing year for which the determination is being made; and

"(C) the quantity, if any, of flue-cured tobacco that the Secretary, in the discretion of the Secretary, determines is necessary to increase or decrease the inventory of the producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of flue-cured tobacco to establish or maintain the inventory at the reserve stock level for flue-cured tobacco.

"(7) PERMIT YIELD.—The term 'permit yield' means the yield of tobacco per acre for an individual tobacco production permit holder that is—

"(A) based on a preliminary permit yield that is equal to the average yield during the 5 marketing years immediately preceding the marketing year for which the determination is made in the county where the holder

of the permit is authorized to plant flue-cured tobacco, as determined by the Secretary, on the basis of actual yields of farms in the county; and

"(B) adjusted by a weighted national yield factor calculated by—

"(i) multiplying each preliminary permit yield by the individual acreage limitation, prior to adjustments for overmarketings, undermarketings, or reductions required under subsection (i); and

"(ii) dividing the sum of the products under clause (i) for all flue-cured individual tobacco production permit holders by the national acreage allotment.

"(b) INITIAL ISSUANCE OF PERMITS.—

"(1) TERMINATION OF FLUE-CURED MARKETING QUOTAS.—On the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act, farm marketing quotas as provided under section 317 shall no longer be in effect for flue-cured tobacco.

"(2) ISSUANCE OF PERMITS TO QUOTA HOLDERS THAT WERE PRINCIPAL PRODUCERS.—

"(A) IN GENERAL.—By January 15, 1999, each individual quota holder under section 317 that was a principal producer of flue-cured tobacco during the 1998 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

"(B) NOTIFICATION.—The Secretary shall notify the holder of each permit of the individual acreage limitation and the individual marketing limitation applicable to the holder for each marketing year.

"(C) INDIVIDUAL ACREAGE LIMITATION FOR 1999 MARKETING YEAR.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

"(D) INDIVIDUAL MARKETING LIMITATION FOR 1999 MARKETING YEAR.—In establishing the individual marketing limitation for the 1999 marketing year under this section, the farm marketing quota that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual marketing limitation for the previous marketing year.

"(3) QUOTA HOLDERS THAT WERE NOT PRINCIPAL PRODUCERS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), on approval through a referendum under subsection (c)—

"(i) each person that was a quota holder under section 317 but that was not a principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall not be eligible to own a permit; and

"(ii) the Secretary shall not issue any permit during the 25-year period beginning on the date of enactment of this Act to any person that was a quota holder and was not the principal producer of flue-cured tobacco during the 1997 marketing year.

"(B) MEDICAL HARDSHIPS AND CROP DISASTERS.—Subparagraph (A) shall not apply to a person that would have been the principal producer of flue-cured tobacco during the 1997 marketing year but for a medical hardship or crop disaster that occurred during the 1997 marketing year.

"(C) ADMINISTRATION.—The Secretary shall issue regulations—

"(i) defining the term 'person' for the purpose of this paragraph; and

"(ii) prescribing such rules as the Secretary determines are necessary to ensure a fair and reasonable application of the prohibition established under this paragraph.

"(4) ISSUANCE OF PERMITS TO PRINCIPAL PRODUCERS OF FLUE-CURED TOBACCO.—

"(A) IN GENERAL.—By January 15, 1999, each individual quota lessee or quota tenant (as defined in section 1002 of the LEAF Act) that was the principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

"(B) INDIVIDUAL ACREAGE LIMITATIONS.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by a quota holder for whom the quota lessee or quota tenant was the principal producer of flue-cured tobacco during the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

"(C) INDIVIDUAL MARKETING LIMITATIONS.—In establishing the individual marketing limitation for the 1999 marketing year under this section, the individual marketing limitation for the previous year for an individual described in this paragraph shall be calculated by multiplying—

"(i) the farm marketing quota that was allotted to a farm owned by a quota holder for whom the quota lessee or quota holder was the principal producer of flue-cured tobacco during the 1997 marketing year, by

"(ii) the ratio that—

"(I) the sum of all flue-cured tobacco farm marketing quotas for the 1997 marketing year prior to adjusting for undermarketing and overmarketing; bears to

"(II) the sum of all flue-cured tobacco farm marketing quotas for the 1998 marketing year, after adjusting for undermarketing and overmarketing.

"(D) SPECIAL RULE FOR TENANT OF LEASED FLUE-CURED TOBACCO.—If the farm marketing quota or farm acreage allotment of a quota holder was produced pursuant to an agreement under which a quota lessee rented land from a quota holder and a quota tenant was the primary producer, as determined by the Secretary, of flue-cured tobacco pursuant to the farm marketing quota or farm acreage allotment, the farm marketing quota or farm acreage allotment shall be divided proportionately between the quota lessee and quota tenant for purposes of issuing individual tobacco production permits under this paragraph.

"(5) OPTION OF QUOTA LESSEE OR QUOTA TENANT TO RELINQUISH PERMIT.—

"(A) IN GENERAL.—Each quota lessee or quota tenant that is issued an individual tobacco production permit under paragraph (4) shall be given the option of relinquishing the permit in exchange for payments made under section 1021(e)(5) of the LEAF Act.

"(B) NOTIFICATION.—A quota lessee or quota tenant that is issued an individual tobacco production permit shall give notification of the intention to exercise the option at such time and in such manner as the Secretary may require, but not later than 45 days after the permit is issued.

"(C) REALLOCATION OF PERMIT.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit relinquished under this paragraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

"(6) ACTIVE PRODUCER REQUIREMENT.—

"(A) REQUIREMENT FOR SHARING RISK.—No individual tobacco production permit shall be issued to, or maintained by, a person that does not fully share in the risk of producing a crop of flue-cured tobacco.

"(B) CRITERIA FOR SHARING RISK.—For purposes of this paragraph, a person shall be considered to have fully shared in the risk of production of a crop if—

"(i) the investment of the person in the production of the crop is not less than 100 percent of the costs of production associated with the crop;

"(ii) the amount of the person's return on the investment is dependent solely on the sale price of the crop; and

"(iii) the person may not receive any of the return before the sale of the crop.

"(C) PERSONS NOT SHARING RISK.—

"(i) FORFEITURE.—Any person that fails to fully share in the risks of production under this paragraph shall forfeit an individual tobacco production permit if, after notice and opportunity for a hearing, the appropriate county committee determines that the conditions for forfeiture exist.

"(ii) REALLOCATION.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit forfeited under this subparagraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

"(D) NOTICE.—Notice of any determination made by a county committee under subparagraph (C) shall be mailed, as soon as practicable, to the person involved.

"(E) REVIEW.—If the person is dissatisfied with the determination, the person may request, not later than 15 days after notice of the determination is received, a review of the determination by a local review committee under the procedures established under section 363 for farm marketing quotas.

"(7) COUNTY OF ORIGIN REQUIREMENT.—For the 1999 and each subsequent crop of flue-cured tobacco, all tobacco produced pursuant to an individual tobacco production permit shall be produced in the same county in which was produced the tobacco produced during the 1997 marketing year pursuant to the farm marketing quota or farm acreage allotment on which the individual tobacco production permit is based.

"(8) COUNTY PRODUCTION POOL.—

"(A) IN GENERAL.—The authority to produce flue-cured tobacco under an individual tobacco production permit that is forfeited, relinquished, or surrendered within a county may be reallocated by the appropriate county committee to tobacco producers located in the same county that apply to the committee to produce flue-cured tobacco under the authority.

"(B) PRIORITY.—In reallocating individual tobacco production permits under this paragraph, a county committee shall provide a priority to—

"(i) an active tobacco producer that controls the authority to produce a quantity of flue-cured tobacco under an individual tobacco production permit that is equal to or less than the average number of pounds of flue-cured tobacco that was produced by the producer during each of the 1995 through 1997 marketing years, as determined by the Secretary; and

"(ii) a new tobacco producer.

"(C) CRITERIA.—Individual tobacco production permits shall be reallocated by the appropriate county committee under this paragraph in a fair and equitable manner after taking into consideration—

"(i) the experience of the producer;

"(ii) the availability of land, labor, and equipment for the production of tobacco;

"(iii) crop rotation practices; and

"(iv) the soil and other physical factors affecting the production of tobacco.

"(D) MEDICAL HARDSHIPS AND CROP DISASTERS.—Notwithstanding any other provision of this Act, the Secretary may issue an individual tobacco production permit under this paragraph to a producer that is otherwise ineligible for the permit due to a medical hardship or crop disaster that occurred during the 1997 marketing year.

"(c) REFERENDUM.—

"(1) ANNOUNCEMENT OF QUOTA AND ALLOTMENT.—Not later than December 15, 1998, the Secretary pursuant to subsection (b) shall determine and announce—

"(A) the quantity of the national marketing quota for flue-cured tobacco for the 1999 marketing year; and

"(B) the national acreage allotment and national average yield goal for the 1999 crop of flue-cured tobacco.

"(2) SPECIAL REFERENDUM.—Not later than 30 days after the announcement of the quantity of the national marketing quota in 2001, the Secretary shall conduct a special referendum of the tobacco production permit holders that were the principal producers of flue-cured tobacco of the 1997 crop to determine whether the producers approve or oppose the continuation of individual tobacco production permits on an acreage-poundage basis as provided in this section for the 2002 through 2004 marketing years.

"(3) APPROVAL OF PERMITS.—If the Secretary determines that more than 66⅔ percent of the producers voting in the special referendum approve the establishment of individual tobacco production permits on an acreage-poundage basis—

"(A) individual tobacco production permits on an acreage-poundage basis as provided in this section shall be in effect for the 2002 through 2004 marketing years; and

"(B) marketing quotas on an acreage-poundage basis shall cease to be in effect for the 2002 through 2004 marketing years.

"(4) DISAPPROVAL OF PERMITS.—If individual tobacco production permits on an acreage-poundage basis are not approved by more than 66⅔ percent of the producers voting in the referendum, no marketing quotas on an acreage-poundage basis shall continue in effect that were proclaimed under section 317 prior to the referendum.

"(5) APPLICABLE MARKETING YEARS.—If individual tobacco production permits have been made effective for flue-cured tobacco on an acreage-poundage basis pursuant to this subsection, the Secretary shall, not later than December 15 of any future marketing year, announce a national marketing quota for that type of tobacco for the next 3 succeeding marketing years if the marketing year is the last year of 3 consecutive years for which individual tobacco production permits previously proclaimed will be in effect.

"(d) ANNUAL ANNOUNCEMENT OF NATIONAL MARKETING QUOTA.—The Secretary shall determine and announce the national marketing quota, national acreage allotment, and national average yield goal for the second and third marketing years of any 3-year period for which individual tobacco production permits are in effect on or before the December 15 immediately preceding the beginning of the marketing year to which the quota, allotment, and goal apply.

"(e) ANNUAL ANNOUNCEMENT OF INDIVIDUAL TOBACCO PRODUCTION PERMITS.—If a national marketing quota, national acreage allotment, and national average yield goal are determined and announced, the Secretary shall provide for the determination of individual tobacco production permits, individual acreage limitations, and individual marketing limitations under this section for the crop and marketing year covered by the determinations.

"(f) ASSIGNMENT OF TOBACCO PRODUCTION PERMITS.—

"(1) LIMITATION TO SAME COUNTY.—Each individual tobacco production permit holder shall assign the individual acreage limitation and individual marketing limitation to 1 or more farms located within the county of origin of the individual tobacco production permit.

"(2) FILING WITH COUNTY COMMITTEE.—The assignment of an individual acreage limitation and individual marketing limitation shall not be effective until evidence of the assignment, in such form as required by the Secretary, is filed with and determined by the county committee for the county in which the farm involved is located.

"(3) LIMITATION ON TILLABLE CROPLAND.—The total acreage assigned to any farm under this subsection shall not exceed the acreage of cropland on the farm.

"(g) PROHIBITION ON SALE OR LEASING OF INDIVIDUAL TOBACCO PRODUCTION PERMITS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Secretary shall not permit the sale and transfer, or lease and transfer, of an individual tobacco production permit issued under this section.

"(2) TRANSFER TO DESCENDANTS.—

"(A) DEATH.—In the case of the death of a person to whom an individual tobacco production permit has been issued under this section, the permit shall transfer to the surviving spouse of the person or, if there is no surviving spouse, to surviving direct descendants of the person.

"(B) TEMPORARY INABILITY TO FARM.—In the case of the death of a person to whom an individual tobacco production permit has been issued under this section and whose descendants are temporarily unable to produce a crop of tobacco, the Secretary may hold the license in the name of the descendants for a period of not more than 18 months.

"(3) VOLUNTARY TRANSFERS.—A person that is eligible to obtain an individual tobacco production permit under this section may at any time transfer all or part of the permit to the person's spouse or direct descendants that are actively engaged in the production of tobacco.

"(h) RESERVE.—

"(1) IN GENERAL.—For each marketing year for which individual tobacco production permits are in effect under this section, the Secretary may establish a reserve from the national marketing quota in a quantity equal to not more than 1 percent of the national marketing quota to be available for—

"(A) making corrections of errors in individual acreage limitations and individual marketing limitations;

"(B) adjusting inequities; and

"(C) establishing individual tobacco production permits for new tobacco producers (except that not less than two-thirds of the reserve shall be for establishing such permits for new tobacco producers).

"(2) ELIGIBLE PERSONS.—To be eligible for a new individual tobacco production permit, a producer must not have been the principal producer of tobacco during the immediately preceding 5 years.

"(3) APPORTIONMENT FOR NEW PRODUCERS.—The part of the reserve held for apportionment to new individual tobacco producers shall be allotted on the basis of—

"(A) land, labor, and equipment available for the production of tobacco;

"(B) crop rotation practices;

"(C) soil and other physical factors affecting the production of tobacco; and

"(D) the past tobacco-producing experience of the producer.

"(4) PERMIT YIELD.—The permit yield for any producer for which a new individual tobacco production permit is established shall be determined on the basis of available productivity data for the land involved and yields for similar farms in the same county.

"(i) PENALTIES.—

"(1) PRODUCTION ON OTHER FARMS.—If any quantity of tobacco is marketed as having been produced under an individual acreage limitation or individual marketing limitation assigned to a farm but was produced on a different farm, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

"(2) FALSE REPORT.—If a person to which an individual tobacco production permit is issued files, or aids or acquiesces in the filing of, a false report with respect to the assignment of an individual acreage limitation or individual marketing limitation for a quantity of tobacco, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

"(j) MARKETING PENALTIES.—

"(1) IN GENERAL.—When individual tobacco production permits under this section are in effect, provisions with respect to penalties for the marketing of excess tobacco and the other provisions contained in section 314 shall apply in the same manner and to the same extent as they would apply under section 317(g) if farm marketing quotas were in effect.

"(2) PRODUCTION ON OTHER FARMS.—If a producer falsely identifies tobacco as having been produced on or marketed from a farm to which an individual acreage limitation or individual marketing limitation has been assigned, future individual acreage limitations and individual marketing limitations shall be forfeited.".

SEC. 1025. MODIFICATIONS IN FEDERAL TOBACCO PROGRAMS.

(a) PROGRAM REFERENDA.—Section 312(c) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1312(c)) is amended—

(1) by striking "(c) Within thirty" and inserting the following:

"(c) REFERENDA ON QUOTAS.—

"(1) IN GENERAL.—Not later than 30"; and

(2) by adding at the end the following:

"(2) REFERENDA ON PROGRAM CHANGES.—

"(A) IN GENERAL.—In the case of any type of tobacco for which marketing quotas are in effect, on the receipt of a petition from more than 5 percent of the producers of that type of tobacco in a State, the Secretary shall conduct a statewide referendum on any proposal related to the lease and transfer of tobacco quota within a State requested by the petition that is authorized under this part.

"(B) APPROVAL OF PROPOSALS.—If a majority of producers of the type of tobacco in the State approve a proposal in a referendum conducted under subparagraph (A), the Secretary shall implement the proposal in a manner that applies to all producers and quota holders of that type of tobacco in the State.".

(b) PURCHASE REQUIREMENTS.—Section 320B of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314h) is amended—

(1) in subsection (c)—

(A) by striking "(c) The amount" and inserting "(c) AMOUNT OF PENALTY.—For the 1998 and subsequent marketing years, the amount"; and

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

"(1) 105 percent of the average market price for the type of tobacco involved during the preceding marketing year; and".

(c) ELIMINATION OF TOBACCO MARKETING ASSESSMENT.—

(1) IN GENERAL.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by striking subsection (g).

(2) CONFORMING AMENDMENT.—Section 422(c) of the Uruguay Round Agreements Act (Public Law 103-465; 7 U.S.C. 1445 note) is amended by striking "section 106(g), 106A, or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445(g), 1445-1, or 1445-2)" and inserting "section 106A or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445-1, 1445-2)".

(d) ADJUSTMENT FOR LAND RENTAL COSTS.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by adding at the end the following:

"(h) ADJUSTMENT FOR LAND RENTAL COSTS.—For each of the 1999 and 2000 marketing years for flue-cured tobacco, after consultation with producers, State farm organizations and cooperative associations, the Secretary shall make an adjustment in the price support level for flue-cured tobacco equal to the annual change in the average cost per pound to flue-cured producers, as determined by the Secretary, under agreements through which producers rent land to produce flue-cured tobacco.".

(e) FIRE-CURED AND DARK AIR-CURED TOBACCO PROGRAMS.—

(1) LIMITATION ON TRANSFERS.—Section 318(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d(g)) is amended—

(A) by striking "ten" and inserting "30"; and

(B) by inserting "during any crop year" after "transferred to any farm".

(2) LOSS OF ALLOTMENT OR QUOTA THROUGH UNDERPLANTING.—Section 318 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d) is amended by adding at the end the following:

"(k) LOSS OF ALLOTMENT OR QUOTA THROUGH UNDERPLANTING.—Effective for the 1999 and subsequent marketing years, no acreage allotment or acreage-poundage quota, other than a new marketing quota, shall be established for a farm on which no fire-cured or dark air-cured tobacco was planted or considered planted during at least 2 of the 3 crop years immediately preceding the crop year for which the acreage allotment or acreage-poundage quota would otherwise be established.".

(f) EXPANSION OF TYPES OF TOBACCO SUBJECT TO NO NET COST ASSESSMENT.—

(1) NO NET COST TOBACCO FUND.—Section 106A(d)(1)(A) of the Agricultural Act of 1949 (7 U.S.C. 1445-1(d)(1)(A)) is amended—

(A) in clause (ii), by inserting after "Burley quota tobacco" the following: "and fire-cured and dark air-cured quota tobacco"; and

(B) in clause (iii)—

(i) in the matter preceding subclause (I), by striking "Flue-cured or Burley tobacco" and inserting "each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,"; and

(ii) by striking subclause (II) and inserting the following:

"(II) the sum of the amount of the per pound producer contribution and purchaser assessment (if any) for the kind of tobacco payable under clauses (i) and (ii); and".

(2) NO NET COST TOBACCO ACCOUNT.—Section 106B(d)(1) of the Agricultural Act of 1949 (7 U.S.C. 1445-2(d)(1)) is amended—

(A) in subparagraph (B), by inserting after "Burley quota tobacco" the following: "and fire-cured and dark air-cured tobacco"; and

(B) in subparagraph (C), by striking "Flue-cured and Burley tobacco" and inserting "each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,".

Subtitle C—Farmer and Worker Transition Assistance

SEC. 1031. TOBACCO WORKER TRANSITION PROGRAM.

(a) GROUP ELIGIBILITY REQUIREMENTS.—

(1) CRITERIA.—A group of workers (including workers in any firm or subdivision of a firm involved in the manufacture, processing, or warehousing of tobacco or tobacco products) shall be certified as eligible to apply for adjustment assistance under this section pursuant to a petition filed under subsection (b) if the Secretary of Labor determines that a significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated, and—

(A) the sales or production, or both, of the firm or subdivision have decreased absolutely; and

(B) the implementation of the national tobacco settlement contributed importantly to the workers' separation or threat of separation and to the decline in the sales or production of the firm or subdivision.

(2) DEFINITION OF CONTRIBUTED IMPORTANTLY.—In paragraph (1)(B), the term "contributed importantly" means a cause that is important but not necessarily more important than any other cause.

(3) REGULATIONS.—The Secretary shall issue regulations relating to the application of the criteria described in paragraph (1) in making preliminary findings under subsection (b) and determinations under subsection (c).

(b) PRELIMINARY FINDINGS AND BASIC ASSISTANCE.—

(1) FILING OF PETITIONS.—A petition for certification of eligibility to apply for adjustment assistance under this section may be filed by a group of workers (including workers in any firm or subdivision of a firm involved in the manufacture, processing, or warehousing of tobacco or tobacco products) or by their certified or recognized union or other duly authorized representative with the Governor of the State in which the workers' firm or subdivision thereof is located.

(2) FINDINGS AND ASSISTANCE.—On receipt of a petition under paragraph (1), the Governor shall—

(A) notify the Secretary that the Governor has received the petition;

(B) within 10 days after receiving the petition—

(i) make a preliminary finding as to whether the petition meets the criteria described in subsection (a)(1); and

(ii) transmit the petition, together with a statement of the finding under clause (i) and reasons for the finding, to the Secretary for action under subsection (c); and

(C) if the preliminary finding under subparagraph (B)(i) is affirmative, ensure that rapid response and basic readjustment services authorized under other Federal laws are made available to the workers.

(c) REVIEW OF PETITIONS BY SECRETARY; CERTIFICATIONS.—

(1) IN GENERAL.—The Secretary, within 30 days after receiving a petition under subsection (b)(2)(B)(ii), shall determine whether the petition meets the criteria described in subsection (a)(1). On a determination that the petition meets the criteria, the Secretary shall issue to workers covered by the petition a certification of eligibility to apply for the assistance described in subsection (d).

(2) DENIAL OF CERTIFICATION.—On the denial of a certification with respect to a petition under paragraph (1), the Secretary shall review the petition in accordance with the requirements of other applicable assistance programs to determine if the workers may be certified under the other programs.

(d) COMPREHENSIVE ASSISTANCE.—

(1) IN GENERAL.—Workers covered by a certification issued by the Secretary under subsection (c)(1) shall be provided with benefits and services described in paragraph (2) in the same manner and to the same extent as workers covered under a certification under subchapter A of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.), except that the total amount of payments under this section for any fiscal year shall not exceed $25,000,000.

(2) BENEFITS AND SERVICES.—The benefits and services described in this paragraph are the following:

(A) Employment services of the type described in section 235 of the Trade Act of 1974 (19 U.S.C. 2295).

(B) Training described in section 236 of the Trade Act of 1974 (19 U.S.C. 2296), except that notwithstanding the provisions of section 236(a)(2)(A) of that Act, the total amount of payments for training under this section for any fiscal year shall not exceed $12,500,000.

(C) Tobacco worker readjustment allowances, which shall be provided in the same manner as trade readjustment allowances are provided under part I of subchapter B of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2291 et seq.), except that—

(i) the provisions of sections 231(a)(5)(C) and 231(c) of that Act (19 U.S.C. 2291(a)(5)(C), 2291(c)), authorizing the payment of trade readjustment allowances on a finding that it is not feasible or appropriate to approve a training program for a worker, shall not be applicable to payment of allowances under this section; and

(ii) notwithstanding the provisions of section 233(b) of that Act (19 U.S.C. 2293(b)), in order for a worker to qualify for tobacco readjustment allowances under this section, the worker shall be enrolled in a training program approved by the Secretary of the type described in section 236(a) of that Act (19 U.S.C. 2296(a)) by the later of—

(I) the last day of the 16th week of the worker's initial unemployment compensation benefit period; or

(II) the last day of the 6th week after the week in which the Secretary issues a certification covering the worker.

In cases of extenuating circumstances relating to enrollment of a worker in a training program under this section, the Secretary may extend the time for enrollment for a period of not to exceed 30 days.

(D) Job search allowances of the type described in section 237 of the Trade Act of 1974 (19 U.S.C. 2297).

(E) Relocation allowances of the type described in section 238 of the Trade Act of 1974 (19 U.S.C. 2298).

(e) INELIGIBILITY OF INDIVIDUALS RECEIVING PAYMENTS FOR LOST TOBACCO QUOTA.—No benefits or services may be provided under this section to any individual who has received payments for lost tobacco quota under section 1021.

(f) FUNDING.—Of the amounts appropriated to carry out this title, the Secretary may use not to exceed $25,000,000 for each of fiscal

years 1999 through 2008 to provide assistance under this section.

(g) EFFECTIVE DATE.—This section shall take effect on the date that is the later of—

(1) October 1, 1998; or

(2) the date of enactment of this Act.

(h) TERMINATION DATE.—No assistance, vouchers, allowances, or other payments may be provided under this section after the date that is the earlier of—

(1) the date that is 10 years after the effective date of this section under subsection (g); or

(2) the date on which legislation establishing a program providing dislocated workers with comprehensive assistance substantially similar to the assistance provided by this section becomes effective.

SEC. 1032. FARMER OPPORTUNITY GRANTS.

Part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) is amended by adding at the end the following:

"Subpart 9—Farmer Opportunity Grants

"SEC. 420D. STATEMENT OF PURPOSE.

"It is the purpose of this subpart to assist in making available the benefits of postsecondary education to eligible students (determined in accordance with section 420F) in institutions of higher education by providing farmer opportunity grants to all eligible students.

"SEC. 420E. PROGRAM AUTHORITY; AMOUNT AND DETERMINATIONS; APPLICATIONS.

"(a) PROGRAM AUTHORITY AND METHOD OF DISTRIBUTION.—

"(1) PROGRAM AUTHORITY.—From amounts made available under section 1011(d)(5) of the LEAF Act, the Secretary, during the period beginning July 1, 1999, and ending September 30, 2024, shall pay to each eligible institution such sums as may be necessary to pay to each eligible student (determined in accordance with section 420F) for each academic year during which that student is in attendance at an institution of higher education, as an undergraduate, a farmer opportunity grant in the amount for which that student is eligible, as determined pursuant to subsection (b). Not less than 85 percent of the sums shall be advanced to eligible institutions prior to the start of each payment period and shall be based on an amount requested by the institution as needed to pay eligible students, except that this sentence shall not be construed to limit the authority of the Secretary to place an institution on a reimbursement system of payment.

"(2) CONSTRUCTION.—Nothing in this section shall be construed to prohibit the Secretary from paying directly to students, in advance of the beginning of the academic term, an amount for which the students are eligible, in cases where the eligible institution elects not to participate in the disbursement system required by paragraph (1).

"(3) DESIGNATION.—Grants made under this subpart shall be known as 'farmer opportunity grants'.

"(b) AMOUNT OF GRANTS.—

"(1) AMOUNTS.—

"(A) IN GENERAL.—The amount of the grant for a student eligible under this subpart shall be—

"(i) $1,700 for each of the academic years 1999–2000 through 2003–2004;

"(ii) $2,000 for each of the academic years 2004–2005 through 2008–2009;

"(iii) $2,300 for each of the academic years 2009–2010 through 2013–2014;

"(iv) $2,600 for each of the academic years 2014–2015 through 2018–2019; and

"(v) $2,900 for each of the academic years 2019–2020 through 2023–2024.

"(B) PART-TIME RULE.—In any case where a student attends an institution of higher education on less than a full-time basis (including a student who attends an institution of higher education on less than a half-time basis) during any academic year, the amount of the grant for which that student is eligible shall be reduced in proportion to the degree to which that student is not so attending on a full-time basis, in accordance with a schedule of reductions established by the Secretary for the purposes of this subparagraph, computed in accordance with this subpart. The schedule of reductions shall be established by regulation and published in the Federal Register.

"(2) MAXIMUM.—No grant under this subpart shall exceed the cost of attendance (as described in section 472) at the institution at which that student is in attendance. If, with respect to any student, it is determined that the amount of a grant exceeds the cost of attendance for that year, the amount of the grant shall be reduced to an amount equal to the cost of attendance at the institution.

"(3) PROHIBITION.—No grant shall be awarded under this subpart to any individual who is incarcerated in any Federal, State, or local penal institution.

"(c) PERIOD OF ELIGIBILITY FOR GRANTS.—

"(1) IN GENERAL.—The period during which a student may receive grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student at the institution at which the student is in attendance, except that any period during which the student is enrolled in a noncredit or remedial course of study as described in paragraph (2) shall not be counted for the purpose of this paragraph.

"(2) CONSTRUCTION.—Nothing in this section shall be construed to—

"(A) exclude from eligibility courses of study that are noncredit or remedial in nature and that are determined by the institution to be necessary to help the student be prepared for the pursuit of a first undergraduate baccalaureate degree or certificate or, in the case of courses in English language instruction, to be necessary to enable the student to utilize already existing knowledge, training, or skills; and

"(B) exclude from eligibility programs of study abroad that are approved for credit by the home institution at which the student is enrolled.

"(3) PROHIBITION.—No student is entitled to receive farmer opportunity grant payments concurrently from more than 1 institution or from the Secretary and an institution.

"(d) APPLICATIONS FOR GRANTS.—

"(1) IN GENERAL.—The Secretary shall from time to time set dates by which students shall file applications for grants under this subpart. The filing of applications under this subpart shall be coordinated with the filing of applications under section 401(c).

"(2) INFORMATION AND ASSURANCES.—Each student desiring a grant for any year shall file with the Secretary an application for the grant containing such information and assurances as the Secretary may deem necessary to enable the Secretary to carry out the Secretary's functions and responsibilities under this subpart.

"(e) DISTRIBUTION OF GRANTS TO STUDENTS.—Payments under this section shall be made in accordance with regulations promulgated by the Secretary for such purpose, in such manner as will best accomplish the purpose of this section. Any disbursement allowed to be made by crediting the student's account shall be limited to tuition and fees and, in the case of institutionally owned housing, room and board. The student may elect to have the institution provide other such goods and services by crediting the student's account.

"(f) INSUFFICIENT FUNDING.—If, for any fiscal year, the funds made available to carry out this subpart are insufficient to satisfy fully all grants for students determined to be eligible under section 420F, the amount of the grant provided under subsection (b) shall be reduced on a pro rata basis among all eligible students.

"(g) TREATMENT OF INSTITUTIONS AND STUDENTS UNDER OTHER LAWS.—Any institution of higher education that enters into an agreement with the Secretary to disburse to students attending that institution the amounts those students are eligible to receive under this subpart shall not be deemed, by virtue of the agreement, to be a contractor maintaining a system of records to accomplish a function of the Secretary. Recipients of farmer opportunity grants shall not be considered to be individual grantees for purposes of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq.).

"SEC. 420F. STUDENT ELIGIBILITY.

"(a) IN GENERAL.—In order to receive any grant under this subpart, a student shall—

"(1) be a member of a tobacco farm family in accordance with subsection (b);

"(2) be enrolled or accepted for enrollment in a degree, certificate, or other program (including a program of study abroad approved for credit by the eligible institution at which the student is enrolled) leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with section 487, and not be enrolled in an elementary or secondary school;

"(3) if the student is presently enrolled at an institution of higher education, be maintaining satisfactory progress in the course of study the student is pursuing in accordance with subsection (c);

"(4) not owe a refund on grants previously received at any institution of higher education under this title, or be in default on any loan from a student loan fund at any institution provided for in part D, or a loan made, insured, or guaranteed by the Secretary under this title for attendance at any institution;

"(5) file with the institution of higher education that the student intends to attend, or is attending, a document, that need not be notarized, but that shall include—

"(A) a statement of educational purpose stating that the money attributable to the grant will be used solely for expenses related to attendance or continued attendance at the institution; and

"(B) the student's social security number; and

"(6) be a citizen of the United States.

"(b) TOBACCO FARM FAMILIES.—

"(1) IN GENERAL.—For the purpose of subsection (a)(1), a student is a member of a tobacco farm family if during calendar year 1998 the student was—

"(A) an individual who—

"(i) is a participating tobacco producer (as defined in section 1002 of the LEAF Act) who is a principal producer of tobacco on a farm; or

"(ii) is otherwise actively engaged in the production of tobacco;

"(B) a spouse, son, daughter, stepson, or stepdaughter of an individual described in subparagraph (A);

"(C) an individual who was a dependent (within the meaning of section 152 of the Internal Revenue Code of 1986) of an individual described in subparagraph (A).

"(2) ADMINISTRATION.—On request, the Secretary of Agriculture shall provide to the Secretary such information as is necessary to carry out this subsection.

"(c) SATISFACTORY PROGRESS.—

"(1) IN GENERAL.—For the purpose of subsection (a)(3), a student is maintaining satisfactory progress if—

"(A) the institution at which the student is in attendance reviews the progress of the student at the end of each academic year, or its equivalent, as determined by the institution; and

"(B) the student has at least a cumulative C average or its equivalent, or academic standing consistent with the requirements for graduation, as determined by the institution, at the end of the second such academic year.

"(2) SPECIAL RULE.—Whenever a student fails to meet the eligibility requirements of subsection (a)(3) as a result of the application of this subsection and subsequent to that failure the student has academic standing consistent with the requirements for graduation, as determined by the institution, for any grading period, the student may, subject to this subsection, again be eligible under subsection (a)(3) for a grant under this subpart.

"(3) WAIVER.—Any institution of higher education at which the student is in attendance may waive paragraph (1) or (2) for undue hardship based on—

"(A) the death of a relative of the student;

"(B) the personal injury or illness of the student; or

"(C) special circumstances as determined by the institution.

"(d) STUDENTS WHO ARE NOT SECONDARY SCHOOL GRADUATES.—In order for a student who does not have a certificate of graduation from a school providing secondary education, or the recognized equivalent of the certificate, to be eligible for any assistance under this subpart, the student shall meet either 1 of the following standards:

"(1) EXAMINATION.—The student shall take an independently administered examination and shall achieve a score, specified by the Secretary, demonstrating that the student can benefit from the education or training being offered. The examination shall be approved by the Secretary on the basis of compliance with such standards for development, administration, and scoring as the Secretary may prescribe in regulations.

"(2) DETERMINATION.—The student shall be determined as having the ability to benefit from the education or training in accordance with such process as the State shall prescribe. Any such process described or approved by a State for the purposes of this section shall be effective 6 months after the date of submission to the Secretary unless the Secretary disapproves the process. In determining whether to approve or disapprove the process, the Secretary shall take into account the effectiveness of the process in enabling students without secondary school diplomas or the recognized equivalent to benefit from the instruction offered by institutions utilizing the process, and shall also take into account the cultural diversity, economic circumstances, and educational preparation of the populations served by the institutions.

"(e) SPECIAL RULE FOR CORRESPONDENCE COURSES.—A student shall not be eligible to receive a grant under this subpart for a correspondence course unless the course is part of a program leading to an associate, bachelor, or graduate degree.

"(f) COURSES OFFERED THROUGH TELECOMMUNICATIONS.—

"(1) RELATION TO CORRESPONDENCE COURSES.—A student enrolled in a course of instruction at an eligible institution of higher education (other than an institute or school that meets the definition in section 521(4)(C) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471(4)(C))) that is offered in whole or in part through telecommunications and leads to a recognized associate, bachelor, or graduate degree conferred by the institution shall not be considered to be enrolled in correspondence courses unless the total amount of telecommunications and correspondence courses at the institution equals or exceeds 50 percent of the courses.

"(2) RESTRICTION OR REDUCTIONS OF FINANCIAL AID.—A student's eligibility to receive a grant under this subpart may be reduced if a financial aid officer determines under the discretionary authority provided in section 479A that telecommunications instruction results in a substantially reduced cost of attendance to the student.

"(3) DEFINITION.—For the purposes of this subsection, the term 'telecommunications' means the use of television, audio, or computer transmission, including open broadcast, closed circuit, cable, microwave, or satellite, audio conferencing, computer conferencing, or video cassettes or discs, except that the term does not include a course that is delivered using video cassette or disc recordings at the institution and that is not delivered in person to other students of that institution.

"(g) STUDY ABROAD.—Nothing in this subpart shall be construed to limit or otherwise prohibit access to study abroad programs approved by the home institution at which a student is enrolled. An otherwise eligible student who is engaged in a program of study abroad approved for academic credit by the home institution at which the student is enrolled shall be eligible to receive a grant under this subpart, without regard to whether the study abroad program is required as part of the student's degree program.

"(h) VERIFICATION OF SOCIAL SECURITY NUMBER.—The Secretary, in cooperation with the Commissioner of Social Security, shall verify any social security number provided by a student to an eligible institution under subsection (a)(5)(B) and shall enforce the following conditions:

"(1) PENDING VERIFICATION.—Except as provided in paragraphs (2) and (3), an institution shall not deny, reduce, delay, or terminate a student's eligibility for assistance under this subpart because social security number verification is pending.

"(2) DENIAL OR TERMINATION.—If there is a determination by the Secretary that the social security number provided to an eligible institution by a student is incorrect, the institution shall deny or terminate the student's eligibility for any grant under this subpart until such time as the student provides documented evidence of a social security number that is determined by the institution to be correct.

"(3) CONSTRUCTION.—Nothing in this subsection shall be construed to permit the Secretary to take any compliance, disallowance, penalty, or other regulatory action against—

"(A) any institution of higher education with respect to any error in a social security number, unless the error was a result of fraud on the part of the institution; or

"(B) any student with respect to any error in a social security number, unless the error was a result of fraud on the part of the student.".

Subtitle D—Immunity

SEC. 1041. GENERAL IMMUNITY FOR TOBACCO PRODUCERS AND TOBACCO WAREHOUSE OWNERS.

Notwithstanding any other provision of this title, a participating tobacco producer, tobacco-related growers association, or tobacco warehouse owner or employee may not be subject to liability in any Federal or State court for any cause of action resulting from the failure of any tobacco product manufacturer, distributor, or retailer to comply with the National Tobacco Policy and Youth Smoking Reduction Act.

Subtitle E—Applicability

SEC. 1051. APPLICABILITY OF TITLE XV.

Notwithstanding any other provision of this Act, title XV of this Act shall have no force or effect.

FORD (AND OTHERS) AMENDMENT NO. 2624

(Ordered to lie on the table.)

Mr. FORD (for himself, Mr. HOLLINGS, and Mr. ROBB) submitted an amendment intended to be proposed by them to amendment No. 2497 proposed by Mr. LUGAR to the bill, S. 1415, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

TITLE X—LONG-TERM ECONOMIC ASSISTANCE FOR FARMERS

SEC. 1001. SHORT TITLE.

This title may be cited as the "Long-Term Economic Assistance for Farmers Act" or the "LEAF Act".

SEC. 1002. DEFINITIONS.

In this title:

(1) PARTICIPATING TOBACCO PRODUCER.—The term "participating tobacco producer" means a quota holder, quota lessee, or quota tenant.

(2) QUOTA HOLDER.—The term "quota holder" means an owner of a farm on January 1, 1998, for which a tobacco farm marketing quota or farm acreage allotment was established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.).

(3) QUOTA LESSEE.—The term "quota lessee" means—

(A) a producer that owns a farm that produced tobacco pursuant to a lease and transfer to that farm of all or part of a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years; or

(B) a producer that rented land from a farm operator to produce tobacco under a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years.

(4) QUOTA TENANT.—The term "quota tenant" means a producer that—

(A) is the principal producer, as determined by the Secretary, of tobacco on a farm where tobacco is produced pursuant to a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years; and

(B) is not a quota holder or quota lessee.

(5) SECRETARY.—The term "Secretary" means—

(A) in subtitles A and B, the Secretary of Agriculture; and

(B) in section 1031, the Secretary of Labor.

(6) TOBACCO PRODUCT IMPORTER.—The term "tobacco product importer" has the meaning given the term "importer" in section 5702 of the Internal Revenue Code of 1986.

(7) TOBACCO PRODUCT MANUFACTURER.—

(A) IN GENERAL.—The term "tobacco product manufacturer" has the meaning given the term "manufacturer of tobacco products" in section 5702 of the Internal Revenue Code of 1986.

(B) EXCLUSION.—The term "tobacco product manufacturer" does not include a person that manufactures cigars or pipe tobacco.

(8) TOBACCO WAREHOUSE OWNER.—The term "tobacco warehouse owner" means a warehouseman that participated in an auction market (as defined in the first section of the Tobacco Inspection Act (7 U.S.C. 511)) during the 1998 marketing year.

(9) FLUE-CURED TOBACCO.—The term "flue-cured tobacco" includes type 21 and type 37 tobacco.

Subtitle A—Tobacco Community Revitalization

SEC. 1011. AUTHORIZATION OF APPROPRIATIONS.

There are appropriated and transferred to the Secretary for each fiscal year such amounts from the National Tobacco Trust Fund established by section 401, other than from amounts in the State Litigation Settlement Account, as may be necessary to carry out the provisions of this title.

SEC. 1012. EXPENDITURES.

The Secretary is authorized, subject to appropriations, to make payments under—

(1) section 1021 for payments for lost tobacco quota for each of fiscal years 1999 through 2023, but not to exceed $1,650,000,000 for any fiscal year except to the extent the payments are made in accordance with subsection (d)(12) or (e)(9) of section 1021;

(2) section 1022 for industry payments for all costs of the Department of Agriculture associated with the production of tobacco;

(3) section 1023 for tobacco community economic development grants, but not to exceed—

(A) $375,000,000 for each of fiscal years 1999 through 2008, less any amount required to be paid under section 1022 for the fiscal year; and

(B) $450,000,000 for each of fiscal year 2009 through 2023, less any amount required to be paid under section 1022 during the fiscal year;

(4) section 1031 for assistance provided under the tobacco worker transition program, but not to exceed $25,000,000 for any fiscal year; and

(5) subpart 9 of part A of title IV of the Higher Education Act of 1965 for farmer opportunity grants, but not to exceed—

(A) $42,500,000 for each of the academic years 1999–2000 through 2003–2004;

(B) $50,000,000 for each of the academic years 2004–2005 through 2008–2009;

(C) $57,500,000 for each of the academic years 2009–2010 through 2013–2014;

(D) $65,000,000 for each of the academic years 2014–2015 through 2018–2019; and

(E) $72,500,000 for each of the academic years 2019–2020 through 2023–2024.

SEC. 1013. BUDGETARY TREATMENT.

This subtitle constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide payments to States and eligible persons in accordance with this title.

Subtitle B—Tobacco Market Transition Assistance

SEC. 1021. PAYMENTS FOR LOST TOBACCO QUOTA.

(a) IN GENERAL.—Beginning with the 1999 marketing year, the Secretary shall make payments for lost tobacco quota to eligible quota holders, quota lessees, and quota tenants as reimbursement for lost tobacco quota.

(b) ELIGIBILITY.—To be eligible to receive payments under this section, a quota holder, quota lessee, or quota tenant shall—

(1) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including information sufficient to make the demonstration required under paragraph (2); and

(2) demonstrate to the satisfaction of the Secretary that, with respect to the 1997 marketing year—

(A) the producer was a quota holder and realized income (or would have realized income, as determined by the Secretary, but for a medical hardship or crop disaster during the 1997 marketing year) from the production of tobacco through—

(i) the active production of tobacco;

(ii) the lease and transfer of tobacco quota to another farm;

(iii) the rental of all or part of the farm of the quota holder, including the right to produce tobacco, to another tobacco producer; or

(iv) the hiring of a quota tenant to produce tobacco;

(B) the producer was a quota lessee; or

(C) the producer was a quota tenant.

(c) BASE QUOTA LEVEL.—

(1) IN GENERAL.—The Secretary shall determine, for each quota holder, quota lessee, and quota tenant, the base quota level for the 1995 through 1997 marketing years.

(2) QUOTA HOLDERS.—The base quota level for a quota holder shall be equal to the average tobacco farm marketing quota established for the farm owned by the quota holder for the 1995 through 1997 marketing years.

(3) QUOTA LESSEES.—The base quota level for a quota lessee shall be equal to—

(A) 50 percent of the average number of pounds of tobacco quota established for the farm for the 1995 through 1997 marketing years—

(i) that was leased and transferred to a farm owned by the quota lessee; or

(ii) that was rented to the quota lessee for the right to produce the tobacco; less

(B) 25 percent of the average number of pounds of tobacco quota described in subparagraph (A) for which a quota tenant was the principal producer of the tobacco quota.

(4) QUOTA TENANTS.—The base quota level for a quota tenant shall be equal to the sum of—

(A) 50 percent of the average number of pounds of tobacco quota established for a farm for the 1995 through 1997 marketing years—

(i) that was owned by a quota holder; and

(ii) for which the quota tenant was the principal producer of the tobacco on the farm; and

(B) 25 percent of the average number of pounds of tobacco quota for the 1995 through 1997 marketing years—

(i)(I) that was leased and transferred to a farm owned by the quota lessee; or

(II) for which the rights to produce the tobacco were rented to the quota lessee; and

(ii) for which the quota tenant was the principal producer of the tobacco on the farm.

(5) MARKETING QUOTAS OTHER THAN POUNDAGE QUOTAS.—

(A) IN GENERAL.—For each type of tobacco for which there is a marketing quota or allotment (on an acreage basis), the base quota level for each quota holder, quota lessee, or quota tenant shall be determined in accordance with this subsection (based on a poundage conversion) by multiplying—

(i) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; and

(ii) the average yield per acre for the farm for the type of tobacco for the marketing years.

(B) YIELDS NOT AVAILABLE.—If the average yield per acre is not available for a farm, the Secretary shall calculate the base quota for the quota holder, quota lessee, or quota tenant (based on a poundage conversion) by determining the amount equal to the product obtained by multiplying—

(i) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; and

(ii) the average county yield per acre for the county in which the farm is located for the type of tobacco for the marketing years.

(d) PAYMENTS FOR LOST TOBACCO QUOTA FOR TYPES OF TOBACCO OTHER THAN FLUE-CURED TOBACCO.—

(1) ALLOCATION OF FUNDS.—Of the amounts made available under section 1011(d)(1) for payments for lost tobacco quota, the Secretary shall make available for payments under this subsection an amount that bears the same ratio to the amounts made available as—

(A) the sum of all national marketing quotas for all types of tobacco other than flue-cured tobacco during the 1995 through 1997 marketing years; bears to

(B) the sum of all national marketing quotas for all types of tobacco during the 1995 through 1997 marketing years.

(2) OPTION TO RELINQUISH QUOTA.—

(A) IN GENERAL.—Each quota holder, for types of tobacco other than flue-cured tobacco, shall be given the option to relinquish the farm marketing quota or farm acreage allotment of the quota holder in exchange for a payment made under paragraph (3).

(B) NOTIFICATION.—A quota holder shall give notification of the intention of the quota holder to exercise the option at such time and in such manner as the Secretary may require, but not later than January 15, 1999.

(3) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA HOLDERS EXERCISING OPTIONS TO RELINQUISH QUOTA.—

(A) IN GENERAL.—Subject to subparagraph (E), for each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost tobacco quota to each quota holder that has relinquished the farm marketing quota or farm acreage allotment of the quota holder under paragraph (2).

(B) AMOUNT.—The amount of a payment made to a quota holder described in subparagraph (A) for a marketing year shall equal 1/10 of the lifetime limitation established under subparagraph (E).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the farm marketing quota or farm acreage allotment is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(E) LIFETIME LIMITATION ON PAYMENTS.—The total amount of payments made under

this paragraph to a quota holder shall not exceed the product obtained by multiplying the base quota level for the quota holder by $8 per pound.

(4) REISSUANCE OF QUOTA.—

(A) REALLOCATION TO LESSEE OR TENANT.—If a quota holder exercises an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), a quota lessee or quota tenant that was the primary producer during the 1997 marketing year of tobacco pursuant to the farm marketing quota or farm acreage allotment, as determined by the Secretary, shall be given the option of having an allotment of the farm marketing quota or farm acreage allotment reallocated to a farm owned by the quota lessee or quota tenant.

(B) CONDITIONS FOR REALLOCATION.—

(i) TIMING.—A quota lessee or quota tenant that is given the option of having an allotment of a farm marketing quota or farm acreage allotment reallocated to a farm owned by the quota lessee or quota tenant under subparagraph (A) shall have 1 year from the date on which a farm marketing quota or farm acreage allotment is relinquished under paragraph (2) to exercise the option.

(ii) LIMITATION ON ACREAGE ALLOTMENT.—In the case of a farm acreage allotment, the acreage allotment determined for any farm subsequent to any reallocation under subparagraph (A) shall not exceed 50 percent of the acreage of cropland of the farm owned by the quota lessee or quota tenant.

(iii) LIMITATION ON MARKETING QUOTA.—In the case of a farm marketing quota, the marketing quota determined for any farm subsequent to any reallocation under subparagraph (A) shall not exceed an amount determined by multiplying—

(I) the average county farm yield, as determined by the Secretary; and

(II) 50 percent of the acreage of cropland of the farm owned by the quota lessee or quota tenant.

(C) ELIGIBILITY OF LESSEE OR TENANT FOR PAYMENTS.—If a farm marketing quota or farm acreage allotment is reallocated to a quota lessee or quota tenant under subparagraph (A)—

(i) the quota lessee or quota tenant shall not be eligible for any additional payments under paragraph (5) or (6) as a result of the reallocation; and

(ii) the base quota level for the quota lessee or quota tenant shall not be increased as a result of the reallocation.

(D) REALLOCATION TO QUOTA HOLDERS WITHIN SAME COUNTY OR STATE.—

(i) IN GENERAL.—Except as provided in clause (ii), if there was no quota lessee or quota tenant for the farm marketing quota or farm acreage allotment for a type of tobacco, or if no quota lessee or quota tenant exercises an option of having an allotment of the farm marketing quota or farm acreage allotment for a type of tobacco reallocated, the Secretary shall reapportion the farm marketing quota or farm acreage allotment among the remaining quota holders for the type of tobacco within the same county.

(ii) CROSS-COUNTY LEASING.—In a State in which cross-county leasing is authorized pursuant to section 319(l) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(*l*)), the Secretary shall reapportion the farm marketing quota among the remaining quota holders for the type of tobacco within the same State.

(iii) ELIGIBILITY OF QUOTA HOLDER FOR PAYMENTS.—If a farm marketing quota is reapportioned to a quota holder under this subparagraph—

(I) the quota holder shall not be eligible for any additional payments under paragraph (5) or (6) as a result of the reapportionment; and

(II) the base quota level for the quota holder shall not be increased as a result of the reapportionment.

(E) SPECIAL RULE FOR TENANT OF LEASED TOBACCO.—If a quota holder exercises an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), the farm marketing quota or farm acreage allotment shall be divided evenly between, and the option of reallocating the farm marketing quota or farm acreage allotment shall be offered in equal portions to, the quota lessee and to the quota tenant, if—

(i) during the 1997 marketing year, the farm marketing quota or farm acreage allotment was leased and transferred to a farm owned by the quota lessee; and

(ii) the quota tenant was the primary producer, as determined by the Secretary, of tobacco pursuant to the farm marketing quota or farm acreage allotment.

(5) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA HOLDERS.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for a type of tobacco is less than the average national marketing quota for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota holder, for types of tobacco other than flue-cured tobacco, that is eligible under subsection (b), and has not exercised an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), in an amount that is equal to the product obtained by multiplying—

(i) the number of pounds by which the basic farm marketing quota (or poundage conversion) is less than the base quota level for the quota holder; and

(ii) $4 per pound.

(B) POUNDAGE CONVERSION FOR MARKETING QUOTAS OTHER THAN POUNDAGE QUOTAS.—

(i) IN GENERAL.—For each type of tobacco for which there is a marketing quota or allotment (on an acreage basis), the poundage conversion for each quota holder during a marketing year shall be determined by multiplying—

(I) the basic farm acreage allotment for the farm for the marketing year; and

(II) the average yield per acre for the farm for the type of tobacco.

(ii) YIELD NOT AVAILABLE.—If the average yield per acre is not available for a farm, the Secretary shall calculate the poundage conversion for each quota holder during a marketing year by multiplying—

(I) the basic farm acreage allotment for the farm for the marketing year; and

(II) the average county yield per acre for the county in which the farm is located for the type of tobacco.

(6) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for a type of tobacco is less than the average national marketing quota for the type of tobacco for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota lessee and quota tenant, for types of tobacco other than flue-cured tobacco, that is eligible under subsection (b) in an amount that is equal to the product obtained by multiplying—

(A) the percentage by which the national marketing quota for the type of tobacco is less than the average national marketing quota for the type of tobacco for the 1995 through 1997 marketing years;

(B) the base quota level for the quota lessee or quota tenant; and

(C) $4 per pound.

(7) LIFETIME LIMITATION ON PAYMENTS.—Except as otherwise provided in this subsection, the total amount of payments made under this subsection to a quota holder, quota lessee, or quota tenant during the lifetime of the quota holder, quota lessee, or quota tenant shall not exceed the product obtained by multiplying—

(A) the base quota level for the quota holder, quota lessee, or quota tenant; and

(B) $8 per pound.

(8) LIMITATIONS ON AGGREGATE ANNUAL PAYMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the total amount payable under this subsection for any marketing year shall not exceed the amount made available under paragraph (1).

(B) ACCELERATED PAYMENTS.—Paragraph (1) shall not apply if accelerated payments for lost tobacco quota are made in accordance with paragraph (12).

(C) REDUCTIONS.—If the sum of the amounts determined under paragraphs (3), (5), and (6) for a marketing year exceeds the amount made available under paragraph (1), the Secretary shall make a pro rata reduction in the amounts payable under paragraphs (5) and (6) to quota holders, quota lessees, and quota tenants under this subsection to ensure that the total amount of payments for lost tobacco quota does not exceed the amount made available under paragraph (1).

(D) ROLLOVER OF PAYMENTS FOR LOST TOBACCO QUOTA.—Subject to subparagraph (A), if the Secretary makes a reduction in accordance with subparagraph (C), the amount of the reduction shall be applied to the next marketing year and added to the payments for lost tobacco quota for the marketing year.

(E) ADDITIONAL PAYMENTS TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTA.—If the amount made available under paragraph (1) exceeds the sum of the amounts determined under paragraphs (3), (5), and (6) for a marketing year, the Secretary shall distribute the amount of the excess pro rata to quota holders that have exercised an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2) by increasing the amount payable to each such holder under paragraph (3).

(9) SUBSEQUENT SALE AND TRANSFER OF QUOTA.—Effective beginning with the 1999 marketing year, on the sale and transfer of a farm marketing quota or farm acreage allotment under section 316(g) or 319(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(g), 1314e(g))—

(A) the person that sold and transferred the quota or allotment shall have—

(i) the base quota level attributable to the person reduced by the base quota level attributable to the quota that is sold and transferred; and

(ii) the lifetime limitation on payments established under paragraph (7) attributable to the person reduced by the product obtained by multiplying—

(I) the base quota level attributable to the quota; and

(II) $8 per pound; and

(B) if the quota or allotment has never been relinquished by a previous quota holder under paragraph (2), the person that acquired the quota shall have—

(i) the base quota level attributable to the person increased by the base quota level attributable to the quota that is sold and transferred; and

(ii) the lifetime limitation on payments established under paragraph (7) attributable to the person—

(I) increased by the product obtained by multiplying—

(aa) the base quota level attributable to the quota; and

(bb) $8 per pound; but

(II) decreased by any payments under paragraph (5) for lost tobacco quota previously made that are attributable to the quota that is sold and transferred.

(10) SALE OR TRANSFER OF FARM.—On the sale or transfer of ownership of a farm that is owned by a quota holder, the base quota level established under subsection (c), the right to payments under paragraph (5), and the lifetime limitation on payments established under paragraph (7) shall transfer to the new owner of the farm to the same extent and in the same manner as those provisions applied to the previous quota holder.

(11) DEATH OF QUOTA LESSEE OR QUOTA TENANT.—If a quota lessee or quota tenant that is entitled to payments under this subsection dies and is survived by a spouse or 1 or more dependents, the right to receive the payments shall transfer to the surviving spouse or, if there is no surviving spouse, to the surviving dependents in equal shares.

(12) ACCELERATION OF PAYMENTS.—

(A) IN GENERAL.—On the occurrence of any of the events described in subparagraph (B), the Secretary shall make an accelerated lump sum payment for lost tobacco quota as established under paragraphs (5) and (6) to each quota holder, quota lessee, and quota tenant for any affected type of tobacco in accordance with subparagraph (C).

(B) TRIGGERING EVENTS.—The Secretary shall make accelerated payments under subparagraph (A) if after the date of enactment of this Act—

(i) subject to subparagraph (D), for 3 consecutive marketing years, the national marketing quota or national acreage allotment for a type of tobacco is less than 50 percent of the national marketing quota or national acreage allotment for the type of tobacco for the 1998 marketing year; or

(ii) Congress repeals or makes ineffective, directly or indirectly, any provision of—

(I) section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b);

(II) section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e);

(III) section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445);

(IV) section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445–1); or

(V) section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2).

(C) AMOUNT.—The amount of the accelerated payments made to each quota holder, quota lessee, and quota tenant under this subsection shall be equal to—

(i) the amount of the lifetime limitation established for the quota holder, quota lessee, or quota tenant under paragraph (7); less

(ii) any payments for lost tobacco quota received by the quota holder, quota lessee, or quota tenant before the occurrence of any of the events described in subparagraph (B).

(D) REFERENDUM VOTE NOT A TRIGGERING EVENT.—A referendum vote of producers for any type of tobacco that results in the national marketing quota or national acreage allotment not being in effect for the type of tobacco shall not be considered a triggering event under this paragraph.

(13) BAN ON SUBSEQUENT SALE OR LEASING OF FARM MARKETING QUOTA OR FARM ACREAGE ALLOTMENT TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTA.—No quota holder that exercises the option to relinquish a farm marketing quota or farm acreage allotment for any type of tobacco under paragraph (2) shall be eligible to acquire a farm marketing quota or farm acreage allotment for the type of tobacco, or to obtain the lease or transfer of a farm marketing quota or farm acreage allotment for the type of tobacco, for a period of 25 crop years after the date on which the quota or allotment was relinquished.

(e) PAYMENTS FOR LOST TOBACCO QUOTA FOR FLUE-CURED TOBACCO.—

(1) ALLOCATION OF FUNDS.—Of the amounts made available under section 1011(d)(1) for payments for lost tobacco quota, the Secretary shall make available for payments under this subsection an amount that bears the same ratio to the amounts made available as—

(A) the sum of all national marketing quotas for flue-cured tobacco during the 1995 through 1997 marketing years; bears to

(B) the sum of all national marketing quotas for all types of tobacco during the 1995 through 1997 marketing years.

(2) RELINQUISHMENT OF QUOTA.—

(A) IN GENERAL.—Each quota holder of flue-cured tobacco shall relinquish the farm marketing quota or farm acreage allotment in exchange for a payment made under paragraph (3) due to the transition from farm marketing quotas as provided under section 317 of the Agricultural Adjustment Act of 1938 for flue-cured tobacco to individual tobacco production permits as provided under section 317A of the Agricultural Adjustment Act of 1938 for flue-cured tobacco.

(B) NOTIFICATION.—The Secretary shall notify the quota holders of the relinquishment of their quota or allotment at such time and in such manner as the Secretary may require, but not later than November 15, 1998.

(3) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA HOLDERS THAT RELINQUISH QUOTA.—

(A) IN GENERAL.—For each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost flue-cured tobacco to each quota holder that has relinquished the farm marketing quota or farm acreage allotment of the quota holder under paragraph (2).

(B) AMOUNT.—The amount of a payment made to a quota holder described in subparagraph (A) for a marketing year shall equal 1/10 of the lifetime limitation established under paragraph (6).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the farm marketing quota or farm acreage allotment is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(4) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS THAT HAVE NOT RELINQUISHED PERMITS.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for flue-cured tobacco is less than the average national marketing quota for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota lessee or quota tenant that—

(i) is eligible under subsection (b);

(ii) has been issued an individual tobacco production permit under section 317A(b) of the Agricultural Adjustment Act of 1938; and

(iii) has not exercised an option to relinquish the permit.

(B) AMOUNT.—The amount of a payment made to a quota lessee or quota tenant described in subparagraph (A) for a marketing year shall be equal to the product obtained by multiplying—

(i) the number of pounds by which the individual marketing limitation established for the permit is less than twice the base quota level for the quota lessee or quota tenant; and

(ii) $2 per pound.

(5) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS THAT HAVE RELINQUISHED PERMITS.—

(A) IN GENERAL.—For each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost flue-cured tobacco quota to each quota lessee and quota tenant that has relinquished an individual tobacco production permit under section 317A(b)(5) of the Agricultural Adjustment Act of 1938.

(B) AMOUNT.—The amount of a payment made to a quota lessee or quota tenant described in subparagraph (A) for a marketing year shall be equal to 1/10 of the lifetime limitation established under paragraph (6).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the individual tobacco production permit is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(E) PROHIBITION AGAINST PERMIT EXPANSION.—A quota lessee or quota tenant that receives a payment under this paragraph shall be ineligible to receive any new or increased tobacco production permit from the county production pool established under section 317A(b)(8) of the Agricultural Adjustment Act of 1938.

(6) LIFETIME LIMITATION ON PAYMENTS.—Except as otherwise provided in this subsection, the total amount of payments made under this subsection to a quota holder, quota lessee, or quota tenant during the lifetime of the quota holder, quota lessee, or quota tenant shall not exceed the product obtained by multiplying—

(A) the base quota level for the quota holder, quota lessee, or quota tenant; and

(B) $8 per pound.

(7) LIMITATIONS ON AGGREGATE ANNUAL PAYMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the total amount payable under this subsection for any marketing year shall not exceed the amount made available under paragraph (1).

(B) ACCELERATED PAYMENTS.—Paragraph (1) shall not apply if accelerated payments for lost flue-cured tobacco quota are made in accordance with paragraph (9).

(C) REDUCTIONS.—If the sum of the amounts determined under paragraphs (3), (4), and (5) for a marketing year exceeds the amount made available under paragraph (1), the Secretary shall make a pro rata reduction in the amounts payable under paragraph (4) to quota lessees and quota tenants under this subsection to ensure that the total amount of payments for lost flue-cured tobacco quota does not exceed the amount made available under paragraph (1).

(D) ROLLOVER OF PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA.—Subject to subparagraph (A), if the Secretary makes a reduction in accordance with subparagraph (C), the amount of the reduction shall be applied to the next marketing year and added to the payments for lost flue-cured tobacco quota for the marketing year.

(E) ADDITIONAL PAYMENTS TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTAS OR PERMITS, OR TO QUOTA LESSEES OR QUOTA TENANTS RELINQUISHING PERMITS.—If the amount made available under paragraph (1) exceeds the sum of the amounts determined under paragraphs (3), (4), and (5) for a marketing year, the Secretary shall distribute the amount of the excess pro rata to quota holders by increasing the amount payable to each such holder under paragraphs (3) and (5).

(8) DEATH OF QUOTA HOLDER, QUOTA LESSEE, OR QUOTA TENANT.—If a quota holder, quota lessee or quota tenant that is entitled to payments under paragraph (4) or (5) dies and is survived by a spouse or 1 or more descendants, the right to receive the payments shall transfer to the surviving spouse or, if there is no surviving spouse, to the surviving descendants in equal shares.

(9) ACCELERATION OF PAYMENTS.—

(A) IN GENERAL.—On the occurrence of any of the events described in subparagraph (B), the Secretary shall make an accelerated lump sum payment for lost flue-cured tobacco quota as established under paragraphs (3), (4), and (5) to each quota holder, quota lessee, and quota tenant for flue-cured tobacco in accordance with subparagraph (C).

(B) TRIGGERING EVENTS.—The Secretary shall make accelerated payments under subparagraph (A) if after the date of enactment of this Act—

(i) subject to subparagraph (D), for 3 consecutive marketing years, the national marketing quota or national acreage allotment for flue-cured tobacco is less than 50 percent of the national marketing quota or national acreage allotment for flue-cured tobacco for the 1998 marketing year; or

(ii) Congress repeals or makes ineffective, directly or indirectly, any provision of—

(I) section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b);

(II) section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e);

(III) section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445);

(IV) section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445–1);

(V) section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2); or

(VI) section 317A of the Agricultural Adjustment Act of 1938.

(C) AMOUNT.—The amount of the accelerated payments made to each quota holder, quota lessee, and quota tenant under this subsection shall be equal to—

(i) the amount of the lifetime limitation established for the quota holder, quota lessee, or quota tenant under paragraph (6); less

(ii) any payments for lost flue-cured tobacco quota received by the quota holder, quota lessee, or quota tenant before the occurrence of any of the events described in subparagraph (B).

(D) REFERENDUM VOTE NOT A TRIGGERING EVENT.—A referendum vote of producers for flue-cured tobacco that results in the national marketing quota or national acreage allotment not being in effect for flue-cured tobacco shall not be considered a triggering event under this paragraph.

SEC. 1022. INDUSTRY PAYMENTS FOR ALL DEPARTMENT COSTS ASSOCIATED WITH TOBACCO PRODUCTION.

(a) IN GENERAL.—The Secretary shall use such amounts remaining unspent and obligated at the end of each fiscal year to reimburse the Secretary for—

(1) costs associated with the administration of programs established under this title and amendments made by this title;

(2) costs associated with the administration of the tobacco quota and price support programs administered by the Secretary;

(3) costs to the Federal Government of carrying out crop insurance programs for tobacco;

(4) costs associated with all agricultural research, extension, or education activities associated with tobacco;

(5) costs associated with the administration of loan association and cooperative programs for tobacco producers, as approved by the Secretary; and

(6) any other costs incurred by the Department of Agriculture associated with the production of tobacco.

(b) LIMITATIONS.—Amounts made available under subsection (a) may not be used—

(1) to provide direct benefits to quota holders, quota lessees, or quota tenants; or

(2) in a manner that results in a decrease, or an increase relative to other crops, in the amount of the crop insurance premiums assessed to participating tobacco producers under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(c) DETERMINATIONS.—Not later than September 30, 1998, and each fiscal year thereafter, the Secretary shall determine—

(1) the amount of costs described in subsection (a); and

(2) the amount that will be provided under this section as reimbursement for the costs.

SEC. 1023. TOBACCO COMMUNITY ECONOMIC DEVELOPMENT GRANTS.

(a) AUTHORITY.—The Secretary shall make grants to tobacco-growing States in accordance with this section to enable the States to carry out economic development initiatives in tobacco-growing communities.

(b) APPLICATION.—To be eligible to receive payments under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

(1) a description of the activities that the State will carry out using amounts received under the grant;

(2) a designation of an appropriate State agency to administer amounts received under the grant; and

(3) a description of the steps to be taken to ensure that the funds are distributed in accordance with subsection (e).

(c) AMOUNT OF GRANT.—

(1) IN GENERAL.—From the amounts available to carry out this section for a fiscal year, the Secretary shall allot to each State an amount that bears the same ratio to the amounts available as the total farm income of the State derived from the production of tobacco during the 1995 through 1997 marketing years (as determined under paragraph (2)) bears to the total farm income of all States derived from the production of tobacco during the 1995 through 1997 marketing years.

(2) TOBACCO INCOME.—For the 1995 through 1997 marketing years, the Secretary shall determine the amount of farm income derived from the production of tobacco in each State and in all States.

(d) PAYMENTS.—

(1) IN GENERAL.—A State that has an application approved by the Secretary under subsection (b) shall be entitled to a payment under this section in an amount that is equal to its allotment under subsection (c).

(2) FORM OF PAYMENTS.—The Secretary may make payments under this section to a State in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(3) REALLOTMENTS.—Any portion of the allotment of a State under subsection (c) that the Secretary determines will not be used to carry out this section in accordance with an approved State application required under subsection (b), shall be reallotted by the Secretary to other States in proportion to the original allotments to the other States.

(e) USE AND DISTRIBUTION OF FUNDS.—

(1) IN GENERAL.—Amounts received by a State under this section shall be used to carry out economic development activities, including—

(A) rural business enterprise activities described in subsections (c) and (e) of section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932);

(B) down payment loan assistance programs that are similar to the program described in section 310E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1935);

(C) activities designed to help create productive farm or off-farm employment in rural areas to provide a more viable economic base and enhance opportunities for improved incomes, living standards, and contributions by rural individuals to the economic and social development of tobacco communities;

(D) activities that expand existing infrastructure, facilities, and services to capitalize on opportunities to diversify economies in tobacco communities and that support the development of new industries or commercial ventures;

(E) activities by agricultural organizations that provide assistance directly to participating tobacco producers to assist in developing other agricultural activities that supplement tobacco-producing activities;

(F) initiatives designed to create or expand locally owned value-added processing and marketing operations in tobacco communities;

(G) technical assistance activities by persons to support farmer-owned enterprises, or agriculture-based rural development enterprises, of the type described in section 252 or 253 of the Trade Act of 1974 (19 U.S.C. 2342, 2343); and

(H) initiatives designed to partially compensate tobacco warehouse owners for lost revenues and assist the tobacco warehouse owners in establishing successful business enterprises.

(2) TOBACCO-GROWING COUNTIES.—Assistance may be provided by a State under this section only to assist a county in the State that has been determined by the Secretary to have in excess of $100,000 in income derived from the production of tobacco during 1 or more of the 1995 through 1997 marketing years. For purposes of this section, the term "tobacco-growing county" includes a political subdivision surrounded within a State by a county that has been determined by the Secretary to have in excess of $100,000 in income derived from the production of tobacco during 1 or more of the 1995 through 1997 marketing years.

(3) DISTRIBUTION.—

(A) ECONOMIC DEVELOPMENT ACTIVITIES.—Not less than 20 percent of the amounts received by a State under this section shall be used to carry out—

(i) economic development activities described in subparagraph (E) or (F) of paragraph (1); or

(ii) agriculture-based rural development activities described in paragraph (1)(G).

(B) TECHNICAL ASSISTANCE ACTIVITIES.—Not less than 4 percent of the amounts received by a State under this section shall be used to carry out technical assistance activities described in paragraph (1)(G).

(C) TOBACCO WAREHOUSE OWNER INITIATIVES.—Not less than 6 percent of the amounts received by a State under this section during each of fiscal years 1999 through 2008 shall be used to carry out initiatives described in paragraph (1)(H).

(D) TOBACCO-GROWING COUNTIES.—To be eligible to receive payments under this section, a State shall demonstrate to the Secretary that funding will be provided, during each 5-year period for which funding is provided under this section, for activities in each county in the State that has been determined under paragraph (2) to have in excess of $100,000 in income derived from the production of tobacco, in amounts that are at least equal to the product obtained by multiplying—

(i) the ratio that the tobacco production income in the county determined under paragraph (2) bears to the total tobacco production income for the State determined under subsection (c); and

(ii) 50 percent of the total amounts received by a State under this section during the 5-year period.

(f) PREFERENCES IN HIRING.—A State may require recipients of funds under this section to provide a preference in employment to—

(1) an individual who—

(A) during the 1998 calendar year, was employed in the manufacture, processing, or warehousing of tobacco or tobacco products, or resided, in a county described in subsection (e)(2); and

(B) is eligible for assistance under the tobacco worker transition program established under section 1031; or

(2) an individual who—

(A) during the 1998 marketing year, carried out tobacco quota or relevant tobacco production activities in a county described in subsection (e)(2);

(B) is eligible for a farmer opportunity grant under subpart 9 of part A of title IV of the Higher Education Act of 1965; and

(C) has successfully completed a course of study at an institution of higher education.

(g) MAINTENANCE OF EFFORT.—

(1) IN GENERAL.—Subject to paragraph (2), a State shall provide an assurance to the Secretary that the amount of funds expended by the State and all counties in the State described in subsection (e)(2) for any activities funded under this section for a fiscal year is not less than 90 percent of the amount of funds expended by the State and counties for the activities for the preceding fiscal year.

(2) REDUCTION OF GRANT AMOUNT.—If a State does not provide an assurance described in paragraph (1), the Secretary shall reduce the amount of the grant determined under subsection (c) by an amount equal to the amount by which the amount of funds expended by the State and counties for the activities is less than 90 percent of the amount of funds expended by the State and counties for the activities for the preceding fiscal year, as determined by the Secretary.

(3) FEDERAL FUNDS.—For purposes of this subsection, the amount of funds expended by a State or county shall not include any amounts made available by the Federal Government.

SEC. 1024. FLUE-CURED TOBACCO PRODUCTION PERMITS.

The Agricultural Adjustment Act of 1938 is amended by inserting after section 317 (7 U.S.C. 1314c) the following:

"SEC. 317A. FLUE-CURED TOBACCO PRODUCTION PERMITS.

"(a) DEFINITIONS.—In this section:

"(1) INDIVIDUAL ACREAGE LIMITATION.—The term 'individual acreage limitation' means the number of acres of flue-cured tobacco that may be planted by the holder of a permit during a marketing year, calculated—

"(A) prior to—

"(i) any increase or decrease in the number due to undermarketings or overmarketings; and

"(ii) any reduction under subsection (i); and

"(B) in a manner that ensures that—

"(i) the total of all individual acreage limitations is equal to the national acreage allotment, less the reserve provided under subsection (h); and

"(ii) the individual acreage limitation for a marketing year bears the same ratio to the individual acreage limitation for the previous marketing year as the ratio that the national acreage allotment for the marketing year bears to the national acreage allotment for the previous marketing year, subject to adjustments by the Secretary to account for any reserve provided under subsection (h).

"(2) INDIVIDUAL MARKETING LIMITATION.—The term 'individual marketing limitation' means the number of pounds of flue-cured tobacco that may be marketed by the holder of a permit during a marketing year, calculated—

"(A) prior to—

"(i) any increase or decrease in the number due to undermarketings or overmarketings; and

"(ii) any reduction under subsection (i); and

"(B) in a manner that ensures that—

"(i) the total of all individual marketing limitations is equal to the national marketing quota, less the reserve provided under subsection (h); and

"(ii) the individual marketing limitation for a marketing year is obtained by multiplying the individual acreage limitation by the permit yield, prior to any adjustment for undermarketings or overmarketings.

"(3) INDIVIDUAL TOBACCO PRODUCTION PERMIT.—The term 'individual tobacco production permit' means a permit issued by the Secretary to a person authorizing the production of flue-cured tobacco for any marketing year during which this section is effective.

"(4) NATIONAL ACREAGE ALLOTMENT.—The term 'national acreage allotment' means the quantity determined by dividing—

"(A) the national marketing quota; by

"(B) the national average yield goal.

"(5) NATIONAL AVERAGE YIELD GOAL.—The term 'national average yield goal' means the national average yield for flue-cured tobacco during the 5 marketing years immediately preceding the marketing year for which the determination is being made.

"(6) NATIONAL MARKETING QUOTA.—For the 1999 and each subsequent crop of flue-cured tobacco, the term 'national marketing quota' for a marketing year means the quantity of flue-cured tobacco, as determined by the Secretary, that is not more than 103 percent nor less than 97 percent of the total of—

"(A) the aggregate of the quantities of flue-cured tobacco that domestic manufacturers of cigarettes estimate that the manufacturers intend to purchase on the United States auction markets or from producers during the marketing year, as compiled and determined under section 320A;

"(B) the average annual quantity of flue-cured tobacco exported from the United States during the 3 marketing years immediately preceding the marketing year for which the determination is being made; and

"(C) the quantity, if any, of flue-cured tobacco that the Secretary, in the discretion of the Secretary, determines is necessary to increase or decrease the inventory of the producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of flue-cured tobacco to establish or maintain the inventory at the reserve stock level for flue-cured tobacco.

"(7) PERMIT YIELD.—The term 'permit yield' means the yield of tobacco per acre for an individual tobacco production permit holder that is—

"(A) based on a preliminary permit yield that is equal to the average yield during the 5 marketing years immediately preceding the marketing year for which the determination is made in the county where the holder of the permit is authorized to plant flue-cured tobacco, as determined by the Secretary, on the basis of actual yields of farms in the county; and

"(B) adjusted by a weighted national yield factor calculated by—

"(i) multiplying each preliminary permit yield by the individual acreage limitation, prior to adjustments for overmarketings, undermarketings, or reductions required under subsection (i); and

"(ii) dividing the sum of the products under clause (i) for all flue-cured individual tobacco production permit holders by the national acreage allotment.

"(b) INITIAL ISSUANCE OF PERMITS.—

"(1) TERMINATION OF FLUE-CURED MARKETING QUOTAS.—On the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act, farm marketing quotas as provided under section 317 shall no longer be in effect for flue-cured tobacco.

"(2) ISSUANCE OF PERMITS TO QUOTA HOLDERS THAT WERE PRINCIPAL PRODUCERS.—

"(A) IN GENERAL.—By January 15, 1999, each individual quota holder under section 317 that was a principal producer of flue-cured tobacco during the 1998 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

"(B) NOTIFICATION.—The Secretary shall notify the holder of each permit of the individual acreage limitation and the individual marketing limitation applicable to the holder for each marketing year.

"(C) INDIVIDUAL ACREAGE LIMITATION FOR 1999 MARKETING YEAR.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

"(D) INDIVIDUAL MARKETING LIMITATION FOR 1999 MARKETING YEAR.—In establishing the individual marketing limitation for the 1999 marketing year under this section, the farm marketing quota that was allotted to a farm

owned by the quota holder for the 1997 marketing year shall be considered the individual marketing limitation for the previous marketing year.

"(3) QUOTA HOLDERS THAT WERE NOT PRINCIPAL PRODUCERS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), on approval through a referendum under subsection (c)—

"(i) each person that was a quota holder under section 317 but that was not a principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall not be eligible to own a permit; and

"(ii) the Secretary shall not issue any permit during the 25-year period beginning on the date of enactment of this Act to any person that was a quota holder and was not the principal producer of flue-cured tobacco during the 1997 marketing year.

"(B) MEDICAL HARDSHIPS AND CROP DISASTERS.—Subparagraph (A) shall not apply to a person that would have been the principal producer of flue-cured tobacco during the 1997 marketing year but for a medical hardship or crop disaster that occurred during the 1997 marketing year.

"(C) ADMINISTRATION.—The Secretary shall issue regulations—

"(i) defining the term 'person' for the purpose of this paragraph; and

"(ii) prescribing such rules as the Secretary determines are necessary to ensure a fair and reasonable application of the prohibition established under this paragraph.

"(4) ISSUANCE OF PERMITS TO PRINCIPAL PRODUCERS OF FLUE-CURED TOBACCO.—

"(A) IN GENERAL.—By January 15, 1999, each individual quota lessee or quota tenant (as defined in section 1002 of the LEAF Act) that was the principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

"(B) INDIVIDUAL ACREAGE LIMITATIONS.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by a quota holder for whom the quota lessee or quota tenant was the principal producer of flue-cured tobacco during the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

"(C) INDIVIDUAL MARKETING LIMITATIONS.—In establishing the individual marketing limitation for the 1999 marketing year under this section, the individual marketing limitation for the previous year for an individual described in this paragraph shall be calculated by multiplying—

"(i) the farm marketing quota that was allotted to a farm owned by a quota holder for whom the quota lessee or quota holder was the principal producer of flue-cured tobacco during the 1997 marketing year, by

"(ii) the ratio that—

"(I) the sum of all flue-cured tobacco farm marketing quotas for the 1997 marketing year prior to adjusting for undermarketing and overmarketing; bears to

"(II) the sum of all flue-cured tobacco farm marketing quotas for the 1998 marketing year, after adjusting for undermarketing and overmarketing.

"(D) SPECIAL RULE FOR TENANT OF LEASED FLUE-CURED TOBACCO.—If the farm marketing quota or farm acreage allotment of a quota holder was produced pursuant to an agreement under which a quota lessee rented land from a quota holder and a quota tenant was the primary producer, as determined by the Secretary, of flue-cured tobacco pursuant to the farm marketing quota or farm acreage allotment, the farm marketing quota or farm acreage allotment shall be divided proportionately between the quota lessee and quota tenant for purposes of issuing individual tobacco production permits under this paragraph.

"(5) OPTION OF QUOTA LESSEE OR QUOTA TENANT TO RELINQUISH PERMIT.—

"(A) IN GENERAL.—Each quota lessee or quota tenant that is issued an individual tobacco production permit under paragraph (4) shall be given the option of relinquishing the permit in exchange for payments made under section 1021(e)(5) of the LEAF Act.

"(B) NOTIFICATION.—A quota lessee or quota tenant that is issued an individual tobacco production permit shall give notification of the intention to exercise the option at such time and in such manner as the Secretary may require, but not later than 45 days after the permit is issued.

"(C) REALLOCATION OF PERMIT.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit relinquished under this paragraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

"(6) ACTIVE PRODUCER REQUIREMENT.—

"(A) REQUIREMENT FOR SHARING RISK.—No individual tobacco production permit shall be issued to, or maintained by, a person that does not fully share in the risk of producing a crop of flue-cured tobacco.

"(B) CRITERIA FOR SHARING RISK.—For purposes of this paragraph, a person shall be considered to have fully shared in the risk of production of a crop if—

"(i) the investment of the person in the production of the crop is not less than 100 percent of the costs of production associated with the crop;

"(ii) the amount of the person's return on the investment is dependent solely on the sale price of the crop; and

"(iii) the person may not receive any of the return before the sale of the crop.

"(C) PERSONS NOT SHARING RISK.—

"(i) FORFEITURE.—Any person that fails to fully share in the risks of production under this paragraph shall forfeit an individual tobacco production permit if, after notice and opportunity for a hearing, the appropriate county committee determines that the conditions for forfeiture exist.

"(ii) REALLOCATION.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit forfeited under this subparagraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

"(D) NOTICE.—Notice of any determination made by a county committee under subparagraph (C) shall be mailed, as soon as practicable, to the person involved.

"(E) REVIEW.—If the person is dissatisfied with the determination, the person may request, not later than 15 days after notice of the determination is received, a review of the determination by a local review committee under the procedures established under section 363 for farm marketing quotas.

"(7) COUNTY OF ORIGIN REQUIREMENT.—For the 1999 and each subsequent crop of flue-cured tobacco, all tobacco produced pursuant to an individual tobacco production permit shall be produced in the same county in which was produced the tobacco produced during the 1997 marketing year pursuant to the farm marketing quota or farm acreage allotment on which the individual tobacco production permit is based.

"(8) COUNTY PRODUCTION POOL.—

"(A) IN GENERAL.—The authority to produce flue-cured tobacco under an individual tobacco production permit that is forfeited, relinquished, or surrendered within a county may be reallocated by the appropriate county committee to tobacco producers located in the same county that apply to the committee to produce flue-cured tobacco under the authority.

"(B) PRIORITY.—In reallocating individual tobacco production permits under this paragraph, a county committee shall provide a priority to—

"(i) an active tobacco producer that controls the authority to produce a quantity of flue-cured tobacco under an individual tobacco production permit that is equal to or less than the average number of pounds of flue-cured tobacco that was produced by the producer during each of the 1995 through 1997 marketing years, as determined by the Secretary; and

"(ii) a new tobacco producer.

"(C) CRITERIA.—Individual tobacco production permits shall be reallocated by the appropriate county committee under this paragraph in a fair and equitable manner after taking into consideration—

"(i) the experience of the producer;

"(ii) the availability of land, labor, and equipment for the production of tobacco;

"(iii) crop rotation practices; and

"(iv) the soil and other physical factors affecting the production of tobacco.

"(D) MEDICAL HARDSHIPS AND CROP DISASTERS.—Notwithstanding any other provision of this Act, the Secretary may issue an individual tobacco production permit under this paragraph to a producer that is otherwise ineligible for the permit due to a medical hardship or crop disaster that occurred during the 1997 marketing year.

"(c) REFERENDUM.—

"(1) ANNOUNCEMENT OF QUOTA AND ALLOTMENT.—Not later than December 15, 1998, the Secretary pursuant to subsection (b) shall determine and announce—

"(A) the quantity of the national marketing quota for flue-cured tobacco for the 1999 marketing year; and

"(B) the national acreage allotment and national average yield goal for the 1999 crop of flue-cured tobacco.

"(2) SPECIAL REFERENDUM.—Not later than 30 days after the announcement of the quantity of the national marketing quota in 2001, the Secretary shall conduct a special referendum of the tobacco production permit holders that were the principal producers of flue-cured tobacco of the 1997 crop to determine whether the producers approve or oppose the continuation of individual tobacco production permits on an acreage-poundage basis as provided in this section for the 2002 through 2004 marketing years.

"(3) APPROVAL OF PERMITS.—If the Secretary determines that more than 66⅔ percent of the producers voting in the special referendum approve the establishment of individual tobacco production permits on an acreage-poundage basis—

"(A) individual tobacco production permits on an acreage-poundage basis as provided in this section shall be in effect for the 2002 through 2004 marketing years; and

"(B) marketing quotas on an acreage-poundage basis shall cease to be in effect for the 2002 through 2004 marketing years.

"(4) DISAPPROVAL OF PERMITS.—If individual tobacco production permits on an acreage-poundage basis are not approved by more than 66⅔ percent of the producers voting in the referendum, no marketing quotas

on an acreage-poundage basis shall continue in effect that were proclaimed under section 317 prior to the referendum.

"(5) APPLICABLE MARKETING YEARS.—If individual tobacco production permits have been made effective for flue-cured tobacco on an acreage-poundage basis pursuant to this subsection, the Secretary shall, not later than December 15 of any future marketing year, announce a national marketing quota for that type of tobacco for the next 3 succeeding marketing years if the marketing year is the last year of 3 consecutive years for which individual tobacco production permits previously proclaimed will be in effect.

"(d) ANNUAL ANNOUNCEMENT OF NATIONAL MARKETING QUOTA.—The Secretary shall determine and announce the national marketing quota, national acreage allotment, and national average yield goal for the second and third marketing years of any 3-year period for which individual tobacco production permits are in effect on or before the December 15 immediately preceding the beginning of the marketing year to which the quota, allotment, and goal apply.

"(e) ANNUAL ANNOUNCEMENT OF INDIVIDUAL TOBACCO PRODUCTION PERMITS.—If a national marketing quota, national acreage allotment, and national average yield goal are determined and announced, the Secretary shall provide for the determination of individual tobacco production permits, individual acreage limitations, and individual marketing limitations under this section for the crop and marketing year covered by the determinations.

"(f) ASSIGNMENT OF TOBACCO PRODUCTION PERMITS.—

"(1) LIMITATION TO SAME COUNTY.—Each individual tobacco production permit holder shall assign the individual acreage limitation and individual marketing limitation to 1 or more farms located within the county of origin of the individual tobacco production permit.

"(2) FILING WITH COUNTY COMMITTEE.—The assignment of an individual acreage limitation and individual marketing limitation shall not be effective until evidence of the assignment, in such form as required by the Secretary, is filed with and determined by the county committee for the county in which the farm involved is located.

"(3) LIMITATION ON TILLABLE CROPLAND.—The total acreage assigned to any farm under this subsection shall not exceed the acreage of cropland on the farm.

"(g) PROHIBITION ON SALE OR LEASING OF INDIVIDUAL TOBACCO PRODUCTION PERMITS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Secretary shall not permit the sale and transfer, or lease and transfer, of an individual tobacco production permit issued under this section.

"(2) TRANSFER TO DESCENDANTS.—

"(A) DEATH.—In the case of the death of a person to whom an individual tobacco production permit has been issued under this section, the permit shall transfer to the surviving spouse of the person or, if there is no surviving spouse, to surviving direct descendants of the person.

"(B) TEMPORARY INABILITY TO FARM.—In the case of the death of a person to whom an individual tobacco production permit has been issued under this section and whose descendants are temporarily unable to produce a crop of tobacco, the Secretary may hold the license in the name of the descendants for a period of not more than 18 months.

"(3) VOLUNTARY TRANSFERS.—A person that is eligible to obtain an individual tobacco production permit under this section may at any time transfer all or part of the permit to the person's spouse or direct descendants that are actively engaged in the production of tobacco.

"(h) RESERVE.—

"(1) IN GENERAL.—For each marketing year for which individual tobacco production permits are in effect under this section, the Secretary may establish a reserve from the national marketing quota in a quantity equal to not more than 1 percent of the national marketing quota to be available for—

"(A) making corrections of errors in individual acreage limitations and individual marketing limitations;

"(B) adjusting inequities; and

"(C) establishing individual tobacco production permits for new tobacco producers (except that not less than two-thirds of the reserve shall be for establishing such permits for new tobacco producers).

"(2) ELIGIBLE PERSONS.—To be eligible for a new individual tobacco production permit, a producer must not have been the principal producer of tobacco during the immediately preceding 5 years.

"(3) APPORTIONMENT FOR NEW PRODUCERS.—The part of the reserve held for apportionment to new individual tobacco producers shall be allotted on the basis of—

"(A) land, labor, and equipment available for the production of tobacco;

"(B) crop rotation practices;

"(C) soil and other physical factors affecting the production of tobacco; and

"(D) the past tobacco-producing experience of the producer.

"(4) PERMIT YIELD.—The permit yield for any producer for which a new individual tobacco production permit is established shall be determined on the basis of available productivity data for the land involved and yields for similar farms in the same county.

"(i) PENALTIES.—

"(1) PRODUCTION ON OTHER FARMS.—If any quantity of tobacco is marketed as having been produced under an individual acreage limitation or individual marketing limitation assigned to a farm but was produced on a different farm, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

"(2) FALSE REPORT.—If a person to which an individual tobacco production permit is issued files, or aids or acquiesces in the filing of, a false report with respect to the assignment of an individual acreage limitation or individual marketing limitation for a quantity of tobacco, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

"(j) MARKETING PENALTIES.—

"(1) IN GENERAL.—When individual tobacco production permits under this section are in effect, provisions with respect to penalties for the marketing of excess tobacco and the other provisions contained in section 314 shall apply in the same manner and to the same extent as they would apply under section 317(g) if farm marketing quotas were in effect.

"(2) PRODUCTION ON OTHER FARMS.—If a producer falsely identifies tobacco as having been produced on or marketed from a farm to which an individual acreage limitation or individual marketing limitation has been assigned, future individual acreage limitations and individual marketing limitations shall be forfeited.".

SEC. 1025. MODIFICATIONS IN FEDERAL TOBACCO PROGRAMS.

(a) PROGRAM REFERENDA.—Section 312(c) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1312(c)) is amended—

(1) by striking "(c) Within thirty" and inserting the following:

"(c) REFERENDA ON QUOTAS.—

"(1) IN GENERAL.—Not later than 30"; and

(2) by adding at the end the following:

"(2) REFERENDA ON PROGRAM CHANGES.—

"(A) IN GENERAL.—In the case of any type of tobacco for which marketing quotas are in effect, on the receipt of a petition from more than 5 percent of the producers of that type of tobacco in a State, the Secretary shall conduct a statewide referendum on any proposal related to the lease and transfer of tobacco quota within a State requested by the petition that is authorized under this part.

"(B) APPROVAL OF PROPOSALS.—If a majority of producers of the type of tobacco in the State approve a proposal in a referendum conducted under subparagraph (A), the Secretary shall implement the proposal in a manner that applies to all producers and quota holders of that type of tobacco in the State.".

(b) PURCHASE REQUIREMENTS.—Section 320B of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314h) is amended—

(1) in subsection (c)—

(A) by striking "(c) The amount" and inserting "(c) AMOUNT OF PENALTY.—For the 1998 and subsequent marketing years, the amount"; and

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

"(1) 105 percent of the average market price for the type of tobacco involved during the preceding marketing year; and".

(c) ELIMINATION OF TOBACCO MARKETING ASSESSMENT.—

(1) IN GENERAL.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by striking subsection (g).

(2) CONFORMING AMENDMENT.—Section 422(c) of the Uruguay Round Agreements Act (Public Law 103-465; 7 U.S.C. 1445 note) is amended by striking "section 106(g), 106A, or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445(g), 1445-1, or 1445-2)" and inserting "section 106A or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445-1, 1445-2)".

(d) ADJUSTMENT FOR LAND RENTAL COSTS.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by adding at the end the following:

"(h) ADJUSTMENT FOR LAND RENTAL COSTS.—For each of the 1999 and 2000 marketing years for flue-cured tobacco, after consultation with producers, State farm organizations and cooperative associations, the Secretary shall make an adjustment in the price support level for flue-cured tobacco equal to the annual change in the average cost per pound to flue-cured producers, as determined by the Secretary, under agreements through which producers rent land to produce flue-cured tobacco.".

(e) FIRE-CURED AND DARK AIR-CURED TOBACCO PROGRAMS.—

(1) LIMITATION ON TRANSFERS.—Section 318(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d(g)) is amended—

(A) by striking "ten" and inserting "30"; and

(B) by inserting "during any crop year" after "transferred to any farm".

(2) LOSS OF ALLOTMENT OR QUOTA THROUGH UNDERPLANTING.—Section 318 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d) is amended by adding at the end the following:

"(k) LOSS OF ALLOTMENT OR QUOTA THROUGH UNDERPLANTING.—Effective for the

1999 and subsequent marketing years, no acreage allotment or acreage-poundage quota, other than a new marketing quota, shall be established for a farm on which no fire-cured or dark air-cured tobacco was planted or considered planted during at least 2 of the 3 crop years immediately preceding the crop year for which the acreage allotment or acreage-poundage quota would otherwise be established.".

(f) EXPANSION OF TYPES OF TOBACCO SUBJECT TO NO NET COST ASSESSMENT.—

(1) NO NET COST TOBACCO FUND.—Section 106A(d)(1)(A) of the Agricultural Act of 1949 (7 U.S.C. 1445-1(d)(1)(A)) is amended—

(A) in clause (ii), by inserting after "Burley quota tobacco" the following: "and fire-cured and dark air-cured quota tobacco"; and

(B) in clause (iii)—

(i) in the matter preceding subclause (I), by striking "Flue-cured or Burley tobacco" and inserting "each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,"; and

(ii) by striking subclause (II) and inserting the following:

"(II) the sum of the amount of the per pound producer contribution and purchaser assessment (if any) for the kind of tobacco payable under clauses (i) and (ii); and".

(2) NO NET COST TOBACCO ACCOUNT.—Section 106B(d)(1) of the Agricultural Act of 1949 (7 U.S.C. 1445-2(d)(1)) is amended—

(A) in subparagraph (B), by inserting after "Burley quota tobacco" the following: "and fire-cured and dark air-cured tobacco"; and

(B) in subparagraph (C), by striking "Flue-cured and Burley tobacco" and inserting "each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,".

Subtitle C—Farmer and Worker Transition Assistance

SEC. 1031. TOBACCO WORKER TRANSITION PROGRAM.

(a) GROUP ELIGIBILITY REQUIREMENTS.—

(1) CRITERIA.—A group of workers (including workers in any firm or subdivision of a firm involved in the manufacture, processing, or warehousing of tobacco or tobacco products) shall be certified as eligible to apply for adjustment assistance under this section pursuant to a petition filed under subsection (b) if the Secretary of Labor determines that a significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated, and—

(A) the sales or production, or both, of the firm or subdivision have decreased absolutely; and

(B) the implementation of the national tobacco settlement contributed importantly to the workers' separation or threat of separation and to the decline in the sales or production of the firm or subdivision.

(2) DEFINITION OF CONTRIBUTED IMPORTANTLY.—In paragraph (1)(B), the term "contributed importantly" means a cause that is important but not necessarily more important than any other cause.

(3) REGULATIONS.—The Secretary shall issue regulations relating to the application of the criteria described in paragraph (1) in making preliminary findings under subsection (b) and determinations under subsection (c).

(b) PRELIMINARY FINDINGS AND BASIC ASSISTANCE.—

(1) FILING OF PETITIONS.—A petition for certification of eligibility to apply for adjustment assistance under this section may be filed by a group of workers (including workers in any firm or subdivision of a firm involved in the manufacture, processing, or warehousing of tobacco or tobacco products) or by their certified or recognized union or other duly authorized representative with the Governor of the State in which the workers' firm or subdivision thereof is located.

(2) FINDINGS AND ASSISTANCE.—On receipt of a petition under paragraph (1), the Governor shall—

(A) notify the Secretary that the Governor has received the petition;

(B) within 10 days after receiving the petition—

(i) make a preliminary finding as to whether the petition meets the criteria described in subsection (a)(1); and

(ii) transmit the petition, together with a statement of the finding under clause (i) and reasons for the finding, to the Secretary for action under subsection (c); and

(C) if the preliminary finding under subparagraph (B)(i) is affirmative, ensure that rapid response and basic readjustment services authorized under other Federal laws are made available to the workers.

(c) REVIEW OF PETITIONS BY SECRETARY; CERTIFICATIONS.—

(1) IN GENERAL.—The Secretary, within 30 days after receiving a petition under subsection (b)(2)(B)(ii), shall determine whether the petition meets the criteria described in subsection (a)(1). On a determination that the petition meets the criteria, the Secretary shall issue to workers covered by the petition a certification of eligibility to apply for the assistance described in subsection (d).

(2) DENIAL OF CERTIFICATION.—On the denial of a certification with respect to a petition under paragraph (1), the Secretary shall review the petition in accordance with the requirements of other applicable assistance programs to determine if the workers may be certified under the other programs.

(d) COMPREHENSIVE ASSISTANCE.—

(1) IN GENERAL.—Workers covered by a certification issued by the Secretary under subsection (c)(1) shall be provided with benefits and services described in paragraph (2) in the same manner and to the same extent as workers covered under a certification under subchapter A of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.), except that the total amount of payments under this section for any fiscal year shall not exceed $25,000,000.

(2) BENEFITS AND SERVICES.—The benefits and services described in this paragraph are the following:

(A) Employment services of the type described in section 235 of the Trade Act of 1974 (19 U.S.C. 2295).

(B) Training described in section 236 of the Trade Act of 1974 (19 U.S.C. 2296), except that notwithstanding the provisions of section 236(a)(2)(A) of that Act, the total amount of payments for training under this section for any fiscal year shall not exceed $12,500,000.

(C) Tobacco worker readjustment allowances, which shall be provided in the same manner as trade readjustment allowances are provided under part I of subchapter B of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2291 et seq.), except that—

(i) the provisions of sections 231(a)(5)(C) and 231(c) of that Act (19 U.S.C. 2291(a)(5)(C), 2291(c)), authorizing the payment of trade readjustment allowances on a finding that it is not feasible or appropriate to approve a training program for a worker, shall not be applicable to payment of allowances under this section; and

(ii) notwithstanding the provisions of section 233(b) of that Act (19 U.S.C. 2293(b)), in order for a worker to qualify for tobacco readjustment allowances under this section, the worker shall be enrolled in a training program approved by the Secretary of the type described in section 236(a) of that Act (19 U.S.C. 2296(a)) by the later of—

(I) the last day of the 16th week of the worker's initial unemployment compensation benefit period; or

(II) the last day of the 6th week after the week in which the Secretary issues a certification covering the worker.

In cases of extenuating circumstances relating to enrollment of a worker in a training program under this section, the Secretary may extend the time for enrollment for a period of not to exceed 30 days.

(D) Job search allowances of the type described in section 237 of the Trade Act of 1974 (19 U.S.C. 2297).

(E) Relocation allowances of the type described in section 238 of the Trade Act of 1974 (19 U.S.C. 2298).

(e) INELIGIBILITY OF INDIVIDUALS RECEIVING PAYMENTS FOR LOST TOBACCO QUOTA.—No benefits or services may be provided under this section to any individual who has received payments for lost tobacco quota under section 1021.

(f) FUNDING.—Of the amounts appropriated to carry out this title, the Secretary may use not to exceed $25,000,000 for each of fiscal years 1999 through 2008 to provide assistance under this section.

(g) EFFECTIVE DATE.—This section shall take effect on the date that is the later of—

(1) October 1, 1998; or

(2) the date of enactment of this Act.

(h) TERMINATION DATE.—No assistance, vouchers, allowances, or other payments may be provided under this section after the date that is the earlier of—

(1) the date that is 10 years after the effective date of this section under subsection (g); or

(2) the date on which legislation establishing a program providing dislocated workers with comprehensive assistance substantially similar to the assistance provided by this section becomes effective.

SEC. 1032. FARMER OPPORTUNITY GRANTS.

Part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) is amended by adding at the end the following:

"Subpart 9—Farmer Opportunity Grants

"SEC. 420D. STATEMENT OF PURPOSE.

"It is the purpose of this subpart to assist in making available the benefits of postsecondary education to eligible students (determined in accordance with section 420F) in institutions of higher education by providing farmer opportunity grants to all eligible students.

"SEC. 420E. PROGRAM AUTHORITY; AMOUNT AND DETERMINATIONS; APPLICATIONS.

"(a) PROGRAM AUTHORITY AND METHOD OF DISTRIBUTION.—

"(1) PROGRAM AUTHORITY.—From amounts made available under section 1011(d)(5) of the LEAF Act, the Secretary, during the period beginning July 1, 1999, and ending September 30, 2024, shall pay to each eligible institution such sums as may be necessary to pay to each eligible student (determined in accordance with section 420F) for each academic year during which that student is in attendance at an institution of higher education, as an undergraduate, a farmer opportunity grant in the amount for which that student is eligible, as determined pursuant to subsection (b). Not less than 85 percent of the

sums shall be advanced to eligible institutions prior to the start of each payment period and shall be based on an amount requested by the institution as needed to pay eligible students, except that this sentence shall not be construed to limit the authority of the Secretary to place an institution on a reimbursement system of payment.

"(2) CONSTRUCTION.—Nothing in this section shall be construed to prohibit the Secretary from paying directly to students, in advance of the beginning of the academic term, an amount for which the students are eligible, in cases where the eligible institution elects not to participate in the disbursement system required by paragraph (1).

"(3) DESIGNATION.—Grants made under this subpart shall be known as 'farmer opportunity grants'.

"(b) AMOUNT OF GRANTS.—

"(1) AMOUNTS.—

"(A) IN GENERAL.—The amount of the grant for a student eligible under this subpart shall be—

"(i) $1,700 for each of the academic years 1999–2000 through 2003–2004;

"(ii) $2,000 for each of the academic years 2004–2005 through 2008–2009;

"(iii) $2,300 for each of the academic years 2009–2010 through 2013–2014;

"(iv) $2,600 for each of the academic years 2014–2015 through 2018–2019; and

"(v) $2,900 for each of the academic years 2019–2020 through 2023–2024.

"(B) PART-TIME RULE.—In any case where a student attends an institution of higher education on less than a full-time basis (including a student who attends an institution of higher education on less than a half-time basis) during any academic year, the amount of the grant for which that student is eligible shall be reduced in proportion to the degree to which that student is not so attending on a full-time basis, in accordance with a schedule of reductions established by the Secretary for the purposes of this subparagraph, computed in accordance with this subpart. The schedule of reductions shall be established by regulation and published in the Federal Register.

"(2) MAXIMUM.—No grant under this subpart shall exceed the cost of attendance (as described in section 472) at the institution at which that student is in attendance. If, with respect to any student, it is determined that the amount of a grant exceeds the cost of attendance for that year, the amount of the grant shall be reduced to an amount equal to the cost of attendance at the institution.

"(3) PROHIBITION.—No grant shall be awarded under this subpart to any individual who is incarcerated in any Federal, State, or local penal institution.

"(c) PERIOD OF ELIGIBILITY FOR GRANTS.—

"(1) IN GENERAL.—The period during which a student may receive grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student at the institution at which the student is in attendance, except that any period during which the student is enrolled in a noncredit or remedial course of study as described in paragraph (2) shall not be counted for the purpose of this paragraph.

"(2) CONSTRUCTION.—Nothing in this section shall be construed to—

"(A) exclude from eligibility courses of study that are noncredit or remedial in nature and that are determined by the institution to be necessary to help the student be prepared for the pursuit of a first undergraduate baccalaureate degree or certificate or, in the case of courses in English language instruction, to be necessary to enable the student to utilize already existing knowledge, training, or skills; and

"(B) exclude from eligibility programs of study abroad that are approved for credit by the home institution at which the student is enrolled.

"(3) PROHIBITION.—No student is entitled to receive farmer opportunity grant payments concurrently from more than 1 institution or from the Secretary and an institution.

"(d) APPLICATIONS FOR GRANTS.—

"(1) IN GENERAL.—The Secretary shall from time to time set dates by which students shall file applications for grants under this subpart. The filing of applications under this subpart shall be coordinated with the filing of applications under section 401(c).

"(2) INFORMATION AND ASSURANCES.—Each student desiring a grant for any year shall file with the Secretary an application for the grant containing such information and assurances as the Secretary may deem necessary to enable the Secretary to carry out the Secretary's functions and responsibilities under this subpart.

"(e) DISTRIBUTION OF GRANTS TO STUDENTS.—Payments under this section shall be made in accordance with regulations promulgated by the Secretary for such purpose, in such manner as will best accomplish the purpose of this section. Any disbursement allowed to be made by crediting the student's account shall be limited to tuition and fees and, in the case of institutionally owned housing, room and board. The student may elect to have the institution provide other such goods and services by crediting the student's account.

"(f) INSUFFICIENT FUNDING.—If, for any fiscal year, the funds made available to carry out this subpart are insufficient to satisfy fully all grants for students determined to be eligible under section 420F, the amount of the grant provided under subsection (b) shall be reduced on a pro rata basis among all eligible students.

"(g) TREATMENT OF INSTITUTIONS AND STUDENTS UNDER OTHER LAWS.—Any institution of higher education that enters into an agreement with the Secretary to disburse to students attending that institution the amounts those students are eligible to receive under this subpart shall not be deemed, by virtue of the agreement, to be a contractor maintaining a system of records to accomplish a function of the Secretary. Recipients of farmer opportunity grants shall not be considered to be individual grantees for purposes of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq.).

"SEC. 420F. STUDENT ELIGIBILITY.

"(a) IN GENERAL.—In order to receive any grant under this subpart, a student shall—

"(1) be a member of a tobacco farm family in accordance with subsection (b);

"(2) be enrolled or accepted for enrollment in a degree, certificate, or other program (including a program of study abroad approved for credit by the eligible institution at which the student is enrolled) leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with section 487, and not be enrolled in an elementary or secondary school;

"(3) if the student is presently enrolled at an institution of higher education, be maintaining satisfactory progress in the course of study the student is pursuing in accordance with subsection (c);

"(4) not owe a refund on grants previously received at any institution of higher education under this title, or be in default on any loan from a student loan fund at any institution provided for in part D, or a loan made, insured, or guaranteed by the Secretary under this title for attendance at any institution;

"(5) file with the institution of higher education that the student intends to attend, or is attending, a document, that need not be notarized, but that shall include—

"(A) a statement of educational purpose stating that the money attributable to the grant will be used solely for expenses related to attendance or continued attendance at the institution; and

"(B) the student's social security number; and

"(6) be a citizen of the United States.

"(b) TOBACCO FARM FAMILIES.—

"(1) IN GENERAL.—For the purpose of subsection (a)(1), a student is a member of a tobacco farm family if during calendar year 1998 the student was—

"(A) an individual who—

"(i) is a participating tobacco producer (as defined in section 1002 of the LEAF Act) who is a principal producer of tobacco on a farm; or

"(ii) is otherwise actively engaged in the production of tobacco;

"(B) a spouse, son, daughter, stepson, or stepdaughter of an individual described in subparagraph (A);

"(C) an individual who was a dependent (within the meaning of section 152 of the Internal Revenue Code of 1986) of an individual described in subparagraph (A).

"(2) ADMINISTRATION.—On request, the Secretary of Agriculture shall provide to the Secretary such information as is necessary to carry out this subsection.

"(c) SATISFACTORY PROGRESS.—

"(1) IN GENERAL.—For the purpose of subsection (a)(3), a student is maintaining satisfactory progress if—

"(A) the institution at which the student is in attendance reviews the progress of the student at the end of each academic year, or its equivalent, as determined by the institution; and

"(B) the student has at least a cumulative C average or its equivalent, or academic standing consistent with the requirements for graduation, as determined by the institution, at the end of the second such academic year.

"(2) SPECIAL RULE.—Whenever a student fails to meet the eligibility requirements of subsection (a)(3) as a result of the application of this subsection and subsequent to that failure the student has academic standing consistent with the requirements for graduation, as determined by the institution, for any grading period, the student may, subject to this subsection, again be eligible under subsection (a)(3) for a grant under this subpart.

"(3) WAIVER.—Any institution of higher education at which the student is in attendance may waive paragraph (1) or (2) for undue hardship based on—

"(A) the death of a relative of the student;

"(B) the personal injury or illness of the student; or

"(C) special circumstances as determined by the institution.

"(d) STUDENTS WHO ARE NOT SECONDARY SCHOOL GRADUATES.—In order for a student who does not have a certificate of graduation from a school providing secondary education, or the recognized equivalent of the certificate, to be eligible for any assistance under this subpart, the student shall meet either 1 of the following standards:

"(1) EXAMINATION.—The student shall take an independently administered examination

and shall achieve a score, specified by the Secretary, demonstrating that the student can benefit from the education or training being offered. The examination shall be approved by the Secretary on the basis of compliance with such standards for development, administration, and scoring as the Secretary may prescribe in regulations.

"(2) DETERMINATION.—The student shall be determined as having the ability to benefit from the education or training in accordance with such process as the State shall prescribe. Any such process described or approved by a State for the purposes of this section shall be effective 6 months after the date of submission to the Secretary unless the Secretary disapproves the process. In determining whether to approve or disapprove the process, the Secretary shall take into account the effectiveness of the process in enabling students without secondary school diplomas or the recognized equivalent to benefit from the instruction offered by institutions utilizing the process, and shall also take into account the cultural diversity, economic circumstances, and educational preparation of the populations served by the institutions.

"(e) SPECIAL RULE FOR CORRESPONDENCE COURSES.—A student shall not be eligible to receive a grant under this subpart for a correspondence course unless the course is part of a program leading to an associate, bachelor, or graduate degree.

"(f) COURSES OFFERED THROUGH TELECOMMUNICATIONS.—

"(1) RELATION TO CORRESPONDENCE COURSES.—A student enrolled in a course of instruction at an eligible institution of higher education (other than an institute or school that meets the definition in section 521(4)(C) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471(4)(C))) that is offered in whole or in part through telecommunications and leads to a recognized associate, bachelor, or graduate degree conferred by the institution shall not be considered to be enrolled in correspondence courses unless the total amount of telecommunications and correspondence courses at the institution equals or exceeds 50 percent of the courses.

"(2) RESTRICTION OR REDUCTIONS OF FINANCIAL AID.—A student's eligibility to receive a grant under this subpart may be reduced if a financial aid officer determines under the discretionary authority provided in section 479A that telecommunications instruction results in a substantially reduced cost of attendance to the student.

"(3) DEFINITION.—For the purposes of this subsection, the term 'telecommunications' means the use of television, audio, or computer transmission, including open broadcast, closed circuit, cable, microwave, or satellite, audio conferencing, computer conferencing, or video cassettes or discs, except that the term does not include a course that is delivered using video cassette or disc recordings at the institution and that is not delivered in person to other students of that institution.

"(g) STUDY ABROAD.—Nothing in this subpart shall be construed to limit or otherwise prohibit access to study abroad programs approved by the home institution at which a student is enrolled. An otherwise eligible student who is engaged in a program of study abroad approved for academic credit by the home institution at which the student is enrolled shall be eligible to receive a grant under this subpart, without regard to whether the study abroad program is required as part of the student's degree program.

"(h) VERIFICATION OF SOCIAL SECURITY NUMBER.—The Secretary, in cooperation with the Commissioner of Social Security, shall verify any social security number provided by a student to an eligible institution under subsection (a)(5)(B) and shall enforce the following conditions:

"(1) PENDING VERIFICATION.—Except as provided in paragraphs (2) and (3), an institution shall not deny, reduce, delay, or terminate a student's eligibility for assistance under this subpart because social security number verification is pending.

"(2) DENIAL OR TERMINATION.—If there is a determination by the Secretary that the social security number provided to an eligible institution by a student is incorrect, the institution shall deny or terminate the student's eligibility for any grant under this subpart until such time as the student provides documented evidence of a social security number that is determined by the institution to be correct.

"(3) CONSTRUCTION.—Nothing in this subsection shall be construed to permit the Secretary to take any compliance, disallowance, penalty, or other regulatory action against—

"(A) any institution of higher education with respect to any error in a social security number, unless the error was a result of fraud on the part of the institution; or

"(B) any student with respect to any error in a social security number, unless the error was a result of fraud on the part of the student.".

Subtitle D—Immunity

SEC. 1041. GENERAL IMMUNITY FOR TOBACCO PRODUCERS AND TOBACCO WAREHOUSE OWNERS.

Notwithstanding any other provision of this title, a participating tobacco producer, tobacco-related growers association, or tobacco warehouse owner or employee may not be subject to liability in any Federal or State court for any cause of action resulting from the failure of any tobacco product manufacturer, distributor, or retailer to comply with the National Tobacco Policy and Youth Smoking Reduction Act.

Subtitle E—Applicability

SEC. 1051. APPLICABILITY OF TITLE XV.

Notwithstanding any other provision of this Act, title XV of this Act shall have no force or effect.

SEC. 1052. EFFECTIVE DATE.

This subtitle takes effect on the day after the date of enactment of this Act, but shall apply as of such date of enactment.

FORD (AND OTHERS) AMENDMENT NO. 2625

(Ordered to lie on the table.)

Mr. FORD (for himself, Mr. HOLLINGS, and Mr. ROBB) submitted an amendment intended to be proposed by them to amendment No. 2493 proposed by Mr. LUGAR to the bill, S. 1415, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

TITLE X—LONG-TERM ECONOMIC ASSISTANCE FOR FARMERS

SEC. 1001. SHORT TITLE.

This title may be cited as the "Long-Term Economic Assistance for Farmers Act" or the "LEAF Act".

SEC. 1002. DEFINITIONS.

In this title:

(1) PARTICIPATING TOBACCO PRODUCER.—The term "participating tobacco producer" means a quota holder, quota lessee, or quota tenant.

(2) QUOTA HOLDER.—The term "quota holder" means an owner of a farm on January 1, 1998, for which a tobacco farm marketing quota or farm acreage allotment was established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.).

(3) QUOTA LESSEE.—The term "quota lessee" means—

(A) a producer that owns a farm that produced tobacco pursuant to a lease and transfer to that farm of all or part of a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years; or

(B) a producer that rented land from a farm operator to produce tobacco under a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years.

(4) QUOTA TENANT.—The term "quota tenant" means a producer that—

(A) is the principal producer, as determined by the Secretary, of tobacco on a farm where tobacco is produced pursuant to a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years; and

(B) is not a quota holder or quota lessee.

(5) SECRETARY.—The term "Secretary" means—

(A) in subtitles A and B, the Secretary of Agriculture; and

(B) in section 1031, the Secretary of Labor.

(6) TOBACCO PRODUCT IMPORTER.—The term "tobacco product importer" has the meaning given the term "importer" in section 5702 of the Internal Revenue Code of 1986.

(7) TOBACCO PRODUCT MANUFACTURER.—

(A) IN GENERAL.—The term "tobacco product manufacturer" has the meaning given the term "manufacturer of tobacco products" in section 5702 of the Internal Revenue Code of 1986.

(B) EXCLUSION.—The term "tobacco product manufacturer" does not include a person that manufactures cigars or pipe tobacco.

(8) TOBACCO WAREHOUSE OWNER.—The term "tobacco warehouse owner" means a warehouseman that participated in an auction market (as defined in the first section of the Tobacco Inspection Act (7 U.S.C. 511)) during the 1998 marketing year.

(9) FLUE-CURED TOBACCO.—The term "flue-cured tobacco" includes type 21 and type 37 tobacco.

Subtitle A—Tobacco Community Revitalization

SEC. 1011. AUTHORIZATION OF APPROPRIATIONS.

There are appropriated and transferred to the Secretary for each fiscal year such amounts from the National Tobacco Trust Fund established by section 401, other than from amounts in the State Litigation Settlement Account, as may be necessary to carry out the provisions of this title.

SEC. 1012. EXPENDITURES.

The Secretary is authorized, subject to appropriations, to make payments under—

(1) section 1021 for payments for lost tobacco quota for each of fiscal years 1999 through 2023, but not to exceed $1,650,000,000 for any fiscal year except to the extent the payments are made in accordance with subsection (d)(12) or (e)(9) of section 1021;

(2) section 1022 for industry payments for all costs of the Department of Agriculture associated with the production of tobacco;

(3) section 1023 for tobacco community economic development grants, but not to exceed—

(A) $375,000,000 for each of fiscal years 1999 through 2008, less any amount required to be paid under section 1022 for the fiscal year; and

(B) $450,000,000 for each of fiscal year 2009 through 2023, less any amount required to be paid under section 1022 during the fiscal year;

(4) section 1031 for assistance provided under the tobacco worker transition program, but not to exceed $25,000,000 for any fiscal year; and

(5) subpart 9 of part A of title IV of the Higher Education Act of 1965 for farmer opportunity grants, but not to exceed—

(A) $42,500,000 for each of the academic years 1999–2000 through 2003–2004;

(B) $50,000,000 for each of the academic years 2004–2005 through 2008–2009;

(C) $57,500,000 for each of the academic years 2009–2010 through 2013–2014;

(D) $65,000,000 for each of the academic years 2014–2015 through 2018–2019; and

(E) $72,500,000 for each of the academic years 2019–2020 through 2023–2024.

SEC. 1013. BUDGETARY TREATMENT.

This subtitle constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide payments to States and eligible persons in accordance with this title.

Subtitle B—Tobacco Market Transition Assistance

SEC. 1021. PAYMENTS FOR LOST TOBACCO QUOTA.

(a) IN GENERAL.—Beginning with the 1999 marketing year, the Secretary shall make payments for lost tobacco quota to eligible quota holders, quota lessees, and quota tenants as reimbursement for lost tobacco quota.

(b) ELIGIBILITY.—To be eligible to receive payments under this section, a quota holder, quota lessee, or quota tenant shall—

(1) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including information sufficient to make the demonstration required under paragraph (2); and

(2) demonstrate to the satisfaction of the Secretary that, with respect to the 1997 marketing year—

(A) the producer was a quota holder and realized income (or would have realized income, as determined by the Secretary, but for a medical hardship or crop disaster during the 1997 marketing year) from the production of tobacco through—

(i) the active production of tobacco;

(ii) the lease and transfer of tobacco quota to another farm;

(iii) the rental of all or part of the farm of the quota holder, including the right to produce tobacco, to another tobacco producer; or

(iv) the hiring of a quota tenant to produce tobacco;

(B) the producer was a quota lessee; or

(C) the producer was a quota tenant.

(c) BASE QUOTA LEVEL.—

(1) IN GENERAL.—The Secretary shall determine, for each quota holder, quota lessee, and quota tenant, the base quota level for the 1995 through 1997 marketing years.

(2) QUOTA HOLDERS.—The base quota level for a quota holder shall be equal to the average tobacco farm marketing quota established for the farm owned by the quota holder for the 1995 through 1997 marketing years.

(3) QUOTA LESSEES.—The base quota level for a quota lessee shall be equal to—

(A) 50 percent of the average number of pounds of tobacco quota established for the farm for the 1995 through 1997 marketing years—

(i) that was leased and transferred to a farm owned by the quota lessee; or

(ii) that was rented to the quota lessee for the right to produce the tobacco; less

(B) 25 percent of the average number of pounds of tobacco quota described in subparagraph (A) for which a quota tenant was the principal producer of the tobacco quota.

(4) QUOTA TENANTS.—The base quota level for a quota tenant shall be equal to the sum of—

(A) 50 percent of the average number of pounds of tobacco quota established for a farm for the 1995 through 1997 marketing years—

(i) that was owned by a quota holder; and

(ii) for which the quota tenant was the principal producer of the tobacco on the farm; and

(B) 25 percent of the average number of pounds of tobacco quota for the 1995 through 1997 marketing years—

(i)(I) that was leased and transferred to a farm owned by the quota lessee; or

(II) for which the rights to produce the tobacco were rented to the quota lessee; and

(ii) for which the quota tenant was the principal producer of the tobacco on the farm.

(5) MARKETING QUOTAS OTHER THAN POUNDAGE QUOTAS.—

(A) IN GENERAL.—For each type of tobacco for which there is a marketing quota or allotment (on an acreage basis), the base quota level for each quota holder, quota lessee, or quota tenant shall be determined in accordance with this subsection (based on a poundage conversion) by multiplying—

(i) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; and

(ii) the average yield per acre for the farm for the type of tobacco for the marketing years.

(B) YIELDS NOT AVAILABLE.—If the average yield per acre is not available for a farm, the Secretary shall calculate the base quota for the quota holder, quota lessee, or quota tenant (based on a poundage conversion) by determining the amount equal to the product obtained by multiplying—

(i) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; and

(ii) the average county yield per acre for the county in which the farm is located for the type of tobacco for the marketing years.

(d) PAYMENTS FOR LOST TOBACCO QUOTA FOR TYPES OF TOBACCO OTHER THAN FLUE-CURED TOBACCO.—

(1) ALLOCATION OF FUNDS.—Of the amounts made available under section 1011(d)(1) for payments for lost tobacco quota, the Secretary shall make available for payments under this subsection an amount that bears the same ratio to the amounts made available as—

(A) the sum of all national marketing quotas for all types of tobacco other than flue-cured tobacco during the 1995 through 1997 marketing years; bears to

(B) the sum of all national marketing quotas for all types of tobacco during the 1995 through 1997 marketing years.

(2) OPTION TO RELINQUISH QUOTA.—

(A) IN GENERAL.—Each quota holder, for types of tobacco other than flue-cured tobacco, shall be given the option to relinquish the farm marketing quota or farm acreage allotment of the quota holder in exchange for a payment made under paragraph (3).

(B) NOTIFICATION.—A quota holder shall give notification of the intention of the quota holder to exercise the option at such time and in such manner as the Secretary may require, but not later than January 15, 1999.

(3) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA HOLDERS EXERCISING OPTIONS TO RELINQUISH QUOTA.—

(A) IN GENERAL.—Subject to subparagraph (E), for each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost tobacco quota to each quota holder that has relinquished the farm marketing quota or farm acreage allotment of the quota holder under paragraph (2).

(B) AMOUNT.—The amount of a payment made to a quota holder described in subparagraph (A) for a marketing year shall equal 1/10 of the lifetime limitation established under subparagraph (E).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the farm marketing quota or farm acreage allotment is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(E) LIFETIME LIMITATION ON PAYMENTS.—The total amount of payments made under this paragraph to a quota holder shall not exceed the product obtained by multiplying the base quota level for the quota holder by $8 per pound.

(4) REISSUANCE OF QUOTA.—

(A) REALLOCATION TO LESSEE OR TENANT.—If a quota holder exercises an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), a quota lessee or quota tenant that was the primary producer during the 1997 marketing year of tobacco pursuant to the farm marketing quota or farm acreage allotment, as determined by the Secretary, shall be given the option of having an allotment of the farm marketing quota or farm acreage allotment reallocated to a farm owned by the quota lessee or quota tenant.

(B) CONDITIONS FOR REALLOCATION.—

(i) TIMING.—A quota lessee or quota tenant that is given the option of having an allotment of a farm marketing quota or farm acreage allotment reallocated to a farm owned by the quota lessee or quota tenant under subparagraph (A) shall have 1 year from the date on which a farm marketing quota or farm acreage allotment is relinquished under paragraph (2) to exercise the option.

(ii) LIMITATION ON ACREAGE ALLOTMENT.—In the case of a farm acreage allotment, the acreage allotment determined for any farm subsequent to any reallocation under subparagraph (A) shall not exceed 50 percent of the acreage of cropland of the farm owned by the quota lessee or quota tenant.

(iii) LIMITATION ON MARKETING QUOTA.—In the case of a farm marketing quota, the marketing quota determined for any farm subsequent to any reallocation under subparagraph (A) shall not exceed an amount determined by multiplying—

(I) the average county farm yield, as determined by the Secretary; and

(II) 50 percent of the acreage of cropland of the farm owned by the quota lessee or quota tenant.

(C) ELIGIBILITY OF LESSEE OR TENANT FOR PAYMENTS.—If a farm marketing quota or farm acreage allotment is reallocated to a quota lessee or quota tenant under subparagraph (A)—

(i) the quota lessee or quota tenant shall not be eligible for any additional payments under paragraph (5) or (6) as a result of the reallocation; and

(ii) the base quota level for the quota lessee or quota tenant shall not be increased as a result of the reallocation.

(D) REALLOCATION TO QUOTA HOLDERS WITHIN SAME COUNTY OR STATE.—

(i) IN GENERAL.—Except as provided in clause (ii), if there was no quota lessee or quota tenant for the farm marketing quota or farm acreage allotment for a type of tobacco, or if no quota lessee or quota tenant exercises an option of having an allotment of the farm marketing quota or farm acreage allotment for a type of tobacco reallocated, the Secretary shall reapportion the farm marketing quota or farm acreage allotment among the remaining quota holders for the type of tobacco within the same county.

(ii) CROSS-COUNTY LEASING.—In a State in which cross-county leasing is authorized pursuant to section 319(l) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(*l*)), the Secretary shall reapportion the farm marketing quota among the remaining quota holders for the type of tobacco within the same State.

(iii) ELIGIBILITY OF QUOTA HOLDER FOR PAYMENTS.—If a farm marketing quota is reapportioned to a quota holder under this subparagraph—

(I) the quota holder shall not be eligible for any additional payments under paragraph (5) or (6) as a result of the reapportionment; and

(II) the base quota level for the quota holder shall not be increased as a result of the reapportionment.

(E) SPECIAL RULE FOR TENANT OF LEASED TOBACCO.—If a quota holder exercises an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), the farm marketing quota or farm acreage allotment shall be divided evenly between, and the option of reallocating the farm marketing quota or farm acreage allotment shall be offered in equal portions to, the quota lessee and to the quota tenant, if—

(i) during the 1997 marketing year, the farm marketing quota or farm acreage allotment was leased and transferred to a farm owned by the quota lessee; and

(ii) the quota tenant was the primary producer, as determined by the Secretary, of tobacco pursuant to the farm marketing quota or farm acreage allotment.

(5) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA HOLDERS.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for a type of tobacco is less than the average national marketing quota for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota holder, for types of tobacco other than flue-cured tobacco, that is eligible under subsection (b), and has not exercised an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), in an amount that is equal to the product obtained by multiplying—

(i) the number of pounds by which the basic farm marketing quota (or poundage conversion) is less than the base quota level for the quota holder; and

(ii) $4 per pound.

(B) POUNDAGE CONVERSION FOR MARKETING QUOTAS OTHER THAN POUNDAGE QUOTAS.—

(i) IN GENERAL.—For each type of tobacco for which there is a marketing quota or allotment (on an acreage basis), the poundage conversion for each quota holder during a marketing year shall be determined by multiplying—

(I) the basic farm acreage allotment for the farm for the marketing year; and

(II) the average yield per acre for the farm for the type of tobacco.

(ii) YIELD NOT AVAILABLE.—If the average yield per acre is not available for a farm, the Secretary shall calculate the poundage conversion for each quota holder during a marketing year by multiplying—

(I) the basic farm acreage allotment for the farm for the marketing year; and

(II) the average county yield per acre for the county in which the farm is located for the type of tobacco.

(6) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for a type of tobacco is less than the average national marketing quota for the type of tobacco for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota lessee and quota tenant, for types of tobacco other than flue-cured tobacco, that is eligible under subsection (b) in an amount that is equal to the product obtained by multiplying—

(A) the percentage by which the national marketing quota for the type of tobacco is less than the average national marketing quota for the type of tobacco for the 1995 through 1997 marketing years;

(B) the base quota level for the quota lessee or quota tenant; and

(C) $4 per pound.

(7) LIFETIME LIMITATION ON PAYMENTS.—Except as otherwise provided in this subsection, the total amount of payments made under this subsection to a quota holder, quota lessee, or quota tenant during the lifetime of the quota holder, quota lessee, or quota tenant shall not exceed the product obtained by multiplying—

(A) the base quota level for the quota holder, quota lessee, or quota tenant; and

(B) $8 per pound.

(8) LIMITATIONS ON AGGREGATE ANNUAL PAYMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the total amount payable under this subsection for any marketing year shall not exceed the amount made available under paragraph (1).

(B) ACCELERATED PAYMENTS.—Paragraph (1) shall not apply if accelerated payments for lost tobacco quota are made in accordance with paragraph (12).

(C) REDUCTIONS.—If the sum of the amounts determined under paragraphs (3), (5), and (6) for a marketing year exceeds the amount made available under paragraph (1), the Secretary shall make a pro rata reduction in the amounts payable under paragraphs (5) and (6) to quota holders, quota lessees, and quota tenants under this subsection to ensure that the total amount of payments for lost tobacco quota does not exceed the amount made available under paragraph (1).

(D) ROLLOVER OF PAYMENTS FOR LOST TOBACCO QUOTA.—Subject to subparagraph (A), if the Secretary makes a reduction in accordance with subparagraph (C), the amount of the reduction shall be applied to the next marketing year and added to the payments for lost tobacco quota for the marketing year.

(E) ADDITIONAL PAYMENTS TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTA.—If the amount made available under paragraph (1) exceeds the sum of the amounts determined under paragraphs (3), (5), and (6) for a marketing year, the Secretary shall distribute the amount of the excess pro rata to quota holders that have exercised an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2) by increasing the amount payable to each such holder under paragraph (3).

(9) SUBSEQUENT SALE AND TRANSFER OF QUOTA.—Effective beginning with the 1999 marketing year, on the sale and transfer of a farm marketing quota or farm acreage allotment under section 316(g) or 319(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(g), 1314e(g))—

(A) the person that sold and transferred the quota or allotment shall have—

(i) the base quota level attributable to the person reduced by the base quota level attributable to the quota that is sold and transferred; and

(ii) the lifetime limitation on payments established under paragraph (7) attributable to the person reduced by the product obtained by multiplying—

(I) the base quota level attributable to the quota; and

(II) $8 per pound; and

(B) if the quota or allotment has never been relinquished by a previous quota holder under paragraph (2), the person that acquired the quota shall have—

(i) the base quota level attributable to the person increased by the base quota level attributable to the quota that is sold and transferred; and

(ii) the lifetime limitation on payments established under paragraph (7) attributable to the person—

(I) increased by the product obtained by multiplying—

(aa) the base quota level attributable to the quota; and

(bb) $8 per pound; but

(II) decreased by any payments under paragraph (5) for lost tobacco quota previously made that are attributable to the quota that is sold and transferred.

(10) SALE OR TRANSFER OF FARM.—On the sale or transfer of ownership of a farm that is owned by a quota holder, the base quota level established under subsection (c), the right to payments under paragraph (5), and the lifetime limitation on payments established under paragraph (7) shall transfer to the new owner of the farm to the same extent and in the same manner as those provisions applied to the previous quota holder.

(11) DEATH OF QUOTA LESSEE OR QUOTA TENANT.—If a quota lessee or quota tenant that is entitled to payments under this subsection dies and is survived by a spouse or 1 or more dependents, the right to receive the payments shall transfer to the surviving spouse or, if there is no surviving spouse, to the surviving dependents in equal shares.

(12) ACCELERATION OF PAYMENTS.—

(A) IN GENERAL.—On the occurrence of any of the events described in subparagraph (B), the Secretary shall make an accelerated lump sum payment for lost tobacco quota as established under paragraphs (5) and (6) to each quota holder, quota lessee, and quota tenant for any affected type of tobacco in accordance with subparagraph (C).

(B) TRIGGERING EVENTS.—The Secretary shall make accelerated payments under subparagraph (A) if after the date of enactment of this Act—

(i) subject to subparagraph (D), for 3 consecutive marketing years, the national marketing quota or national acreage allotment

for a type of tobacco is less than 50 percent of the national marketing quota or national acreage allotment for the type of tobacco for the 1998 marketing year; or

(ii) Congress repeals or makes ineffective, directly or indirectly, any provision of—

(I) section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b);

(II) section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e);

(III) section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445);

(IV) section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445–1); or

(V) section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2).

(C) AMOUNT.—The amount of the accelerated payments made to each quota holder, quota lessee, and quota tenant under this subsection shall be equal to—

(i) the amount of the lifetime limitation established for the quota holder, quota lessee, or quota tenant under paragraph (7); less

(ii) any payments for lost tobacco quota received by the quota holder, quota lessee, or quota tenant before the occurrence of any of the events described in subparagraph (B).

(D) REFERENDUM VOTE NOT A TRIGGERING EVENT.—A referendum vote of producers for any type of tobacco that results in the national marketing quota or national acreage allotment not being in effect for the type of tobacco shall not be considered a triggering event under this paragraph.

(13) BAN ON SUBSEQUENT SALE OR LEASING OF FARM MARKETING QUOTA OR FARM ACREAGE ALLOTMENT TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTA.—No quota holder that exercises the option to relinquish a farm marketing quota or farm acreage allotment for any type of tobacco under paragraph (2) shall be eligible to acquire a farm marketing quota or farm acreage allotment for the type of tobacco, or to obtain the lease or transfer of a farm marketing quota or farm acreage allotment for the type of tobacco, for a period of 25 crop years after the date on which the quota or allotment was relinquished.

(e) PAYMENTS FOR LOST TOBACCO QUOTA FOR FLUE-CURED TOBACCO.—

(1) ALLOCATION OF FUNDS.—Of the amounts made available under section 1011(d)(1) for payments for lost tobacco quota, the Secretary shall make available for payments under this subsection an amount that bears the same ratio to the amounts made available as—

(A) the sum of all national marketing quotas for flue-cured tobacco during the 1995 through 1997 marketing years; bears to

(B) the sum of all national marketing quotas for all types of tobacco during the 1995 through 1997 marketing years.

(2) RELINQUISHMENT OF QUOTA.—

(A) IN GENERAL.—Each quota holder of flue-cured tobacco shall relinquish the farm marketing quota or farm acreage allotment in exchange for a payment made under paragraph (3) due to the transition from farm marketing quotas as provided under section 317 of the Agricultural Adjustment Act of 1938 for flue-cured tobacco to individual tobacco production permits as provided under section 317A of the Agricultural Adjustment Act of 1938 for flue-cured tobacco.

(B) NOTIFICATION.—The Secretary shall notify the quota holders of the relinquishment of their quota or allotment at such time and in such manner as the Secretary may require, but not later than November 15, 1998.

(3) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA HOLDERS THAT RELINQUISH QUOTA.—

(A) IN GENERAL.—For each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost flue-cured tobacco to each quota holder that has relinquished the farm marketing quota or farm acreage allotment of the quota holder under paragraph (2).

(B) AMOUNT.—The amount of a payment made to a quota holder described in subparagraph (A) for a marketing year shall equal 1/10 of the lifetime limitation established under paragraph (6).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the farm marketing quota or farm acreage allotment is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(4) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS THAT HAVE NOT RELINQUISHED PERMITS.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for flue-cured tobacco is less than the average national marketing quota for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota lessee or quota tenant that—

(i) is eligible under subsection (b);

(ii) has been issued an individual tobacco production permit under section 317A(b) of the Agricultural Adjustment Act of 1938; and

(iii) has not exercised an option to relinquish the permit.

(B) AMOUNT.—The amount of a payment made to a quota lessee or quota tenant described in subparagraph (A) for a marketing year shall be equal to the product obtained by multiplying—

(i) the number of pounds by which the individual marketing limitation established for the permit is less than twice the base quota level for the quota lessee or quota tenant; and

(ii) $2 per pound.

(5) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS THAT HAVE RELINQUISHED PERMITS.—

(A) IN GENERAL.—For each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost flue-cured tobacco quota to each quota lessee and quota tenant that has relinquished an individual tobacco production permit under section 317A(b)(5) of the Agricultural Adjustment Act of 1938.

(B) AMOUNT.—The amount of a payment made to a quota lessee or quota tenant described in subparagraph (A) for a marketing year shall be equal to 1/10 of the lifetime limitation established under paragraph (6).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the individual tobacco production permit is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(E) PROHIBITION AGAINST PERMIT EXPANSION.—A quota lessee or quota tenant that receives a payment under this paragraph shall be ineligible to receive any new or increased tobacco production permit from the county production pool established under section 317A(b)(8) of the Agricultural Adjustment Act of 1938.

(6) LIFETIME LIMITATION ON PAYMENTS.—Except as otherwise provided in this subsection, the total amount of payments made under this subsection to a quota holder, quota lessee, or quota tenant during the lifetime of the quota holder, quota lessee, or quota tenant shall not exceed the product obtained by multiplying—

(A) the base quota level for the quota holder, quota lessee, or quota tenant; and

(B) $8 per pound.

(7) LIMITATIONS ON AGGREGATE ANNUAL PAYMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the total amount payable under this subsection for any marketing year shall not exceed the amount made available under paragraph (1).

(B) ACCELERATED PAYMENTS.—Paragraph (1) shall not apply if accelerated payments for lost flue-cured tobacco quota are made in accordance with paragraph (9).

(C) REDUCTIONS.—If the sum of the amounts determined under paragraphs (3), (4), and (5) for a marketing year exceeds the amount made available under paragraph (1), the Secretary shall make a pro rata reduction in the amounts payable under paragraph (4) to quota lessees and quota tenants under this subsection to ensure that the total amount of payments for lost flue-cured tobacco quota does not exceed the amount made available under paragraph (1).

(D) ROLLOVER OF PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA.—Subject to subparagraph (A), if the Secretary makes a reduction in accordance with subparagraph (C), the amount of the reduction shall be applied to the next marketing year and added to the payments for lost flue-cured tobacco quota for the marketing year.

(E) ADDITIONAL PAYMENTS TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTAS OR PERMITS, OR TO QUOTA LESSEES OR QUOTA TENANTS RELINQUISHING PERMITS.—If the amount made available under paragraph (1) exceeds the sum of the amounts determined under paragraphs (3), (4), and (5) for a marketing year, the Secretary shall distribute the amount of the excess pro rata to quota holders by increasing the amount payable to each such holder under paragraphs (3) and (5).

(8) DEATH OF QUOTA HOLDER, QUOTA LESSEE, OR QUOTA TENANT.—If a quota holder, quota lessee or quota tenant that is entitled to payments under paragraph (4) or (5) dies and is survived by a spouse or 1 or more descendants, the right to receive the payments shall transfer to the surviving spouse or, if there is no surviving spouse, to the surviving descendants in equal shares.

(9) ACCELERATION OF PAYMENTS.—

(A) IN GENERAL.—On the occurrence of any of the events described in subparagraph (B), the Secretary shall make an accelerated lump sum payment for lost flue-cured tobacco quota as established under paragraphs (3), (4), and (5) to each quota holder, quota lessee, and quota tenant for flue-cured tobacco in accordance with subparagraph (C).

(B) TRIGGERING EVENTS.—The Secretary shall make accelerated payments under subparagraph (A) if after the date of enactment of this Act—

(i) subject to subparagraph (D), for 3 consecutive marketing years, the national marketing quota or national acreage allotment for flue-cured tobacco is less than 50 percent of the national marketing quota or national acreage allotment for flue-cured tobacco for the 1998 marketing year; or

(ii) Congress repeals or makes ineffective, directly or indirectly, any provision of—

(I) section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b);

(II) section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e);

(III) section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445);

(IV) section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445–1);

(V) section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2); or

(VI) section 317A of the Agricultural Adjustment Act of 1938.

(C) AMOUNT.—The amount of the accelerated payments made to each quota holder, quota lessee, and quota tenant under this subsection shall be equal to—

(i) the amount of the lifetime limitation established for the quota holder, quota lessee, or quota tenant under paragraph (6); less

(ii) any payments for lost flue-cured tobacco quota received by the quota holder, quota lessee, or quota tenant before the occurrence of any of the events described in subparagraph (B).

(D) REFERENDUM VOTE NOT A TRIGGERING EVENT.—A referendum vote of producers for flue-cured tobacco that results in the national marketing quota or national acreage allotment not being in effect for flue-cured tobacco shall not be considered a triggering event under this paragraph.

SEC. 1022. INDUSTRY PAYMENTS FOR ALL DEPARTMENT COSTS ASSOCIATED WITH TOBACCO PRODUCTION.

(a) IN GENERAL.—The Secretary shall use such amounts remaining unspent and obligated at the end of each fiscal year to reimburse the Secretary for—

(1) costs associated with the administration of programs established under this title and amendments made by this title;

(2) costs associated with the administration of the tobacco quota and price support programs administered by the Secretary;

(3) costs to the Federal Government of carrying out crop insurance programs for tobacco;

(4) costs associated with all agricultural research, extension, or education activities associated with tobacco;

(5) costs associated with the administration of loan association and cooperative programs for tobacco producers, as approved by the Secretary; and

(6) any other costs incurred by the Department of Agriculture associated with the production of tobacco.

(b) LIMITATIONS.—Amounts made available under subsection (a) may not be used—

(1) to provide direct benefits to quota holders, quota lessees, or quota tenants; or

(2) in a manner that results in a decrease, or an increase relative to other crops, in the amount of the crop insurance premiums assessed to participating tobacco producers under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(c) DETERMINATIONS.—Not later than September 30, 1998, and each fiscal year thereafter, the Secretary shall determine—

(1) the amount of costs described in subsection (a); and

(2) the amount that will be provided under this section as reimbursement for the costs.

SEC. 1023. TOBACCO COMMUNITY ECONOMIC DEVELOPMENT GRANTS.

(a) AUTHORITY.—The Secretary shall make grants to tobacco-growing States in accordance with this section to enable the States to carry out economic development initiatives in tobacco-growing communities.

(b) APPLICATION.—To be eligible to receive payments under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

(1) a description of the activities that the State will carry out using amounts received under the grant;

(2) a designation of an appropriate State agency to administer amounts received under the grant; and

(3) a description of the steps to be taken to ensure that the funds are distributed in accordance with subsection (e).

(c) AMOUNT OF GRANT.—

(1) IN GENERAL.—From the amounts available to carry out this section for a fiscal year, the Secretary shall allot to each State an amount that bears the same ratio to the amounts available as the total farm income of the State derived from the production of tobacco during the 1995 through 1997 marketing years (as determined under paragraph (2)) bears to the total farm income of all States derived from the production of tobacco during the 1995 through 1997 marketing years.

(2) TOBACCO INCOME.—For the 1995 through 1997 marketing years, the Secretary shall determine the amount of farm income derived from the production of tobacco in each State and in all States.

(d) PAYMENTS.—

(1) IN GENERAL.—A State that has an application approved by the Secretary under subsection (b) shall be entitled to a payment under this section in an amount that is equal to its allotment under subsection (c).

(2) FORM OF PAYMENTS.—The Secretary may make payments under this section to a State in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(3) REALLOTMENTS.—Any portion of the allotment of a State under subsection (c) that the Secretary determines will not be used to carry out this section in accordance with an approved State application required under subsection (b), shall be reallotted by the Secretary to other States in proportion to the original allotments to the other States.

(e) USE AND DISTRIBUTION OF FUNDS.—

(1) IN GENERAL.—Amounts received by a State under this section shall be used to carry out economic development activities, including—

(A) rural business enterprise activities described in subsections (c) and (e) of section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932);

(B) down payment loan assistance programs that are similar to the program described in section 310E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1935);

(C) activities designed to help create productive farm or off-farm employment in rural areas to provide a more viable economic base and enhance opportunities for improved incomes, living standards, and contributions by rural individuals to the economic and social development of tobacco communities;

(D) activities that expand existing infrastructure, facilities, and services to capitalize on opportunities to diversify economies in tobacco communities and that support the development of new industries or commercial ventures;

(E) activities by agricultural organizations that provide assistance directly to participating tobacco producers to assist in developing other agricultural activities that supplement tobacco-producing activities;

(F) initiatives designed to create or expand locally owned value-added processing and marketing operations in tobacco communities;

(G) technical assistance activities by persons to support farmer-owned enterprises, or agriculture-based rural development enterprises, of the type described in section 252 or 253 of the Trade Act of 1974 (19 U.S.C. 2342, 2343); and

(H) initiatives designed to partially compensate tobacco warehouse owners for lost revenues and assist the tobacco warehouse owners in establishing successful business enterprises.

(2) TOBACCO-GROWING COUNTIES.—Assistance may be provided by a State under this section only to assist a county in the State that has been determined by the Secretary to have in excess of $100,000 in income derived from the production of tobacco during 1 or more of the 1995 through 1997 marketing years. For purposes of this section, the term "tobacco-growing county" includes a political subdivision surrounded within a State by a county that has been determined by the Secretary to have in excess of $100,000 in income derived from the production of tobacco during 1 or more of the 1995 through 1997 marketing years.

(3) DISTRIBUTION.—

(A) ECONOMIC DEVELOPMENT ACTIVITIES.—Not less than 20 percent of the amounts received by a State under this section shall be used to carry out—

(i) economic development activities described in subparagraph (E) or (F) of paragraph (1); or

(ii) agriculture-based rural development activities described in paragraph (1)(G).

(B) TECHNICAL ASSISTANCE ACTIVITIES.—Not less than 4 percent of the amounts received by a State under this section shall be used to carry out technical assistance activities described in paragraph (1)(G).

(C) TOBACCO WAREHOUSE OWNER INITIATIVES.—Not less than 6 percent of the amounts received by a State under this section during each of fiscal years 1999 through 2008 shall be used to carry out initiatives described in paragraph (1)(H).

(D) TOBACCO-GROWING COUNTIES.—To be eligible to receive payments under this section, a State shall demonstrate to the Secretary that funding will be provided, during each 5-year period for which funding is provided under this section, for activities in each county in the State that has been determined under paragraph (2) to have in excess of $100,000 in income derived from the production of tobacco, in amounts that are at least equal to the product obtained by multiplying—

(i) the ratio that the tobacco production income in the county determined under paragraph (2) bears to the total tobacco production income for the State determined under subsection (c); and

(ii) 50 percent of the total amounts received by a State under this section during the 5-year period.

(f) PREFERENCES IN HIRING.—A State may require recipients of funds under this section to provide a preference in employment to—

(1) an individual who—

(A) during the 1998 calendar year, was employed in the manufacture, processing, or warehousing of tobacco or tobacco products, or resided, in a county described in subsection (e)(2); and

(B) is eligible for assistance under the tobacco worker transition program established under section 1031; or

(2) an individual who—

(A) during the 1998 marketing year, carried out tobacco quota or relevant tobacco production activities in a county described in subsection (e)(2);

(B) is eligible for a farmer opportunity grant under subpart 9 of part A of title IV of the Higher Education Act of 1965; and

(C) has successfully completed a course of study at an institution of higher education.

(g) MAINTENANCE OF EFFORT.—

(1) IN GENERAL.—Subject to paragraph (2), a State shall provide an assurance to the Secretary that the amount of funds expended by the State and all counties in the State described in subsection (e)(2) for any activities funded under this section for a fiscal year is not less than 90 percent of the amount of funds expended by the State and counties for the activities for the preceding fiscal year.

(2) REDUCTION OF GRANT AMOUNT.—If a State does not provide an assurance described in paragraph (1), the Secretary shall reduce the amount of the grant determined under subsection (c) by an amount equal to the amount by which the amount of funds expended by the State and counties for the activities is less than 90 percent of the amount of funds expended by the State and counties for the activities for the preceding fiscal year, as determined by the Secretary.

(3) FEDERAL FUNDS.—For purposes of this subsection, the amount of funds expended by a State or county shall not include any amounts made available by the Federal Government.

SEC. 1024. FLUE-CURED TOBACCO PRODUCTION PERMITS.

The Agricultural Adjustment Act of 1938 is amended by inserting after section 317 (7 U.S.C. 1314c) the following:

"SEC. 317A. FLUE-CURED TOBACCO PRODUCTION PERMITS.

"(a) DEFINITIONS.—In this section:

"(1) INDIVIDUAL ACREAGE LIMITATION.—The term 'individual acreage limitation' means the number of acres of flue-cured tobacco that may be planted by the holder of a permit during a marketing year, calculated—

"(A) prior to—

"(i) any increase or decrease in the number due to undermarketings or overmarketings; and

"(ii) any reduction under subsection (i); and

"(B) in a manner that ensures that—

"(i) the total of all individual acreage limitations is equal to the national acreage allotment, less the reserve provided under subsection (h); and

"(ii) the individual acreage limitation for a marketing year bears the same ratio to the individual acreage limitation for the previous marketing year as the ratio that the national acreage allotment for the marketing year bears to the national acreage allotment for the previous marketing year, subject to adjustments by the Secretary to account for any reserve provided under subsection (h).

"(2) INDIVIDUAL MARKETING LIMITATION.—The term 'individual marketing limitation' means the number of pounds of flue-cured tobacco that may be marketed by the holder of a permit during a marketing year, calculated—

"(A) prior to—

"(i) any increase or decrease in the number due to undermarketings or overmarketings; and

"(ii) any reduction under subsection (i); and

"(B) in a manner that ensures that—

"(i) the total of all individual marketing limitations is equal to the national marketing quota, less the reserve provided under subsection (h); and

"(ii) the individual marketing limitation for a marketing year is obtained by multiplying the individual acreage limitation by the permit yield, prior to any adjustment for undermarketings or overmarketings.

"(3) INDIVIDUAL TOBACCO PRODUCTION PERMIT.—The term 'individual tobacco production permit' means a permit issued by the Secretary to a person authorizing the production of flue-cured tobacco for any marketing year during which this section is effective.

"(4) NATIONAL ACREAGE ALLOTMENT.—The term 'national acreage allotment' means the quantity determined by dividing—

"(A) the national marketing quota; by

"(B) the national average yield goal.

"(5) NATIONAL AVERAGE YIELD GOAL.—The term 'national average yield goal' means the national average yield for flue-cured tobacco during the 5 marketing years immediately preceding the marketing year for which the determination is being made.

"(6) NATIONAL MARKETING QUOTA.—For the 1999 and each subsequent crop of flue-cured tobacco, the term 'national marketing quota' for a marketing year means the quantity of flue-cured tobacco, as determined by the Secretary, that is not more than 103 percent nor less than 97 percent of the total of—

"(A) the aggregate of the quantities of flue-cured tobacco that domestic manufacturers of cigarettes estimate that the manufacturers intend to purchase on the United States auction markets or from producers during the marketing year, as compiled and determined under section 320A;

"(B) the average annual quantity of flue-cured tobacco exported from the United States during the 3 marketing years immediately preceding the marketing year for which the determination is being made; and

"(C) the quantity, if any, of flue-cured tobacco that the Secretary, in the discretion of the Secretary, determines is necessary to increase or decrease the inventory of the producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of flue-cured tobacco to establish or maintain the inventory at the reserve stock level for flue-cured tobacco.

"(7) PERMIT YIELD.—The term 'permit yield' means the yield of tobacco per acre for an individual tobacco production permit holder that is—

"(A) based on a preliminary permit yield that is equal to the average yield during the 5 marketing years immediately preceding the marketing year for which the determination is made in the county where the holder of the permit is authorized to plant flue-cured tobacco, as determined by the Secretary, on the basis of actual yields of farms in the county; and

"(B) adjusted by a weighted national yield factor calculated by—

"(i) multiplying each preliminary permit yield by the individual acreage limitation, prior to adjustments for overmarketings, undermarketings, or reductions required under subsection (i); and

"(ii) dividing the sum of the products under clause (i) for all flue-cured individual tobacco production permit holders by the national acreage allotment.

"(b) INITIAL ISSUANCE OF PERMITS.—

"(1) TERMINATION OF FLUE-CURED MARKETING QUOTAS.—On the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act, farm marketing quotas as provided under section 317 shall no longer be in effect for flue-cured tobacco.

"(2) ISSUANCE OF PERMITS TO QUOTA HOLDERS THAT WERE PRINCIPAL PRODUCERS.—

"(A) IN GENERAL.—By January 15, 1999, each individual quota holder under section 317 that was a principal producer of flue-cured tobacco during the 1998 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

"(B) NOTIFICATION.—The Secretary shall notify the holder of each permit of the individual acreage limitation and the individual marketing limitation applicable to the holder for each marketing year.

"(C) INDIVIDUAL ACREAGE LIMITATION FOR 1999 MARKETING YEAR.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

"(D) INDIVIDUAL MARKETING LIMITATION FOR 1999 MARKETING YEAR.—In establishing the individual marketing limitation for the 1999 marketing year under this section, the farm marketing quota that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual marketing limitation for the previous marketing year.

"(3) QUOTA HOLDERS THAT WERE NOT PRINCIPAL PRODUCERS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), on approval through a referendum under subsection (c)—

"(i) each person that was a quota holder under section 317 but that was not a principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall not be eligible to own a permit; and

"(ii) the Secretary shall not issue any permit during the 25-year period beginning on the date of enactment of this Act to any person that was a quota holder and was not the principal producer of flue-cured tobacco during the 1997 marketing year.

"(B) MEDICAL HARDSHIPS AND CROP DISASTERS.—Subparagraph (A) shall not apply to a person that would have been the principal producer of flue-cured tobacco during the 1997 marketing year but for a medical hardship or crop disaster that occurred during the 1997 marketing year.

"(C) ADMINISTRATION.—The Secretary shall issue regulations—

"(i) defining the term 'person' for the purpose of this paragraph; and

"(ii) prescribing such rules as the Secretary determines are necessary to ensure a fair and reasonable application of the prohibition established under this paragraph.

"(4) ISSUANCE OF PERMITS TO PRINCIPAL PRODUCERS OF FLUE-CURED TOBACCO.—

"(A) IN GENERAL.—By January 15, 1999, each individual quota lessee or quota tenant (as defined in section 1002 of the LEAF Act) that was the principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

"(B) INDIVIDUAL ACREAGE LIMITATIONS.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by a quota holder for whom the quota lessee or quota tenant was the principal producer of flue-cured tobacco during the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

"(C) INDIVIDUAL MARKETING LIMITATIONS.—In establishing the individual marketing

limitation for the 1999 marketing year under this section, the individual marketing limitation for the previous year for an individual described in this paragraph shall be calculated by multiplying—

"(i) the farm marketing quota that was allotted to a farm owned by a quota holder for whom the quota lessee or quota holder was the principal producer of flue-cured tobacco during the 1997 marketing year, by

"(ii) the ratio that—

"(I) the sum of all flue-cured tobacco farm marketing quotas for the 1997 marketing year prior to adjusting for undermarketing and overmarketing; bears to

"(II) the sum of all flue-cured tobacco farm marketing quotas for the 1998 marketing year, after adjusting for undermarketing and overmarketing.

"(D) SPECIAL RULE FOR TENANT OF LEASED FLUE-CURED TOBACCO.—If the farm marketing quota or farm acreage allotment of a quota holder was produced pursuant to an agreement under which a quota lessee rented land from a quota holder and a quota tenant was the primary producer, as determined by the Secretary, of flue-cured tobacco pursuant to the farm marketing quota or farm acreage allotment, the farm marketing quota or farm acreage allotment shall be divided proportionately between the quota lessee and quota tenant for purposes of issuing individual tobacco production permits under this paragraph.

"(5) OPTION OF QUOTA LESSEE OR QUOTA TENANT TO RELINQUISH PERMIT.—

"(A) IN GENERAL.—Each quota lessee or quota tenant that is issued an individual tobacco production permit under paragraph (4) shall be given the option of relinquishing the permit in exchange for payments made under section 1021(e)(5) of the LEAF Act.

"(B) NOTIFICATION.—A quota lessee or quota tenant that is issued an individual tobacco production permit shall give notification of the intention to exercise the option at such time and in such manner as the Secretary may require, but not later than 45 days after the permit is issued.

"(C) REALLOCATION OF PERMIT.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit relinquished under this paragraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

"(6) ACTIVE PRODUCER REQUIREMENT.—

"(A) REQUIREMENT FOR SHARING RISK.—No individual tobacco production permit shall be issued to, or maintained by, a person that does not fully share in the risk of producing a crop of flue-cured tobacco.

"(B) CRITERIA FOR SHARING RISK.—For purposes of this paragraph, a person shall be considered to have fully shared in the risk of production of a crop if—

"(i) the investment of the person in the production of the crop is not less than 100 percent of the costs of production associated with the crop;

"(ii) the amount of the person's return on the investment is dependent solely on the sale price of the crop; and

"(iii) the person may not receive any of the return before the sale of the crop.

"(C) PERSONS NOT SHARING RISK.—

"(i) FORFEITURE.—Any person that fails to fully share in the risks of production under this paragraph shall forfeit an individual tobacco production permit if, after notice and opportunity for a hearing, the appropriate county committee determines that the conditions for forfeiture exist.

"(ii) REALLOCATION.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit forfeited under this subparagraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

"(D) NOTICE.—Notice of any determination made by a county committee under subparagraph (C) shall be mailed, as soon as practicable, to the person involved.

"(E) REVIEW.—If the person is dissatisfied with the determination, the person may request, not later than 15 days after notice of the determination is received, a review of the determination by a local review committee under the procedures established under section 363 for farm marketing quotas.

"(7) COUNTY OF ORIGIN REQUIREMENT.—For the 1999 and each subsequent crop of flue-cured tobacco, all tobacco produced pursuant to an individual tobacco production permit shall be produced in the same county in which was produced the tobacco produced during the 1997 marketing year pursuant to the farm marketing quota or farm acreage allotment on which the individual tobacco production permit is based.

"(8) COUNTY PRODUCTION POOL.—

"(A) IN GENERAL.—The authority to produce flue-cured tobacco under an individual tobacco production permit that is forfeited, relinquished, or surrendered within a county may be reallocated by the appropriate county committee to tobacco producers located in the same county that apply to the committee to produce flue-cured tobacco under the authority.

"(B) PRIORITY.—In reallocating individual tobacco production permits under this paragraph, a county committee shall provide a priority to—

"(i) an active tobacco producer that controls the authority to produce a quantity of flue-cured tobacco under an individual tobacco production permit that is equal to or less than the average number of pounds of flue-cured tobacco that was produced by the producer during each of the 1995 through 1997 marketing years, as determined by the Secretary; and

"(ii) a new tobacco producer.

"(C) CRITERIA.—Individual tobacco production permits shall be reallocated by the appropriate county committee under this paragraph in a fair and equitable manner after taking into consideration—

"(i) the experience of the producer;

"(ii) the availability of land, labor, and equipment for the production of tobacco;

"(iii) crop rotation practices; and

"(iv) the soil and other physical factors affecting the production of tobacco.

"(D) MEDICAL HARDSHIPS AND CROP DISASTERS.—Notwithstanding any other provision of this Act, the Secretary may issue an individual tobacco production permit under this paragraph to a producer that is otherwise ineligible for the permit due to a medical hardship or crop disaster that occurred during the 1997 marketing year.

"(c) REFERENDUM.—

"(1) ANNOUNCEMENT OF QUOTA AND ALLOTMENT.—Not later than December 15, 1998, the Secretary pursuant to subsection (b) shall determine and announce—

"(A) the quantity of the national marketing quota for flue-cured tobacco for the 1999 marketing year; and

"(B) the national acreage allotment and national average yield goal for the 1999 crop of flue-cured tobacco.

"(2) SPECIAL REFERENDUM.—Not later than 30 days after the announcement of the quantity of the national marketing quota in 2001, the Secretary shall conduct a special referendum of the tobacco production permit holders that were the principal producers of flue-cured tobacco of the 1997 crop to determine whether the producers approve or oppose the continuation of individual tobacco production permits on an acreage-poundage basis as provided in this section for the 2002 through 2004 marketing years.

"(3) APPROVAL OF PERMITS.—If the Secretary determines that more than 66⅔ percent of the producers voting in the special referendum approve the establishment of individual tobacco production permits on an acreage-poundage basis—

"(A) individual tobacco production permits on an acreage-poundage basis as provided in this section shall be in effect for the 2002 through 2004 marketing years; and

"(B) marketing quotas on an acreage-poundage basis shall cease to be in effect for the 2002 through 2004 marketing years.

"(4) DISAPPROVAL OF PERMITS.—If individual tobacco production permits on an acreage-poundage basis are not approved by more than 66⅔ percent of the producers voting in the referendum, no marketing quotas on an acreage-poundage basis shall continue in effect that were proclaimed under section 317 prior to the referendum.

"(5) APPLICABLE MARKETING YEARS.—If individual tobacco production permits have been made effective for flue-cured tobacco on an acreage-poundage basis pursuant to this subsection, the Secretary shall, not later than December 15 of any future marketing year, announce a national marketing quota for that type of tobacco for the next 3 succeeding marketing years if the marketing year is the last year of 3 consecutive years for which individual tobacco production permits previously proclaimed will be in effect.

"(d) ANNUAL ANNOUNCEMENT OF NATIONAL MARKETING QUOTA.—The Secretary shall determine and announce the national marketing quota, national acreage allotment, and national average yield goal for the second and third marketing years of any 3-year period for which individual tobacco production permits are in effect on or before the December 15 immediately preceding the beginning of the marketing year to which the quota, allotment, and goal apply.

"(e) ANNUAL ANNOUNCEMENT OF INDIVIDUAL TOBACCO PRODUCTION PERMITS.—If a national marketing quota, national acreage allotment, and national average yield goal are determined and announced, the Secretary shall provide for the determination of individual tobacco production permits, individual acreage limitations, and individual marketing limitations under this section for the crop and marketing year covered by the determinations.

"(f) ASSIGNMENT OF TOBACCO PRODUCTION PERMITS.—

"(1) LIMITATION TO SAME COUNTY.—Each individual tobacco production permit holder shall assign the individual acreage limitation and individual marketing limitation to 1 or more farms located within the county of origin of the individual tobacco production permit.

"(2) FILING WITH COUNTY COMMITTEE.—The assignment of an individual acreage limitation and individual marketing limitation shall not be effective until evidence of the assignment, in such form as required by the Secretary, is filed with and determined by the county committee for the county in which the farm involved is located.

"(3) LIMITATION ON TILLABLE CROPLAND.—The total acreage assigned to any farm under this subsection shall not exceed the acreage of cropland on the farm.

"(g) PROHIBITION ON SALE OR LEASING OF INDIVIDUAL TOBACCO PRODUCTION PERMITS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Secretary shall not permit the sale and transfer, or lease and transfer, of an individual tobacco production permit issued under this section.

"(2) TRANSFER TO DESCENDANTS.—

"(A) DEATH.—In the case of the death of a person to whom an individual tobacco production permit has been issued under this section, the permit shall transfer to the surviving spouse of the person or, if there is no surviving spouse, to surviving direct descendants of the person.

"(B) TEMPORARY INABILITY TO FARM.—In the case of the death of a person to whom an individual tobacco production permit has been issued under this section and whose descendants are temporarily unable to produce a crop of tobacco, the Secretary may hold the license in the name of the descendants for a period of not more than 18 months.

"(3) VOLUNTARY TRANSFERS.—A person that is eligible to obtain an individual tobacco production permit under this section may at any time transfer all or part of the permit to the person's spouse or direct descendants that are actively engaged in the production of tobacco.

"(h) RESERVE.—

"(1) IN GENERAL.—For each marketing year for which individual tobacco production permits are in effect under this section, the Secretary may establish a reserve from the national marketing quota in a quantity equal to not more than 1 percent of the national marketing quota to be available for—

"(A) making corrections of errors in individual acreage limitations and individual marketing limitations;

"(B) adjusting inequities; and

"(C) establishing individual tobacco production permits for new tobacco producers (except that not less than two-thirds of the reserve shall be for establishing such permits for new tobacco producers).

"(2) ELIGIBLE PERSONS.—To be eligible for a new individual tobacco production permit, a producer must not have been the principal producer of tobacco during the immediately preceding 5 years.

"(3) APPORTIONMENT FOR NEW PRODUCERS.—The part of the reserve held for apportionment to new individual tobacco producers shall be allotted on the basis of—

"(A) land, labor, and equipment available for the production of tobacco;

"(B) crop rotation practices;

"(C) soil and other physical factors affecting the production of tobacco; and

"(D) the past tobacco-producing experience of the producer.

"(4) PERMIT YIELD.—The permit yield for any producer for which a new individual tobacco production permit is established shall be determined on the basis of available productivity data for the land involved and yields for similar farms in the same county.

"(i) PENALTIES.—

"(1) PRODUCTION ON OTHER FARMS.—If any quantity of tobacco is marketed as having been produced under an individual acreage limitation or individual marketing limitation assigned to a farm but was produced on a different farm, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

"(2) FALSE REPORT.—If a person to which an individual tobacco production permit is issued files, or aids or acquiesces in the filing of, a false report with respect to the assignment of an individual acreage limitation or individual marketing limitation for a quantity of tobacco, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

"(j) MARKETING PENALTIES.—

"(1) IN GENERAL.—When individual tobacco production permits under this section are in effect, provisions with respect to penalties for the marketing of excess tobacco and the other provisions contained in section 314 shall apply in the same manner and to the same extent as they would apply under section 317(g) if farm marketing quotas were in effect.

"(2) PRODUCTION ON OTHER FARMS.—If a producer falsely identifies tobacco as having been produced on or marketed from a farm to which an individual acreage limitation or individual marketing limitation has been assigned, future individual acreage limitations and individual marketing limitations shall be forfeited.".

SEC. 1025. MODIFICATIONS IN FEDERAL TOBACCO PROGRAMS.

(a) PROGRAM REFERENDA.—Section 312(c) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1312(c)) is amended—

(1) by striking "(c) Within thirty" and inserting the following:

"(c) REFERENDA ON QUOTAS.—

"(1) IN GENERAL.—Not later than 30"; and

(2) by adding at the end the following:

"(2) REFERENDA ON PROGRAM CHANGES.—

"(A) IN GENERAL.—In the case of any type of tobacco for which marketing quotas are in effect, on the receipt of a petition from more than 5 percent of the producers of that type of tobacco in a State, the Secretary shall conduct a statewide referendum on any proposal related to the lease and transfer of tobacco quota within a State requested by the petition that is authorized under this part.

"(B) APPROVAL OF PROPOSALS.—If a majority of producers of the type of tobacco in the State approve a proposal in a referendum conducted under subparagraph (A), the Secretary shall implement the proposal in a manner that applies to all producers and quota holders of that type of tobacco in the State.".

(b) PURCHASE REQUIREMENTS.—Section 320B of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314h) is amended—

(1) in subsection (c)—

(A) by striking "(c) The amount" and inserting "(c) AMOUNT OF PENALTY.—For the 1998 and subsequent marketing years, the amount"; and

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

"(1) 105 percent of the average market price for the type of tobacco involved during the preceding marketing year; and".

(c) ELIMINATION OF TOBACCO MARKETING ASSESSMENT.—

(1) IN GENERAL.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by striking subsection (g).

(2) CONFORMING AMENDMENT.—Section 422(c) of the Uruguay Round Agreements Act (Public Law 103-465; 7 U.S.C. 1445 note) is amended by striking "section 106(g), 106A, or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445(g), 1445-1, or 1445-2)" and inserting "section 106A or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445-1, 1445-2)".

(d) ADJUSTMENT FOR LAND RENTAL COSTS.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by adding at the end the following:

"(h) ADJUSTMENT FOR LAND RENTAL COSTS.—For each of the 1999 and 2000 marketing years for flue-cured tobacco, after consultation with producers, State farm organizations and cooperative associations, the Secretary shall make an adjustment in the price support level for flue-cured tobacco equal to the annual change in the average cost per pound to flue-cured producers, as determined by the Secretary, under agreements through which producers rent land to produce flue-cured tobacco.".

(e) FIRE-CURED AND DARK AIR-CURED TOBACCO PROGRAMS.—

(1) LIMITATION ON TRANSFERS.—Section 318(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d(g)) is amended—

(A) by striking "ten" and inserting "30"; and

(B) by inserting "during any crop year" after "transferred to any farm".

(2) LOSS OF ALLOTMENT OR QUOTA THROUGH UNDERPLANTING.—Section 318 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d) is amended by adding at the end the following:

"(k) LOSS OF ALLOTMENT OR QUOTA THROUGH UNDERPLANTING.—Effective for the 1999 and subsequent marketing years, no acreage allotment or acreage-poundage quota, other than a new marketing quota, shall be established for a farm on which no fire-cured or dark air-cured tobacco was planted or considered planted during at least 2 of the 3 crop years immediately preceding the crop year for which the acreage allotment or acreage-poundage quota would otherwise be established.".

(f) EXPANSION OF TYPES OF TOBACCO SUBJECT TO NO NET COST ASSESSMENT.—

(1) NO NET COST TOBACCO FUND.—Section 106A(d)(1)(A) of the Agricultural Act of 1949 (7 U.S.C. 1445-1(d)(1)(A)) is amended—

(A) in clause (ii), by inserting after "Burley quota tobacco" the following: "and fire-cured and dark air-cured quota tobacco"; and

(B) in clause (iii)—

(i) in the matter preceding subclause (I), by striking "Flue-cured or Burley tobacco" and inserting "each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,"; and

(ii) by striking subclause (II) and inserting the following:

"(II) the sum of the amount of the per pound producer contribution and purchaser assessment (if any) for the kind of tobacco payable under clauses (i) and (ii); and".

(2) NO NET COST TOBACCO ACCOUNT.—Section 106B(d)(1) of the Agricultural Act of 1949 (7 U.S.C. 1445-2(d)(1)) is amended—

(A) in subparagraph (B), by inserting after "Burley quota tobacco" the following: "and fire-cured and dark air-cured tobacco"; and

(B) in subparagraph (C), by striking "Flue-cured and Burley tobacco" and inserting "each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,".

Subtitle C—Farmer and Worker Transition Assistance

SEC. 1031. TOBACCO WORKER TRANSITION PROGRAM.

(a) GROUP ELIGIBILITY REQUIREMENTS.—

(1) CRITERIA.—A group of workers (including workers in any firm or subdivision of a firm involved in the manufacture, processing, or warehousing of tobacco or tobacco products) shall be certified as eligible to apply for adjustment assistance under this section pursuant to a petition filed under subsection (b) if the Secretary of Labor determines that a significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated,

or are threatened to become totally or partially separated, and—

(A) the sales or production, or both, of the firm or subdivision have decreased absolutely; and

(B) the implementation of the national tobacco settlement contributed importantly to the workers' separation or threat of separation and to the decline in the sales or production of the firm or subdivision.

(2) DEFINITION OF CONTRIBUTED IMPORTANTLY.—In paragraph (1)(B), the term "contributed importantly" means a cause that is important but not necessarily more important than any other cause.

(3) REGULATIONS.—The Secretary shall issue regulations relating to the application of the criteria described in paragraph (1) in making preliminary findings under subsection (b) and determinations under subsection (c).

(b) PRELIMINARY FINDINGS AND BASIC ASSISTANCE.—

(1) FILING OF PETITIONS.—A petition for certification of eligibility to apply for adjustment assistance under this section may be filed by a group of workers (including workers in any firm or subdivision of a firm involved in the manufacture, processing, or warehousing of tobacco or tobacco products) or by their certified or recognized union or other duly authorized representative with the Governor of the State in which the workers' firm or subdivision thereof is located.

(2) FINDINGS AND ASSISTANCE.—On receipt of a petition under paragraph (1), the Governor shall—

(A) notify the Secretary that the Governor has received the petition;

(B) within 10 days after receiving the petition—

(i) make a preliminary finding as to whether the petition meets the criteria described in subsection (a)(1); and

(ii) transmit the petition, together with a statement of the finding under clause (i) and reasons for the finding, to the Secretary for action under subsection (c); and

(C) if the preliminary finding under subparagraph (B)(i) is affirmative, ensure that rapid response and basic readjustment services authorized under other Federal laws are made available to the workers.

(c) REVIEW OF PETITIONS BY SECRETARY; CERTIFICATIONS.—

(1) IN GENERAL.—The Secretary, within 30 days after receiving a petition under subsection (b)(2)(B)(ii), shall determine whether the petition meets the criteria described in subsection (a)(1). On a determination that the petition meets the criteria, the Secretary shall issue to workers covered by the petition a certification of eligibility to apply for the assistance described in subsection (d).

(2) DENIAL OF CERTIFICATION.—On the denial of a certification with respect to a petition under paragraph (1), the Secretary shall review the petition in accordance with the requirements of other applicable assistance programs to determine if the workers may be certified under the other programs.

(d) COMPREHENSIVE ASSISTANCE.—

(1) IN GENERAL.—Workers covered by a certification issued by the Secretary under subsection (c)(1) shall be provided with benefits and services described in paragraph (2) in the same manner and to the same extent as workers covered under a certification under subchapter A of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.), except that the total amount of payments under this section for any fiscal year shall not exceed $25,000,000.

(2) BENEFITS AND SERVICES.—The benefits and services described in this paragraph are the following:

(A) Employment services of the type described in section 235 of the Trade Act of 1974 (19 U.S.C. 2295).

(B) Training described in section 236 of the Trade Act of 1974 (19 U.S.C. 2296), except that notwithstanding the provisions of section 236(a)(2)(A) of that Act, the total amount of payments for training under this section for any fiscal year shall not exceed $12,500,000.

(C) Tobacco worker readjustment allowances, which shall be provided in the same manner as trade readjustment allowances are provided under part I of subchapter B of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2291 et seq.), except that—

(i) the provisions of sections 231(a)(5)(C) and 231(c) of that Act (19 U.S.C. 2291(a)(5)(C), 2291(c)), authorizing the payment of trade readjustment allowances on a finding that it is not feasible or appropriate to approve a training program for a worker, shall not be applicable to payment of allowances under this section; and

(ii) notwithstanding the provisions of section 233(b) of that Act (19 U.S.C. 2293(b)), in order for a worker to qualify for tobacco readjustment allowances under this section, the worker shall be enrolled in a training program approved by the Secretary of the type described in section 236(a) of that Act (19 U.S.C. 2296(a)) by the later of—

(I) the last day of the 16th week of the worker's initial unemployment compensation benefit period; or

(II) the last day of the 6th week after the week in which the Secretary issues a certification covering the worker.

In cases of extenuating circumstances relating to enrollment of a worker in a training program under this section, the Secretary may extend the time for enrollment for a period of not to exceed 30 days.

(D) Job search allowances of the type described in section 237 of the Trade Act of 1974 (19 U.S.C. 2297).

(E) Relocation allowances of the type described in section 238 of the Trade Act of 1974 (19 U.S.C. 2298).

(e) INELIGIBILITY OF INDIVIDUALS RECEIVING PAYMENTS FOR LOST TOBACCO QUOTA.—No benefits or services may be provided under this section to any individual who has received payments for lost tobacco quota under section 1021.

(f) FUNDING.—Of the amounts appropriated to carry out this title, the Secretary may use not to exceed $25,000,000 for each of fiscal years 1999 through 2008 to provide assistance under this section.

(g) EFFECTIVE DATE.—This section shall take effect on the date that is the later of—

(1) October 1, 1998; or

(2) the date of enactment of this Act.

(h) TERMINATION DATE.—No assistance, vouchers, allowances, or other payments may be provided under this section after the date that is the earlier of—

(1) the date that is 10 years after the effective date of this section under subsection (g); or

(2) the date on which legislation establishing a program providing dislocated workers with comprehensive assistance substantially similar to the assistance provided by this section becomes effective.

SEC. 1032. FARMER OPPORTUNITY GRANTS.

Part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) is amended by adding at the end the following:

"Subpart 9—Farmer Opportunity Grants

"SEC. 420D. STATEMENT OF PURPOSE.

"It is the purpose of this subpart to assist in making available the benefits of postsecondary education to eligible students (determined in accordance with section 420F) in institutions of higher education by providing farmer opportunity grants to all eligible students.

"SEC. 420E. PROGRAM AUTHORITY; AMOUNT AND DETERMINATIONS; APPLICATIONS.

"(a) PROGRAM AUTHORITY AND METHOD OF DISTRIBUTION.—

"(1) PROGRAM AUTHORITY.—From amounts made available under section 1011(d)(5) of the LEAF Act, the Secretary, during the period beginning July 1, 1999, and ending September 30, 2024, shall pay to each eligible institution such sums as may be necessary to pay to each eligible student (determined in accordance with section 420F) for each academic year during which that student is in attendance at an institution of higher education, as an undergraduate, a farmer opportunity grant in the amount for which that student is eligible, as determined pursuant to subsection (b). Not less than 85 percent of the sums shall be advanced to eligible institutions prior to the start of each payment period and shall be based on an amount requested by the institution as needed to pay eligible students, except that this sentence shall not be construed to limit the authority of the Secretary to place an institution on a reimbursement system of payment.

"(2) CONSTRUCTION.—Nothing in this section shall be construed to prohibit the Secretary from paying directly to students, in advance of the beginning of the academic term, an amount for which the students are eligible, in cases where the eligible institution elects not to participate in the disbursement system required by paragraph (1).

"(3) DESIGNATION.—Grants made under this subpart shall be known as 'farmer opportunity grants'.

"(b) AMOUNT OF GRANTS.—

"(1) AMOUNTS.—

"(A) IN GENERAL.—The amount of the grant for a student eligible under this subpart shall be—

"(i) $1,700 for each of the academic years 1999–2000 through 2003–2004;

"(ii) $2,000 for each of the academic years 2004–2005 through 2008–2009;

"(iii) $2,300 for each of the academic years 2009–2010 through 2013–2014;

"(iv) $2,600 for each of the academic years 2014–2015 through 2018–2019; and

"(v) $2,900 for each of the academic years 2019–2020 through 2023–2024.

"(B) PART-TIME RULE.—In any case where a student attends an institution of higher education on less than a full-time basis (including a student who attends an institution of higher education on less than a half-time basis) during any academic year, the amount of the grant for which that student is eligible shall be reduced in proportion to the degree to which that student is not so attending on a full-time basis, in accordance with a schedule of reductions established by the Secretary for the purposes of this subparagraph, computed in accordance with this subpart. The schedule of reductions shall be established by regulation and published in the Federal Register.

"(2) MAXIMUM.—No grant under this subpart shall exceed the cost of attendance (as described in section 472) at the institution at which that student is in attendance. If, with respect to any student, it is determined that the amount of a grant exceeds the cost of attendance for that year, the amount of the

grant shall be reduced to an amount equal to the cost of attendance at the institution.

"(3) PROHIBITION.—No grant shall be awarded under this subpart to any individual who is incarcerated in any Federal, State, or local penal institution.

"(c) PERIOD OF ELIGIBILITY FOR GRANTS.—

"(1) IN GENERAL.—The period during which a student may receive grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student at the institution at which the student is in attendance, except that any period during which the student is enrolled in a noncredit or remedial course of study as described in paragraph (2) shall not be counted for the purpose of this paragraph.

"(2) CONSTRUCTION.—Nothing in this section shall be construed to—

"(A) exclude from eligibility courses of study that are noncredit or remedial in nature and that are determined by the institution to be necessary to help the student be prepared for the pursuit of a first undergraduate baccalaureate degree or certificate or, in the case of courses in English language instruction, to be necessary to enable the student to utilize already existing knowledge, training, or skills; and

"(B) exclude from eligibility programs of study abroad that are approved for credit by the home institution at which the student is enrolled.

"(3) PROHIBITION.—No student is entitled to receive farmer opportunity grant payments concurrently from more than 1 institution or from the Secretary and an institution.

"(d) APPLICATIONS FOR GRANTS.—

"(1) IN GENERAL.—The Secretary shall from time to time set dates by which students shall file applications for grants under this subpart. The filing of applications under this subpart shall be coordinated with the filing of applications under section 401(c).

"(2) INFORMATION AND ASSURANCES.—Each student desiring a grant for any year shall file with the Secretary an application for the grant containing such information and assurances as the Secretary may deem necessary to enable the Secretary to carry out the Secretary's functions and responsibilities under this subpart.

"(e) DISTRIBUTION OF GRANTS TO STUDENTS.—Payments under this section shall be made in accordance with regulations promulgated by the Secretary for such purpose, in such manner as will best accomplish the purpose of this section. Any disbursement allowed to be made by crediting the student's account shall be limited to tuition and fees and, in the case of institutionally owned housing, room and board. The student may elect to have the institution provide other such goods and services by crediting the student's account.

"(f) INSUFFICIENT FUNDING.—If, for any fiscal year, the funds made available to carry out this subpart are insufficient to satisfy fully all grants for students determined to be eligible under section 420F, the amount of the grant provided under subsection (b) shall be reduced on a pro rata basis among all eligible students.

"(g) TREATMENT OF INSTITUTIONS AND STUDENTS UNDER OTHER LAWS.—Any institution of higher education that enters into an agreement with the Secretary to disburse to students attending that institution the amounts those students are eligible to receive under this subpart shall not be deemed, by virtue of the agreement, to be a contractor maintaining a system of records to accomplish a function of the Secretary. Recipients of farmer opportunity grants shall not be considered to be individual grantees for purposes of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq.).

"SEC. 420F. STUDENT ELIGIBILITY.

"(a) IN GENERAL.—In order to receive any grant under this subpart, a student shall—

"(1) be a member of a tobacco farm family in accordance with subsection (b);

"(2) be enrolled or accepted for enrollment in a degree, certificate, or other program (including a program of study abroad approved for credit by the eligible institution at which the student is enrolled) leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with section 487, and not be enrolled in an elementary or secondary school;

"(3) if the student is presently enrolled at an institution of higher education, be maintaining satisfactory progress in the course of study the student is pursuing in accordance with subsection (c);

"(4) not owe a refund on grants previously received at any institution of higher education under this title, or be in default on any loan from a student loan fund at any institution provided for in part D, or a loan made, insured, or guaranteed by the Secretary under this title for attendance at any institution;

"(5) file with the institution of higher education that the student intends to attend, or is attending, a document, that need not be notarized, but that shall include—

"(A) a statement of educational purpose stating that the money attributable to the grant will be used solely for expenses related to attendance or continued attendance at the institution; and

"(B) the student's social security number; and

"(6) be a citizen of the United States.

"(b) TOBACCO FARM FAMILIES.—

"(1) IN GENERAL.—For the purpose of subsection (a)(1), a student is a member of a tobacco farm family if during calendar year 1998 the student was—

"(A) an individual who—

"(i) is a participating tobacco producer (as defined in section 1002 of the LEAF Act) who is a principal producer of tobacco on a farm; or

"(ii) is otherwise actively engaged in the production of tobacco;

"(B) a spouse, son, daughter, stepson, or stepdaughter of an individual described in subparagraph (A);

"(C) an individual who was a dependent (within the meaning of section 152 of the Internal Revenue Code of 1986) of an individual described in subparagraph (A).

"(2) ADMINISTRATION.—On request, the Secretary of Agriculture shall provide to the Secretary such information as is necessary to carry out this subsection.

"(c) SATISFACTORY PROGRESS.—

"(1) IN GENERAL.—For the purpose of subsection (a)(3), a student is maintaining satisfactory progress if—

"(A) the institution at which the student is in attendance reviews the progress of the student at the end of each academic year, or its equivalent, as determined by the institution; and

"(B) the student has at least a cumulative C average or its equivalent, or academic standing consistent with the requirements for graduation, as determined by the institution, at the end of the second such academic year.

"(2) SPECIAL RULE.—Whenever a student fails to meet the eligibility requirements of subsection (a)(3) as a result of the application of this subsection and subsequent to that failure the student has academic standing consistent with the requirements for graduation, as determined by the institution, for any grading period, the student may, subject to this subsection, again be eligible under subsection (a)(3) for a grant under this subpart.

"(3) WAIVER.—Any institution of higher education at which the student is in attendance may waive paragraph (1) or (2) for undue hardship based on—

"(A) the death of a relative of the student;

"(B) the personal injury or illness of the student; or

"(C) special circumstances as determined by the institution.

"(d) STUDENTS WHO ARE NOT SECONDARY SCHOOL GRADUATES.—In order for a student who does not have a certificate of graduation from a school providing secondary education, or the recognized equivalent of the certificate, to be eligible for any assistance under this subpart, the student shall meet either 1 of the following standards:

"(1) EXAMINATION.—The student shall take an independently administered examination and shall achieve a score, specified by the Secretary, demonstrating that the student can benefit from the education or training being offered. The examination shall be approved by the Secretary on the basis of compliance with such standards for development, administration, and scoring as the Secretary may prescribe in regulations.

"(2) DETERMINATION.—The student shall be determined as having the ability to benefit from the education or training in accordance with such process as the State shall prescribe. Any such process described or approved by a State for the purposes of this section shall be effective 6 months after the date of submission to the Secretary unless the Secretary disapproves the process. In determining whether to approve or disapprove the process, the Secretary shall take into account the effectiveness of the process in enabling students without secondary school diplomas or the recognized equivalent to benefit from the instruction offered by institutions utilizing the process, and shall also take into account the cultural diversity, economic circumstances, and educational preparation of the populations served by the institutions.

"(e) SPECIAL RULE FOR CORRESPONDENCE COURSES.—A student shall not be eligible to receive a grant under this subpart for a correspondence course unless the course is part of a program leading to an associate, bachelor, or graduate degree.

"(f) COURSES OFFERED THROUGH TELECOMMUNICATIONS.—

"(1) RELATION TO CORRESPONDENCE COURSES.—A student enrolled in a course of instruction at an eligible institution of higher education (other than an institute or school that meets the definition in section 521(4)(C) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471(4)(C))) that is offered in whole or in part through telecommunications and leads to a recognized associate, bachelor, or graduate degree conferred by the institution shall not be considered to be enrolled in correspondence courses unless the total amount of telecommunications and correspondence courses at the institution equals or exceeds 50 percent of the courses.

"(2) RESTRICTION OR REDUCTIONS OF FINANCIAL AID.—A student's eligibility to receive a grant under this subpart may be reduced if a financial aid officer determines under the

discretionary authority provided in section 479A that telecommunications instruction results in a substantially reduced cost of attendance to the student.

"(3) DEFINITION.—For the purposes of this subsection, the term 'telecommunications' means the use of television, audio, or computer transmission, including open broadcast, closed circuit, cable, microwave, or satellite, audio conferencing, computer conferencing, or video cassettes or discs, except that the term does not include a course that is delivered using video cassette or disc recordings at the institution and that is not delivered in person to other students of that institution.

"(g) STUDY ABROAD.—Nothing in this subpart shall be construed to limit or otherwise prohibit access to study abroad programs approved by the home institution at which a student is enrolled. An otherwise eligible student who is engaged in a program of study abroad approved for academic credit by the home institution at which the student is enrolled shall be eligible to receive a grant under this subpart, without regard to whether the study abroad program is required as part of the student's degree program.

"(h) VERIFICATION OF SOCIAL SECURITY NUMBER.—The Secretary, in cooperation with the Commissioner of Social Security, shall verify any social security number provided by a student to an eligible institution under subsection (a)(5)(B) and shall enforce the following conditions:

"(1) PENDING VERIFICATION.—Except as provided in paragraphs (2) and (3), an institution shall not deny, reduce, delay, or terminate a student's eligibility for assistance under this subpart because social security number verification is pending.

"(2) DENIAL OR TERMINATION.—If there is a determination by the Secretary that the social security number provided to an eligible institution by a student is incorrect, the institution shall deny or terminate the student's eligibility for any grant under this subpart until such time as the student provides documented evidence of a social security number that is determined by the institution to be correct.

"(3) CONSTRUCTION.—Nothing in this subsection shall be construed to permit the Secretary to take any compliance, disallowance, penalty, or other regulatory action against—

"(A) any institution of higher education with respect to any error in a social security number, unless the error was a result of fraud on the part of the institution; or

"(B) any student with respect to any error in a social security number, unless the error was a result of fraud on the part of the student.".

Subtitle D—Immunity

SEC. 1041. GENERAL IMMUNITY FOR TOBACCO PRODUCERS AND TOBACCO WAREHOUSE OWNERS.

Notwithstanding any other provision of this title, a participating tobacco producer, tobacco-related growers association, or tobacco warehouse owner or employee may not be subject to liability in any Federal or State court for any cause of action resulting from the failure of any tobacco product manufacturer, distributor, or retailer to comply with the National Tobacco Policy and Youth Smoking Reduction Act.

Subtitle E—Applicability

SEC. 1051. APPLICABILITY OF TITLE XV.

Notwithstanding any other provision of this Act, title XV of this Act shall have no force or effect.

SEC. 1052. EFFECTIVE DATE.

This subtitle takes effect on the day after the date of enactment of this Act, but shall apply as of such date of enactment.

FORD (AND OTHERS) AMENDMENT NO. 2626

(Ordered to lie on the table.)

Mr. FORD (for himself, Mr. HOLDINGS, and Mr. ROBB) submitted an amendment intended to be proposed by them to amendment No. 2496, proposed by Mr. LUGAR to the bill, S. 1415, supra; as follows:

In lieu of the matter proposed to be stricken, insert the following:

TITLE X—LONG-TERM ECONOMIC ASSISTANCE FOR FARMERS

SEC. 1001. SHORT TITLE.

This title may be cited as the "Long-Term Economic Assistance for Farmers Act" or the "LEAF Act".

SEC. 1002. DEFINITIONS.

In this title:

(1) PARTICIPATING TOBACCO PRODUCER.—The term "participating tobacco producer" means a quota holder, quota lessee, or quota tenant.

(2) QUOTA HOLDER.—The term "quota holder" means an owner of a farm on January 1, 1998, for which a tobacco farm marketing quota or farm acreage allotment was established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.).

(3) QUOTA LESSEE.—The term "quota lessee" means—

(A) a producer that owns a farm that produced tobacco pursuant to a lease and transfer to that farm of all or part of a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years; or

(B) a producer that rented land from a farm operator to produce tobacco under a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years.

(4) QUOTA TENANT.—The term "quota tenant" means a producer that—

(A) is the principal producer, as determined by the Secretary, of tobacco on a farm where tobacco is produced pursuant to a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years; and

(B) is not a quota holder or quota lessee.

(5) SECRETARY.—The term "Secretary" means—

(A) in subtitles A and B, the Secretary of Agriculture; and

(B) in section 1031, the Secretary of Labor.

(6) TOBACCO PRODUCT IMPORTER.—The term "tobacco product importer" has the meaning given the term "importer" in section 5702 of the Internal Revenue Code of 1986.

(7) TOBACCO PRODUCT MANUFACTURER.—

(A) IN GENERAL.—The term "tobacco product manufacturer" has the meaning given the term "manufacturer of tobacco products" in section 5702 of the Internal Revenue Code of 1986.

(B) EXCLUSION.—The term "tobacco product manufacturer" does not include a person that manufactures cigars or pipe tobacco.

(8) TOBACCO WAREHOUSE OWNER.—The term "tobacco warehouse owner" means a warehouseman that participated in an auction market (as defined in the first section of the Tobacco Inspection Act (7 U.S.C. 511)) during the 1998 marketing year.

(9) FLUE-CURED TOBACCO.—The term "flue-cured tobacco" includes type 21 and type 37 tobacco.

Subtitle A—Tobacco Community Revitalization

SEC. 1011. AUTHORIZATION OF APPROPRIATIONS.

There are appropriated and transferred to the Secretary for each fiscal year such amounts from the National Tobacco Trust Fund established by section 401, other than from amounts in the State Litigation Settlement Account, as may be necessary to carry out the provisions of this title.

SEC. 1012. EXPENDITURES.

The Secretary is authorized, subject to appropriations, to make payments under—

(1) section 1021 for payments for lost tobacco quota for each of fiscal years 1999 through 2023, but not to exceed $1,650,000,000 for any fiscal year except to the extent the payments are made in accordance with subsection (d)(12) or (e)(9) of section 1021;

(2) section 1022 for industry payments for all costs of the Department of Agriculture associated with the production of tobacco;

(3) section 1023 for tobacco community economic development grants, but not to exceed—

(A) $375,000,000 for each of fiscal years 1999 through 2008, less any amount required to be paid under section 1022 for the fiscal year; and

(B) $450,000,000 for each of fiscal year 2009 through 2023, less any amount required to be paid under section 1022 during the fiscal year;

(4) section 1031 for assistance provided under the tobacco worker transition program, but not to exceed $25,000,000 for any fiscal year; and

(5) subpart 9 of part A of title IV of the Higher Education Act of 1965 for farmer opportunity grants, but not to exceed—

(A) $42,500,000 for each of the academic years 1999–2000 through 2003–2004;

(B) $50,000,000 for each of the academic years 2004–2005 through 2008–2009;

(C) $57,500,000 for each of the academic years 2009–2010 through 2013–2014;

(D) $65,000,000 for each of the academic years 2014–2015 through 2018–2019; and

(E) $72,500,000 for each of the academic years 2019–2020 through 2023–2024.

SEC. 1013. BUDGETARY TREATMENT.

This subtitle constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide payments to States and eligible persons in accordance with this title.

Subtitle B—Tobacco Market Transition Assistance

SEC. 1021. PAYMENTS FOR LOST TOBACCO QUOTA.

(a) IN GENERAL.—Beginning with the 1999 marketing year, the Secretary shall make payments for lost tobacco quota to eligible quota holders, quota lessees, and quota tenants as reimbursement for lost tobacco quota.

(b) ELIGIBILITY.—To be eligible to receive payments under this section, a quota holder, quota lessee, or quota tenant shall—

(1) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including information sufficient to make the demonstration required under paragraph (2); and

(2) demonstrate to the satisfaction of the Secretary that, with respect to the 1997 marketing year—

(A) the producer was a quota holder and realized income (or would have realized income, as determined by the Secretary, but for a medical hardship or crop disaster during the 1997 marketing year) from the production of tobacco through—

(i) the active production of tobacco;

(ii) the lease and transfer of tobacco quota to another farm;

(iii) the rental of all or part of the farm of the quota holder, including the right to produce tobacco, to another tobacco producer; or

(iv) the hiring of a quota tenant to produce tobacco;

(B) the producer was a quota lessee; or

(C) the producer was a quota tenant.

(c) BASE QUOTA LEVEL.—

(1) IN GENERAL.—The Secretary shall determine, for each quota holder, quota lessee, and quota tenant, the base quota level for the 1995 through 1997 marketing years.

(2) QUOTA HOLDERS.—The base quota level for a quota holder shall be equal to the average tobacco farm marketing quota established for the farm owned by the quota holder for the 1995 through 1997 marketing years.

(3) QUOTA LESSEES.—The base quota level for a quota lessee shall be equal to—

(A) 50 percent of the average number of pounds of tobacco quota established for the farm for the 1995 through 1997 marketing years—

(i) that was leased and transferred to a farm owned by the quota lessee; or

(ii) that was rented to the quota lessee for the right to produce the tobacco; less

(B) 25 percent of the average number of pounds of tobacco quota described in subparagraph (A) for which a quota tenant was the principal producer of the tobacco quota.

(4) QUOTA TENANTS.—The base quota level for a quota tenant shall be equal to the sum of—

(A) 50 percent of the average number of pounds of tobacco quota established for a farm for the 1995 through 1997 marketing years—

(i) that was owned by a quota holder; and

(ii) for which the quota tenant was the principal producer of the tobacco on the farm; and

(B) 25 percent of the average number of pounds of tobacco quota for the 1995 through 1997 marketing years—

(i)(I) that was leased and transferred to a farm owned by the quota lessee; or

(II) for which the rights to produce the tobacco were rented to the quota lessee; and

(ii) for which the quota tenant was the principal producer of the tobacco on the farm.

(5) MARKETING QUOTAS OTHER THAN POUNDAGE QUOTAS.—

(A) IN GENERAL.—For each type of tobacco for which there is a marketing quota or allotment (on an acreage basis), the base quota level for each quota holder, quota lessee, or quota tenant shall be determined in accordance with this subsection (based on a poundage conversion) by multiplying—

(i) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; and

(ii) the average yield per acre for the farm for the type of tobacco for the marketing years.

(B) YIELDS NOT AVAILABLE.—If the average yield per acre is not available for a farm, the Secretary shall calculate the base quota for the quota holder, quota lessee, or quota tenant (based on a poundage conversion) by determining the amount equal to the product obtained by multiplying—

(i) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; and

(ii) the average county yield per acre for the county in which the farm is located for the type of tobacco for the marketing years.

(d) PAYMENTS FOR LOST TOBACCO QUOTA FOR TYPES OF TOBACCO OTHER THAN FLUE-CURED TOBACCO.—

(1) ALLOCATION OF FUNDS.—Of the amounts made available under section 1011(d)(1) for payments for lost tobacco quota, the Secretary shall make available for payments under this subsection an amount that bears the same ratio to the amounts made available as—

(A) the sum of all national marketing quotas for all types of tobacco other than flue-cured tobacco during the 1995 through 1997 marketing years; bears to

(B) the sum of all national marketing quotas for all types of tobacco during the 1995 through 1997 marketing years.

(2) OPTION TO RELINQUISH QUOTA.—

(A) IN GENERAL.—Each quota holder, for types of tobacco other than flue-cured tobacco, shall be given the option to relinquish the farm marketing quota or farm acreage allotment of the quota holder in exchange for a payment made under paragraph (3).

(B) NOTIFICATION.—A quota holder shall give notification of the intention of the quota holder to exercise the option at such time and in such manner as the Secretary may require, but not later than January 15, 1999.

(3) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA HOLDERS EXERCISING OPTIONS TO RELINQUISH QUOTA.—

(A) IN GENERAL.—Subject to subparagraph (E), for each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost tobacco quota to each quota holder that has relinquished the farm marketing quota or farm acreage allotment of the quota holder under paragraph (2).

(B) AMOUNT.—The amount of a payment made to a quota holder described in subparagraph (A) for a marketing year shall equal 1/10 of the lifetime limitation established under subparagraph (E).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the farm marketing quota or farm acreage allotment is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(E) LIFETIME LIMITATION ON PAYMENTS.—The total amount of payments made under this paragraph to a quota holder shall not exceed the product obtained by multiplying the base quota level for the quota holder by $8 per pound.

(4) REISSUANCE OF QUOTA.—

(A) REALLOCATION TO LESSEE OR TENANT.—If a quota holder exercises an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), a quota lessee or quota tenant that was the primary producer during the 1997 marketing year of tobacco pursuant to the farm marketing quota or farm acreage allotment, as determined by the Secretary, shall be given the option of having an allotment of the farm marketing quota or farm acreage allotment reallocated to a farm owned by the quota lessee or quota tenant.

(B) CONDITIONS FOR REALLOCATION.—

(i) TIMING.—A quota lessee or quota tenant that is given the option of having an allotment of a farm marketing quota or farm acreage allotment reallocated to a farm owned by the quota lessee or quota tenant under subparagraph (A) shall have 1 year from the date on which a farm marketing quota or farm acreage allotment is relinquished under paragraph (2) to exercise the option.

(ii) LIMITATION ON ACREAGE ALLOTMENT.—In the case of a farm acreage allotment, the acreage allotment determined for any farm subsequent to any reallocation under subparagraph (A) shall not exceed 50 percent of the acreage of cropland of the farm owned by the quota lessee or quota tenant.

(iii) LIMITATION ON MARKETING QUOTA.—In the case of a farm marketing quota, the marketing quota determined for any farm subsequent to any reallocation under subparagraph (A) shall not exceed an amount determined by multiplying—

(I) the average county farm yield, as determined by the Secretary; and

(II) 50 percent of the acreage of cropland of the farm owned by the quota lessee or quota tenant.

(C) ELIGIBILITY OF LESSEE OR TENANT FOR PAYMENTS.—If a farm marketing quota or farm acreage allotment is reallocated to a quota lessee or quota tenant under subparagraph (A)—

(i) the quota lessee or quota tenant shall not be eligible for any additional payments under paragraph (5) or (6) as a result of the reallocation; and

(ii) the base quota level for the quota lessee or quota tenant shall not be increased as a result of the reallocation.

(D) REALLOCATION TO QUOTA HOLDERS WITHIN SAME COUNTY OR STATE.—

(i) IN GENERAL.—Except as provided in clause (ii), if there was no quota lessee or quota tenant for the farm marketing quota or farm acreage allotment for a type of tobacco, or if no quota lessee or quota tenant exercises an option of having an allotment of the farm marketing quota or farm acreage allotment for a type of tobacco reallocated, the Secretary shall reapportion the farm marketing quota or farm acreage allotment among the remaining quota holders for the type of tobacco within the same county.

(ii) CROSS-COUNTY LEASING.—In a State in which cross-county leasing is authorized pursuant to section 319(l) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(*l*)), the Secretary shall reapportion the farm marketing quota among the remaining quota holders for the type of tobacco within the same State.

(iii) ELIGIBILITY OF QUOTA HOLDER FOR PAYMENTS.—If a farm marketing quota is reapportioned to a quota holder under this subparagraph—

(I) the quota holder shall not be eligible for any additional payments under paragraph (5) or (6) as a result of the reapportionment; and

(II) the base quota level for the quota holder shall not be increased as a result of the reapportionment.

(E) SPECIAL RULE FOR TENANT OF LEASED TOBACCO.—If a quota holder exercises an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), the farm marketing quota or farm acreage allotment shall be divided evenly between, and the option of reallocating the farm marketing quota or farm acreage allotment shall be offered in equal portions to, the quota lessee and to the quota tenant, if—

(i) during the 1997 marketing year, the farm marketing quota or farm acreage allotment was leased and transferred to a farm owned by the quota lessee; and

(ii) the quota tenant was the primary producer, as determined by the Secretary, of tobacco pursuant to the farm marketing quota or farm acreage allotment.

(5) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA HOLDERS.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for a type of tobacco is less than the average national marketing quota for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota holder, for types of tobacco other than flue-cured tobacco, that is eligible under subsection (b), and has not exercised an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), in an amount that is equal to the product obtained by multiplying—

(i) the number of pounds by which the basic farm marketing quota (or poundage conversion) is less than the base quota level for the quota holder; and

(ii) $4 per pound.

(B) POUNDAGE CONVERSION FOR MARKETING QUOTAS OTHER THAN POUNDAGE QUOTAS.—

(i) IN GENERAL.—For each type of tobacco for which there is a marketing quota or allotment (on an acreage basis), the poundage conversion for each quota holder during a marketing year shall be determined by multiplying—

(I) the basic farm acreage allotment for the farm for the marketing year; and

(II) the average yield per acre for the farm for the type of tobacco.

(ii) YIELD NOT AVAILABLE.—If the average yield per acre is not available for a farm, the Secretary shall calculate the poundage conversion for each quota holder during a marketing year by multiplying—

(I) the basic farm acreage allotment for the farm for the marketing year; and

(II) the average county yield per acre for the county in which the farm is located for the type of tobacco.

(6) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for a type of tobacco is less than the average national marketing quota for the type of tobacco for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota lessee and quota tenant, for types of tobacco other than flue-cured tobacco, that is eligible under subsection (b) in an amount that is equal to the product obtained by multiplying—

(A) the percentage by which the national marketing quota for the type of tobacco is less than the average national marketing quota for the type of tobacco for the 1995 through 1997 marketing years;

(B) the base quota level for the quota lessee or quota tenant; and

(C) $4 per pound.

(7) LIFETIME LIMITATION ON PAYMENTS.—Except as otherwise provided in this subsection, the total amount of payments made under this subsection to a quota holder, quota lessee, or quota tenant during the lifetime of the quota holder, quota lessee, or quota tenant shall not exceed the product obtained by multiplying—

(A) the base quota level for the quota holder, quota lessee, or quota tenant; and

(B) $8 per pound.

(8) LIMITATIONS ON AGGREGATE ANNUAL PAYMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the total amount payable under this subsection for any marketing year shall not exceed the amount made available under paragraph (1).

(B) ACCELERATED PAYMENTS.—Paragraph (1) shall not apply if accelerated payments for lost tobacco quota are made in accordance with paragraph (12).

(C) REDUCTIONS.—If the sum of the amounts determined under paragraphs (3), (5), and (6) for a marketing year exceeds the amount made available under paragraph (1), the Secretary shall make a pro rata reduction in the amounts payable under paragraphs (5) and (6) to quota holders, quota lessees, and quota tenants under this subsection to ensure that the total amount of payments for lost tobacco quota does not exceed the amount made available under paragraph (1).

(D) ROLLOVER OF PAYMENTS FOR LOST TOBACCO QUOTA.—Subject to subparagraph (A), if the Secretary makes a reduction in accordance with subparagraph (C), the amount of the reduction shall be applied to the next marketing year and added to the payments for lost tobacco quota for the marketing year.

(E) ADDITIONAL PAYMENTS TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTA.—If the amount made available under paragraph (1) exceeds the sum of the amounts determined under paragraphs (3), (5), and (6) for a marketing year, the Secretary shall distribute the amount of the excess pro rata to quota holders that have exercised an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2) by increasing the amount payable to each such holder under paragraph (3).

(9) SUBSEQUENT SALE AND TRANSFER OF QUOTA.—Effective beginning with the 1999 marketing year, on the sale and transfer of a farm marketing quota or farm acreage allotment under section 316(g) or 319(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(g), 1314e(g))—

(A) the person that sold and transferred the quota or allotment shall have—

(i) the base quota level attributable to the person reduced by the base quota level attributable to the quota that is sold and transferred; and

(ii) the lifetime limitation on payments established under paragraph (7) attributable to the person reduced by the product obtained by multiplying—

(I) the base quota level attributable to the quota; and

(II) $8 per pound; and

(B) if the quota or allotment has never been relinquished by a previous quota holder under paragraph (2), the person that acquired the quota shall have—

(i) the base quota level attributable to the person increased by the base quota level attributable to the quota that is sold and transferred; and

(ii) the lifetime limitation on payments established under paragraph (7) attributable to the person—

(I) increased by the product obtained by multiplying—

(aa) the base quota level attributable to the quota; and

(bb) $8 per pound; but

(II) decreased by any payments under paragraph (5) for lost tobacco quota previously made that are attributable to the quota that is sold and transferred.

(10) SALE OR TRANSFER OF FARM.—On the sale or transfer of ownership of a farm that is owned by a quota holder, the base quota level established under subsection (c), the right to payments under paragraph (5), and the lifetime limitation on payments established under paragraph (7) shall transfer to the new owner of the farm to the same extent and in the same manner as those provisions applied to the previous quota holder.

(11) DEATH OF QUOTA LESSEE OR QUOTA TENANT.—If a quota lessee or quota tenant that is entitled to payments under this subsection dies and is survived by a spouse or 1 or more dependents, the right to receive the payments shall transfer to the surviving spouse or, if there is no surviving spouse, to the surviving dependents in equal shares.

(12) ACCELERATION OF PAYMENTS.—

(A) IN GENERAL.—On the occurrence of any of the events described in subparagraph (B), the Secretary shall make an accelerated lump sum payment for lost tobacco quota as established under paragraphs (5) and (6) to each quota holder, quota lessee, and quota tenant for any affected type of tobacco in accordance with subparagraph (C).

(B) TRIGGERING EVENTS.—The Secretary shall make accelerated payments under subparagraph (A) if after the date of enactment of this Act—

(i) subject to subparagraph (D), for 3 consecutive marketing years, the national marketing quota or national acreage allotment for a type of tobacco is less than 50 percent of the national marketing quota or national acreage allotment for the type of tobacco for the 1998 marketing year; or

(ii) Congress repeals or makes ineffective, directly or indirectly, any provision of—

(I) section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b);

(II) section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e);

(III) section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445);

(IV) section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445–1); or

(V) section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2).

(C) AMOUNT.—The amount of the accelerated payments made to each quota holder, quota lessee, and quota tenant under this subsection shall be equal to—

(i) the amount of the lifetime limitation established for the quota holder, quota lessee, or quota tenant under paragraph (7); less

(ii) any payments for lost tobacco quota received by the quota holder, quota lessee, or quota tenant before the occurrence of any of the events described in subparagraph (B).

(D) REFERENDUM VOTE NOT A TRIGGERING EVENT.—A referendum vote of producers for any type of tobacco that results in the national marketing quota or national acreage allotment not being in effect for the type of tobacco shall not be considered a triggering event under this paragraph.

(13) BAN ON SUBSEQUENT SALE OR LEASING OF FARM MARKETING QUOTA OR FARM ACREAGE ALLOTMENT TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTA.—No quota holder that exercises the option to relinquish a farm marketing quota or farm acreage allotment for any type of tobacco under paragraph (2) shall be eligible to acquire a farm marketing quota or farm acreage allotment for the type of tobacco, or to obtain the lease or transfer of a farm marketing quota or farm acreage allotment for the type of tobacco, for a period of 25 crop years after the date on which the quota or allotment was relinquished.

(e) PAYMENTS FOR LOST TOBACCO QUOTA FOR FLUE-CURED TOBACCO.—

(1) ALLOCATION OF FUNDS.—Of the amounts made available under section 1011(d)(1) for payments for lost tobacco quota, the Secretary shall make available for payments

under this subsection an amount that bears the same ratio to the amounts made available as—

(A) the sum of all national marketing quotas for flue-cured tobacco during the 1995 through 1997 marketing years; bears to

(B) the sum of all national marketing quotas for all types of tobacco during the 1995 through 1997 marketing years.

(2) RELINQUISHMENT OF QUOTA.—

(A) IN GENERAL.—Each quota holder of flue-cured tobacco shall relinquish the farm marketing quota or farm acreage allotment in exchange for a payment made under paragraph (3) due to the transition from farm marketing quotas as provided under section 317 of the Agricultural Adjustment Act of 1938 for flue-cured tobacco to individual tobacco production permits as provided under section 317A of the Agricultural Adjustment Act of 1938 for flue-cured tobacco.

(B) NOTIFICATION.—The Secretary shall notify the quota holders of the relinquishment of their quota or allotment at such time and in such manner as the Secretary may require, but not later than November 15, 1998.

(3) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA HOLDERS THAT RELINQUISH QUOTA.—

(A) IN GENERAL.—For each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost flue-cured tobacco to each quota holder that has relinquished the farm marketing quota or farm acreage allotment of the quota holder under paragraph (2).

(B) AMOUNT.—The amount of a payment made to a quota holder described in subparagraph (A) for a marketing year shall equal 1/10 of the lifetime limitation established under paragraph (6).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the farm marketing quota or farm acreage allotment is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(4) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS THAT HAVE NOT RELINQUISHED PERMITS.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for flue-cured tobacco is less than the average national marketing quota for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota lessee or quota tenant that—

(i) is eligible under subsection (b);

(ii) has been issued an individual tobacco production permit under section 317A(b) of the Agricultural Adjustment Act of 1938; and

(iii) has not exercised an option to relinquish the permit.

(B) AMOUNT.—The amount of a payment made to a quota lessee or quota tenant described in subparagraph (A) for a marketing year shall be equal to the product obtained by multiplying—

(i) the number of pounds by which the individual marketing limitation established for the permit is less than twice the base quota level for the quota lessee or quota tenant; and

(ii) $2 per pound.

(5) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS THAT HAVE RELINQUISHED PERMITS.—

(A) IN GENERAL.—For each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost flue-cured tobacco quota to each quota lessee and quota tenant that has relinquished an individual tobacco production permit under section 317A(b)(5) of the Agricultural Adjustment Act of 1938.

(B) AMOUNT.—The amount of a payment made to a quota lessee or quota tenant described in subparagraph (A) for a marketing year shall be equal to 1/10 of the lifetime limitation established under paragraph (6).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the individual tobacco production permit is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(E) PROHIBITION AGAINST PERMIT EXPANSION.—A quota lessee or quota tenant that receives a payment under this paragraph shall be ineligible to receive any new or increased tobacco production permit from the county production pool established under section 317A(b)(8) of the Agricultural Adjustment Act of 1938.

(6) LIFETIME LIMITATION ON PAYMENTS.—Except as otherwise provided in this subsection, the total amount of payments made under this subsection to a quota holder, quota lessee, or quota tenant during the lifetime of the quota holder, quota lessee, or quota tenant shall not exceed the product obtained by multiplying—

(A) the base quota level for the quota holder, quota lessee, or quota tenant; and

(B) $8 per pound.

(7) LIMITATIONS ON AGGREGATE ANNUAL PAYMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the total amount payable under this subsection for any marketing year shall not exceed the amount made available under paragraph (1).

(B) ACCELERATED PAYMENTS.—Paragraph (1) shall not apply if accelerated payments for lost flue-cured tobacco quota are made in accordance with paragraph (9).

(C) REDUCTIONS.—If the sum of the amounts determined under paragraphs (3), (4), and (5) for a marketing year exceeds the amount made available under paragraph (1), the Secretary shall make a pro rata reduction in the amounts payable under paragraph (4) to quota lessees and quota tenants under this subsection to ensure that the total amount of payments for lost flue-cured tobacco quota does not exceed the amount made available under paragraph (1).

(D) ROLLOVER OF PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA.—Subject to subparagraph (A), if the Secretary makes a reduction in accordance with subparagraph (C), the amount of the reduction shall be applied to the next marketing year and added to the payments for lost flue-cured tobacco quota for the marketing year.

(E) ADDITIONAL PAYMENTS TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTAS OR PERMITS, OR TO QUOTA LESSEES OR QUOTA TENANTS RELINQUISHING PERMITS.—If the amount made available under paragraph (1) exceeds the sum of the amounts determined under paragraphs (3), (4), and (5) for a marketing year, the Secretary shall distribute the amount of the excess pro rata to quota holders by increasing the amount payable to each such holder under paragraphs (3) and (5).

(8) DEATH OF QUOTA HOLDER, QUOTA LESSEE, OR QUOTA TENANT.—If a quota holder, quota lessee or quota tenant that is entitled to payments under paragraph (4) or (5) dies and is survived by a spouse or 1 or more descendants, the right to receive the payments shall transfer to the surviving spouse or, if there is no surviving spouse, to the surviving descendants in equal shares.

(9) ACCELERATION OF PAYMENTS.—

(A) IN GENERAL.—On the occurrence of any of the events described in subparagraph (B), the Secretary shall make an accelerated lump sum payment for lost flue-cured tobacco quota as established under paragraphs (3), (4), and (5) to each quota holder, quota lessee, and quota tenant for flue-cured tobacco in accordance with subparagraph (C).

(B) TRIGGERING EVENTS.—The Secretary shall make accelerated payments under subparagraph (A) if after the date of enactment of this Act—

(i) subject to subparagraph (D), for 3 consecutive marketing years, the national marketing quota or national acreage allotment for flue-cured tobacco is less than 50 percent of the national marketing quota or national acreage allotment for flue-cured tobacco for the 1998 marketing year; or

(ii) Congress repeals or makes ineffective, directly or indirectly, any provision of—

(I) section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b);

(II) section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e);

(III) section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445);

(IV) section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445–1);

(V) section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2); or

(VI) section 317A of the Agricultural Adjustment Act of 1938.

(C) AMOUNT.—The amount of the accelerated payments made to each quota holder, quota lessee, and quota tenant under this subsection shall be equal to—

(i) the amount of the lifetime limitation established for the quota holder, quota lessee, or quota tenant under paragraph (6); less

(ii) any payments for lost flue-cured tobacco quota received by the quota holder, quota lessee, or quota tenant before the occurrence of any of the events described in subparagraph (B).

(D) REFERENDUM VOTE NOT A TRIGGERING EVENT.—A referendum vote of producers for flue-cured tobacco that results in the national marketing quota or national acreage allotment not being in effect for flue-cured tobacco shall not be considered a triggering event under this paragraph.

SEC. 1022. INDUSTRY PAYMENTS FOR ALL DEPARTMENT COSTS ASSOCIATED WITH TOBACCO PRODUCTION.

(a) IN GENERAL.—The Secretary shall use such amounts remaining unspent and obligated at the end of each fiscal year to reimburse the Secretary for—

(1) costs associated with the administration of programs established under this title and amendments made by this title;

(2) costs associated with the administration of the tobacco quota and price support programs administered by the Secretary;

(3) costs to the Federal Government of carrying out crop insurance programs for tobacco;

(4) costs associated with all agricultural research, extension, or education activities associated with tobacco;

(5) costs associated with the administration of loan association and cooperative programs for tobacco producers, as approved by the Secretary; and

(6) any other costs incurred by the Department of Agriculture associated with the production of tobacco.

(b) LIMITATIONS.—Amounts made available under subsection (a) may not be used—

(1) to provide direct benefits to quota holders, quota lessees, or quota tenants; or

(2) in a manner that results in a decrease, or an increase relative to other crops, in the amount of the crop insurance premiums assessed to participating tobacco producers under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(c) DETERMINATIONS.—Not later than September 30, 1998, and each fiscal year thereafter, the Secretary shall determine—

(1) the amount of costs described in subsection (a); and

(2) the amount that will be provided under this section as reimbursement for the costs.

SEC. 1023. TOBACCO COMMUNITY ECONOMIC DEVELOPMENT GRANTS.

(a) AUTHORITY.—The Secretary shall make grants to tobacco-growing States in accordance with this section to enable the States to carry out economic development initiatives in tobacco-growing communities.

(b) APPLICATION.—To be eligible to receive payments under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

(1) a description of the activities that the State will carry out using amounts received under the grant;

(2) a designation of an appropriate State agency to administer amounts received under the grant; and

(3) a description of the steps to be taken to ensure that the funds are distributed in accordance with subsection (e).

(c) AMOUNT OF GRANT.—

(1) IN GENERAL.—From the amounts available to carry out this section for a fiscal year, the Secretary shall allot to each State an amount that bears the same ratio to the amounts available as the total farm income of the State derived from the production of tobacco during the 1995 through 1997 marketing years (as determined under paragraph (2)) bears to the total farm income of all States derived from the production of tobacco during the 1995 through 1997 marketing years.

(2) TOBACCO INCOME.—For the 1995 through 1997 marketing years, the Secretary shall determine the amount of farm income derived from the production of tobacco in each State and in all States.

(d) PAYMENTS.—

(1) IN GENERAL.—A State that has an application approved by the Secretary under subsection (b) shall be entitled to a payment under this section in an amount that is equal to its allotment under subsection (c).

(2) FORM OF PAYMENTS.—The Secretary may make payments under this section to a State in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(3) REALLOTMENTS.—Any portion of the allotment of a State under subsection (c) that the Secretary determines will not be used to carry out this section in accordance with an approved State application required under subsection (b), shall be reallotted by the Secretary to other States in proportion to the original allotments to the other States.

(e) USE AND DISTRIBUTION OF FUNDS.—

(1) IN GENERAL.—Amounts received by a State under this section shall be used to carry out economic development activities, including—

(A) rural business enterprise activities described in subsections (c) and (e) of section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932);

(B) down payment loan assistance programs that are similar to the program described in section 310E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1935);

(C) activities designed to help create productive farm or off-farm employment in rural areas to provide a more viable economic base and enhance opportunities for improved incomes, living standards, and contributions by rural individuals to the economic and social development of tobacco communities;

(D) activities that expand existing infrastructure, facilities, and services to capitalize on opportunities to diversify economies in tobacco communities and that support the development of new industries or commercial ventures;

(E) activities by agricultural organizations that provide assistance directly to participating tobacco producers to assist in developing other agricultural activities that supplement tobacco-producing activities;

(F) initiatives designed to create or expand locally owned value-added processing and marketing operations in tobacco communities;

(G) technical assistance activities by persons to support farmer-owned enterprises, or agriculture-based rural development enterprises, of the type described in section 252 or 253 of the Trade Act of 1974 (19 U.S.C. 2342, 2343); and

(H) initiatives designed to partially compensate tobacco warehouse owners for lost revenues and assist the tobacco warehouse owners in establishing successful business enterprises.

(2) TOBACCO-GROWING COUNTIES.—Assistance may be provided by a State under this section only to assist a county in the State that has been determined by the Secretary to have in excess of $100,000 in income derived from the production of tobacco during 1 or more of the 1995 through 1997 marketing years. For purposes of this section, the term "tobacco-growing county" includes a political subdivision surrounded within a State by a county that has been determined by the Secretary to have in excess of $100,000 in income derived from the production of tobacco during 1 or more of the 1995 through 1997 marketing years.

(3) DISTRIBUTION.—

(A) ECONOMIC DEVELOPMENT ACTIVITIES.—Not less than 20 percent of the amounts received by a State under this section shall be used to carry out—

(i) economic development activities described in subparagraph (E) or (F) of paragraph (1); or

(ii) agriculture-based rural development activities described in paragraph (1)(G).

(B) TECHNICAL ASSISTANCE ACTIVITIES.—Not less than 4 percent of the amounts received by a State under this section shall be used to carry out technical assistance activities described in paragraph (1)(G).

(C) TOBACCO WAREHOUSE OWNER INITIATIVES.—Not less than 6 percent of the amounts received by a State under this section during each of fiscal years 1999 through 2008 shall be used to carry out initiatives described in paragraph (1)(H).

(D) TOBACCO-GROWING COUNTIES.—To be eligible to receive payments under this section, a State shall demonstrate to the Secretary that funding will be provided, during each 5-year period for which funding is provided under this section, for activities in each county in the State that has been determined under paragraph (2) to have in excess of $100,000 in income derived from the production of tobacco, in amounts that are at least equal to the product obtained by multiplying—

(i) the ratio that the tobacco production income in the county determined under paragraph (2) bears to the total tobacco production income for the State determined under subsection (c); and

(ii) 50 percent of the total amounts received by a State under this section during the 5-year period.

(f) PREFERENCES IN HIRING.—A State may require recipients of funds under this section to provide a preference in employment to—

(1) an individual who—

(A) during the 1998 calendar year, was employed in the manufacture, processing, or warehousing of tobacco or tobacco products, or resided, in a county described in subsection (e)(2); and

(B) is eligible for assistance under the tobacco worker transition program established under section 1031; or

(2) an individual who—

(A) during the 1998 marketing year, carried out tobacco quota or relevant tobacco production activities in a county described in subsection (e)(2);

(B) is eligible for a farmer opportunity grant under subpart 9 of part A of title IV of the Higher Education Act of 1965; and

(C) has successfully completed a course of study at an institution of higher education.

(g) MAINTENANCE OF EFFORT.—

(1) IN GENERAL.—Subject to paragraph (2), a State shall provide an assurance to the Secretary that the amount of funds expended by the State and all counties in the State described in subsection (e)(2) for any activities funded under this section for a fiscal year is not less than 90 percent of the amount of funds expended by the State and counties for the activities for the preceding fiscal year.

(2) REDUCTION OF GRANT AMOUNT.—If a State does not provide an assurance described in paragraph (1), the Secretary shall reduce the amount of the grant determined under subsection (c) by an amount equal to the amount by which the amount of funds expended by the State and counties for the activities is less than 90 percent of the amount of funds expended by the State and counties for the activities for the preceding fiscal year, as determined by the Secretary.

(3) FEDERAL FUNDS.—For purposes of this subsection, the amount of funds expended by a State or county shall not include any amounts made available by the Federal Government.

SEC. 1024. FLUE-CURED TOBACCO PRODUCTION PERMITS.

The Agricultural Adjustment Act of 1938 is amended by inserting after section 317 (7 U.S.C. 1314c) the following:

"SEC. 317A. FLUE-CURED TOBACCO PRODUCTION PERMITS.

"(a) DEFINITIONS.—In this section:

"(1) INDIVIDUAL ACREAGE LIMITATION.—The term 'individual acreage limitation' means the number of acres of flue-cured tobacco that may be planted by the holder of a permit during a marketing year, calculated—

"(A) prior to—

"(i) any increase or decrease in the number due to undermarketings or overmarketings; and

"(ii) any reduction under subsection (i); and

"(B) in a manner that ensures that—

"(i) the total of all individual acreage limitations is equal to the national acreage allotment, less the reserve provided under subsection (h); and

"(ii) the individual acreage limitation for a marketing year bears the same ratio to the individual acreage limitation for the previous marketing year as the ratio that the national acreage allotment for the marketing year bears to the national acreage allotment for the previous marketing year, subject to adjustments by the Secretary to account for any reserve provided under subsection (h).

"(2) INDIVIDUAL MARKETING LIMITATION.—The term 'individual marketing limitation' means the number of pounds of flue-cured tobacco that may be marketed by the holder of a permit during a marketing year, calculated—

"(A) prior to—

"(i) any increase or decrease in the number due to undermarketings or overmarketings; and

"(ii) any reduction under subsection (i); and

"(B) in a manner that ensures that—

"(i) the total of all individual marketing limitations is equal to the national marketing quota, less the reserve provided under subsection (h); and

"(ii) the individual marketing limitation for a marketing year is obtained by multiplying the individual acreage limitation by the permit yield, prior to any adjustment for undermarketings or overmarketings.

"(3) INDIVIDUAL TOBACCO PRODUCTION PERMIT.—The term 'individual tobacco production permit' means a permit issued by the Secretary to a person authorizing the production of flue-cured tobacco for any marketing year during which this section is effective.

"(4) NATIONAL ACREAGE ALLOTMENT.—The term 'national acreage allotment' means the quantity determined by dividing—

"(A) the national marketing quota; by

"(B) the national average yield goal.

"(5) NATIONAL AVERAGE YIELD GOAL.—The term 'national average yield goal' means the national average yield for flue-cured tobacco during the 5 marketing years immediately preceding the marketing year for which the determination is being made.

"(6) NATIONAL MARKETING QUOTA.—For the 1999 and each subsequent crop of flue-cured tobacco, the term 'national marketing quota' for a marketing year means the quantity of flue-cured tobacco, as determined by the Secretary, that is not more than 103 percent nor less than 97 percent of the total of—

"(A) the aggregate of the quantities of flue-cured tobacco that domestic manufacturers of cigarettes estimate that the manufacturers intend to purchase on the United States auction markets or from producers during the marketing year, as compiled and determined under section 320A;

"(B) the average annual quantity of flue-cured tobacco exported from the United States during the 3 marketing years immediately preceding the marketing year for which the determination is being made; and

"(C) the quantity, if any, of flue-cured tobacco that the Secretary, in the discretion of the Secretary, determines is necessary to increase or decrease the inventory of the producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of flue-cured tobacco to establish or maintain the inventory at the reserve stock level for flue-cured tobacco.

"(7) PERMIT YIELD.—The term 'permit yield' means the yield of tobacco per acre for an individual tobacco production permit holder that is—

"(A) based on a preliminary permit yield that is equal to the average yield during the 5 marketing years immediately preceding the marketing year for which the determination is made in the county where the holder of the permit is authorized to plant flue-cured tobacco, as determined by the Secretary, on the basis of actual yields of farms in the county; and

"(B) adjusted by a weighted national yield factor calculated by—

"(i) multiplying each preliminary permit yield by the individual acreage limitation, prior to adjustments for overmarketings, undermarketings, or reductions required under subsection (i); and

"(ii) dividing the sum of the products under clause (i) for all flue-cured individual tobacco production permit holders by the national acreage allotment.

"(b) INITIAL ISSUANCE OF PERMITS.—

"(1) TERMINATION OF FLUE-CURED MARKETING QUOTAS.—On the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act, farm marketing quotas as provided under section 317 shall no longer be in effect for flue-cured tobacco.

"(2) ISSUANCE OF PERMITS TO QUOTA HOLDERS THAT WERE PRINCIPAL PRODUCERS.—

"(A) IN GENERAL.—By January 15, 1999, each individual quota holder under section 317 that was a principal producer of flue-cured tobacco during the 1998 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

"(B) NOTIFICATION.—The Secretary shall notify the holder of each permit of the individual acreage limitation and the individual marketing limitation applicable to the holder for each marketing year.

"(C) INDIVIDUAL ACREAGE LIMITATION FOR 1999 MARKETING YEAR.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

"(D) INDIVIDUAL MARKETING LIMITATION FOR 1999 MARKETING YEAR.—In establishing the individual marketing limitation for the 1999 marketing year under this section, the farm marketing quota that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual marketing limitation for the previous marketing year.

"(3) QUOTA HOLDERS THAT WERE NOT PRINCIPAL PRODUCERS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), on approval through a referendum under subsection (c)—

"(i) each person that was a quota holder under section 317 but that was not a principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall not be eligible to own a permit; and

"(ii) the Secretary shall not issue any permit during the 25-year period beginning on the date of enactment of this Act to any person that was a quota holder and was not the principal producer of flue-cured tobacco during the 1997 marketing year.

"(B) MEDICAL HARDSHIPS AND CROP DISASTERS.—Subparagraph (A) shall not apply to a person that would have been the principal producer of flue-cured tobacco during the 1997 marketing year but for a medical hardship or crop disaster that occurred during the 1997 marketing year.

"(C) ADMINISTRATION.—The Secretary shall issue regulations—

"(i) defining the term 'person' for the purpose of this paragraph; and

"(ii) prescribing such rules as the Secretary determines are necessary to ensure a fair and reasonable application of the prohibition established under this paragraph.

"(4) ISSUANCE OF PERMITS TO PRINCIPAL PRODUCERS OF FLUE-CURED TOBACCO.—

"(A) IN GENERAL.—By January 15, 1999, each individual quota lessee or quota tenant (as defined in section 1002 of the LEAF Act) that was the principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

"(B) INDIVIDUAL ACREAGE LIMITATIONS.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by a quota holder for whom the quota lessee or quota tenant was the principal producer of flue-cured tobacco during the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

"(C) INDIVIDUAL MARKETING LIMITATIONS.—In establishing the individual marketing limitation for the 1999 marketing year under this section, the individual marketing limitation for the previous year for an individual described in this paragraph shall be calculated by multiplying—

"(i) the farm marketing quota that was allotted to a farm owned by a quota holder for whom the quota lessee or quota holder was the principal producer of flue-cured tobacco during the 1997 marketing year, by

"(ii) the ratio that—

"(I) the sum of all flue-cured tobacco farm marketing quotas for the 1997 marketing year prior to adjusting for undermarketing and overmarketing; bears to

"(II) the sum of all flue-cured tobacco farm marketing quotas for the 1998 marketing year, after adjusting for undermarketing and overmarketing.

"(D) SPECIAL RULE FOR TENANT OF LEASED FLUE-CURED TOBACCO.—If the farm marketing quota or farm acreage allotment of a quota holder was produced pursuant to an agreement under which a quota lessee rented land from a quota holder and a quota tenant was the primary producer, as determined by the Secretary, of flue-cured tobacco pursuant to the farm marketing quota or farm acreage allotment, the farm marketing quota or farm acreage allotment shall be divided proportionately between the quota lessee and quota tenant for purposes of issuing individual tobacco production permits under this paragraph.

"(5) OPTION OF QUOTA LESSEE OR QUOTA TENANT TO RELINQUISH PERMIT.—

"(A) IN GENERAL.—Each quota lessee or quota tenant that is issued an individual tobacco production permit under paragraph (4) shall be given the option of relinquishing the permit in exchange for payments made under section 1021(e)(5) of the LEAF Act.

"(B) NOTIFICATION.—A quota lessee or quota tenant that is issued an individual tobacco production permit shall give notification of the intention to exercise the option at such time and in such manner as the Secretary may require, but not later than 45 days after the permit is issued.

"(C) REALLOCATION OF PERMIT.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit relinquished under this paragraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

"(6) ACTIVE PRODUCER REQUIREMENT.—

"(A) REQUIREMENT FOR SHARING RISK.—No individual tobacco production permit shall be issued to, or maintained by, a person that does not fully share in the risk of producing a crop of flue-cured tobacco.

"(B) CRITERIA FOR SHARING RISK.—For purposes of this paragraph, a person shall be considered to have fully shared in the risk of production of a crop if—

"(i) the investment of the person in the production of the crop is not less than 100 percent of the costs of production associated with the crop;

"(ii) the amount of the person's return on the investment is dependent solely on the sale price of the crop; and

"(iii) the person may not receive any of the return before the sale of the crop.

"(C) PERSONS NOT SHARING RISK.—

"(i) FORFEITURE.—Any person that fails to fully share in the risks of production under this paragraph shall forfeit an individual tobacco production permit if, after notice and opportunity for a hearing, the appropriate county committee determines that the conditions for forfeiture exist.

"(ii) REALLOCATION.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit forfeited under this subparagraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

"(D) NOTICE.—Notice of any determination made by a county committee under subparagraph (C) shall be mailed, as soon as practicable, to the person involved.

"(E) REVIEW.—If the person is dissatisfied with the determination, the person may request, not later than 15 days after notice of the determination is received, a review of the determination by a local review committee under the procedures established under section 363 for farm marketing quotas.

"(7) COUNTY OF ORIGIN REQUIREMENT.—For the 1999 and each subsequent crop of flue-cured tobacco, all tobacco produced pursuant to an individual tobacco production permit shall be produced in the same county in which was produced the tobacco produced during the 1997 marketing year pursuant to the farm marketing quota or farm acreage allotment on which the individual tobacco production permit is based.

"(8) COUNTY PRODUCTION POOL.—

"(A) IN GENERAL.—The authority to produce flue-cured tobacco under an individual tobacco production permit that is forfeited, relinquished, or surrendered within a county may be reallocated by the appropriate county committee to tobacco producers located in the same county that apply to the committee to produce flue-cured tobacco under the authority.

"(B) PRIORITY.—In reallocating individual tobacco production permits under this paragraph, a county committee shall provide a priority to—

"(i) an active tobacco producer that controls the authority to produce a quantity of flue-cured tobacco under an individual tobacco production permit that is equal to or less than the average number of pounds of flue-cured tobacco that was produced by the producer during each of the 1995 through 1997 marketing years, as determined by the Secretary; and

"(ii) a new tobacco producer.

"(C) CRITERIA.—Individual tobacco production permits shall be reallocated by the appropriate county committee under this paragraph in a fair and equitable manner after taking into consideration—

"(i) the experience of the producer;

"(ii) the availability of land, labor, and equipment for the production of tobacco;

"(iii) crop rotation practices; and

"(iv) the soil and other physical factors affecting the production of tobacco.

"(D) MEDICAL HARDSHIPS AND CROP DISASTERS.—Notwithstanding any other provision of this Act, the Secretary may issue an individual tobacco production permit under this paragraph to a producer that is otherwise ineligible for the permit due to a medical hardship or crop disaster that occurred during the 1997 marketing year.

"(c) REFERENDUM.—

"(1) ANNOUNCEMENT OF QUOTA AND ALLOTMENT.—Not later than December 15, 1998, the Secretary pursuant to subsection (b) shall determine and announce—

"(A) the quantity of the national marketing quota for flue-cured tobacco for the 1999 marketing year; and

"(B) the national acreage allotment and national average yield goal for the 1999 crop of flue-cured tobacco.

"(2) SPECIAL REFERENDUM.—Not later than 30 days after the announcement of the quantity of the national marketing quota in 2001, the Secretary shall conduct a special referendum of the tobacco production permit holders that were the principal producers of flue-cured tobacco of the 1997 crop to determine whether the producers approve or oppose the continuation of individual tobacco production permits on an acreage-poundage basis as provided in this section for the 2002 through 2004 marketing years.

"(3) APPROVAL OF PERMITS.—If the Secretary determines that more than 66⅔ percent of the producers voting in the special referendum approve the establishment of individual tobacco production permits on an acreage-poundage basis—

"(A) individual tobacco production permits on an acreage-poundage basis as provided in this section shall be in effect for the 2002 through 2004 marketing years; and

"(B) marketing quotas on an acreage-poundage basis shall cease to be in effect for the 2002 through 2004 marketing years.

"(4) DISAPPROVAL OF PERMITS.—If individual tobacco production permits on an acreage-poundage basis are not approved by more than 66⅔ percent of the producers voting in the referendum, no marketing quotas on an acreage-poundage basis shall continue in effect that were proclaimed under section 317 prior to the referendum.

"(5) APPLICABLE MARKETING YEARS.—If individual tobacco production permits have been made effective for flue-cured tobacco on an acreage-poundage basis pursuant to this subsection, the Secretary shall, not later than December 15 of any future marketing year, announce a national marketing quota for that type of tobacco for the next 3 succeeding marketing years if the marketing year is the last year of 3 consecutive years for which individual tobacco production permits previously proclaimed will be in effect.

"(d) ANNUAL ANNOUNCEMENT OF NATIONAL MARKETING QUOTA.—The Secretary shall determine and announce the national marketing quota, national acreage allotment, and national average yield goal for the second and third marketing years of any 3-year period for which individual tobacco production permits are in effect on or before the December 15 immediately preceding the beginning of the marketing year to which the quota, allotment, and goal apply.

"(e) ANNUAL ANNOUNCEMENT OF INDIVIDUAL TOBACCO PRODUCTION PERMITS.—If a national marketing quota, national acreage allotment, and national average yield goal are determined and announced, the Secretary shall provide for the determination of individual tobacco production permits, individual acreage limitations, and individual marketing limitations under this section for the crop and marketing year covered by the determinations.

"(f) ASSIGNMENT OF TOBACCO PRODUCTION PERMITS.—

"(1) LIMITATION TO SAME COUNTY.—Each individual tobacco production permit holder shall assign the individual acreage limitation and individual marketing limitation to 1 or more farms located within the county of origin of the individual tobacco production permit.

"(2) FILING WITH COUNTY COMMITTEE.—The assignment of an individual acreage limitation and individual marketing limitation shall not be effective until evidence of the assignment, in such form as required by the Secretary, is filed with and determined by the county committee for the county in which the farm involved is located.

"(3) LIMITATION ON TILLABLE CROPLAND.—The total acreage assigned to any farm under this subsection shall not exceed the acreage of cropland on the farm.

"(g) PROHIBITION ON SALE OR LEASING OF INDIVIDUAL TOBACCO PRODUCTION PERMITS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Secretary shall not permit the sale and transfer, or lease and transfer, of an individual tobacco production permit issued under this section.

"(2) TRANSFER TO DESCENDANTS.—

"(A) DEATH.—In the case of the death of a person to whom an individual tobacco production permit has been issued under this section, the permit shall transfer to the surviving spouse of the person or, if there is no surviving spouse, to surviving direct descendants of the person.

"(B) TEMPORARY INABILITY TO FARM.—In the case of the death of a person to whom an individual tobacco production permit has been issued under this section and whose descendants are temporarily unable to produce a crop of tobacco, the Secretary may hold the license in the name of the descendants for a period of not more than 18 months.

"(3) VOLUNTARY TRANSFERS.—A person that is eligible to obtain an individual tobacco production permit under this section may at any time transfer all or part of the permit to the person's spouse or direct descendants that are actively engaged in the production of tobacco.

"(h) RESERVE.—

"(1) IN GENERAL.—For each marketing year for which individual tobacco production permits are in effect under this section, the Secretary may establish a reserve from the national marketing quota in a quantity equal to not more than 1 percent of the national marketing quota to be available for—

"(A) making corrections of errors in individual acreage limitations and individual marketing limitations;

"(B) adjusting inequities; and

"(C) establishing individual tobacco production permits for new tobacco producers (except that not less than two-thirds of the reserve shall be for establishing such permits for new tobacco producers).

"(2) ELIGIBLE PERSONS.—To be eligible for a new individual tobacco production permit, a producer must not have been the principal producer of tobacco during the immediately preceding 5 years.

"(3) APPORTIONMENT FOR NEW PRODUCERS.—The part of the reserve held for apportionment to new individual tobacco producers shall be allotted on the basis of—

"(A) land, labor, and equipment available for the production of tobacco;

"(B) crop rotation practices;

"(C) soil and other physical factors affecting the production of tobacco; and

"(D) the past tobacco-producing experience of the producer.

"(4) PERMIT YIELD.—The permit yield for any producer for which a new individual tobacco production permit is established shall be determined on the basis of available productivity data for the land involved and yields for similar farms in the same county.

"(i) PENALTIES.—

"(1) PRODUCTION ON OTHER FARMS.—If any quantity of tobacco is marketed as having been produced under an individual acreage limitation or individual marketing limitation assigned to a farm but was produced on a different farm, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

"(2) FALSE REPORT.—If a person to which an individual tobacco production permit is issued files, or aids or acquiesces in the filing of, a false report with respect to the assignment of an individual acreage limitation or individual marketing limitation for a quantity of tobacco, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

"(j) MARKETING PENALTIES.—

"(1) IN GENERAL.—When individual tobacco production permits under this section are in effect, provisions with respect to penalties for the marketing of excess tobacco and the other provisions contained in section 314 shall apply in the same manner and to the same extent as they would apply under section 317(g) if farm marketing quotas were in effect.

"(2) PRODUCTION ON OTHER FARMS.—If a producer falsely identifies tobacco as having been produced on or marketed from a farm to which an individual acreage limitation or individual marketing limitation has been assigned, future individual acreage limitations and individual marketing limitations shall be forfeited.".

SEC. 1025. MODIFICATIONS IN FEDERAL TOBACCO PROGRAMS.

(a) PROGRAM REFERENDA.—Section 312(c) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1312(c)) is amended—

(1) by striking "(c) Within thirty" and inserting the following:

"(c) REFERENDA ON QUOTAS.—

"(1) IN GENERAL.—Not later than 30"; and

(2) by adding at the end the following:

"(2) REFERENDA ON PROGRAM CHANGES.—

"(A) IN GENERAL.—In the case of any type of tobacco for which marketing quotas are in effect, on the receipt of a petition from more than 5 percent of the producers of that type of tobacco in a State, the Secretary shall conduct a statewide referendum on any proposal related to the lease and transfer of tobacco quota within a State requested by the petition that is authorized under this part.

"(B) APPROVAL OF PROPOSALS.—If a majority of producers of the type of tobacco in the State approve a proposal in a referendum conducted under subparagraph (A), the Secretary shall implement the proposal in a manner that applies to all producers and quota holders of that type of tobacco in the State.".

(b) PURCHASE REQUIREMENTS.—Section 320B of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314h) is amended—

(1) in subsection (c)—

(A) by striking "(c) The amount" and inserting "(c) AMOUNT OF PENALTY.—For the 1998 and subsequent marketing years, the amount"; and

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

"(1) 105 percent of the average market price for the type of tobacco involved during the preceding marketing year; and".

(c) ELIMINATION OF TOBACCO MARKETING ASSESSMENT.—

(1) IN GENERAL.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by striking subsection (g).

(2) CONFORMING AMENDMENT.—Section 422(c) of the Uruguay Round Agreements Act (Public Law 103–465; 7 U.S.C. 1445 note) is amended by striking "section 106(g), 106A, or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445(g), 1445–1, or 1445–2)" and inserting "section 106A or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–1, 1445–2)".

(d) ADJUSTMENT FOR LAND RENTAL COSTS.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by adding at the end the following:

"(h) ADJUSTMENT FOR LAND RENTAL COSTS.—For each of the 1999 and 2000 marketing years for flue-cured tobacco, after consultation with producers, State farm organizations and cooperative associations, the Secretary shall make an adjustment in the price support level for flue-cured tobacco equal to the annual change in the average cost per pound to flue-cured producers, as determined by the Secretary, under agreements through which producers rent land to produce flue-cured tobacco.".

(e) FIRE-CURED AND DARK AIR-CURED TOBACCO PROGRAMS.—

(1) LIMITATION ON TRANSFERS.—Section 318(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d(g)) is amended—

(A) by striking "ten" and inserting "30"; and

(B) by inserting "during any crop year" after "transferred to any farm".

(2) LOSS OF ALLOTMENT OR QUOTA THROUGH UNDERPLANTING.—Section 318 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d) is amended by adding at the end the following:

"(k) LOSS OF ALLOTMENT OR QUOTA THROUGH UNDERPLANTING.—Effective for the 1999 and subsequent marketing years, no acreage allotment or acreage-poundage quota, other than a new marketing quota, shall be established for a farm on which no fire-cured or dark air-cured tobacco was planted or considered planted during at least 2 of the 3 crop years immediately preceding the crop year for which the acreage allotment or acreage-poundage quota would otherwise be established.".

(f) EXPANSION OF TYPES OF TOBACCO SUBJECT TO NO NET COST ASSESSMENT.—

(1) NO NET COST TOBACCO FUND.—Section 106A(d)(1)(A) of the Agricultural Act of 1949 (7 U.S.C. 1445–1(d)(1)(A)) is amended—

(A) in clause (ii), by inserting after "Burley quota tobacco" the following: "and fire-cured and dark air-cured quota tobacco"; and

(B) in clause (iii)—

(i) in the matter preceding subclause (I), by striking "Flue-cured or Burley tobacco" and inserting "each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,"; and

(ii) by striking subclause (II) and inserting the following:

"(II) the sum of the amount of the per pound producer contribution and purchaser assessment (if any) for the kind of tobacco payable under clauses (i) and (ii); and".

(2) NO NET COST TOBACCO ACCOUNT.—Section 106B(d)(1) of the Agricultural Act of 1949 (7 U.S.C. 1445–2(d)(1)) is amended—

(A) in subparagraph (B), by inserting after "Burley quota tobacco" the following: "and fire-cured and dark air-cured tobacco"; and

(B) in subparagraph (C), by striking "Flue-cured and Burley tobacco" and inserting "each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,".

Subtitle C—Farmer and Worker Transition Assistance

SEC. 1031. TOBACCO WORKER TRANSITION PROGRAM.

(a) GROUP ELIGIBILITY REQUIREMENTS.—

(1) CRITERIA.—A group of workers (including workers in any firm or subdivision of a firm involved in the manufacture, processing, or warehousing of tobacco or tobacco products) shall be certified as eligible to apply for adjustment assistance under this section pursuant to a petition filed under subsection (b) if the Secretary of Labor determines that a significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated, and—

(A) the sales or production, or both, of the firm or subdivision have decreased absolutely; and

(B) the implementation of the national tobacco settlement contributed importantly to the workers' separation or threat of separation and to the decline in the sales or production of the firm or subdivision.

(2) DEFINITION OF CONTRIBUTED IMPORTANTLY.—In paragraph (1)(B), the term "contributed importantly" means a cause that is important but not necessarily more important than any other cause.

(3) REGULATIONS.—The Secretary shall issue regulations relating to the application of the criteria described in paragraph (1) in making preliminary findings under subsection (b) and determinations under subsection (c).

(b) PRELIMINARY FINDINGS AND BASIC ASSISTANCE.—

(1) FILING OF PETITIONS.—A petition for certification of eligibility to apply for adjustment assistance under this section may be filed by a group of workers (including workers in any firm or subdivision of a firm involved in the manufacture, processing, or warehousing of tobacco or tobacco products) or by their certified or recognized union or other duly authorized representative with the Governor of the State in which the workers' firm or subdivision thereof is located.

(2) FINDINGS AND ASSISTANCE.—On receipt of a petition under paragraph (1), the Governor shall—

(A) notify the Secretary that the Governor has received the petition;

(B) within 10 days after receiving the petition—

(i) make a preliminary finding as to whether the petition meets the criteria described in subsection (a)(1); and

(ii) transmit the petition, together with a statement of the finding under clause (i) and reasons for the finding, to the Secretary for action under subsection (c); and

(C) if the preliminary finding under subparagraph (B)(i) is affirmative, ensure that rapid response and basic readjustment services authorized under other Federal laws are made available to the workers.

(c) REVIEW OF PETITIONS BY SECRETARY; CERTIFICATIONS.—

(1) IN GENERAL.—The Secretary, within 30 days after receiving a petition under subsection (b)(2)(B)(ii), shall determine whether the petition meets the criteria described in subsection (a)(1). On a determination that the petition meets the criteria, the Secretary shall issue to workers covered by the petition a certification of eligibility to apply for the assistance described in subsection (d).

(2) DENIAL OF CERTIFICATION.—On the denial of a certification with respect to a petition under paragraph (1), the Secretary shall review the petition in accordance with the requirements of other applicable assistance programs to determine if the workers may be certified under the other programs.

(d) COMPREHENSIVE ASSISTANCE.—

(1) IN GENERAL.—Workers covered by a certification issued by the Secretary under subsection (c)(1) shall be provided with benefits and services described in paragraph (2) in the same manner and to the same extent as workers covered under a certification under subchapter A of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.), except that the total amount of payments under this section for any fiscal year shall not exceed $25,000,000.

(2) BENEFITS AND SERVICES.—The benefits and services described in this paragraph are the following:

(A) Employment services of the type described in section 235 of the Trade Act of 1974 (19 U.S.C. 2295).

(B) Training described in section 236 of the Trade Act of 1974 (19 U.S.C. 2296), except that notwithstanding the provisions of section 236(a)(2)(A) of that Act, the total amount of payments for training under this section for any fiscal year shall not exceed $12,500,000.

(C) Tobacco worker readjustment allowances, which shall be provided in the same manner as trade readjustment allowances are provided under part I of subchapter B of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2291 et seq.), except that—

(i) the provisions of sections 231(a)(5)(C) and 231(c) of that Act (19 U.S.C. 2291(a)(5)(C), 2291(c)), authorizing the payment of trade readjustment allowances on a finding that it is not feasible or appropriate to approve a training program for a worker, shall not be applicable to payment of allowances under this section; and

(ii) notwithstanding the provisions of section 233(b) of that Act (19 U.S.C. 2293(b)), in order for a worker to qualify for tobacco readjustment allowances under this section, the worker shall be enrolled in a training program approved by the Secretary of the type described in section 236(a) of that Act (19 U.S.C. 2296(a)) by the later of—

(I) the last day of the 16th week of the worker's initial unemployment compensation benefit period; or

(II) the last day of the 6th week after the week in which the Secretary issues a certification covering the worker

In cases of extenuating circumstances relating to enrollment of a worker in a training program under this section, the Secretary may extend the time for enrollment for a period of not to exceed 30 days.

(D) Job search allowances of the type described in section 237 of the Trade Act of 1974 (19 U.S.C. 2297).

(E) Relocation allowances of the type described in section 238 of the Trade Act of 1974 (19 U.S.C. 2298).

(e) INELIGIBILITY OF INDIVIDUALS RECEIVING PAYMENTS FOR LOST TOBACCO QUOTA.—No benefits or services may be provided under this section to any individual who has received payments for lost tobacco quota under section 1021.

(f) FUNDING.—Of the amounts appropriated to carry out this title, the Secretary may use not to exceed $25,000,000 for each of fiscal years 1999 through 2008 to provide assistance under this section.

(g) EFFECTIVE DATE.—This section shall take effect on the date that is the later of—

(1) October 1, 1998; or

(2) the date of enactment of this Act.

(h) TERMINATION DATE.—No assistance, vouchers, allowances, or other payments may be provided under this section after the date that is the earlier of—

(1) the date that is 10 years after the effective date of this section under subsection (g); or

(2) the date on which legislation establishing a program providing dislocated workers with comprehensive assistance substantially similar to the assistance provided by this section becomes effective.

SEC. 1032. FARMER OPPORTUNITY GRANTS.

Part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) is amended by adding at the end the following:

"Subpart 9—Farmer Opportunity Grants

"SEC. 420D. STATEMENT OF PURPOSE.

"It is the purpose of this subpart to assist in making available the benefits of postsecondary education to eligible students (determined in accordance with section 420F) in institutions of higher education by providing farmer opportunity grants to all eligible students.

"SEC. 420E. PROGRAM AUTHORITY; AMOUNT AND DETERMINATIONS; APPLICATIONS.

"(a) PROGRAM AUTHORITY AND METHOD OF DISTRIBUTION.—

"(1) PROGRAM AUTHORITY.—From amounts made available under section 1011(d)(5) of the LEAF Act, the Secretary, during the period beginning July 1, 1999, and ending September 30, 2024, shall pay to each eligible institution such sums as may be necessary to pay to each eligible student (determined in accordance with section 420F) for each academic year during which that student is in attendance at an institution of higher education, as an undergraduate, a farmer opportunity grant in the amount for which that student is eligible, as determined pursuant to subsection (b). Not less than 85 percent of the sums shall be advanced to eligible institutions prior to the start of each payment period and shall be based on an amount requested by the institution as needed to pay eligible students, except that this sentence shall not be construed to limit the authority of the Secretary to place an institution on a reimbursement system of payment.

"(2) CONSTRUCTION.—Nothing in this section shall be construed to prohibit the Secretary from paying directly to students, in advance of the beginning of the academic term, an amount for which the students are eligible, in cases where the eligible institution elects not to participate in the disbursement system required by paragraph (1).

"(3) DESIGNATION.—Grants made under this subpart shall be known as 'farmer opportunity grants'.

"(b) AMOUNT OF GRANTS.—

"(1) AMOUNTS.—

"(A) IN GENERAL.—The amount of the grant for a student eligible under this subpart shall be—

"(i) $1,700 for each of the academic years 1999–2000 through 2003–2004;

"(ii) $2,000 for each of the academic years 2004–2005 through 2008–2009;

"(iii) $2,300 for each of the academic years 2009–2010 through 2013–2014;

"(iv) $2,600 for each of the academic years 2014–2015 through 2018–2019; and

"(v) $2,900 for each of the academic years 2019–2020 through 2023–2024.

"(B) PART-TIME RULE.—In any case where a student attends an institution of higher education on less than a full-time basis (including a student who attends an institution of higher education on less than a half-time basis) during any academic year, the amount of the grant for which that student is eligible shall be reduced in proportion to the degree to which that student is not so attending on a full-time basis, in accordance with a schedule of reductions established by the Secretary for the purposes of this subparagraph, computed in accordance with this subpart. The schedule of reductions shall be established by regulation and published in the Federal Register.

"(2) MAXIMUM.—No grant under this subpart shall exceed the cost of attendance (as described in section 472) at the institution at which that student is in attendance. If, with respect to any student, it is determined that the amount of a grant exceeds the cost of attendance for that year, the amount of the grant shall be reduced to an amount equal to the cost of attendance at the institution.

"(3) PROHIBITION.—No grant shall be awarded under this subpart to any individual who is incarcerated in any Federal, State, or local penal institution.

"(c) PERIOD OF ELIGIBILITY FOR GRANTS.—

"(1) IN GENERAL.—The period during which a student may receive grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student at the institution at which the student is in attendance, except that any period during which the student is enrolled in a noncredit or remedial course of study as described in paragraph (2) shall not be counted for the purpose of this paragraph.

"(2) CONSTRUCTION.—Nothing in this section shall be construed to—

"(A) exclude from eligibility courses of study that are noncredit or remedial in nature and that are determined by the institution to be necessary to help the student be prepared for the pursuit of a first undergraduate baccalaureate degree or certificate or, in the case of courses in English language instruction, to be necessary to enable the student to utilize already existing knowledge, training, or skills; and

"(B) exclude from eligibility programs of study abroad that are approved for credit by the home institution at which the student is enrolled.

"(3) PROHIBITION.—No student is entitled to receive farmer opportunity grant payments concurrently from more than 1 institution or from the Secretary and an institution.

"(d) APPLICATIONS FOR GRANTS.—

"(1) IN GENERAL.—The Secretary shall from time to time set dates by which students shall file applications for grants under this subpart. The filing of applications under this subpart shall be coordinated with the filing of applications under section 401(c).

"(2) INFORMATION AND ASSURANCES.—Each student desiring a grant for any year shall file with the Secretary an application for the grant containing such information and assurances as the Secretary may deem necessary to enable the Secretary to carry out the Secretary's functions and responsibilities under this subpart.

"(e) DISTRIBUTION OF GRANTS TO STUDENTS.—Payments under this section shall be made in accordance with regulations promulgated by the Secretary for such purpose, in such manner as will best accomplish the purpose of this section. Any disbursement allowed to be made by crediting the student's

account shall be limited to tuition and fees and, in the case of institutionally owned housing, room and board. The student may elect to have the institution provide other such goods and services by crediting the student's account.

"(f) INSUFFICIENT FUNDING.—If, for any fiscal year, the funds made available to carry out this subpart are insufficient to satisfy fully all grants for students determined to be eligible under section 420F, the amount of the grant provided under subsection (b) shall be reduced on a pro rata basis among all eligible students.

"(g) TREATMENT OF INSTITUTIONS AND STUDENTS UNDER OTHER LAWS.—Any institution of higher education that enters into an agreement with the Secretary to disburse to students attending that institution the amounts those students are eligible to receive under this subpart shall not be deemed, by virtue of the agreement, to be a contractor maintaining a system of records to accomplish a function of the Secretary. Recipients of farmer opportunity grants shall not be considered to be individual grantees for purposes of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq.).

"SEC. 420F. STUDENT ELIGIBILITY.

"(a) IN GENERAL.—In order to receive any grant under this subpart, a student shall—

"(1) be a member of a tobacco farm family in accordance with subsection (b);

"(2) be enrolled or accepted for enrollment in a degree, certificate, or other program (including a program of study abroad approved for credit by the eligible institution at which the student is enrolled) leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with section 487, and not be enrolled in an elementary or secondary school;

"(3) if the student is presently enrolled at an institution of higher education, be maintaining satisfactory progress in the course of study the student is pursuing in accordance with subsection (c);

"(4) not owe a refund on grants previously received at any institution of higher education under this title, or be in default on any loan from a student loan fund at any institution provided for in part D, or a loan made, insured, or guaranteed by the Secretary under this title for attendance at any institution;

"(5) file with the institution of higher education that the student intends to attend, or is attending, a document, that need not be notarized, but that shall include—

"(A) a statement of educational purpose stating that the money attributable to the grant will be used solely for expenses related to attendance or continued attendance at the institution; and

"(B) the student's social security number; and

"(6) be a citizen of the United States.

"(b) TOBACCO FARM FAMILIES.—

"(1) IN GENERAL.—For the purpose of subsection (a)(1), a student is a member of a tobacco farm family if during calendar year 1998 the student was—

"(A) an individual who—

"(i) is a participating tobacco producer (as defined in section 1002 of the LEAF Act) who is a principal producer of tobacco on a farm; or

"(ii) is otherwise actively engaged in the production of tobacco;

"(B) a spouse, son, daughter, stepson, or stepdaughter of an individual described in subparagraph (A);

"(C) an individual who was a dependent (within the meaning of section 152 of the Internal Revenue Code of 1986) of an individual described in subparagraph (A).

"(2) ADMINISTRATION.—On request, the Secretary of Agriculture shall provide to the Secretary such information as is necessary to carry out this subsection.

"(c) SATISFACTORY PROGRESS.—

"(1) IN GENERAL.—For the purpose of subsection (a)(3), a student is maintaining satisfactory progress if—

"(A) the institution at which the student is in attendance reviews the progress of the student at the end of each academic year, or its equivalent, as determined by the institution; and

"(B) the student has at least a cumulative C average or its equivalent, or academic standing consistent with the requirements for graduation, as determined by the institution, at the end of the second such academic year.

"(2) SPECIAL RULE.—Whenever a student fails to meet the eligibility requirements of subsection (a)(3) as a result of the application of this subsection and subsequent to that failure the student has academic standing consistent with the requirements for graduation, as determined by the institution, for any grading period, the student may, subject to this subsection, again be eligible under subsection (a)(3) for a grant under this subpart.

"(3) WAIVER.—Any institution of higher education at which the student is in attendance may waive paragraph (1) or (2) for undue hardship based on—

"(A) the death of a relative of the student;

"(B) the personal injury or illness of the student; or

"(C) special circumstances as determined by the institution.

"(d) STUDENTS WHO ARE NOT SECONDARY SCHOOL GRADUATES.—In order for a student who does not have a certificate of graduation from a school providing secondary education, or the recognized equivalent of the certificate, to be eligible for any assistance under this subpart, the student shall meet either 1 of the following standards:

"(1) EXAMINATION.—The student shall take an independently administered examination and shall achieve a score, specified by the Secretary, demonstrating that the student can benefit from the education or training being offered. The examination shall be approved by the Secretary on the basis of compliance with such standards for development, administration, and scoring as the Secretary may prescribe in regulations.

"(2) DETERMINATION.—The student shall be determined as having the ability to benefit from the education or training in accordance with such process as the State shall prescribe. Any such process described or approved by a State for the purposes of this section shall be effective 6 months after the date of submission to the Secretary unless the Secretary disapproves the process. In determining whether to approve or disapprove the process, the Secretary shall take into account the effectiveness of the process in enabling students without secondary school diplomas or the recognized equivalent to benefit from the instruction offered by institutions utilizing the process, and shall also take into account the cultural diversity, economic circumstances, and educational preparation of the populations served by the institutions.

"(e) SPECIAL RULE FOR CORRESPONDENCE COURSES.—A student shall not be eligible to receive a grant under this subpart for a correspondence course unless the course is part of a program leading to an associate, bachelor, or graduate degree.

"(f) COURSES OFFERED THROUGH TELECOMMUNICATIONS.—

"(1) RELATION TO CORRESPONDENCE COURSES.—A student enrolled in a course of instruction at an eligible institution of higher education (other than an institute or school that meets the definition in section 521(4)(C) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471(4)(C))) that is offered in whole or in part through telecommunications and leads to a recognized associate, bachelor, or graduate degree conferred by the institution shall not be considered to be enrolled in correspondence courses unless the total amount of telecommunications and correspondence courses at the institution equals or exceeds 50 percent of the courses.

"(2) RESTRICTION OR REDUCTIONS OF FINANCIAL AID.—A student's eligibility to receive a grant under this subpart may be reduced if a financial aid officer determines under the discretionary authority provided in section 479A that telecommunications instruction results in a substantially reduced cost of attendance to the student.

"(3) DEFINITION.—For the purposes of this subsection, the term 'telecommunications' means the use of television, audio, or computer transmission, including open broadcast, closed circuit, cable, microwave, or satellite, audio conferencing, computer conferencing, or video cassettes or discs, except that the term does not include a course that is delivered using video cassette or disc recordings at the institution and that is not delivered in person to other students of that institution.

"(g) STUDY ABROAD.—Nothing in this subpart shall be construed to limit or otherwise prohibit access to study abroad programs approved by the home institution at which a student is enrolled. An otherwise eligible student who is engaged in a program of study abroad approved for academic credit by the home institution at which the student is enrolled shall be eligible to receive a grant under this subpart, without regard to whether the study abroad program is required as part of the student's degree program.

"(h) VERIFICATION OF SOCIAL SECURITY NUMBER.—The Secretary, in cooperation with the Commissioner of Social Security, shall verify any social security number provided by a student to an eligible institution under subsection (a)(5)(B) and shall enforce the following conditions:

"(1) PENDING VERIFICATION.—Except as provided in paragraphs (2) and (3), an institution shall not deny, reduce, delay, or terminate a student's eligibility for assistance under this subpart because social security number verification is pending.

"(2) DENIAL OR TERMINATION.—If there is a determination by the Secretary that the social security number provided to an eligible institution by a student is incorrect, the institution shall deny or terminate the student's eligibility for any grant under this subpart until such time as the student provides documented evidence of a social security number that is determined by the institution to be correct.

"(3) CONSTRUCTION.—Nothing in this subsection shall be construed to permit the Secretary to take any compliance, disallowance, penalty, or other regulatory action against—

"(A) any institution of higher education with respect to any error in a social security number, unless the error was a result of fraud on the part of the institution; or

"(B) any student with respect to any error in a social security number, unless the error was a result of fraud on the part of the student.".

Subtitle D—Immunity

SEC. 1041. GENERAL IMMUNITY FOR TOBACCO PRODUCERS AND TOBACCO WAREHOUSE OWNERS.

Notwithstanding any other provision of this title, a participating tobacco producer, tobacco-related growers association, or tobacco warehouse owner or employee may not be subject to liability in any Federal or State court for any cause of action resulting from the failure of any tobacco product manufacturer, distributor, or retailer to comply with the National Tobacco Policy and Youth Smoking Reduction Act.

Subtitle E—Applicability

SEC. 1051. APPLICABILITY OF TITLE XV.

Notwithstanding any other provision of this Act, title XV of this Act shall have no force or effect.

FORD (AND OTHERS) AMENDMENT NO. 2627

(Ordered to lie on the table.)

Mr. FORD (for himself, Mr. HOLLINGS, and Mr. ROBB) submitted an amendment intended to be proposed by them to the bill, S. 1415, supra; as follows:

On page 444, beginning with line 12, strike through the end of the bill, and insert the following:

(E) SECRETARY.—The term "Secretary" means the Secretary of the Treasury, except where the context otherwise requires.

FORD (AND OTHERS) AMENDMENT NO. 2628

(Ordered to lie on the table.)

Mr. FORD (for himself, Mr. HOLLINGS, and Mr. ROBB) submitted an amendment intended to be proposed by them to amendment No. 2497 proposed by Mr. LUGAR to the bill, S. 1415, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

TITLE X—LONG-TERM ECONOMIC ASSISTANCE FOR FARMERS

SEC. 1001. SHORT TITLE.

This title may be cited as the "Long-Term Economic Assistance for Farmers Act" or the "LEAF Act".

SEC. 1002. DEFINITIONS.

In this title:

(1) PARTICIPATING TOBACCO PRODUCER.—The term "participating tobacco producer" means a quota holder, quota lessee, or quota tenant.

(2) QUOTA HOLDER.—The term "quota holder" means an owner of a farm on January 1, 1998, for which a tobacco farm marketing quota or farm acreage allotment was established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.).

(3) QUOTA LESSEE.—The term "quota lessee" means—

(A) a producer that owns a farm that produced tobacco pursuant to a lease and transfer to that farm of all or part of a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years; or

(B) a producer that rented land from a farm operator to produce tobacco under a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years.

(4) QUOTA TENANT.—The term "quota tenant" means a producer that—

(A) is the principal producer, as determined by the Secretary, of tobacco on a farm where tobacco is produced pursuant to a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years; and

(B) is not a quota holder or quota lessee.

(5) SECRETARY.—The term "Secretary" means—

(A) in subtitles A and B, the Secretary of Agriculture; and

(B) in section 1031, the Secretary of Labor.

(6) TOBACCO PRODUCT IMPORTER.—The term "tobacco product importer" has the meaning given the term "importer" in section 5702 of the Internal Revenue Code of 1986.

(7) TOBACCO PRODUCT MANUFACTURER.—

(A) IN GENERAL.—The term "tobacco product manufacturer" has the meaning given the term "manufacturer of tobacco products" in section 5702 of the Internal Revenue Code of 1986.

(B) EXCLUSION.—The term "tobacco product manufacturer" does not include a person that manufactures cigars or pipe tobacco.

(8) TOBACCO WAREHOUSE OWNER.—The term "tobacco warehouse owner" means a warehouseman that participated in an auction market (as defined in the first section of the Tobacco Inspection Act (7 U.S.C. 511)) during the 1998 marketing year.

(9) FLUE-CURED TOBACCO.—The term "flue-cured tobacco" includes type 21 and type 37 tobacco.

Subtitle A—Tobacco Community Revitalization

SEC. 1011. AUTHORIZATION OF APPROPRIATIONS.

There are appropriated and transferred to the Secretary for each fiscal year such amounts from the National Tobacco Trust Fund established by section 401, other than from amounts in the State Litigation Settlement Account, as may be necessary to carry out the provisions of this title.

SEC. 1012. EXPENDITURES.

The Secretary is authorized, subject to appropriations, to make payments under—

(1) section 1021 for payments for lost tobacco quota for each of fiscal years 1999 through 2023, but not to exceed $1,650,000,000 for any fiscal year except to the extent the payments are made in accordance with subsection (d)(12) or (e)(9) of section 1021;

(2) section 1022 for industry payments for all costs of the Department of Agriculture associated with the production of tobacco;

(3) section 1023 for tobacco community economic development grants, but not to exceed—

(A) $375,000,000 for each of fiscal years 1999 through 2008, less any amount required to be paid under section 1022 for the fiscal year; and

(B) $450,000,000 for each of fiscal year 2009 through 2023, less any amount required to be paid under section 1022 during the fiscal year;

(4) section 1031 for assistance provided under the tobacco worker transition program, but not to exceed $25,000,000 for any fiscal year; and

(5) subpart 9 of part A of title IV of the Higher Education Act of 1965 for farmer opportunity grants, but not to exceed—

(A) $42,500,000 for each of the academic years 1999–2000 through 2003–2004;

(B) $50,000,000 for each of the academic years 2004–2005 through 2008–2009;

(C) $57,500,000 for each of the academic years 2009–2010 through 2013–2014;

(D) $65,000,000 for each of the academic years 2014–2015 through 2018–2019; and

(E) $72,500,000 for each of the academic years 2019–2020 through 2023–2024.

SEC. 1013. BUDGETARY TREATMENT.

This subtitle constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide payments to States and eligible persons in accordance with this title.

Subtitle B—Tobacco Market Transition Assistance

SEC. 1021. PAYMENTS FOR LOST TOBACCO QUOTA.

(a) IN GENERAL.—Beginning with the 1999 marketing year, the Secretary shall make payments for lost tobacco quota to eligible quota holders, quota lessees, and quota tenants as reimbursement for lost tobacco quota.

(b) ELIGIBILITY.—To be eligible to receive payments under this section, a quota holder, quota lessee, or quota tenant shall—

(1) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including information sufficient to make the demonstration required under paragraph (2); and

(2) demonstrate to the satisfaction of the Secretary that, with respect to the 1997 marketing year—

(A) the producer was a quota holder and realized income (or would have realized income, as determined by the Secretary, but for a medical hardship or crop disaster during the 1997 marketing year) from the production of tobacco through—

(i) the active production of tobacco;

(ii) the lease and transfer of tobacco quota to another farm;

(iii) the rental of all or part of the farm of the quota holder, including the right to produce tobacco, to another tobacco producer; or

(iv) the hiring of a quota tenant to produce tobacco;

(B) the producer was a quota lessee; or

(C) the producer was a quota tenant.

(c) BASE QUOTA LEVEL.—

(1) IN GENERAL.—The Secretary shall determine, for each quota holder, quota lessee, and quota tenant, the base quota level for the 1995 through 1997 marketing years.

(2) QUOTA HOLDERS.—The base quota level for a quota holder shall be equal to the average tobacco farm marketing quota established for the farm owned by the quota holder for the 1995 through 1997 marketing years.

(3) QUOTA LESSEES.—The base quota level for a quota lessee shall be equal to—

(A) 50 percent of the average number of pounds of tobacco quota established for the farm for the 1995 through 1997 marketing years—

(i) that was leased and transferred to a farm owned by the quota lessee; or

(ii) that was rented to the quota lessee for the right to produce the tobacco; less

(B) 25 percent of the average number of pounds of tobacco quota described in subparagraph (A) for which a quota tenant was the principal producer of the tobacco quota.

(4) QUOTA TENANTS.—The base quota level for a quota tenant shall be equal to the sum of—

(A) 50 percent of the average number of pounds of tobacco quota established for a farm for the 1995 through 1997 marketing years—

(i) that was owned by a quota holder; and

(ii) for which the quota tenant was the principal producer of the tobacco on the farm; and

(B) 25 percent of the average number of pounds of tobacco quota for the 1995 through 1997 marketing years—

(i)(I) that was leased and transferred to a farm owned by the quota lessee; or

(II) for which the rights to produce the tobacco were rented to the quota lessee; and

(ii) for which the quota tenant was the principal producer of the tobacco on the farm.

(5) MARKETING QUOTAS OTHER THAN POUNDAGE QUOTAS.—

(A) IN GENERAL.—For each type of tobacco for which there is a marketing quota or allotment (on an acreage basis), the base quota level for each quota holder, quota lessee, or quota tenant shall be determined in accordance with this subsection (based on a poundage conversion) by multiplying—

(i) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; and

(ii) the average yield per acre for the farm for the type of tobacco for the marketing years.

(B) YIELDS NOT AVAILABLE.—If the average yield per acre is not available for a farm, the Secretary shall calculate the base quota for the quota holder, quota lessee, or quota tenant (based on a poundage conversion) by determining the amount equal to the product obtained by multiplying—

(i) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; and

(ii) the average county yield per acre for the county in which the farm is located for the type of tobacco for the marketing years.

(d) PAYMENTS FOR LOST TOBACCO QUOTA FOR TYPES OF TOBACCO OTHER THAN FLUE-CURED TOBACCO.—

(1) ALLOCATION OF FUNDS.—Of the amounts made available under section 1011(d)(1) for payments for lost tobacco quota, the Secretary shall make available for payments under this subsection an amount that bears the same ratio to the amounts made available as—

(A) the sum of all national marketing quotas for all types of tobacco other than flue-cured tobacco during the 1995 through 1997 marketing years; bears to

(B) the sum of all national marketing quotas for all types of tobacco during the 1995 through 1997 marketing years.

(2) OPTION TO RELINQUISH QUOTA.—

(A) IN GENERAL.—Each quota holder, for types of tobacco other than flue-cured tobacco, shall be given the option to relinquish the farm marketing quota or farm acreage allotment of the quota holder in exchange for a payment made under paragraph (3).

(B) NOTIFICATION.—A quota holder shall give notification of the intention of the quota holder to exercise the option at such time and in such manner as the Secretary may require, but not later than January 15, 1999.

(3) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA HOLDERS EXERCISING OPTIONS TO RELINQUISH QUOTA.—

(A) IN GENERAL.—Subject to subparagraph (E), for each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost tobacco quota to each quota holder that has relinquished the farm marketing quota or farm acreage allotment of the quota holder under paragraph (2).

(B) AMOUNT.—The amount of a payment made to a quota holder described in subparagraph (A) for a marketing year shall equal 1/10 of the lifetime limitation established under subparagraph (E).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the farm marketing quota or farm acreage allotment is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(E) LIFETIME LIMITATION ON PAYMENTS.—The total amount of payments made under this paragraph to a quota holder shall not exceed the product obtained by multiplying the base quota level for the quota holder by $8 per pound.

(4) REISSUANCE OF QUOTA.—

(A) REALLOCATION TO LESSEE OR TENANT.—If a quota holder exercises an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), a quota lessee or quota tenant that was the primary producer during the 1997 marketing year of tobacco pursuant to the farm marketing quota or farm acreage allotment, as determined by the Secretary, shall be given the option of having an allotment of the farm marketing quota or farm acreage allotment reallocated to a farm owned by the quota lessee or quota tenant.

(B) CONDITIONS FOR REALLOCATION.—

(i) TIMING.—A quota lessee or quota tenant that is given the option of having an allotment of a farm marketing quota or farm acreage allotment reallocated to a farm owned by the quota lessee or quota tenant under subparagraph (A) shall have 1 year from the date on which a farm marketing quota or farm acreage allotment is relinquished under paragraph (2) to exercise the option.

(ii) LIMITATION ON ACREAGE ALLOTMENT.—In the case of a farm acreage allotment, the acreage allotment determined for any farm subsequent to any reallocation under subparagraph (A) shall not exceed 50 percent of the acreage of cropland of the farm owned by the quota lessee or quota tenant.

(iii) LIMITATION ON MARKETING QUOTA.—In the case of a farm marketing quota, the marketing quota determined for any farm subsequent to any reallocation under subparagraph (A) shall not exceed an amount determined by multiplying—

(I) the average county farm yield, as determined by the Secretary; and

(II) 50 percent of the acreage of cropland of the farm owned by the quota lessee or quota tenant.

(C) ELIGIBILITY OF LESSEE OR TENANT FOR PAYMENTS.—If a farm marketing quota or farm acreage allotment is reallocated to a quota lessee or quota tenant under subparagraph (A)—

(i) the quota lessee or quota tenant shall not be eligible for any additional payments under paragraph (5) or (6) as a result of the reallocation; and

(ii) the base quota level for the quota lessee or quota tenant shall not be increased as a result of the reallocation.

(D) REALLOCATION TO QUOTA HOLDERS WITHIN SAME COUNTY OR STATE.—

(i) IN GENERAL.—Except as provided in clause (ii), if there was no quota lessee or quota tenant for the farm marketing quota or farm acreage allotment for a type of tobacco, or if no quota lessee or quota tenant exercises an option of having an allotment of the farm marketing quota or farm acreage allotment for a type of tobacco reallocated, the Secretary shall reapportion the farm marketing quota or farm acreage allotment among the remaining quota holders for the type of tobacco within the same county.

(ii) CROSS-COUNTY LEASING.—In a State in which cross-county leasing is authorized pursuant to section 319(l) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(*l*)), the Secretary shall reapportion the farm marketing quota among the remaining quota holders for the type of tobacco within the same State.

(iii) ELIGIBILITY OF QUOTA HOLDER FOR PAYMENTS.—If a farm marketing quota is reapportioned to a quota holder under this subparagraph—

(I) the quota holder shall not be eligible for any additional payments under paragraph (5) or (6) as a result of the reapportionment; and

(II) the base quota level for the quota holder shall not be increased as a result of the reapportionment.

(E) SPECIAL RULE FOR TENANT OF LEASED TOBACCO.—If a quota holder exercises an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), the farm marketing quota or farm acreage allotment shall be divided evenly between, and the option of reallocating the farm marketing quota or farm acreage allotment shall be offered in equal portions to, the quota lessee and to the quota tenant, if—

(i) during the 1997 marketing year, the farm marketing quota or farm acreage allotment was leased and transferred to a farm owned by the quota lessee; and

(ii) the quota tenant was the primary producer, as determined by the Secretary, of tobacco pursuant to the farm marketing quota or farm acreage allotment.

(5) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA HOLDERS.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for a type of tobacco is less than the average national marketing quota for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota holder, for types of tobacco other than flue-cured tobacco, that is eligible under subsection (b), and has not exercised an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), in an amount that is equal to the product obtained by multiplying—

(i) the number of pounds by which the basic farm marketing quota (or poundage conversion) is less than the base quota level for the quota holder; and

(ii) $4 per pound.

(B) POUNDAGE CONVERSION FOR MARKETING QUOTAS OTHER THAN POUNDAGE QUOTAS.—

(i) IN GENERAL.—For each type of tobacco for which there is a marketing quota or allotment (on an acreage basis), the poundage conversion for each quota holder during a marketing year shall be determined by multiplying—

(I) the basic farm acreage allotment for the farm for the marketing year; and

(II) the average yield per acre for the farm for the type of tobacco.

(ii) YIELD NOT AVAILABLE.—If the average yield per acre is not available for a farm, the Secretary shall calculate the poundage conversion for each quota holder during a marketing year by multiplying—

(I) the basic farm acreage allotment for the farm for the marketing year; and

(II) the average county yield per acre for the county in which the farm is located for the type of tobacco.

(6) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for a type of tobacco is less than the average national marketing

quota for the type of tobacco for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota lessee and quota tenant, for types of tobacco other than flue-cured tobacco, that is eligible under subsection (b) in an amount that is equal to the product obtained by multiplying—

(A) the percentage by which the national marketing quota for the type of tobacco is less than the average national marketing quota for the type of tobacco for the 1995 through 1997 marketing years;

(B) the base quota level for the quota lessee or quota tenant; and

(C) $4 per pound.

(7) LIFETIME LIMITATION ON PAYMENTS.—Except as otherwise provided in this subsection, the total amount of payments made under this subsection to a quota holder, quota lessee, or quota tenant during the lifetime of the quota holder, quota lessee, or quota tenant shall not exceed the product obtained by multiplying—

(A) the base quota level for the quota holder, quota lessee, or quota tenant; and

(B) $8 per pound.

(8) LIMITATIONS ON AGGREGATE ANNUAL PAYMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the total amount payable under this subsection for any marketing year shall not exceed the amount made available under paragraph (1).

(B) ACCELERATED PAYMENTS.—Paragraph (1) shall not apply if accelerated payments for lost tobacco quota are made in accordance with paragraph (12).

(C) REDUCTIONS.—If the sum of the amounts determined under paragraphs (3), (5), and (6) for a marketing year exceeds the amount made available under paragraph (1), the Secretary shall make a pro rata reduction in the amounts payable under paragraphs (5) and (6) to quota holders, quota lessees, and quota tenants under this subsection to ensure that the total amount of payments for lost tobacco quota does not exceed the amount made available under paragraph (1).

(D) ROLLOVER OF PAYMENTS FOR LOST TOBACCO QUOTA.—Subject to subparagraph (A), if the Secretary makes a reduction in accordance with subparagraph (C), the amount of the reduction shall be applied to the next marketing year and added to the payments for lost tobacco quota for the marketing year.

(E) ADDITIONAL PAYMENTS TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTA.—If the amount made available under paragraph (1) exceeds the sum of the amounts determined under paragraphs (3), (5), and (6) for a marketing year, the Secretary shall distribute the amount of the excess pro rata to quota holders that have exercised an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2) by increasing the amount payable to each such holder under paragraph (3).

(9) SUBSEQUENT SALE AND TRANSFER OF QUOTA.—Effective beginning with the 1999 marketing year, on the sale and transfer of a farm marketing quota or farm acreage allotment under section 316(g) or 319(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(g), 1314e(g))—

(A) the person that sold and transferred the quota or allotment shall have—

(i) the base quota level attributable to the person reduced by the base quota level attributable to the quota that is sold and transferred; and

(ii) the lifetime limitation on payments established under paragraph (7) attributable to the person reduced by the product obtained by multiplying—

(I) the base quota level attributable to the quota; and

(II) $8 per pound; and

(B) if the quota or allotment has never been relinquished by a previous quota holder under paragraph (2), the person that acquired the quota shall have—

(i) the base quota level attributable to the person increased by the base quota level attributable to the quota that is sold and transferred; and

(ii) the lifetime limitation on payments established under paragraph (7) attributable to the person—

(I) increased by the product obtained by multiplying—

(aa) the base quota level attributable to the quota; and

(bb) $8 per pound; but

(II) decreased by any payments under paragraph (5) for lost tobacco quota previously made that are attributable to the quota that is sold and transferred.

(10) SALE OR TRANSFER OF FARM.—On the sale or transfer of ownership of a farm that is owned by a quota holder, the base quota level established under subsection (c), the right to payments under paragraph (5), and the lifetime limitation on payments established under paragraph (7) shall transfer to the new owner of the farm to the same extent and in the same manner as those provisions applied to the previous quota holder.

(11) DEATH OF QUOTA LESSEE OR QUOTA TENANT.—If a quota lessee or quota tenant that is entitled to payments under this subsection dies and is survived by a spouse or 1 or more dependents, the right to receive the payments shall transfer to the surviving spouse or, if there is no surviving spouse, to the surviving dependents in equal shares.

(12) ACCELERATION OF PAYMENTS.—

(A) IN GENERAL.—On the occurrence of any of the events described in subparagraph (B), the Secretary shall make an accelerated lump sum payment for lost tobacco quota as established under paragraphs (5) and (6) to each quota holder, quota lessee, and quota tenant for any affected type of tobacco in accordance with subparagraph (C).

(B) TRIGGERING EVENTS.—The Secretary shall make accelerated payments under subparagraph (A) if after the date of enactment of this Act—

(i) subject to subparagraph (D), for 3 consecutive marketing years, the national marketing quota or national acreage allotment for a type of tobacco is less than 50 percent of the national marketing quota or national acreage allotment for the type of tobacco for the 1998 marketing year; or

(ii) Congress repeals or makes ineffective, directly or indirectly, any provision of—

(I) section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b);

(II) section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e);

(III) section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445);

(IV) section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445–1); or

(V) section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2).

(C) AMOUNT.—The amount of the accelerated payments made to each quota holder, quota lessee, and quota tenant under this subsection shall be equal to—

(i) the amount of the lifetime limitation established for the quota holder, quota lessee, or quota tenant under paragraph (7); less

(ii) any payments for lost tobacco quota received by the quota holder, quota lessee, or quota tenant before the occurrence of any of the events described in subparagraph (B).

(D) REFERENDUM VOTE NOT A TRIGGERING EVENT.—A referendum vote of producers for any type of tobacco that results in the national marketing quota or national acreage allotment not being in effect for the type of tobacco shall not be considered a triggering event under this paragraph.

(13) BAN ON SUBSEQUENT SALE OR LEASING OF FARM MARKETING QUOTA OR FARM ACREAGE ALLOTMENT TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTA.—No quota holder that exercises the option to relinquish a farm marketing quota or farm acreage allotment for any type of tobacco under paragraph (2) shall be eligible to acquire a farm marketing quota or farm acreage allotment for the type of tobacco, or to obtain the lease or transfer of a farm marketing quota or farm acreage allotment for the type of tobacco, for a period of 25 crop years after the date on which the quota or allotment was relinquished.

(e) PAYMENTS FOR LOST TOBACCO QUOTA FOR FLUE-CURED TOBACCO.—

(1) ALLOCATION OF FUNDS.—Of the amounts made available under section 1011(d)(1) for payments for lost tobacco quota, the Secretary shall make available for payments under this subsection an amount that bears the same ratio to the amounts made available as—

(A) the sum of all national marketing quotas for flue-cured tobacco during the 1995 through 1997 marketing years; bears to

(B) the sum of all national marketing quotas for all types of tobacco during the 1995 through 1997 marketing years.

(2) RELINQUISHMENT OF QUOTA.—

(A) IN GENERAL.—Each quota holder of flue-cured tobacco shall relinquish the farm marketing quota or farm acreage allotment in exchange for a payment made under paragraph (3) due to the transition from farm marketing quotas as provided under section 317 of the Agricultural Adjustment Act of 1938 for flue-cured tobacco to individual tobacco production permits as provided under section 317A of the Agricultural Adjustment Act of 1938 for flue-cured tobacco.

(B) NOTIFICATION.—The Secretary shall notify the quota holders of the relinquishment of their quota or allotment at such time and in such manner as the Secretary may require, but not later than November 15, 1998.

(3) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA HOLDERS THAT RELINQUISH QUOTA.—

(A) IN GENERAL.—For each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost flue-cured tobacco to each quota holder that has relinquished the farm marketing quota or farm acreage allotment of the quota holder under paragraph (2).

(B) AMOUNT.—The amount of a payment made to a quota holder described in subparagraph (A) for a marketing year shall equal 1/10 of the lifetime limitation established under paragraph (6).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the farm marketing quota or farm acreage allotment is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(4) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA

TENANTS THAT HAVE NOT RELINQUISHED PERMITS.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for flue-cured tobacco is less than the average national marketing quota for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota lessee or quota tenant that—

(i) is eligible under subsection (b);

(ii) has been issued an individual tobacco production permit under section 317A(b) of the Agricultural Adjustment Act of 1938; and

(iii) has not exercised an option to relinquish the permit.

(B) AMOUNT.—The amount of a payment made to a quota lessee or quota tenant described in subparagraph (A) for a marketing year shall be equal to the product obtained by multiplying—

(i) the number of pounds by which the individual marketing limitation established for the permit is less than twice the base quota level for the quota lessee or quota tenant; and

(ii) $2 per pound.

(5) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS THAT HAVE RELINQUISHED PERMITS.—

(A) IN GENERAL.—For each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost flue-cured tobacco quota to each quota lessee and quota tenant that has relinquished an individual tobacco production permit under section 317A(b)(5) of the Agricultural Adjustment Act of 1938.

(B) AMOUNT.—The amount of a payment made to a quota lessee or quota tenant described in subparagraph (A) for a marketing year shall be equal to 1/10 of the lifetime limitation established under paragraph (6).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the individual tobacco production permit is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(E) PROHIBITION AGAINST PERMIT EXPANSION.—A quota lessee or quota tenant that receives a payment under this paragraph shall be ineligible to receive any new or increased tobacco production permit from the county production pool established under section 317A(b)(8) of the Agricultural Adjustment Act of 1938.

(6) LIFETIME LIMITATION ON PAYMENTS.—Except as otherwise provided in this subsection, the total amount of payments made under this subsection to a quota holder, quota lessee, or quota tenant during the lifetime of the quota holder, quota lessee, or quota tenant shall not exceed the product obtained by multiplying—

(A) the base quota level for the quota holder, quota lessee, or quota tenant; and

(B) $8 per pound.

(7) LIMITATIONS ON AGGREGATE ANNUAL PAYMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the total amount payable under this subsection for any marketing year shall not exceed the amount made available under paragraph (1).

(B) ACCELERATED PAYMENTS.—Paragraph (1) shall not apply if accelerated payments for lost flue-cured tobacco quota are made in accordance with paragraph (9).

(C) REDUCTIONS.—If the sum of the amounts determined under paragraphs (3), (4), and (5) for a marketing year exceeds the amount made available under paragraph (1), the Secretary shall make a pro rata reduction in the amounts payable under paragraph (4) to quota lessees and quota tenants under this subsection to ensure that the total amount of payments for lost flue-cured tobacco quota does not exceed the amount made available under paragraph (1).

(D) ROLLOVER OF PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA.—Subject to subparagraph (A), if the Secretary makes a reduction in accordance with subparagraph (C), the amount of the reduction shall be applied to the next marketing year and added to the payments for lost flue-cured tobacco quota for the marketing year.

(E) ADDITIONAL PAYMENTS TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTAS OR PERMITS, OR TO QUOTA LESSEES OR QUOTA TENANTS RELINQUISHING PERMITS.—If the amount made available under paragraph (1) exceeds the sum of the amounts determined under paragraphs (3), (4), and (5) for a marketing year, the Secretary shall distribute the amount of the excess pro rata to quota holders by increasing the amount payable to each such holder under paragraphs (3) and (5).

(8) DEATH OF QUOTA HOLDER, QUOTA LESSEE, OR QUOTA TENANT.—If a quota holder, quota lessee or quota tenant that is entitled to payments under paragraph (4) or (5) dies and is survived by a spouse or 1 or more descendants, the right to receive the payments shall transfer to the surviving spouse or, if there is no surviving spouse, to the surviving descendants in equal shares.

(9) ACCELERATION OF PAYMENTS.—

(A) IN GENERAL.—On the occurrence of any of the events described in subparagraph (B), the Secretary shall make an accelerated lump sum payment for lost flue-cured tobacco quota as established under paragraphs (3), (4), and (5) to each quota holder, quota lessee, and quota tenant for flue-cured tobacco in accordance with subparagraph (C).

(B) TRIGGERING EVENTS.—The Secretary shall make accelerated payments under subparagraph (A) if after the date of enactment of this Act—

(i) subject to subparagraph (D), for 3 consecutive marketing years, the national marketing quota or national acreage allotment for flue-cured tobacco is less than 50 percent of the national marketing quota or national acreage allotment for flue-cured tobacco for the 1998 marketing year; or

(ii) Congress repeals or makes ineffective, directly or indirectly, any provision of—

(I) section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b);

(II) section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e);

(III) section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445);

(IV) section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445-1);

(V) section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445-2); or

(VI) section 317A of the Agricultural Adjustment Act of 1938.

(C) AMOUNT.—The amount of the accelerated payments made to each quota holder, quota lessee, and quota tenant under this subsection shall be equal to—

(i) the amount of the lifetime limitation established for the quota holder, quota lessee, or quota tenant under paragraph (6); less

(ii) any payments for lost flue-cured tobacco quota received by the quota holder, quota lessee, or quota tenant before the occurrence of any of the events described in subparagraph (B).

(D) REFERENDUM VOTE NOT A TRIGGERING EVENT.—A referendum vote of producers for flue-cured tobacco that results in the national marketing quota or national acreage allotment not being in effect for flue-cured tobacco shall not be considered a triggering event under this paragraph.

SEC. 1022. INDUSTRY PAYMENTS FOR ALL DEPARTMENT COSTS ASSOCIATED WITH TOBACCO PRODUCTION.

(a) IN GENERAL.—The Secretary shall use such amounts remaining unspent and obligated at the end of each fiscal year to reimburse the Secretary for—

(1) costs associated with the administration of programs established under this title and amendments made by this title;

(2) costs associated with the administration of the tobacco quota and price support programs administered by the Secretary;

(3) costs to the Federal Government of carrying out crop insurance programs for tobacco;

(4) costs associated with all agricultural research, extension, or education activities associated with tobacco;

(5) costs associated with the administration of loan association and cooperative programs for tobacco producers, as approved by the Secretary; and

(6) any other costs incurred by the Department of Agriculture associated with the production of tobacco.

(b) LIMITATIONS.—Amounts made available under subsection (a) may not be used—

(1) to provide direct benefits to quota holders, quota lessees, or quota tenants; or

(2) in a manner that results in a decrease, or an increase relative to other crops, in the amount of the crop insurance premiums assessed to participating tobacco producers under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(c) DETERMINATIONS.—Not later than September 30, 1998, and each fiscal year thereafter, the Secretary shall determine—

(1) the amount of costs described in subsection (a); and

(2) the amount that will be provided under this section as reimbursement for the costs.

SEC. 1023. TOBACCO COMMUNITY ECONOMIC DEVELOPMENT GRANTS.

(a) AUTHORITY.—The Secretary shall make grants to tobacco-growing States in accordance with this section to enable the States to carry out economic development initiatives in tobacco-growing communities.

(b) APPLICATION.—To be eligible to receive payments under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

(1) a description of the activities that the State will carry out using amounts received under the grant;

(2) a designation of an appropriate State agency to administer amounts received under the grant; and

(3) a description of the steps to be taken to ensure that the funds are distributed in accordance with subsection (e).

(c) AMOUNT OF GRANT.—

(1) IN GENERAL.—From the amounts available to carry out this section for a fiscal year, the Secretary shall allot to each State an amount that bears the same ratio to the amounts available as the total farm income of the State derived from the production of tobacco during the 1995 through 1997 marketing years (as determined under paragraph (2)) bears to the total farm income of all States derived from the production of tobacco during the 1995 through 1997 marketing years.

(2) TOBACCO INCOME.—For the 1995 through 1997 marketing years, the Secretary shall determine the amount of farm income derived from the production of tobacco in each State and in all States.

(d) PAYMENTS.—

(1) IN GENERAL.—A State that has an application approved by the Secretary under subsection (b) shall be entitled to a payment under this section in an amount that is equal to its allotment under subsection (c).

(2) FORM OF PAYMENTS.—The Secretary may make payments under this section to a State in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(3) REALLOTMENTS.—Any portion of the allotment of a State under subsection (c) that the Secretary determines will not be used to carry out this section in accordance with an approved State application required under subsection (b), shall be reallotted by the Secretary to other States in proportion to the original allotments to the other States.

(e) USE AND DISTRIBUTION OF FUNDS.—

(1) IN GENERAL.—Amounts received by a State under this section shall be used to carry out economic development activities, including—

(A) rural business enterprise activities described in subsections (c) and (e) of section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932);

(B) down payment loan assistance programs that are similar to the program described in section 310E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1935);

(C) activities designed to help create productive farm or off-farm employment in rural areas to provide a more viable economic base and enhance opportunities for improved incomes, living standards, and contributions by rural individuals to the economic and social development of tobacco communities;

(D) activities that expand existing infrastructure, facilities, and services to capitalize on opportunities to diversify economies in tobacco communities and that support the development of new industries or commercial ventures;

(E) activities by agricultural organizations that provide assistance directly to participating tobacco producers to assist in developing other agricultural activities that supplement tobacco-producing activities;

(F) initiatives designed to create or expand locally owned value-added processing and marketing operations in tobacco communities;

(G) technical assistance activities by persons to support farmer-owned enterprises, or agriculture-based rural development enterprises, of the type described in section 252 or 253 of the Trade Act of 1974 (19 U.S.C. 2342, 2343); and

(H) initiatives designed to partially compensate tobacco warehouse owners for lost revenues and assist the tobacco warehouse owners in establishing successful business enterprises.

(2) TOBACCO-GROWING COUNTIES.—Assistance may be provided by a State under this section only to assist a county in the State that has been determined by the Secretary to have in excess of $100,000 in income derived from the production of tobacco during 1 or more of the 1995 through 1997 marketing years. For purposes of this section, the term "tobacco-growing county" includes a political subdivision surrounded within a State by a county that has been determined by the Secretary to have in excess of $100,000 in income derived from the production of tobacco during 1 or more of the 1995 through 1997 marketing years.

(3) DISTRIBUTION.—

(A) ECONOMIC DEVELOPMENT ACTIVITIES.—Not less than 20 percent of the amounts received by a State under this section shall be used to carry out—

(i) economic development activities described in subparagraph (E) or (F) of paragraph (1); or

(ii) agriculture-based rural development activities described in paragraph (1)(G).

(B) TECHNICAL ASSISTANCE ACTIVITIES.—Not less than 4 percent of the amounts received by a State under this section shall be used to carry out technical assistance activities described in paragraph (1)(G).

(C) TOBACCO WAREHOUSE OWNER INITIATIVES.—Not less than 6 percent of the amounts received by a State under this section during each of fiscal years 1999 through 2008 shall be used to carry out initiatives described in paragraph (1)(H).

(D) TOBACCO-GROWING COUNTIES.—To be eligible to receive payments under this section, a State shall demonstrate to the Secretary that funding will be provided, during each 5-year period for which funding is provided under this section, for activities in each county in the State that has been determined under paragraph (2) to have in excess of $100,000 in income derived from the production of tobacco, in amounts that are at least equal to the product obtained by multiplying—

(i) the ratio that the tobacco production income in the county determined under paragraph (2) bears to the total tobacco production income for the State determined under subsection (c); and

(ii) 50 percent of the total amounts received by a State under this section during the 5-year period.

(f) PREFERENCES IN HIRING.—A State may require recipients of funds under this section to provide a preference in employment to—

(1) an individual who—

(A) during the 1998 calendar year, was employed in the manufacture, processing, or warehousing of tobacco or tobacco products, or resided, in a county described in subsection (e)(2); and

(B) is eligible for assistance under the tobacco worker transition program established under section 1031; or

(2) an individual who—

(A) during the 1998 marketing year, carried out tobacco quota or relevant tobacco production activities in a county described in subsection (e)(2);

(B) is eligible for a farmer opportunity grant under subpart 9 of part A of title IV of the Higher Education Act of 1965; and

(C) has successfully completed a course of study at an institution of higher education.

(g) MAINTENANCE OF EFFORT.—

(1) IN GENERAL.—Subject to paragraph (2), a State shall provide an assurance to the Secretary that the amount of funds expended by the State and all counties in the State described in subsection (e)(2) for any activities funded under this section for a fiscal year is not less than 90 percent of the amount of funds expended by the State and counties for the activities for the preceding fiscal year.

(2) REDUCTION OF GRANT AMOUNT.—If a State does not provide an assurance described in paragraph (1), the Secretary shall reduce the amount of the grant determined under subsection (c) by an amount equal to the amount by which the amount of funds expended by the State and counties for the activities is less than 90 percent of the amount of funds expended by the State and counties for the activities for the preceding fiscal year, as determined by the Secretary.

(3) FEDERAL FUNDS.—For purposes of this subsection, the amount of funds expended by a State or county shall not include any amounts made available by the Federal Government.

SEC. 1024. FLUE-CURED TOBACCO PRODUCTION PERMITS.

The Agricultural Adjustment Act of 1938 is amended by inserting after section 317 (7 U.S.C. 1314c) the following:

"SEC. 317A. FLUE-CURED TOBACCO PRODUCTION PERMITS.

"(a) DEFINITIONS.—In this section:

"(1) INDIVIDUAL ACREAGE LIMITATION.—The term 'individual acreage limitation' means the number of acres of flue-cured tobacco that may be planted by the holder of a permit during a marketing year, calculated—

"(A) prior to—

"(i) any increase or decrease in the number due to undermarketings or overmarketings; and

"(ii) any reduction under subsection (i); and

"(B) in a manner that ensures that—

"(i) the total of all individual acreage limitations is equal to the national acreage allotment, less the reserve provided under subsection (h); and

"(ii) the individual acreage limitation for a marketing year bears the same ratio to the individual acreage limitation for the previous marketing year as the ratio that the national acreage allotment for the marketing year bears to the national acreage allotment for the previous marketing year, subject to adjustments by the Secretary to account for any reserve provided under subsection (h).

"(2) INDIVIDUAL MARKETING LIMITATION.—The term 'individual marketing limitation' means the number of pounds of flue-cured tobacco that may be marketed by the holder of a permit during a marketing year, calculated—

"(A) prior to—

"(i) any increase or decrease in the number due to undermarketings or overmarketings; and

"(ii) any reduction under subsection (i); and

"(B) in a manner that ensures that—

"(i) the total of all individual marketing limitations is equal to the national marketing quota, less the reserve provided under subsection (h); and

"(ii) the individual marketing limitation for a marketing year is obtained by multiplying the individual acreage limitation by the permit yield, prior to any adjustment for undermarketings or overmarketings.

"(3) INDIVIDUAL TOBACCO PRODUCTION PERMIT.—The term 'individual tobacco production permit' means a permit issued by the Secretary to a person authorizing the production of flue-cured tobacco for any marketing year during which this section is effective.

"(4) NATIONAL ACREAGE ALLOTMENT.—The term 'national acreage allotment' means the quantity determined by dividing—

"(A) the national marketing quota; by

"(B) the national average yield goal.

"(5) NATIONAL AVERAGE YIELD GOAL.—The term 'national average yield goal' means the national average yield for flue-cured tobacco during the 5 marketing years immediately preceding the marketing year for which the determination is being made.

"(6) NATIONAL MARKETING QUOTA.—For the 1999 and each subsequent crop of flue-cured tobacco, the term 'national marketing quota' for a marketing year means the quantity of flue-cured tobacco, as determined by the Secretary, that is not more than 103 percent nor less than 97 percent of the total of—

"(A) the aggregate of the quantities of flue-cured tobacco that domestic manufacturers of cigarettes estimate that the manufacturers intend to purchase on the United States auction markets or from producers during the marketing year, as compiled and determined under section 320A;

"(B) the average annual quantity of flue-cured tobacco exported from the United States during the 3 marketing years immediately preceding the marketing year for which the determination is being made; and

"(C) the quantity, if any, of flue-cured tobacco that the Secretary, in the discretion of the Secretary, determines is necessary to increase or decrease the inventory of the producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of flue-cured tobacco to establish or maintain the inventory at the reserve stock level for flue-cured tobacco.

"(7) PERMIT YIELD.—The term 'permit yield' means the yield of tobacco per acre for an individual tobacco production permit holder that is—

"(A) based on a preliminary permit yield that is equal to the average yield during the 5 marketing years immediately preceding the marketing year for which the determination is made in the county where the holder of the permit is authorized to plant flue-cured tobacco, as determined by the Secretary, on the basis of actual yields of farms in the county; and

"(B) adjusted by a weighted national yield factor calculated by—

"(i) multiplying each preliminary permit yield by the individual acreage limitation, prior to adjustments for overmarketings, undermarketings, or reductions required under subsection (i); and

"(ii) dividing the sum of the products under clause (i) for all flue-cured individual tobacco production permit holders by the national acreage allotment.

"(b) INITIAL ISSUANCE OF PERMITS.—

"(1) TERMINATION OF FLUE-CURED MARKETING QUOTAS.—On the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act, farm marketing quotas as provided under section 317 shall no longer be in effect for flue-cured tobacco.

"(2) ISSUANCE OF PERMITS TO QUOTA HOLDERS THAT WERE PRINCIPAL PRODUCERS.—

"(A) IN GENERAL.—By January 15, 1999, each individual quota holder under section 317 that was a principal producer of flue-cured tobacco during the 1998 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

"(B) NOTIFICATION.—The Secretary shall notify the holder of each permit of the individual acreage limitation and the individual marketing limitation applicable to the holder for each marketing year.

"(C) INDIVIDUAL ACREAGE LIMITATION FOR 1999 MARKETING YEAR.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

"(D) INDIVIDUAL MARKETING LIMITATION FOR 1999 MARKETING YEAR.—In establishing the individual marketing limitation for the 1999 marketing year under this section, the farm marketing quota that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual marketing limitation for the previous marketing year.

"(3) QUOTA HOLDERS THAT WERE NOT PRINCIPAL PRODUCERS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), on approval through a referendum under subsection (c)—

"(i) each person that was a quota holder under section 317 but that was not a principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall not be eligible to own a permit; and

"(ii) the Secretary shall not issue any permit during the 25-year period beginning on the date of enactment of this Act to any person that was a quota holder and was not the principal producer of flue-cured tobacco during the 1997 marketing year.

"(B) MEDICAL HARDSHIPS AND CROP DISASTERS.—Subparagraph (A) shall not apply to a person that would have been the principal producer of flue-cured tobacco during the 1997 marketing year but for a medical hardship or crop disaster that occurred during the 1997 marketing year.

"(C) ADMINISTRATION.—The Secretary shall issue regulations—

"(i) defining the term 'person' for the purpose of this paragraph; and

"(ii) prescribing such rules as the Secretary determines are necessary to ensure a fair and reasonable application of the prohibition established under this paragraph.

"(4) ISSUANCE OF PERMITS TO PRINCIPAL PRODUCERS OF FLUE-CURED TOBACCO.—

"(A) IN GENERAL.—By January 15, 1999, each individual quota lessee or quota tenant (as defined in section 1002 of the LEAF Act) that was the principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

"(B) INDIVIDUAL ACREAGE LIMITATIONS.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by a quota holder for whom the quota lessee or quota tenant was the principal producer of flue-cured tobacco during the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

"(C) INDIVIDUAL MARKETING LIMITATIONS.—In establishing the individual marketing limitation for the 1999 marketing year under this section, the individual marketing limitation for the previous year for an individual described in this paragraph shall be calculated by multiplying—

"(i) the farm marketing quota that was allotted to a farm owned by a quota holder for whom the quota lessee or quota holder was the principal producer of flue-cured tobacco during the 1997 marketing year, by

"(ii) the ratio that—

"(I) the sum of all flue-cured tobacco farm marketing quotas for the 1997 marketing year prior to adjusting for undermarketing and overmarketing; bears to

"(II) the sum of all flue-cured tobacco farm marketing quotas for the 1998 marketing year, after adjusting for undermarketing and overmarketing.

"(D) SPECIAL RULE FOR TENANT OF LEASED FLUE-CURED TOBACCO.—If the farm marketing quota or farm acreage allotment of a quota holder was produced pursuant to an agreement under which a quota lessee rented land from a quota holder and a quota tenant was the primary producer, as determined by the Secretary, of flue-cured tobacco pursuant to the farm marketing quota or farm acreage allotment, the farm marketing quota or farm acreage allotment shall be divided proportionately between the quota lessee and quota tenant for purposes of issuing individual tobacco production permits under this paragraph.

"(5) OPTION OF QUOTA LESSEE OR QUOTA TENANT TO RELINQUISH PERMIT.—

"(A) IN GENERAL.—Each quota lessee or quota tenant that is issued an individual tobacco production permit under paragraph (4) shall be given the option of relinquishing the permit in exchange for payments made under section 1021(e)(5) of the LEAF Act.

"(B) NOTIFICATION.—A quota lessee or quota tenant that is issued an individual tobacco production permit shall give notification of the intention to exercise the option at such time and in such manner as the Secretary may require, but not later than 45 days after the permit is issued.

"(C) REALLOCATION OF PERMIT.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit relinquished under this paragraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

"(6) ACTIVE PRODUCER REQUIREMENT.—

"(A) REQUIREMENT FOR SHARING RISK.—No individual tobacco production permit shall be issued to, or maintained by, a person that does not fully share in the risk of producing a crop of flue-cured tobacco.

"(B) CRITERIA FOR SHARING RISK.—For purposes of this paragraph, a person shall be considered to have fully shared in the risk of production of a crop if—

"(i) the investment of the person in the production of the crop is not less than 100 percent of the costs of production associated with the crop;

"(ii) the amount of the person's return on the investment is dependent solely on the sale price of the crop; and

"(iii) the person may not receive any of the return before the sale of the crop.

"(C) PERSONS NOT SHARING RISK.—

"(i) FORFEITURE.—Any person that fails to fully share in the risks of production under this paragraph shall forfeit an individual tobacco production permit if, after notice and opportunity for a hearing, the appropriate county committee determines that the conditions for forfeiture exist.

"(ii) REALLOCATION.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit forfeited under this subparagraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

"(D) NOTICE.—Notice of any determination made by a county committee under subparagraph (C) shall be mailed, as soon as practicable, to the person involved.

"(E) REVIEW.—If the person is dissatisfied with the determination, the person may request, not later than 15 days after notice of the determination is received, a review of the determination by a local review committee under the procedures established under section 363 for farm marketing quotas.

"(7) COUNTY OF ORIGIN REQUIREMENT.—For the 1999 and each subsequent crop of flue-cured tobacco, all tobacco produced pursuant to an individual tobacco production permit

shall be produced in the same county in which was produced the tobacco produced during the 1997 marketing year pursuant to the farm marketing quota or farm acreage allotment on which the individual tobacco production permit is based.

"(8) COUNTY PRODUCTION POOL.—

"(A) IN GENERAL.—The authority to produce flue-cured tobacco under an individual tobacco production permit that is forfeited, relinquished, or surrendered within a county may be reallocated by the appropriate county committee to tobacco producers located in the same county that apply to the committee to produce flue-cured tobacco under the authority.

"(B) PRIORITY.—In reallocating individual tobacco production permits under this paragraph, a county committee shall provide a priority to—

"(i) an active tobacco producer that controls the authority to produce a quantity of flue-cured tobacco under an individual tobacco production permit that is equal to or less than the average number of pounds of flue-cured tobacco that was produced by the producer during each of the 1995 through 1997 marketing years, as determined by the Secretary; and

"(ii) a new tobacco producer.

"(C) CRITERIA.—Individual tobacco production permits shall be reallocated by the appropriate county committee under this paragraph in a fair and equitable manner after taking into consideration—

"(i) the experience of the producer;

"(ii) the availability of land, labor, and equipment for the production of tobacco;

"(iii) crop rotation practices; and

"(iv) the soil and other physical factors affecting the production of tobacco.

"(D) MEDICAL HARDSHIPS AND CROP DISASTERS.—Notwithstanding any other provision of this Act, the Secretary may issue an individual tobacco production permit under this paragraph to a producer that is otherwise ineligible for the permit due to a medical hardship or crop disaster that occurred during the 1997 marketing year.

"(c) REFERENDUM.—

"(1) ANNOUNCEMENT OF QUOTA AND ALLOTMENT.—Not later than December 15, 1998, the Secretary pursuant to subsection (b) shall determine and announce—

"(A) the quantity of the national marketing quota for flue-cured tobacco for the 1999 marketing year; and

"(B) the national acreage allotment and national average yield goal for the 1999 crop of flue-cured tobacco.

"(2) SPECIAL REFERENDUM.—Not later than 30 days after the announcement of the quantity of the national marketing quota in 2001, the Secretary shall conduct a special referendum of the tobacco production permit holders that were the principal producers of flue-cured tobacco of the 1997 crop to determine whether the producers approve or oppose the continuation of individual tobacco production permits on an acreage-poundage basis as provided in this section for the 2002 through 2004 marketing years.

"(3) APPROVAL OF PERMITS.—If the Secretary determines that more than 66⅔ percent of the producers voting in the special referendum approve the establishment of individual tobacco production permits on an acreage-poundage basis—

"(A) individual tobacco production permits on an acreage-poundage basis as provided in this section shall be in effect for the 2002 through 2004 marketing years; and

"(B) marketing quotas on an acreage-poundage basis shall cease to be in effect for the 2002 through 2004 marketing years.

"(4) DISAPPROVAL OF PERMITS.—If individual tobacco production permits on an acreage-poundage basis are not approved by more than 66⅔ percent of the producers voting in the referendum, no marketing quotas on an acreage-poundage basis shall continue in effect that were proclaimed under section 317 prior to the referendum.

"(5) APPLICABLE MARKETING YEARS.—If individual tobacco production permits have been made effective for flue-cured tobacco on an acreage-poundage basis pursuant to this subsection, the Secretary shall, not later than December 15 of any future marketing year, announce a national marketing quota for that type of tobacco for the next 3 succeeding marketing years if the marketing year is the last year of 3 consecutive years for which individual tobacco production permits previously proclaimed will be in effect.

"(d) ANNUAL ANNOUNCEMENT OF NATIONAL MARKETING QUOTA.—The Secretary shall determine and announce the national marketing quota, national acreage allotment, and national average yield goal for the second and third marketing years of any 3-year period for which individual tobacco production permits are in effect on or before the December 15 immediately preceding the beginning of the marketing year to which the quota, allotment, and goal apply.

"(e) ANNUAL ANNOUNCEMENT OF INDIVIDUAL TOBACCO PRODUCTION PERMITS.—If a national marketing quota, national acreage allotment, and national average yield goal are determined and announced, the Secretary shall provide for the determination of individual tobacco production permits, individual acreage limitations, and individual marketing limitations under this section for the crop and marketing year covered by the determinations.

"(f) ASSIGNMENT OF TOBACCO PRODUCTION PERMITS.—

"(1) LIMITATION TO SAME COUNTY.—Each individual tobacco production permit holder shall assign the individual acreage limitation and individual marketing limitation to 1 or more farms located within the county of origin of the individual tobacco production permit.

"(2) FILING WITH COUNTY COMMITTEE.—The assignment of an individual acreage limitation and individual marketing limitation shall not be effective until evidence of the assignment, in such form as required by the Secretary, is filed with and determined by the county committee for the county in which the farm involved is located.

"(3) LIMITATION ON TILLABLE CROPLAND.—The total acreage assigned to any farm under this subsection shall not exceed the acreage of cropland on the farm.

"(g) PROHIBITION ON SALE OR LEASING OF INDIVIDUAL TOBACCO PRODUCTION PERMITS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Secretary shall not permit the sale and transfer, or lease and transfer, of an individual tobacco production permit issued under this section.

"(2) TRANSFER TO DESCENDANTS.—

"(A) DEATH.—In the case of the death of a person to whom an individual tobacco production permit has been issued under this section, the permit shall transfer to the surviving spouse of the person or, if there is no surviving spouse, to surviving direct descendants of the person.

"(B) TEMPORARY INABILITY TO FARM.—In the case of the death of a person to whom an individual tobacco production permit has been issued under this section and whose descendants are temporarily unable to produce a crop of tobacco, the Secretary may hold the license in the name of the descendants for a period of not more than 18 months.

"(3) VOLUNTARY TRANSFERS.—A person that is eligible to obtain an individual tobacco production permit under this section may at any time transfer all or part of the permit to the person's spouse or direct descendants that are actively engaged in the production of tobacco.

"(h) RESERVE.—

"(1) IN GENERAL.—For each marketing year for which individual tobacco production permits are in effect under this section, the Secretary may establish a reserve from the national marketing quota in a quantity equal to not more than 1 percent of the national marketing quota to be available for—

"(A) making corrections of errors in individual acreage limitations and individual marketing limitations;

"(B) adjusting inequities; and

"(C) establishing individual tobacco production permits for new tobacco producers (except that not less than two-thirds of the reserve shall be for establishing such permits for new tobacco producers).

"(2) ELIGIBLE PERSONS.—To be eligible for a new individual tobacco production permit, a producer must not have been the principal producer of tobacco during the immediately preceding 5 years.

"(3) APPORTIONMENT FOR NEW PRODUCERS.—The part of the reserve held for apportionment to new individual tobacco producers shall be allotted on the basis of—

"(A) land, labor, and equipment available for the production of tobacco;

"(B) crop rotation practices;

"(C) soil and other physical factors affecting the production of tobacco; and

"(D) the past tobacco-producing experience of the producer.

"(4) PERMIT YIELD.—The permit yield for any producer for which a new individual tobacco production permit is established shall be determined on the basis of available productivity data for the land involved and yields for similar farms in the same county.

"(i) PENALTIES.—

"(1) PRODUCTION ON OTHER FARMS.—If any quantity of tobacco is marketed as having been produced under an individual acreage limitation or individual marketing limitation assigned to a farm but was produced on a different farm, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

"(2) FALSE REPORT.—If a person to which an individual tobacco production permit is issued files, or aids or acquiesces in the filing of, a false report with respect to the assignment of an individual acreage limitation or individual marketing limitation for a quantity of tobacco, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

"(j) MARKETING PENALTIES.—

"(1) IN GENERAL.—When individual tobacco production permits under this section are in effect, provisions with respect to penalties for the marketing of excess tobacco and the other provisions contained in section 314 shall apply in the same manner and to the same extent as they would apply under section 317(g) if farm marketing quotas were in effect.

"(2) PRODUCTION ON OTHER FARMS.—If a producer falsely identifies tobacco as having been produced on or marketed from a farm to which an individual acreage limitation or individual marketing limitation has been assigned, future individual acreage limitations

and individual marketing limitations shall be forfeited.".

SEC. 1025. MODIFICATIONS IN FEDERAL TOBACCO PROGRAMS.

(a) PROGRAM REFERENDA.—Section 312(c) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1312(c)) is amended—

(1) by striking "(c) Within thirty" and inserting the following:

"(c) REFERENDA ON QUOTAS.—

"(1) IN GENERAL.—Not later than 30"; and

(2) by adding at the end the following:

"(2) REFERENDA ON PROGRAM CHANGES.—

"(A) IN GENERAL.—In the case of any type of tobacco for which marketing quotas are in effect, on the receipt of a petition from more than 5 percent of the producers of that type of tobacco in a State, the Secretary shall conduct a statewide referendum on any proposal related to the lease and transfer of tobacco quota within a State requested by the petition that is authorized under this part.

"(B) APPROVAL OF PROPOSALS.—If a majority of producers of the type of tobacco in the State approve a proposal in a referendum conducted under subparagraph (A), the Secretary shall implement the proposal in a manner that applies to all producers and quota holders of that type of tobacco in the State.".

(b) PURCHASE REQUIREMENTS.—Section 320B of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314h) is amended—

(1) in subsection (c)—

(A) by striking "(c) The amount" and inserting "(c) AMOUNT OF PENALTY.—For the 1998 and subsequent marketing years, the amount"; and

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

"(1) 105 percent of the average market price for the type of tobacco involved during the preceding marketing year; and".

(c) ELIMINATION OF TOBACCO MARKETING ASSESSMENT.—

(1) IN GENERAL.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by striking subsection (g).

(2) CONFORMING AMENDMENT.—Section 422(c) of the Uruguay Round Agreements Act (Public Law 103-465; 7 U.S.C. 1445 note) is amended by striking "section 106(g), 106A, or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445(g), 1445-1, or 1445-2)" and inserting "section 106A or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445-1, 1445-2)".

(d) ADJUSTMENT FOR LAND RENTAL COSTS.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by adding at the end the following:

"(h) ADJUSTMENT FOR LAND RENTAL COSTS.—For each of the 1999 and 2000 marketing years for flue-cured tobacco, after consultation with producers, State farm organizations and cooperative associations, the Secretary shall make an adjustment in the price support level for flue-cured tobacco equal to the annual change in the average cost per pound to flue-cured producers, as determined by the Secretary, under agreements through which producers rent land to produce flue-cured tobacco.".

(e) FIRE-CURED AND DARK AIR-CURED TOBACCO PROGRAMS.—

(1) LIMITATION ON TRANSFERS.—Section 318(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d(g)) is amended—

(A) by striking "ten" and inserting "30"; and

(B) by inserting "during any crop year" after "transferred to any farm".

(2) LOSS OF ALLOTMENT OR QUOTA THROUGH UNDERPLANTING.—Section 318 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d) is amended by adding at the end the following:

"(k) LOSS OF ALLOTMENT OR QUOTA THROUGH UNDERPLANTING.—Effective for the 1999 and subsequent marketing years, no acreage allotment or acreage-poundage quota, other than a new marketing quota, shall be established for a farm on which no fire-cured or dark air-cured tobacco was planted or considered planted during at least 2 of the 3 crop years immediately preceding the crop year for which the acreage allotment or acreage-poundage quota would otherwise be established.".

(f) EXPANSION OF TYPES OF TOBACCO SUBJECT TO NO NET COST ASSESSMENT.—

(1) NO NET COST TOBACCO FUND.—Section 106A(d)(1)(A) of the Agricultural Act of 1949 (7 U.S.C. 1445-1(d)(1)(A)) is amended—

(A) in clause (ii), by inserting after "Burley quota tobacco" the following: "and fire-cured and dark air-cured quota tobacco"; and

(B) in clause (iii)—

(i) in the matter preceding subclause (I), by striking "Flue-cured or Burley tobacco" and inserting "each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,"; and

(ii) by striking subclause (II) and inserting the following:

"(II) the sum of the amount of the per pound producer contribution and purchaser assessment (if any) for the kind of tobacco payable under clauses (i) and (ii); and".

(2) NO NET COST TOBACCO ACCOUNT.—Section 106B(d)(1) of the Agricultural Act of 1949 (7 U.S.C. 1445-2(d)(1)) is amended—

(A) in subparagraph (B), by inserting after "Burley quota tobacco" the following: "and fire-cured and dark air-cured tobacco"; and

(B) in subparagraph (C), by striking "Flue-cured and Burley tobacco" and inserting "each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,".

Subtitle C—Farmer and Worker Transition Assistance

SEC. 1031. TOBACCO WORKER TRANSITION PROGRAM.

(a) GROUP ELIGIBILITY REQUIREMENTS.—

(1) CRITERIA.—A group of workers (including workers in any firm or subdivision of a firm involved in the manufacture, processing, or warehousing of tobacco or tobacco products) shall be certified as eligible to apply for adjustment assistance under this section pursuant to a petition filed under subsection (b) if the Secretary of Labor determines that a significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated, and—

(A) the sales or production, or both, of the firm or subdivision have decreased absolutely; and

(B) the implementation of the national tobacco settlement contributed importantly to the workers' separation or threat of separation and to the decline in the sales or production of the firm or subdivision.

(2) DEFINITION OF CONTRIBUTED IMPORTANTLY.—In paragraph (1)(B), the term "contributed importantly" means a cause that is important but not necessarily more important than any other cause.

(3) REGULATIONS.—The Secretary shall issue regulations relating to the application of the criteria described in paragraph (1) in making preliminary findings under subsection (b) and determinations under subsection (c).

(b) PRELIMINARY FINDINGS AND BASIC ASSISTANCE.—

(1) FILING OF PETITIONS.—A petition for certification of eligibility to apply for adjustment assistance under this section may be filed by a group of workers (including workers in any firm or subdivision of a firm involved in the manufacture, processing, or warehousing of tobacco or tobacco products) or by their certified or recognized union or other duly authorized representative with the Governor of the State in which the workers' firm or subdivision thereof is located.

(2) FINDINGS AND ASSISTANCE.—On receipt of a petition under paragraph (1), the Governor shall—

(A) notify the Secretary that the Governor has received the petition;

(B) within 10 days after receiving the petition—

(i) make a preliminary finding as to whether the petition meets the criteria described in subsection (a)(1); and

(ii) transmit the petition, together with a statement of the finding under clause (i) and reasons for the finding, to the Secretary for action under subsection (c); and

(C) if the preliminary finding under subparagraph (B)(i) is affirmative, ensure that rapid response and basic readjustment services authorized under other Federal laws are made available to the workers.

(c) REVIEW OF PETITIONS BY SECRETARY; CERTIFICATIONS.—

(1) IN GENERAL.—The Secretary, within 30 days after receiving a petition under subsection (b)(2)(B)(ii), shall determine whether the petition meets the criteria described in subsection (a)(1). On a determination that the petition meets the criteria, the Secretary shall issue to workers covered by the petition a certification of eligibility to apply for the assistance described in subsection (d).

(2) DENIAL OF CERTIFICATION.—On the denial of a certification with respect to a petition under paragraph (1), the Secretary shall review the petition in accordance with the requirements of other applicable assistance programs to determine if the workers may be certified under the other programs.

(d) COMPREHENSIVE ASSISTANCE.—

(1) IN GENERAL.—Workers covered by a certification issued by the Secretary under subsection (c)(1) shall be provided with benefits and services described in paragraph (2) in the same manner and to the same extent as workers covered under a certification under subchapter A of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.), except that the total amount of payments under this section for any fiscal year shall not exceed $25,000,000.

(2) BENEFITS AND SERVICES.—The benefits and services described in this paragraph are the following:

(A) Employment services of the type described in section 235 of the Trade Act of 1974 (19 U.S.C. 2295).

(B) Training described in section 236 of the Trade Act of 1974 (19 U.S.C. 2296), except that notwithstanding the provisions of section 236(a)(2)(A) of that Act, the total amount of payments for training under this section for any fiscal year shall not exceed $12,500,000.

(C) Tobacco worker readjustment allowances, which shall be provided in the same manner as trade readjustment allowances are provided under part I of subchapter B of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2291 et seq.), except that—

(i) the provisions of sections 231(a)(5)(C) and 231(c) of that Act (19 U.S.C. 2291(a)(5)(C), 2291(c)), authorizing the payment of trade readjustment allowances on a finding that it is

not feasible or appropriate to approve a training program for a worker, shall not be applicable to payment of allowances under this section; and

(ii) notwithstanding the provisions of section 233(b) of that Act (19 U.S.C. 2293(b)), in order for a worker to qualify for tobacco readjustment allowances under this section, the worker shall be enrolled in a training program approved by the Secretary of the type described in section 236(a) of that Act (19 U.S.C. 2296(a)) by the later of—

(I) the last day of the 16th week of the worker's initial unemployment compensation benefit period; or

(II) the last day of the 6th week after the week in which the Secretary issues a certification covering the worker.

In cases of extenuating circumstances relating to enrollment of a worker in a training program under this section, the Secretary may extend the time for enrollment for a period of not to exceed 30 days.

(D) Job search allowances of the type described in section 237 of the Trade Act of 1974 (19 U.S.C. 2297).

(E) Relocation allowances of the type described in section 238 of the Trade Act of 1974 (19 U.S.C. 2298).

(e) INELIGIBILITY OF INDIVIDUALS RECEIVING PAYMENTS FOR LOST TOBACCO QUOTA.—No benefits or services may be provided under this section to any individual who has received payments for lost tobacco quota under section 1021.

(f) FUNDING.—Of the amounts appropriated to carry out this title, the Secretary may use not to exceed $25,000,000 for each of fiscal years 1999 through 2008 to provide assistance under this section.

(g) EFFECTIVE DATE.—This section shall take effect on the date that is the later of—

(1) October 1, 1998; or

(2) the date of enactment of this Act.

(h) TERMINATION DATE.—No assistance, vouchers, allowances, or other payments may be provided under this section after the date that is the earlier of—

(1) the date that is 10 years after the effective date of this section under subsection (g); or

(2) the date on which legislation establishing a program providing dislocated workers with comprehensive assistance substantially similar to the assistance provided by this section becomes effective.

SEC. 1032. FARMER OPPORTUNITY GRANTS.

Part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) is amended by adding at the end the following:

"Subpart 9—Farmer Opportunity Grants

"SEC. 420D. STATEMENT OF PURPOSE.

"It is the purpose of this subpart to assist in making available the benefits of postsecondary education to eligible students (determined in accordance with section 420F) in institutions of higher education by providing farmer opportunity grants to all eligible students.

"SEC. 420E. PROGRAM AUTHORITY; AMOUNT AND DETERMINATIONS; APPLICATIONS.

"(a) PROGRAM AUTHORITY AND METHOD OF DISTRIBUTION.—

"(1) PROGRAM AUTHORITY.—From amounts made available under section 1011(d)(5) of the LEAF Act, the Secretary, during the period beginning July 1, 1999, and ending September 30, 2024, shall pay to each eligible institution such sums as may be necessary to pay to each eligible student (determined in accordance with section 420F) for each academic year during which that student is in attendance at an institution of higher education, as an undergraduate, a farmer opportunity grant in the amount for which that student is eligible, as determined pursuant to subsection (b). Not less than 85 percent of the sums shall be advanced to eligible institutions prior to the start of each payment period and shall be based on an amount requested by the institution as needed to pay eligible students, except that this sentence shall not be construed to limit the authority of the Secretary to place an institution on a reimbursement system of payment.

"(2) CONSTRUCTION.—Nothing in this section shall be construed to prohibit the Secretary from paying directly to students, in advance of the beginning of the academic term, an amount for which the students are eligible, in cases where the eligible institution elects not to participate in the disbursement system required by paragraph (1).

"(3) DESIGNATION.—Grants made under this subpart shall be known as 'farmer opportunity grants'.

"(b) AMOUNT OF GRANTS.—

"(1) AMOUNTS.—

"(A) IN GENERAL.—The amount of the grant for a student eligible under this subpart shall be—

"(i) $1,700 for each of the academic years 1999–2000 through 2003–2004;

"(ii) $2,000 for each of the academic years 2004–2005 through 2008–2009;

"(iii) $2,300 for each of the academic years 2009–2010 through 2013–2014;

"(iv) $2,600 for each of the academic years 2014–2015 through 2018–2019; and

"(v) $2,900 for each of the academic years 2019–2020 through 2023–2024.

"(B) PART-TIME RULE.—In any case where a student attends an institution of higher education on less than a full-time basis (including a student who attends an institution of higher education on less than a half-time basis) during any academic year, the amount of the grant for which that student is eligible shall be reduced in proportion to the degree to which that student is not so attending on a full-time basis, in accordance with a schedule of reductions established by the Secretary for the purposes of this subparagraph, computed in accordance with this subpart. The schedule of reductions shall be established by regulation and published in the Federal Register.

"(2) MAXIMUM.—No grant under this subpart shall exceed the cost of attendance (as described in section 472) at the institution at which that student is in attendance. If, with respect to any student, it is determined that the amount of a grant exceeds the cost of attendance for that year, the amount of the grant shall be reduced to an amount equal to the cost of attendance at the institution.

"(3) PROHIBITION.—No grant shall be awarded under this subpart to any individual who is incarcerated in any Federal, State, or local penal institution.

"(c) PERIOD OF ELIGIBILITY FOR GRANTS.—

"(1) IN GENERAL.—The period during which a student may receive grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student at the institution at which the student is in attendance, except that any period during which the student is enrolled in a noncredit or remedial course of study as described in paragraph (2) shall not be counted for the purpose of this paragraph.

"(2) CONSTRUCTION.—Nothing in this section shall be construed to—

"(A) exclude from eligibility courses of study that are noncredit or remedial in nature and that are determined by the institution to be necessary to help the student be prepared for the pursuit of a first undergraduate baccalaureate degree or certificate or, in the case of courses in English language instruction, to be necessary to enable the student to utilize already existing knowledge, training, or skills; and

"(B) exclude from eligibility programs of study abroad that are approved for credit by the home institution at which the student is enrolled.

"(3) PROHIBITION.—No student is entitled to receive farmer opportunity grant payments concurrently from more than 1 institution or from the Secretary and an institution.

"(d) APPLICATIONS FOR GRANTS.—

"(1) IN GENERAL.—The Secretary shall from time to time set dates by which students shall file applications for grants under this subpart. The filing of applications under this subpart shall be coordinated with the filing of applications under section 401(c).

"(2) INFORMATION AND ASSURANCES.—Each student desiring a grant for any year shall file with the Secretary an application for the grant containing such information and assurances as the Secretary may deem necessary to enable the Secretary to carry out the Secretary's functions and responsibilities under this subpart.

"(e) DISTRIBUTION OF GRANTS TO STUDENTS.—Payments under this section shall be made in accordance with regulations promulgated by the Secretary for such purpose, in such manner as will best accomplish the purpose of this section. Any disbursement allowed to be made by crediting the student's account shall be limited to tuition and fees and, in the case of institutionally owned housing, room and board. The student may elect to have the institution provide other such goods and services by crediting the student's account.

"(f) INSUFFICIENT FUNDING.—If, for any fiscal year, the funds made available to carry out this subpart are insufficient to satisfy fully all grants for students determined to be eligible under section 420F, the amount of the grant provided under subsection (b) shall be reduced on a pro rata basis among all eligible students.

"(g) TREATMENT OF INSTITUTIONS AND STUDENTS UNDER OTHER LAWS.—Any institution of higher education that enters into an agreement with the Secretary to disburse to students attending that institution the amounts those students are eligible to receive under this subpart shall not be deemed, by virtue of the agreement, to be a contractor maintaining a system of records to accomplish a function of the Secretary. Recipients of farmer opportunity grants shall not be considered to be individual grantees for purposes of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq.).

"SEC. 420F. STUDENT ELIGIBILITY.

"(a) IN GENERAL.—In order to receive any grant under this subpart, a student shall—

"(1) be a member of a tobacco farm family in accordance with subsection (b);

"(2) be enrolled or accepted for enrollment in a degree, certificate, or other program (including a program of study abroad approved for credit by the eligible institution at which the student is enrolled) leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with section 487, and not be enrolled in an elementary or secondary school;

"(3) if the student is presently enrolled at an institution of higher education, be maintaining satisfactory progress in the course of study the student is pursuing in accordance with subsection (c);

"(4) not owe a refund on grants previously received at any institution of higher education under this title, or be in default on any loan from a student loan fund at any institution provided for in part D, or a loan made, insured, or guaranteed by the Secretary under this title for attendance at any institution;

"(5) file with the institution of higher education that the student intends to attend, or is attending, a document, that need not be notarized, but that shall include—

"(A) a statement of educational purpose stating that the money attributable to the grant will be used solely for expenses related to attendance or continued attendance at the institution; and

"(B) the student's social security number; and

"(6) be a citizen of the United States.

"(b) TOBACCO FARM FAMILIES.—

"(1) IN GENERAL.—For the purpose of subsection (a)(1), a student is a member of a tobacco farm family if during calendar year 1998 the student was—

"(A) an individual who—

"(i) is a participating tobacco producer (as defined in section 1002 of the LEAF Act) who is a principal producer of tobacco on a farm; or

"(ii) is otherwise actively engaged in the production of tobacco;

"(B) a spouse, son, daughter, stepson, or stepdaughter of an individual described in subparagraph (A);

"(C) an individual who was a dependent (within the meaning of section 152 of the Internal Revenue Code of 1986) of an individual described in subparagraph (A).

"(2) ADMINISTRATION.—On request, the Secretary of Agriculture shall provide to the Secretary such information as is necessary to carry out this subsection.

"(c) SATISFACTORY PROGRESS.—

"(1) IN GENERAL.—For the purpose of subsection (a)(3), a student is maintaining satisfactory progress if—

"(A) the institution at which the student is in attendance reviews the progress of the student at the end of each academic year, or its equivalent, as determined by the institution; and

"(B) the student has at least a cumulative C average or its equivalent, or academic standing consistent with the requirements for graduation, as determined by the institution, at the end of the second such academic year.

"(2) SPECIAL RULE.—Whenever a student fails to meet the eligibility requirements of subsection (a)(3) as a result of the application of this subsection and subsequent to that failure the student has academic standing consistent with the requirements for graduation, as determined by the institution, for any grading period, the student may, subject to this subsection, again be eligible under subsection (a)(3) for a grant under this subpart.

"(3) WAIVER.—Any institution of higher education at which the student is in attendance may waive paragraph (1) or (2) for undue hardship based on—

"(A) the death of a relative of the student;

"(B) the personal injury or illness of the student; or

"(C) special circumstances as determined by the institution.

"(d) STUDENTS WHO ARE NOT SECONDARY SCHOOL GRADUATES.—In order for a student who does not have a certificate of graduation from a school providing secondary education, or the recognized equivalent of the certificate, to be eligible for any assistance under this subpart, the student shall meet either 1 of the following standards:

"(1) EXAMINATION.—The student shall take an independently administered examination and shall achieve a score, specified by the Secretary, demonstrating that the student can benefit from the education or training being offered. The examination shall be approved by the Secretary on the basis of compliance with such standards for development, administration, and scoring as the Secretary may prescribe in regulations.

"(2) DETERMINATION.—The student shall be determined as having the ability to benefit from the education or training in accordance with such process as the State shall prescribe. Any such process described or approved by a State for the purposes of this section shall be effective 6 months after the date of submission to the Secretary unless the Secretary disapproves the process. In determining whether to approve or disapprove the process, the Secretary shall take into account the effectiveness of the process in enabling students without secondary school diplomas or the recognized equivalent to benefit from the instruction offered by institutions utilizing the process, and shall also take into account the cultural diversity, economic circumstances, and educational preparation of the populations served by the institutions.

"(e) SPECIAL RULE FOR CORRESPONDENCE COURSES.—A student shall not be eligible to receive a grant under this subpart for a correspondence course unless the course is part of a program leading to an associate, bachelor, or graduate degree.

"(f) COURSES OFFERED THROUGH TELECOMMUNICATIONS.—

"(1) RELATION TO CORRESPONDENCE COURSES.—A student enrolled in a course of instruction at an eligible institution of higher education (other than an institute or school that meets the definition in section 521(4)(C) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471(4)(C))) that is offered in whole or in part through telecommunications and leads to a recognized associate, bachelor, or graduate degree conferred by the institution shall not be considered to be enrolled in correspondence courses unless the total amount of telecommunications and correspondence courses at the institution equals or exceeds 50 percent of the courses.

"(2) RESTRICTION OR REDUCTIONS OF FINANCIAL AID.—A student's eligibility to receive a grant under this subpart may be reduced if a financial aid officer determines under the discretionary authority provided in section 479A that telecommunications instruction results in a substantially reduced cost of attendance to the student.

"(3) DEFINITION.—For the purposes of this subsection, the term 'telecommunications' means the use of television, audio, or computer transmission, including open broadcast, closed circuit, cable, microwave, or satellite, audio conferencing, computer conferencing, or video cassettes or discs, except that the term does not include a course that is delivered using video cassette or disc recordings at the institution and that is not delivered in person to other students of that institution.

"(g) STUDY ABROAD.—Nothing in this subpart shall be construed to limit or otherwise prohibit access to study abroad programs approved by the home institution at which a student is enrolled. An otherwise eligible student who is engaged in a program of study abroad approved for academic credit by the home institution at which the student is enrolled shall be eligible to receive a grant under this subpart, without regard to whether the study abroad program is required as part of the student's degree program.

"(h) VERIFICATION OF SOCIAL SECURITY NUMBER.—The Secretary, in cooperation with the Commissioner of Social Security, shall verify any social security number provided by a student to an eligible institution under subsection (a)(5)(B) and shall enforce the following conditions:

"(1) PENDING VERIFICATION.—Except as provided in paragraphs (2) and (3), an institution shall not deny, reduce, delay, or terminate a student's eligibility for assistance under this subpart because social security number verification is pending.

"(2) DENIAL OR TERMINATION.—If there is a determination by the Secretary that the social security number provided to an eligible institution by a student is incorrect, the institution shall deny or terminate the student's eligibility for any grant under this subpart until such time as the student provides documented evidence of a social security number that is determined by the institution to be correct.

"(3) CONSTRUCTION.—Nothing in this subsection shall be construed to permit the Secretary to take any compliance, disallowance, penalty, or other regulatory action against—

"(A) any institution of higher education with respect to any error in a social security number, unless the error was a result of fraud on the part of the institution; or

"(B) any student with respect to any error in a social security number, unless the error was a result of fraud on the part of the student.".

Subtitle D—Immunity

SEC. 1041. GENERAL IMMUNITY FOR TOBACCO PRODUCERS AND TOBACCO WAREHOUSE OWNERS.

Notwithstanding any other provision of this title, a participating tobacco producer, tobacco-related growers association, or tobacco warehouse owner or employee may not be subject to liability in any Federal or State court for any cause of action resulting from the failure of any tobacco product manufacturer, distributor, or retailer to comply with the National Tobacco Policy and Youth Smoking Reduction Act.

Subtitle E—Applicability

SEC. 1051. APPLICABILITY OF TITLE XV.

Notwithstanding any other provision of this Act, title XV of this Act shall have no force or effect.

FORD (AND OTHERS) AMENDMENTS NOS. 2629–2630

(Ordered to lie on the table.)

Mr. FORD (for himself, Mr. HOLLINGS, and Mr. ROBB) submitted two amendments intended to be proposed by them to the bill, S. 1415, supra; as follows:

AMENDMENT NO. 2629

Beginning after line 14 on page 444, strike through the end of the bill.

AMENDMENT NO. 2630

On page 457, beginning with line 1, strike through line 16 on page 482.

FORD AMENDMENTS NOS. 2631–2632

(Ordered to lie on the table.)

Mr. FORD submitted two amendments intended to be proposed by him to amendment No. 2435 proposed by

him to the bill, S. 1415, supra; as follows:

AMENDMENT NO. 2631

Beginning on page 444, line 11, strike everything through the end of the bill and insert the following:

(E) SECRETARY.—The term "Secretary" means the Secretary of the Treasury, except where the context otherwise requires.

SEC. 1418. EFFECTIVE DATE.

Notwithstanding any other provision of this Act, this title shall take effect one day after the date of enactment of this Act.

AMENDMENT NO. 2632

In lieu of the matter proposed to be inserted, insert the following:

(E) SECRETARY.—The term "Secretary" means the Secretary of the Treasury, except where the context otherwise requires.

LAUTENBERG (AND SMITH) AMENDMENT NO. 2633

(Ordered to lie on the table.)

Mr. LAUTENBERG (for himself and Mr. SMITH of Oregon) submitted an amendment intended to be proposed by them to the bill, S. 1415, supra; as follows:

On page 215, line 21, insert "A local government within a State shall have the authority to promulgate or enforce a law that provides additional protection from health hazards from environmental tobacco smoke to the protection provided under this title or, in the case of a local government situated in a State that has opted out of this title pursuant to section 507, provided under the law of such State." after the period.

DASCHLE (AND OTHERS) AMENDMENT NO. 2634

Mr. KERRY (for Mr. DASCHLE for himself, Mr. KERRY, and Mr. BIDEN) proposed an amendment to the bill, S. 1415, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

TITLE ___—DRUG-FREE NEIGHBORHOODS

SEC. ___01. SHORT TITLE.

This title may be cited as the "Drug-Free Neighborhoods Act".

Subtitle A—Stopping the Flow of Drugs at Our Borders

CHAPTER 1—INCREASED RESOURCES FOR INTERDICTION

SEC. ___11. INCREASED RESOURCES FOR INTERDICTION.

(a) CUSTOMS.—In addition to other amounts appropriated for the United States Customs Service for a fiscal year, there is authorized to be appropriated, $500,000,000 for each of the fiscal years 1999 through 2003 to be used to monitor border ports of entry to stop the flow of illegal drugs into the United States, of which not less than 20 percent of such funds shall be used to provide assistance to State and local law enforcement entities.

(b) COAST GUARD.—In addition to other amounts appropriated for the United States Coast Guard for a fiscal year, there is authorized to be appropriated, $400,000,000 for each of the fiscal years 1999 through 2003 to be used to expand activities to stop the flow of illegal drugs into the United States.

(c) DEPARTMENT OF DEFENSE.—In addition to other amounts appropriated for the Department of Defense for a fiscal year, there is authorized to be appropriated, $470,000,000 for each of the fiscal years 1999 through 2003 to be used to expand activities to stop the flow of illegal drugs into the United States, of which not less than 20 percent of such funds shall be used to provide assistance to State and local law enforcement entities.

CHAPTER 2—DRUG-FREE BORDERS

SEC. ___15. SHORT TITLE.

This chapter may be cited as the "Drug-Free Borders Act of 1998".

SEC. ___16. FELONY PUNISHMENT FOR VIOLENCE COMMITTED ALONG THE UNITED STATES BORDER.

(a) IN GENERAL.—Chapter 27 of title 18, United States Code, is amended by adding at the end the following:

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

"(a) IN GENERAL.—Whoever attempts to commit or commits a crime of violence during and in relation to—

"(1) attempting to elude or eluding customs, immigration, or agriculture inspection or failing to stop at the command of an officer of customs, immigration, or animal and plant and health inspection services; or

"(2) an intentional violation of arrival, reporting, entry, or clearance requirements, as set forth in a provision of law listed in subsection (c);

shall be fined under this title or imprisoned for not more than 5 years, or both, except that if bodily injury (as defined in section 1365(g) of this title) results, the maximum term of imprisonment is 10 years, and if death results, the offender may imprisoned for any term of years or for life, and may be sentenced to death.

"(b) CONSPIRACY.—If 2 or more persons conspire to commit an offense under subsection (a), and 1 or more of such persons do any act to effect the object of the conspiracy, each shall be punishable as a principal, except that the sentence of death may not be imposed.

"(c) PROVISIONS OF LAW.—The provisions of law referred to in subsection (a) are—

"(1) section 107 of the Federal Plant Pest Act (7 U.S.C. 150ff));

"(2) section 7 of the Federal Noxious Weed Act of 1974 (7 U.S.C. 2806);

"(3) section 431, 433, 434, or 459 of the Tariff Act of 1930 (19 U.S.C. 1431, 1433, 1434, 1459);

"(4) section 6 of the Act of August 30, 1890 (21 U.S.C. 105; Chapter 839, 26 Stat. 416);

"(5) section 2 of the Act of February 2, 1903 (21 U.S.C. 111; Chapter 349, 32 Stat. 791)

"(6) section 231, 232, 234, 235, 236, 237, or 238 of the Immigration and Nationality Act (8 U.S.C. 1221, 1222, 1224, 1225, 1226, 1227, 1228);

"(7) section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91); or

"(8) section 111 of title 21, United States Code.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 27 of title 18, United States Code, is amended by inserting at the end the following:

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

SEC. ___17. INCREASED PENALTY FOR FALSE STATEMENT OFFENSE.

Section 542 of title 18, United States Code, is amended by striking "two years" and inserting "5 years".

SEC. ___18. SANCTIONS FOR FAILURE TO LAND OR 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 the following:

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

"(a) FAILURE TO HEAVE TO.—

"(1) IN GENERAL.—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) OBSTRUCTION.—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.

"(3) AIRCRAFT.—

"(A) IN GENERAL.—It shall be unlawful for the pilot, operator, or person in charge of an aircraft which has crossed the border of the 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 when an officer may use the authority granted under subparagraph (A).

"(b) NO LIMITATION OF EXISTING AUTHORITY.—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 an aircraft to land or a vessel to heave to.

"(c) FOREIGN NATIONS.—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) DEFINITIONS.—In this section:

"(1) FEDERAL LAW ENFORCEMENT OFFICER.—The term 'Federal law enforcement officer' has the meaning set forth in section 115 of this title.

"(2) HEAVE TO.—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.

"(3) SUBJECT TO THE JURISDICTION OF THE UNITED STATES.—An aircraft 'subject to the jurisdiction of the United States' includes—

"(A) an aircraft located over the United States or the customs waters of the United States;

"(B) an aircraft located in the airspace of a foreign nation, where that nation consents to the enforcement of United States law by the United States; and

"(C) over the high seas, an aircraft without nationality, an aircraft of United States registry, or an aircraft registered in a foreign nation that has consented or waived objection to the enforcement of United States law by the United States.

"(4) VESSEL.—The terms 'vessel of the United States' and 'vessel subject to the jurisdiction of the United States' have the meanings set forth for these terms, respectively, in the Maritime Drug Law Enforcement Act (46 App. U.S.C. 1903).

"(5) WITHOUT NATIONALITY.—An aircraft 'without nationality' includes—

"(A) an aircraft aboard which the pilot, operator, or person in charge makes a claim of registry, which claim is denied by the nation whose registry is claimed; and

"(B) an aircraft aboard which the pilot, operator, or person in charge fails, upon request of an officer of the United States empowered to enforce applicable provisions of United States law, to make a claim of registry for that aircraft.

"(e) FINES OR IMPRISONMENT.—Whoever intentionally violates this section shall be fined under this title or imprisoned for not more than 5 years, or both.

"(f) SEIZURE AND FORFEITURE.—A aircraft or vessel that is used in violation of this section may be seized and forfeited to the United States. 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. An aircraft or vessel that is used in violation of this section is also liable in rem for any fine imposed under this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 109 of title 18, United States Code, is amended by adding at the end the following:

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

SEC. __19. 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:

"§676. Civil penalty for failure to comply with vessel boarding

"(a) IN GENERAL.—Any person that engages in conduct that violates section 2237(a)(1) or (2) of title 18, United States Code, shall be liable to the United States Government—

"(1) for a civil penalty of not more than $25,000, in the case of an intentional violation; or

"(2) for a civil penalty of not more than $15,000, in the case of any other violation.

"(b) SEIZURE OR FORFEITURE.—A vessel used to engage in conduct for which a penalty is imposed under subsection (a) is liable in rem for that penalty and may be seized, forfeited, and sold in accordance with customs laws.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 17 of title 14, United States Code, is amended by adding at the end the following new item:

"676. Civil penalty for failure to comply with vessel boarding.".

SEC. __20. INCREASED NUMBER OF BORDER PATROL AGENTS.

Section 101(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208; 110 Stat. 3009-553) is amended to read as follows:

"(a) INCREASED NUMBER OF BORDER PATROL AGENTS.—The Attorney General in each of fiscal years 1999, 2000, 2001, 2002, and 2003 shall increase by not less than 1,500 the number of positions for full-time, active-duty border patrol agents within the Immigration and Naturalization Service above the number of such positions for which funds were allotted for the preceding fiscal year, to achieve a level of 15,000 positions by fiscal year 2003.".

SEC. __21. BORDER PATROL PURSUIT POLICY.

A border patrol agent of the United States Border Patrol may not cease pursuit of an alien who the agent suspects has unlawfully entered the United States, or an individual who the agent suspects has unlawfully imported a narcotic into the United States, until State or local law enforcement authorities are in pursuit of the alien or individual and have the alien or individual in their visual range.

SEC. __22. 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) is 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 or Executive order, beginning October 1, 1999, 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.".

SEC. __23. 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 or an exclusive representative of Customs Service employees determines that any collective bargaining agreement between the parties has an adverse impact upon the interdiction of contraband, including controlled substances, the parties shall meet to address the issue.

"(B) FAILURE TO REACH AGREEMENT.—If the parties do not reach agreement within 90 days of the date of the determination of adverse impact, either party may enlist the services of the Federal Mediation and Conciliation Service to facilitate the resolution of the dispute. If an impasse is declared, either party may pursue such impasse with 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 emergency circumstances, as defined in section 7106(a)(2)(D) of title 5, United States Code, warrant such immediate implementation, or if an impasse is reached in less than 90 days.".

Subtitle B—Protecting Our Neighborhoods and Schools from Drugs

CHAPTER 1—DRUG-FREE TEEN DRIVERS

SEC. __25. SHORT TITLE.

This subtitle may be cited as the "Drug Free Teenage Drivers Act".

SEC. __26. DEMONSTRATION PROGRAM.

The National Highway Traffic Safety Administration shall establish a demonstration program in several States to provide voluntary drug testing for all teenager applicants (or other first time applicants for a driver's license regardless of age) for a driver's license. Information respecting an applicant's choice not to take the drug test or the result of the drug test on the applicant shall be made available to the applicant's automobile insurance company. If an applicant tests positive in the drug test, the State in which the program is established will not issue a license to the applicant and will require the applicant to complete a State drug treatment program and to not test positive in a drug test before reapplying for a license.

SEC. __27. INCENTIVE GRANT PROGRAM.

(a) IN GENERAL.—The Secretary of Transportation shall establish an incentive grant program for States to assist the States in

improving their laws relating to controlled substances and driving.

(b) GRANT REQUIREMENTS.—To qualify for a grant under subsection (a) a State shall carry out the following:

(1) Enact, actively enforce, and publicize a law which makes it illegal to drive in the State with any measurable amount of an illegal controlled substance in the driver's body. An illegal controlled substance is a controlled substance for which an individual does not have a legal written prescription. An individual who is convicted of such illegal driving shall be referred to appropriate services, including intervention, counselling, and treatment.

(2) Enact, actively enforce, and publicize a law which makes it illegal to drive in the State when driving is impaired by the presence of any drug. The State shall provide that in the enforcement of such law, a driver shall be tested for the presence of a drug when there is evidence of impaired driving and a driver will have the driver's license suspended. An individual who is convicted of such illegal driving shall be referred to appropriate services, including intervention, counselling, and treatment.

(3) Enact, actively enforce, and publicize a law which authorizes the suspension of a driver's license if the driver is convicted of any criminal offense relating to drugs.

(4) Enact a law which provides that beginning driver applicants and other individuals applying for or renewing a driver's license will be provided information about the laws referred to in paragraphs (1), (2), and (3) and will be required to answer drug-related questions on their applications.

(c) USE.—A State may only use a grant under subsection (a) to implement and enforce the programs described in subsection (b).

SEC. __28. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated, $10,000,000 for each of the fiscal years 1999 through 2003 to carry out this chapter.

CHAPTER 2—DRUG-FREE SCHOOLS

SEC. __31. FINDINGS.

Congress finds that—

(1) the continued presence in schools of violent students who are a threat to both teachers and other students is incompatible with a safe learning environment;

(2) unsafe school environments place students who are already at risk of school failure for other reasons in further jeopardy;

(3) recently, over one-fourth of high school students surveyed reported being threatened at school;

(4) 2,000,000 more children are using drugs in 1997 than were doing so a few short years prior to 1997;

(5) nearly 1 out of every 20 students in 6th through 12th grade uses drugs on school grounds;

(6) more of our children are becoming involved with hard drugs at earlier ages, as use of heroin and cocaine by 8th graders has more than doubled since 1991; and

(7) greater cooperation between schools, parents, law enforcement, the courts, and the community is essential to making our schools safe from drugs and violence.

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

SEC. __32. 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).

"(2) FUNDING.—There is authorized to be appropriated such sums as may be necessary to carry out paragraph (1).".

(b) VICTIM AND WITNESS ASSISTANCE.—Section 1404(c) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(c)) is amended by adding at the end the following:

"(5) ASSISTANCE FOR VICTIMS OF AND WITNESSES TO SCHOOL VIOLENCE.—Notwithstanding any other provision of law, the Director may make a grant under this section for a demonstration project or for training and technical assistance services to a program that—

"(A) assists State educational agencies and local educational agencies (as the terms are defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801)) in developing, establishing, and operating programs that are designed to protect victims of and witnesses to incidents of elementary and secondary school violence (as school violence is defined under applicable State law), including programs designed to protect witnesses testifying in school disciplinary proceedings; or

"(B) supports a student safety toll-free hotline that provides students and teachers in elementary and secondary schools with confidential assistance relating to the issues of school crime, violence, drug dealing, and threats to personal safety.".

Subchapter B—Innovative Programs to Protect Teachers and Students

SEC. __35. DEFINITIONS.

In this subchapter:

(1) ELEMENTARY SCHOOL, LOCAL EDUCATIONAL AGENCY, SECONDARY SCHOOL, AND STATE EDUCATIONAL AGENCY.—The terms "elementary school", "local educational agency", "secondary school", and "State educational agency" have the meanings given the terms in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(2) SECRETARY.—The term "Secretary" means the Secretary of Education.

SEC. __36. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out this subchapter.

SEC. __37. AUTHORIZATION FOR REPORT CARDS ON SCHOOLS.

(a) IN GENERAL.—The Secretary is authorized to award grants to States, State educational agencies, and local educational agencies to develop, establish, or conduct innovative programs to improve unsafe elementary schools or secondary schools.

(b) PRIORITY.—The Secretary shall give priority to awarding grants under subsection (a) to—

(1) programs that provide parent and teacher notification about incidents of physical violence, weapon possession, or drug activity on school grounds as soon after the incident as practicable;

(2) programs that provide to parents and teachers an annual report regarding—

(A) the total number of incidents of physical violence, weapon possession, and drug activity on school grounds;

(B) the percentage of students missing 10 or fewer days of school; and

(C) a comparison, if available, to previous annual reports under this paragraph, which comparison shall not involve a comparison of more than 5 such previous annual reports; and

(3) programs to enhance school security measures that may include—

(A) equipping schools with fences, closed circuit cameras, and other physical security measures;

(B) providing increased police patrols in and around elementary schools and secondary schools, including canine patrols; and

(C) mailings to parents at the beginning of the school year stating that the possession of a gun or other weapon, or the sale of drugs in school, will not be tolerated by school authorities.

SEC. __38. APPLICATION.

(a) IN GENERAL.—Each State, State educational agency, or local educational agency desiring a grant under this subchapter shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

(b) CONTENTS.—Each application submitted under subsection (a) shall contain an assurance that the State or agency has implemented or will implement policies that—

(1) provide protections for victims and witnesses to school crime, including protections for attendance at school disciplinary proceedings;

(2) expel students who, on school grounds, sell drugs, or who commit a violent offense that causes serious bodily injury of another student or teacher; and

(3) require referral to law enforcement authorities or juvenile authorities of any student who on school grounds—

(A) commits a violent offense resulting in serious bodily injury; or

(B) sells drugs.

(c) SPECIAL RULE.—For purposes of paragraphs (2) and (3) of subsection (b), State law shall determine what constitutes a violent offense or serious bodily injury.

SEC. __39. INNOVATIVE VOLUNTARY RANDOM DRUG TESTING PROGRAMS.

Section 4116(b) of the Safe and Drug-Free Schools and Communities Act of 1994 (20 U.S.C. 7116(b)) is amended—

(1) in paragraph (9), by striking "and" after the semicolon;

(2) by redesignating paragraph (10) as paragraph (11); and

(3) by inserting after paragraph (9) the following:

"(10) innovative voluntary random drug testing programs; and".

Subchapter C—Parental Consent Drug Testing

SEC. __40. GRANTS FOR PARENTAL CONSENT DRUG TESTING DEMONSTRATION PROJECTS.

(a) IN GENERAL.—The Administrator is authorized to award grants to States, State educational agencies, and local educational agencies to develop, establish, or conduct programs for testing students for illegal drug use with prior parental consent.

(b) GUIDELINES.—The Administrator may award grants under subsection (a) only to programs that substantially comply with the following guidelines:

(1) Students will only be tested with their parent's consent. If the program also requires the consent of the student, the parent will be informed of any refusal by the student to give consent.

(2) The program may involve random testing or testing of all students within certain grade or age parameters at a participating

school. No students under seventh grade or over 12th grade may be tested using funds from grants awarded under this section.

(3) Students who test positive for illegal drugs will not be penalized, except that the privilege of participating in optional courses or extra-curricula activities in which drug impairment might pose a safety risk (such as athletic teams, drivers education, or industrial arts) may be restricted.

(4) The parent of a student who tests positive for illegal drugs shall be notified of the results in a discrete manner by a health care professional, a counselor, or other appropriate person. Parents shall be advised of resources that may be available in the local area to treat drug dependency.

(5) The procedures used in the demonstration project shall be designed to ensure fairness and accuracy. The procedures shall also require personnel administering the drug testing program to treat individual test results confidentially, and not to provide individual test results to law enforcement officials. Statistical information which does not reveal individual identifying information should be provided to law enforcement officials.

(c) SUBPOENAS AND DISCOVERY.—Test results for tests conducted under a demonstration project receiving funds under this section shall not be subject to subpoena or discovery in any court or administrative forum, without the consent of the individual's parent, unless the individual is no longer a minor, in which case the individual's consent is required.

(d) MATCHING FUNDS.—The Administrator may give a preference in the award of grants under this section to applicants who provide an assurance that such applicant will commit some level of matching funds or resources for the program.

(e) CONSTRUCTION OF THIS SECTION.—Nothing in this section shall be construed to restrict other permissible drug testing activities in schools. Additional drug testing not conducted in accordance with the guidelines in subsection (b) may be conducted in schools which receive funding under this section, except that grants awarded under this section shall not be used to fund such additional testing.

(f) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Office of Juvenile Justice and Delinquency Prevention of the Department of Justice.

(2) PARENT.—The term "parent" means a custodial parent or legal guardian.

(3) STATE, STATE EDUCATIONAL AGENCY, AND LOCAL EDUCATIONAL AGENCY.—The terms "State", "State educational agency", and "local 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).

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated, $10,000,000 for each of the fiscal years 1999 through 2003. Such sums shall remain available until expended.

CHAPTER 3—DRUG-FREE STUDENT LOANS

SEC. __41. DRUG-FREE STUDENT LOANS

(a) IN GENERAL.—Section 484 of the Higher Education Act of 1965 (20 U.S.C. 1091) is amended by adding at the end the following:

"(q) SUSPENSION OF ELIGIBILITY FOR DRUG RELATED OFFENSES.—

"(1) IN GENERAL.—An individual student who has been convicted of any felony offense under any Federal or State law involving the possession or sale of a controlled substance shall not be eligible to receive any grant, loan, or work assistance under this title during the period beginning on the date of such conviction and ending after the interval specified in the following table:

"If convicted of an offense involving:	Ineligibility period is:
The possession of a controlled substance:	
First offense	1 year
Second offense	2 years
Third offense	indefinite
The sale of a controlled substance:	
First offense	2 years
Second offense	indefinite

"(2) REHABILITATION.—A student whose eligibility has been suspended under paragraph (1) may resume eligibility before the end of the period determined under such paragraph if the student satisfactorily completes a drug rehabilitation program that complies with such criteria as the Secretary shall prescribe for purposes of this paragraph and that includes two unannounced drug tests.

"(3) DEFINITIONS.—As used in this subsection, the term 'controlled substance' has the meaning given in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to financial assistance to cover the costs of attendance for periods of enrollment beginning after the date of enactment of this Act.

CHAPTER 4—DRUG-FREE WORKPLACES

SEC. __51. SHORT TITLE.

This chapter may be cited as the "Drug-Free Workplace Act of 1998".

SEC. __52. FINDINGS; PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) 74 percent of adults who use illegal drugs are employed;

(2) small business concerns employ over 50 percent of the Nation's workforce;

(3) in over 88 percent of families with children under the age of 18, at least 1 parent is employed; and

(4) employees who use drugs increase costs for businesses and risk the health and safety of all employees because—

(A) absenteeism is 66 percent higher among drug users than nondrug users;

(B) health benefit utilization is 300 percent higher among drug users than nondrug users;

(C) 47 percent of workplace accidents are drug-related;

(D) disciplinary actions are 90 percent higher among drug users than nondrug users; and

(E) employee turnover is significantly higher among drug users than nondrug users.

(b) PURPOSES.—The purposes of this chapter are to—

(1) educate small business concerns about the advantages of a drug-free workplace;

(2) provide financial incentives and technical assistance to enable small business concerns to create a drug-free workplace; and

(3) assist working parents in keeping their children drug-free.

SEC. __53. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) businesses should adopt drug-free workplace programs; and

(2) States should consider financial incentives, such as reductions in workers' compensation premiums, to encourage businesses to adopt drug-free workplace programs.

SEC. __54. DRUG-FREE WORKPLACE DEMONSTRATION PROGRAM.

The Small Business Act (15 U.S.C. 636 et seq.) is amended—

(1) by redesignating section (32) as section (33); and

(2) by inserting after section 31 the following:

"SEC. 30. DRUG-FREE WORKPLACE DEMONSTRATION PROGRAM.

"(a) ESTABLISHMENT.—There is established a drug-free workplace demonstration program, under which the Administration may make grants to eligible intermediaries described in subsection (b) for the purpose of providing financial and technical assistance to small business concerns seeking to start a drug-free workplace program.

"(b) ELIGIBILITY FOR PARTICIPATION.—An intermediary shall be eligible to receive a grant under subsection (a) if it meets the following criteria:

"(1) It is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from tax under section 5(a) of such Act, a program of such organization, or provides services to such organization.

"(2) Its primary purpose is to develop comprehensive drug-free workplace programs or to supply drug-free workplace services.

"(3) It has at least 2 years of experience in drug-free workplace programs.

"(4) It has a drug-free workplace policy in effect.

"(c) REQUIREMENTS FOR PROGRAM.—Any drug-free workplace program established as a result of this section shall include—

"(1) a written policy, including a clear statement of expectations for workplace behavior, prohibitions against substances in the workplace, and the consequences of violating such expectations and prohibitions;

"(2) training for at least 60 minutes for employees and supervisors;

"(3) additional training for supervisors and employees who are parents;

"(4) employee drug testing; and

"(5) employee access to an employee assistance program, including assessment, referral, and short-term problem resolution.

"(d) AUTHORIZATION.—There is authorized to be appropriated to carry out this section, $10,000,000 for fiscal year 1999. Such sums shall remain available until expended.".

SEC. __55. SMALL BUSINESS DEVELOPMENT CENTERS.

Section 21(c)(3) of the Small Business Act (15 U.S.C. 648(c)(3)) is amended—

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

(2) in subparagraph (S), by striking the period and inserting "; and"; and

(3) by inserting after subparagraph (S) the following:

"(T) providing information and assistance to small business concerns with respect to developing drug-free workplace programs.".

SEC. __56. CONTRACT AUTHORITY.

The Administrator of the Small Business Administration may contract with and compensate government and private agencies or persons for services related to carrying out the provisions of this chapter.

CHAPTER 5—DRUG-FREE COMMUNITIES

SEC. __61. DRUG-FREE COMMUNITIES.

Section 1024(a) of the National Leadership Act of 1988 (21 U.S.C. 1524(a)) is amended—

(1) in paragraph (1), by adding "and" after the semicolon; and

(2) by striking paragraphs (2) through (5), and inserting the following:

"(2) $50,000,000 for each of the fiscal years 1999 through 2003, of which $10,000,000 in each

such fiscal year shall be used for volunteer grassroots drug prevention programs that mobilize parent action teams nationwide to conduct community teen drug awareness education and prevention activities that guarantee increased parental involvement.".

CHAPTER 6—BANNING FREE NEEDLES FOR DRUG ADDICTS

SEC. __65. PROHIBITION ON USE OF FUNDS FOR HYPODERMIC NEEDLES.

Notwithstanding any other provision of law, no Federal funds for fiscal years 1998 and 1999 shall be made available or used to carry out any program of distributing sterile hypodermic needles or syringes to individuals for the hypodermic injection of any illegal drug.

Subtitle C—Defeating the Drug Mafia

CHAPTER 1—INCREASED RESOURCES FOR LAW ENFORCEMENT

SEC. __71. INCREASED RESOURCES FOR LAW ENFORCEMENT.

(a) DRUG ENFORCEMENT ADMINISTRATION.—In addition to other amounts appropriated for the Drug Enforcement Administration for a fiscal year, there is authorized to be appropriated, $300,000,000 for each of the fiscal years 1999 through 2003 to be used for additional activities to disrupt and dismantle drug trafficking organizations, of which not less than 20 percent of such funds shall be used to provide assistance to State and local law enforcement entities.

(b) FEDERAL BUREAU OF INVESTIGATION.—In addition to other amounts appropriated for the Federal Bureau of Investigation for a fiscal year, there is authorized to be appropriated, $200,000,000 for each of the fiscal years 1999 through 2003 to be used to enhance investigative and intelligence gathering capabilities relating to illegal drugs, of which not less than 20 percent of such funds shall be used to provide assistance to State and local law enforcement entities.

CHAPTER 2—REGISTRATION OF CONVICTED DRUG DEALERS

SEC. __99B. REGISTRATION OF CONVICTED DRUG DEALERS.

(a) IN GENERAL.—The Attorney General shall establish an incentive grant program for States to assist the States in enacting laws that establish State registration programs for individuals convicted of criminals offenses involving drug trafficking.

(b) GRANT REQUIREMENTS.—To qualify for a grant under subsection (a) a State shall enact, actively enforce, and publicize a law that requires that a person who is convicted of a criminal offense involving drug trafficking register a current address with a designated State law enforcement agency for up to 10-years following the date on which such individual is convicted or released from prison.

(c) REQUIREMENTS OF STATE LAW.—A State law enacted under subsection (b) shall contain the following elements:

(1) DUTIES OF RESPONSIBLE OFFICIALS.—If a person who is required to register under a State law under this section is released from prison, or placed on parole, supervised release, or probation, a State prison officer, the court, or another responsible officer or official, shall—

(A) inform the person of the duty to register and obtain the information required for such registration;

(B) inform the person that if the person changes residence address, the person shall report the change of address as provided by State law;

(C) inform the person that if the person changes residence to another State, the person shall report the change of address as provided by State law and comply with any registration requirement in the new State of residence, and inform the person that the person must also register in a State where the person is employed, carries on a vocation, or is a student;

(D) obtain fingerprints and a photograph of the person if these have not already been obtained in connection with the offense that triggers registration; and

(E) require the person to read and sign a form stating that the duty of the person to register under this section has been explained.

(2) TRANSFER OF INFORMATION TO STATE.—State procedures under the State law shall ensure that the registration information is promptly made available to a law enforcement agency having jurisdiction where the person expects to reside and entered into the appropriate State records or data system.

(3) VERIFICATION.—For a person required to register, State procedures under the State law shall provide for verification of address at least annually.

(4) NOTIFICATION OF LOCAL LAW ENFORCEMENT AGENCIES OF CHANGES IN ADDRESS.—A change of address by a person required to register under a State law under this section shall be reported by the person in the manner provided by State law. State procedures shall ensure that the updated address information is promptly made available to a law enforcement agency having jurisdiction where the person will reside and entered into the appropriate State records or data system.

(5) REGISTRATION FOR CHANGE OF ADDRESS TO ANOTHER STATE.—A person who has been convicted of an offense which requires registration under a State law under this section and who moves to another State, shall report the change of address to the responsible agency in the State the person is leaving, and shall comply with any registration requirement in the new State of residence. The procedures of the State the person is leaving shall ensure that notice is provided promptly to an agency responsible for registration in the new State, if that State requires registration.

(6) LENGTH OF REGISTRATION.—A person required to register under a State law under this section shall continue to comply with this section, except during ensuing periods of incarceration, until 10 years have elapsed since the person was released from prison or placed on parole, supervised release, or probation.

(7) REGISTRATION OF OUT-OF-STATE OFFENDERS, FEDERAL OFFENDERS, PERSONS SENTENCED BY COURTS MARTIAL, AND OFFENDERS CROSSING STATE BORDERS.—A State shall include in its registration program residents who were convicted in another State and shall ensure that procedures are in place to accept registration information from—

(A) residents who were convicted in another State, convicted of a Federal offense, or sentenced by a court martial; and

(B) nonresident offenders who have crossed into another State in order to work or attend school.

(8) REGISTRATION OF OFFENDER CROSSING STATE BORDER.—Any person who is required under a State law under this section to register in the State in which such person resides shall also register in any State in which the person is employed, carries on a vocation, or is a student.

(9) PENALTY.—A person required to register under a State law under this section who knowingly fails to so register and keep such registration current shall be subject to criminal penalties in any State in which the person has so failed.

(10) RELEASE OF INFORMATION.—

(A) IN GENERAL.—The information collected under a State registration program under this section may be disclosed for any purpose permitted under the laws of the State.

(B) PROTECTION OF THE PUBLIC.—The State or any agency authorized by the State shall release relevant information that is necessary to protect the public concerning a specific person required to register under this section.

(11) IMMUNITY FOR GOOD FAITH CONDUCT.—Law enforcement agencies, employees of law enforcement agencies and independent contractors acting at the direction of such agencies, and State officials shall be immune from liability for good faith conduct under a State law under this section.

(12) FINGERPRINTS.—Each requirement to register under a State law under this section shall be deemed to also require the submission of a set of fingerprints of the person required to register, obtained in accordance with regulations prescribed by the Attorney General under section 170102(h).

(d) USE.—A State may only use a grant under subsection (a) to implement and enforce the law described in subsection (b).

(e) DEFINITION.—In this section, the term "offenses involving drug trafficking" means a criminal offense under Federal or applicable State law relating to—

(1) the distribution of illegal drugs to individuals under the age of 21 years;

(2) the distribution of manufacturing of illegal drugs in or near schools, colleges, universities, or youth-centered recreational facilities; or

(3) any other activity relating to illegal drugs determined appropriate by the chief executive officer of the State involved.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, $5,000,000 for each of the fiscal years 1999 through 2003.

Subtitle D—National Drug Control Strategy

SEC. __99C. DEVELOPMENT, SUBMISSION, IMPLEMENTATION, AND ASSESSMENT 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, CONTENTS, AND PROCESS FOR DEVELOPMENT AND SUBMISSION OF NATIONAL DRUG CONTROL STRATEGY.—

"(1) TIMING.—

"(A) IN GENERAL.—Not later than October 1, 1998, the President shall submit to Congress a National Drug Control Strategy, which shall set forth a comprehensive 2-year plan for reducing drug abuse and the consequences of drug abuse in the United States, by limiting the availability of and reducing the demand for illegal drugs.

"(B) 4-YEAR PLAN.—Not later than October 1, 2001, and on October 1 of every fourth year thereafter, the President shall submit to Congress a revised National Drug Control Strategy, which shall set forth a comprehensive 4-year plan for reducing drug abuse and the consequences of drug abuse in the United States, by limiting the availability of and reducing the demand for illegal drugs, and shall include quantifiable 4-year performance objectives, targets, and measures for

each National Drug Control Strategy goal and objective.

"(2) CONTENTS.—

"(A) IN GENERAL.—The National Drug Control Strategy submitted under paragraph (1) shall include—

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

"(ii) short-term measurable objectives to accomplish long-term quantifiable goals that the Director determines may be realistically achieved during the 2-year period beginning on the date on which the strategy is submitted;

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

"(iv) 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.

"(B) CLASSIFIED INFORMATION.—Any contents of the National Drug Control 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.

"(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.

"(B) INCLUSION IN STRATEGY.—The National Drug Control Strategy under this subsection, and each report submitted under subsection (b), shall include a list of each entity consulted under subparagraph (A)(i).

"(4) MODIFICATION AND RESUBMITTAL.—Notwithstanding any other provision of law, the Director may modify a National Drug Control Strategy submitted under paragraph (1) at any time.

"(b) ANNUAL STRATEGY REPORT.—

"(1) IN GENERAL.—Not later than February 1, 1999, and on February 1 of each year thereafter, the President shall submit to Congress a report on the progress in implementing the Strategy under subsection (a), which shall include—

"(A) an assessment of the Federal effectiveness in achieving the Strategy goals and objectives using the performance measurement system described in subsection (c), including—

"(i) an assessment of drug use and availability in the United States; and

"(ii) an estimate of the effectiveness of interdiction, treatment, prevention, law enforcement, and international programs under the National Drug Control Strategy in effect during the preceding year, or in effect as of the date on which the report is submitted;

"(B) any modifications of the Strategy or the performance measurement system described in subsection (c);

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

"(D) beginning on February 1, 1999, and every 2 years thereafter, measurable data evaluating the success or failure in achieving the short-term measurable objectives described in subsection (a)(2)(A)(ii);

"(E) an assessment of current drug use (including inhalants) and availability, impact of drug use, and treatment availability, which assessment shall include—

"(i) 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;

"(ii) 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;

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

"(I) the burden 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;

"(iv) 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; and

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

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

"(2) SUBMISSION OF REVISED STRATEGY.—The President may submit to Congress a revised National Drug Control Strategy that meets the requirements of this section—

"(A) at any time, upon a determination by the President and the Director that the National Drug Control Strategy in effect is not sufficiently effective; and

"(B) if a new President or Director takes office.

"(c) PERFORMANCE MEASUREMENT SYSTEM.—

"(1) IN GENERAL.—Not later than October 1, 1998, the Director shall submit to Congress a description of the national drug control performance measurement system, designed in consultation with affected National Drug Control Program agencies, that—

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

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

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

"(D) evaluates implementation of major program activities supporting the National Drug Control Strategy developed under section 1005;

"(E) 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; and

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

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

"(ii) 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

"(iii) the actions the Director shall take to correct any deficiencies and limitations identified pursuant to subparagraphs (A) and (B) of subsection (b)(4).

"(2) MODIFICATIONS.—A description of any modifications made during the preceding year to the national drug control performance measurement system described in paragraph (1) shall be included in each report submitted under subsection (b).".

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.

TITLE —MONEY LAUNDERING ENFORCEMENT AND COMBATTING DRUGS IN PRISONS

SEC. 00. SHORT TITLE.

This title may be cited as the "Money Laundering Enforcement and Combatting Drugs in Prisons Act of 1998".

Subtitle A—International Money Laundering

SEC. 11. SHORT TITLE.

This subtitle may be cited as the "Money Laundering Enforcement Act of 1998".

SEC. 12. ILLEGAL MONEY TRANSMITTING BUSINESSES.

(a) CIVIL FORFEITURE FOR MONEY TRANSMITTING VIOLATION.—Section 981(a)(1)(A) of title 18, United States Code, is amended by striking "or 1957" and inserting ", 1957, or 1960".

(b) SCIENTER REQUIREMENT FOR SECTION 1960 VIOLATION.—Section 1960 of title 18, United States Code, is amended by adding at the end the following:

"(c) SCIENTER REQUIREMENT.—For the purposes of proving a violation of this section involving an illegal money transmitting business—

"(1) it shall be sufficient for the Government to prove that the defendant knew that the money transmitting business lacked a license required by State law; and

"(2) it shall not be necessary to show that the defendant knew that the operation of such a business without the required license was an offense punishable as a felony or misdemeanor under State law.".

SEC. 13. RESTRAINT OF ASSETS OF PERSONS ARRESTED ABROAD.

Section 981(b) of title 18, United States Code, is amended by adding at the end the following:

"(3) RESTRAINT OF ASSETS.—

"(A) IN GENERAL.—If any person is arrested or charged in a foreign country in connection with an offense that would give rise to the forfeiture of property in the United States under this section or under the Controlled Substances Act, the Attorney General may apply to any Federal judge or magistrate judge in the district in which the property is located for an ex parte order restraining the property subject to forfeiture for not more than 30 days, except that the time may be extended for good cause shown at a hearing conducted in the manner provided in Rule 43(e) of the Federal Rules of Civil Procedure.

"(B) APPLICATION.—An application for a restraining order under subparagraph (A) shall—

"(i) set forth the nature and circumstances of the foreign charges and the basis for belief that the person arrested or charged has property in the United States that would be subject to forfeiture; and

"(ii) contain a statement that the restraining order is needed to preserve the availability of property for such time as is necessary to receive evidence from the foreign country or elsewhere in support of probable cause for the seizure of the property under this subsection.".

SEC. 14. ACCESS TO RECORDS IN BANK SECRECY JURISDICTIONS.

Section 986 of title 18, United States Code, is amended by adding at the end the following:

"(d) ACCESS TO RECORDS LOCATED ABROAD.—

"(1) IN GENERAL.—In any civil forfeiture case, or in any ancillary proceeding in any criminal forfeiture case governed by section 413(n) of the Controlled Substances Act (21 U.S.C. 853(n)), the refusal of the claimant to provide financial records located in a foreign country in response to a discovery request or take the action necessary otherwise to make the records available, shall result in the dismissal of the claim with prejudice, if—

"(A) the financial records may be material—

"(i) to any claim or to the ability of the government to respond to such claim; or

"(ii) in a civil forfeiture case, to the ability of the government to establish the forfeitability of the property; and

"(B) it is within the capacity of the claimant to waive his or her rights under such secrecy laws, or to obtain the financial records himself or herself, so that the financial records may be made available.

"(2) PRIVILEGE.—Nothing in this subsection shall be construed to affect the rights of a claimant to refuse production of any records on the basis of any privilege guaranteed by the Constitution of the United States or any other provision of Federal law.".

SEC. 15. CIVIL MONEY LAUNDERING JURISDICTION OVER FOREIGN PERSONS.

Section 1956(b) of title 18, United States Code, is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and indenting each subparagraph appropriately;

(2) by striking "(b) Whoever" and inserting the following:

"(b) CIVIL PENALTIES.—

"(1) IN GENERAL.—Whoever"; and

(3) by adding at the end the following:

"(2) JURISDICTION.—For purposes of adjudicating an action filed or enforcing a penalty ordered under this section, the district courts of the United States shall have jurisdiction over any foreign person, including any financial institution authorized under the laws of a foreign country, that commits an offense under subsection (a) involving a financial transaction that occurs in whole or in part in the United States, if service of process upon such foreign person is made in accordance with the Federal Rules of Civil Procedure or the laws of the foreign country in which the foreign person is found.

"(3) SATISFACTION OF JUDGMENT.—In any action described in paragraph (2), the court may issue a pretrial restraining order or take any other action necessary to ensure that any bank account or other property held by the defendant in the United States is available to satisfy a judgment under this section.".

SEC. 16. LAUNDERING MONEY THROUGH A FOREIGN BANK.

Section 1956(c)(6) of title 18, United States Code, is amended to read as follows:

"(6) the term 'financial institution' includes—

"(A) any financial institution described in section 5312(a)(2) of title 31, or the regulations promulgated thereunder; and

"(B) any foreign bank, as defined in section 1(b)(7) of the International Banking Act of 1978 (12 U.S.C. 3101(7));".

SEC. 17. SPECIFIED UNLAWFUL ACTIVITY FOR MONEY LAUNDERING.

(a) IN GENERAL.—Section 1956(c)(7) of title 18, United States Code, is amended—

(1) in subparagraph (B)—

(A) by striking clause (ii) and inserting the following:

"(ii) any act or acts constituting a crime of violence;"; and

(B) by adding at the end the following:

"(iv) fraud, or any scheme to defraud, committed against a foreign government or foreign governmental entity;

"(v) bribery of a public official, or the misappropriation, theft, or embezzlement of public funds by or for the benefit of a public official;

"(vi) smuggling or export control violations involving munitions listed in the United States Munitions List or technologies with military applications as defined in the Commerce Control List of the Export Administration Regulations; or

"(vii) an offense with respect to which the United States would be obligated by a multilateral treaty either to extradite the alleged offender or to submit the case for prosecution, if the offender were found with the territory of the United States;";

(2) in subparagraph (D)—

(A) by inserting "section 541 (relating to goods falsely classified)," before "section 542";

(B) by inserting "section 922(l) (relating to the unlawful importation of firearms), section 924(m) (relating to firearms trafficking)," before "section 956";

(C) by inserting "section 1030 (relating to computer fraud and abuse)," before "1032"; and

(D) by inserting "any felony violation of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.)," before "or any felony violation of the Foreign Corrupt Practices Act"; and

(3) in subparagraph (E), by inserting "the Clean Air Act (42 U.S.C. 6901 et seq.)," after "the Safe Drinking Water Act (42 U.S.C. 300f et seq.),".

SEC. 18. CRIMINAL FORFEITURE FOR MONEY LAUNDERING CONSPIRACIES.

Section 982(a)(1) of title 18, United States Code, is amended by inserting "or a conspiracy to commit any such offense," after "of this title,".

SEC. 19. FUNGIBLE PROPERTY IN FOREIGN BANK ACCOUNTS.

Section 984(d) of title 18, United States Code, is amended by adding at the end the following:

"(3) In this subsection, the term 'financial institution' includes a foreign bank, as defined in section 1(b)(7) of the International Banking Act of 1978 (12 U.S.C. 3101(7)).".

SEC. 20. SUBPOENAS FOR BANK RECORDS.

Section 986(a) of title 18, United States Code, is amended—

(1) by striking "section 1956, 1957, or 1960 of this title, section 5322 or 5324 of title 31, United States Code" and inserting "section 981 of this title";

(2) by inserting "before or" before "after"; and

(3) by striking the last sentence.

SEC. 21. FUGITIVE DISENTITLEMENT.

(a) IN GENERAL.—Chapter 163 of title 28, United States Code, is amended by adding at the end the following:

"§ 2467. Fugitive disentitlement

"Any person who, in order to avoid criminal prosecution, purposely leaves the jurisdiction of the United States, declines to enter or reenter the United States to submit to the jurisdiction of the United States, or otherwise evades the jurisdiction of a court of the United States in which a criminal case is pending against the person, may not use the resources of the courts of the United States in furtherance of a claim in any related civil forfeiture action or a claim in any third-party proceeding in any related criminal forfeiture action.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 163 of title 28, United States Code, is amended by adding at the end the following:

"2467. Fugitive disentitlement.".

SEC. 22. ADMISSIBILITY OF FOREIGN BUSINESS RECORDS.

(a) IN GENERAL.—Chapter 163 of title 28, United States Code, is amended by adding at the end the following:

"§ 2468. Foreign records

"(a) DEFINITIONS.—In this section—

"(1) the term 'business' includes business, institution, association, profession, occupation, and calling of every kind whether or not conducted for profit;

"(2) the term 'foreign certification' means a written declaration made and signed in a foreign country by the custodian of a record of regularly conducted activity or another qualified person, that if falsely made, would subject the maker to criminal penalty under the law of that country;

"(3) the term 'foreign record of regularly conducted activity' means a memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnoses, maintained in a foreign country; and

"(4) the term 'official request' means a letter rogatory, a request under an agreement, treaty or convention, or any other request for information or evidence made by a court of the United States or an authority of the United States having law enforcement responsibility, to a court or other authority of a foreign country.

"(b) ADMISSIBILITY.—In a civil proceeding in a court of the United States, including a civil forfeiture proceeding and a proceeding in the United States Claims Court and the United States Tax Court, unless the source of information or the method or circumstances of preparation indicate lack of trustworthiness, a foreign record of regularly conducted activity (or a duplicate of such record), obtained pursuant to an official request, shall not be excluded as evidence by the hearsay rule if a foreign certification, also obtained pursuant to the same official request or subsequent official request that adequately identifies such foreign record, attests that—

"(1) the foreign record was made, at or near the time of the occurrence of the matters set forth, by (or from information transmitted by) a person with knowledge of those matters;

"(2) the foreign record was kept in the course of a regularly conducted business activity;

"(3) the business activity made such a record as a regular practice; and

"(4) if the foreign record is not the original, the record is a duplicate of the original.

"(c) FOREIGN CERTIFICATION.—A foreign certification under this section shall authenticate a record or duplicate described in subsection (b).

"(d) NOTICE.—

"(1) IN GENERAL.—As soon as practicable after a responsive pleading has been filed, a party intending to offer in evidence under this section a foreign record of regularly conducted activity shall provide written notice of that intention to each other party.

"(2) OPPOSITION.—A motion opposing admission in evidence of a record under paragraph (1) shall be made by the opposing party and determined by the court before trial. Failure by a party to file such motion before trial shall constitute a waiver of objection to such record, except that the court for cause shown may grant relief from the waiver.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 163 of title 28, United States Code, is amended by adding at the end the following:

"2468. Foreign records.".

SEC. __23. CHARGING MONEY LAUNDERING AS A COURSE OF CONDUCT.

Section 1956(h) of title 18, United States Code, is amended—

(1) by striking "(h) Any person" and inserting the following:

"(h) CONSPIRACY; MULTIPLE VIOLATIONS.—

"(1) CONSPIRACY.—Any person"; and

(2) by adding at the end the following:

"(2) MULTIPLE VIOLATIONS.—Any person who commits multiple violations of this section or section 1957 that are part of the same scheme or continuing course of conduct may be charged, at the election of the Government, in a single count in an indictment or information.".

SEC. __24. VENUE IN MONEY LAUNDERING CASES.

Section 1956 of title 18, United States Code, is amended by adding at the end the following:

"(i) VENUE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a prosecution for an offense under this section or section 1957 may be brought in any district in which the financial or monetary transaction is conducted, or in which a prosecution for the underlying specified unlawful activity could be brought.

"(2) EXCEPTION.—A prosecution for an attempt or conspiracy offense under this section or section 1957 may be brought in the district in which venue would lie for the completed offense under paragraph (1), or in any other district in which an act in furtherance of the attempt or conspiracy took place.".

SEC. __25. TECHNICAL AMENDMENT TO RESTORE WIRETAP AUTHORITY FOR CERTAIN MONEY LAUNDERING OFFENSES.

Section 2516(1)(g) of title 18, United States Code, is amended by striking "of title 31, United States Code (dealing with the reporting of currency transactions)" and inserting "or 5324 of title 31 (dealing with the reporting and illegal structuring of currency transactions)".

Subtitle B—Drug Testing and Intervention for Inmates and Probationers

SEC. __31. SHORT TITLE.

This subtitle may be cited as the "Combatting Drugs in Prisons Act of 1998".

SEC. __32. ADDITIONAL REQUIREMENTS FOR THE USE OF FUNDS UNDER THE VIOLENT OFFENDER INCARCERATION AND TRUTH-IN-SENTENCING INCENTIVE GRANT PROGRAMS.

Section 20105(b) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13705(b)) is amended—

(1) by striking "(b) To be eligible" and inserting the following:

"(b) ADDITIONAL REQUIREMENTS.—

"(1) ELIGIBILITY FOR A GRANT.—To be eligible";

(2) by striking "a State shall provide assurances" and inserting the following: "a State shall—

"(A) provide assurances";

(3) by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following:

"(B) not later than September 1, 1998, have established and implemented, consistent with guidelines issued by the Attorney General, a program of drug testing and intervention for appropriate categories of convicted offenders during periods of incarceration and criminal justice supervision, with sanctions (including denial or revocation of release) for positive drug tests.

"(2) USE OF FUNDS.—Notwithstanding section 20102, amounts received by a State pursuant to section 20103 or section 20104 may be—

"(A) applied to the cost of offender drug testing and appropriate intervention programs during periods of incarceration and criminal justice supervision, consistent with guidelines issued by the Attorney General;

"(B) used by a State to pay the costs of providing to the Attorney General a baseline study, which shall be consistent with guidelines issued by the Attorney General, on the prison drug abuse problem in the State; and

"(C) used by a State to develop policies, practices, or laws establishing, in accordance with guidelines issued by the Attorney General, a system of sanctions and penalties to address drug trafficking within and into correctional facilities under the jurisdiction of the State.".

SEC. __33. USE OF RESIDENTIAL SUBSTANCE ABUSE TREATMENT GRANTS TO PROVIDE FOR SERVICES DURING AND AFTER INCARCERATION.

Section 1901 of part S of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ff) is amended by adding at the end the following:

"(c) ADDITIONAL USE OF FUNDS.—Each State that demonstrates that the State has established 1 or more residential substance abuse treatment programs that meet the requirements of this part may use amounts made available under this part for drug treatment and to impose appropriate sanctions for positive drug tests, both during incarceration and after release.".

Subtitle A—Performance Objectives to Reduce Underage Use

SEC. 201. FINDINGS.

Congress finds the following:

(1) Reductions in the underage use of tobacco products are critically important to the public health.

(2) Achieving this critical public health goal can be substantially furthered by increasing the price of tobacco products to discourage underage use if reduction targets are not achieved and by creating financial incentives for manufacturers to discourage youth from using their tobacco products.

(3) When reduction targets in underage use are not achieved on an industry-wide basis, the price increases that will result from an industry-wide assessment will provide an additional deterrence to youth tobacco use.

(4) Manufacturer-specific incentives that will be imposed if reduction targets are not met by a manufacturer provide a strong incentive for each manufacturer to make all efforts to discourage youth use of its brands and insure the effectiveness of the industry-wide assessments.

SEC. 202. PURPOSES AND GOALS.

(a) PURPOSE.—It is the purpose of this subtitle to create incentives to achieve reductions in the percentage of children who use tobacco products and to ensure that, in the event that other measures contained in this Act prove to be inadequate to produce substantial reductions in tobacco use by minors, tobacco companies will pay additional assessments. These additional assessments are designed to lower youth tobacco consumption in a variety of ways, including by triggering further increases in the price of tobacco products, by encouraging tobacco companies to work to meet statutory targets for reductions in youth tobacco consumption, and by providing support for further reduction efforts.

(b) GOALS.—As part of a comprehensive national tobacco control policy, the Secretary, working in cooperation with State, Tribal, and local governments and the private sector, shall take all actions under this Act necessary to ensure that the required performance objectives for percentage reductions in underage use of tobacco products set forth in this title are achieved.

SEC. 203. ANNUAL PERFORMANCE SURVEYS.

(a) ANNUAL PERFORMANCE SURVEY.—Beginning not later than 1999 and annually thereafter the Secretary shall conduct a survey, in accordance with the methodology in subsection (e)(1), to determine for each type of tobacco product—

(1) the percentage of all children who used such type of tobacco product within the past 30 days; and

(2) the percentage of children who identify each brand of each type of tobacco product as the usual brand of the type smoked or used within the past 30 days.

(b) USE OF PRODUCT.—A child shall be considered to have used a manufacturer's tobacco product if the child identifies the manufacturer's tobacco product as the usual brand of tobacco product smoked or used by the child within the past 30 days.

(c) SEPARATE TYPES OF PRODUCTS.—For purposes of this subtitle (except as provided in subsection 205(h)), cigarettes and smokeless tobacco shall be considered separate types of tobacco products.

(d) CONFIDENTIALITY OF DATA.—The Secretary may conduct a survey relating to tobacco use involving minors. If the information collected in the course of conducting the annual performance survey results in the individual supplying the information, or described in the information, being identifiable, the information may not be used for any purpose other than the purpose for which it was supplied unless that individual (or that individual's guardian) consents to its use for such other purposes. The information may not be published or released in any other form if the individual supplying the information, or described in the information, is identifiable unless that individual (or that individual's guardian) consents to its publication or release in other form.

(e) METHODOLOGY.—

(1) IN GENERAL.—The survey required by subsection (a) shall—

(A) be based on a nationally representative sample of young individuals;

(B) measure use of each type of tobacco product within the past 30 days;

(C) identify the usual brand of each type of tobacco product used within the past 30 days; and

(D) permit the calculation of the actual percentage reductions in underage use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of the tobacco products of a manufacturer) based on the point estimates of the percentage of young individuals reporting use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of the tobacco products of a manufacturer) from the annual performance survey.

(2) CRITERIA FOR DEEMING POINT ESTIMATES CORRECT.—Point estimates under paragraph (1)(D) are deemed conclusively to be correct and accurate for calculating actual percentage reductions in underage use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of the tobacco products of a manufacturer) for the purpose of measuring compliance with percent reduction targets and calculating surcharges provided that the precision of estimates (based on sampling error) of the percentage of children reporting use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of the tobacco products of a manufacturer) is such that the 95 percent confidence interval around such point estimates is no more than plus or minus 1 percent.

(3) SURVEY DEEMED CORRECT, PROPER, AND ACCURATE.—A survey using the methodology required by this subsection is deemed conclusively to be proper, correct, and accurate for purposes of this Act.

(4) SECRETARY MAY ADOPT DIFFERENT METHODOLOGY.—The Secretary by notice and comment rulemaking may adopt a survey methodology that is different than the methodology described in paragraph (1) if the different methodology is at least as statistically precise as that methodology.

(f) ADDITIONAL MEASURES.—In order to increase the understanding of youth tobacco product use, the Secretary may, for informational purposes only, add additional measures to the survey under subsection (a), conduct periodic or occasional surveys at other times, and conduct surveys of other populations such as young adults. The results of such surveys shall be made available to manufacturers and the public to assist in efforts to reduce youth tobacco use.

(g) TECHNICAL ADJUSTMENTS.—The Secretary may make technical changes in the manner in which surveys are conducted under this section so long as adjustments are made to ensure that the results of such surveys are comparable from year to year.

SEC. 204. PERFORMANCE OBJECTIVES.

(a) BASELINE LEVEL.—The baseline level for each type of tobacco product, and for each manufacturer with respect to each type of tobacco product, is the percentage of children determined to have used such tobacco product in the first annual performance survey (in 1999).

(b) INDUSTRY-WIDE NON-ATTAINMENT ASSESSMENTS.—For the purpose of determining industry-wide non-attainment assessments, the performance objective for the reduction of the percentage of children determined to have used each type of tobacco product is the percentage in subsection (d) as measured from the baseline level for such type of tobacco product.

(c) PERFORMANCE OBJECTIVES FOR EXISTING MANUFACTURERS.—Each existing manufacturer shall have as a performance objective the reduction of the percentage of children determined to have used each type of such manufacturer's tobacco products by at least the percentage specified in subsection (d) as measured from the baseline level for such manufacturer for such product.

(d) REQUIRED PERCENTAGE REDUCTIONS.—The reductions required in this subsection are as follows:

(1) In the case of cigarettes—

(A) with respect to the third and fourth annual performance surveys, 20 percent;

(B) with respect to the fifth and sixth annual performance surveys, 40 percent;

(C) with respect to the seventh, eighth, and ninth annual performance surveys, 55 percent; and

(D) with respect to the 10th annual performance survey and each annual performance survey thereafter, 67 percent.

(2) In the case of smokeless tobacco—

(A) with respect to the third and fourth annual performance surveys, 12.5 percent;

(B) with respect to the fifth and sixth annual performance surveys, 25 percent;

(C) with respect to the seventh, eighth, and ninth annual performance surveys, 35 percent; and

(D) with respect to the 10th annual performance survey and each annual performance survey thereafter, 45 percent.

(e) REPORT ON FURTHER REDUCTIONS.—The Secretary shall report to Congress by the end of 2006 on the feasibility of further reduction in underage tobacco use.

(f) PERFORMANCE OBJECTIVE RELATIVE TO THE DE MINIMIS LEVEL.—If the percentage of children determined to have used a type of the tobacco products of an existing manufacturer in an annual performance survey is equal to or less than the de minimis level, the manufacturer shall be considered to have achieved the applicable performance objective.

(g) PERFORMANCE OBJECTIVES FOR NEW MANUFACTURERS.—Each new manufacturer shall have as its performance objective maintaining the percentage of children determined to have used each type of such manufacturer's tobacco products in each annual performance survey at a level equal to or less than the de minimis level for that year.

(h) DE MINIMIS LEVEL.—The de minimis level shall be 1 percent of children for the applicable year.

SEC. 205. MEASURES TO HELP ACHIEVE THE PERFORMANCE OBJECTIVES.

(a) ANNUAL DETERMINATION.—Beginning in 2001, and annually thereafter, the Secretary shall, based on the annual performance surveys conducted under section 203, determine if the performance objectives for each type of tobacco product under section 204 has been achieved and if each manufacturer has achieved the applicable performance objective under section 204. The Secretary shall publish in the Federal Register such determinations and any appropriate additional information regarding actions taken under this section.

(b) INDUSTRY-WIDE NON-ATTAINMENT ASSESSMENTS.—

(1) INDUSTRY-WIDE NON-ATTAINMENT PERCENTAGE.—The Secretary shall determine the industry-wide non-attainment percentage, if any, for cigarettes and for smokeless tobacco for each calendar year.

(2) NON-ATTAINMENT ASSESSMENT FOR CIGARETTES.—For each calendar year in which the performance objective under section 204(b) is not attained for cigarettes, the Secretary shall assess a surcharge on cigarette manufacturers as follows:

If the non-attainment percentage is:	The surcharge is:
Not more than 5 percentage points	$40,000,000 multiplied by the non-attainment percentage
More than 5 but not more than 20 percentage points	$200,000,000, plus $120,000,000 multiplied by the non-attainment percentage in excess of 5 but not in excess of 20 percentage points
More than 20 percentage points	$2,000,000,000

(3) NON-ATTAINMENT ASSESSMENT FOR SMOKELESS TOBACCO.—For each year in which the performance objective under section 204(b) is not attained for smokeless tobacco, the Secretary shall assess a surcharge on smokeless tobacco product manufacturers as follows:

If the non-attainment percentage is:	The surcharge is:
Not more than 5 percentage points	$4,000,000 multiplied by the non-attainment percentage
More than 5 but not more than 20 percentage points	$20,000,000, plus $12,000,000 multiplied by the non-attainment percentage in excess of 5 but not in excess of 20 percentage points
More than 20 percentage points	$200,000,000

(4) STRICT LIABILITY; JOINT AND SEVERAL LIABILITY.—Liability for any surcharge imposed under this subsection shall be—

(A) strict liability; and

(B) joint and several liability—

(i) among all cigarette manufacturers for surcharges imposed under paragraph (2); and

(ii) among all smokeless tobacco manufacturers for surcharges imposed under paragraph (3).

(5) SURCHARGE LIABILITY AMONG MANUFACTURERS.—A tobacco product manufacturer shall be liable under this subsection to one or more other manufacturers if the plaintiff tobacco product manufacturer establishes by a preponderance of the evidence that the defendant tobacco product manufacturer, through its acts or omissions, was responsible for a disproportionate share of the non-attainment surcharge as compared to the responsibility of the plaintiff manufacturer.

(6) EXEMPTIONS FOR SMALL MANUFACTURERS.—

(A) ALLOCATION BY MARKET SHARE.—The Secretary shall allocate the assessments under this subsection according to each manufacturer's share of the domestic cigarette or domestic smokeless tobacco market, as appropriate, in the year for which the surcharge is being assessed, based on actual Federal excise tax payments.

(B) EXEMPTION.—In any year in which a surcharge is being assessed, the Secretary shall exempt from payment any tobacco product manufacturer with less than 1 percent of the domestic market share for a specific category of tobacco product unless the Secretary finds that the manufacturer's products are used by underage individuals at a rate equal to or greater than the manufacturer's total market share for the type of tobacco product.

(c) MANUFACTURER-SPECIFIC SURCHARGES.—

(1) IN GENERAL.—If the Secretary determines that the required percentage reduction in use of a type of tobacco product has not been achieved by a manufacturer for a year, the Secretary shall impose a surcharge on such manufacturer under this paragraph.

(2) CIGARETTES.—For each calendar year in which a cigarette manufacturer fails to achieve the performance objective under section 204(c), the Secretary shall assess a surcharge on that manufacturer in an amount equal to the manufacturer's share of youth incidence for cigarettes multiplied by the following surcharge level:

If the non-attainment percentage for the manufacturer is:	The surcharge level is:
Not more than 5 percentage points	$80,000,000 multiplied by the non-attainment percentage
More than 5 but not more than 24.1 percentage points	$400,000,000, plus $240,000,000 multiplied by the non-attainment percentage in excess of 5 but not in excess of 24.1 percentage points
More than 24.1 percentage points	$5,000,000,000

(3) SMOKELESS TOBACCO.—For each calendar year in which a smokeless tobacco product manufacturer fails to achieve the performance objective under section 204(c), the Secretary shall assess a surcharge on that manufacturer in an amount equal to the manufacturer's share of youth incidence for smokeless tobacco products multiplied by the following surcharge level:

If the non-attainment percentage for the manufacturer is:	The surcharge level is:
Not more than 5 percentage points	$8,000,000 multiplied by the non-attainment percentage
More than 5 but not more than 24.1 percentage points	$40,000,000, plus $24,000,000 multiplied by the non-attainment percentage in excess of 5 but not in excess of 24.1 percentage points
More than 24.1 percentage points	$500,000,000

(4) MANUFACTURER'S SHARE OF YOUTH INCIDENCE.—For purposes of this subsection, the them "manufacturer's share of youth incidence" means—

(A) for cigarettes, the percentage of all youth smokers determined to have used that manufacturer's cigarettes; and

(B) for smokeless tobacco products, the percentage of all youth users of smokeless tobacco products determined to have used that manufacturer's smokeless tobacco products.

(5) DE MINIMIS LEVELS.—If a manufacturer is a new manufacturer or the manufacturer's baseline level for a type of tobacco product is less than the de minimis level, the non-attainment percentage (for purposes of paragraph (2) or (3)) shall be equal to the number of percentage points by which the percentage of children who used the manufacturer's tobacco products of the applicable type exceeds the de minimis level.

(d) SURCHARGES TO BE ADJUSTED FOR INFLATION.—

(1) IN GENERAL.—Beginning with the fourth calendar year after the date of enactment of this Act, each dollar amount in the tables in subsections (b)(2), (b)(3), (c)(2), and (c)(3) shall be increased by the inflation adjustment.

(2) INFLATION ADJUSTMENT.—For purposes of paragraph (1), the inflation adjustment for any calendar year is the percentage (if any) by which—

(A) the CPI for the preceding calendar year; exceeds

(B) the CPI for the calendar year 1998.

(3) CPI.—For purposes of paragraph (2), the CPI for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor.

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

(e) METHOD OF SURCHARGE ASSESSMENT.—The Secretary shall assess a surcharge for a specific calendar year on or before May 1 of the subsequent calendar year. Surcharge payments shall be paid on or before July 1 of the year in which they are assessed. The Secretary may establish, by regulation, interest at a rate up to 3 times the prevailing prime rate at the time the surcharge is assessed, and additional charges in an amount up to 3 times the surcharge, for late payment of the surcharge.

(f) BUSINESS EXPENSE DEDUCTION.—In order to maximize the financial deterrent effect of the assessments and surcharges established in this section, any such payment shall not be deductible as an ordinary and necessary business expense or otherwise under the Internal Revenue Code of 1986.

(g) PROCEDURES.—In assessing price increase assessments and enforcing other measures under this section, the Secretary shall have in place procedures to take into account the effect that the margin of error of the annual performance survey may have on the amounts assessed to or measures required of such manufacturers.

(h) OTHER PRODUCTS.—The Secretary shall promulgate regulations establishing performance objectives for the reduction of the use by children of other products made or derived from tobacco and intended for human consumption if significant percentages of children use or begin to use such products and the inclusion of such products as types of tobacco products under this subtitle would help protect the public health. Such regulations shall contain provisions, consistent with the provisions in this subtitle applicable to cigarettes and smokeless tobacco, for the application of assessments and surcharges to achieve reductions in the percentage of children who use such products.

(i) APPEAL RIGHTS.—The amount of any surcharge is committed to the sound discretion of the Secretary and shall be subject to judicial review by the United States Court of Appeals for the District of Columbia Circuit, based on the arbitrary and capricious standard of section 706(2)(A) of title 5, United States Code. Notwithstanding any other provisions of law, no court shall have authority to stay any surcharge payments due the Secretary under this Act pending judicial review.

(j) RESPONSIBILITY FOR AGENTS.—In any action brought under this subsection, a tobacco product manufacturer shall be held responsible for any act or omission of its attorneys, advertising agencies, or other agents that contributed to that manufacturer's responsibility for the surcharge assessed under this section.

SEC. 206. DEFINITIONS.

In this subtitle:

(1) CHILDREN.—The term "children" means individuals who are 12 years of age or older and under the age of 18.

(2) CIGARETTE MANUFACTURERS.—The term "cigarette manufacturers" means manufacturers of cigarettes sold in the United States.

(3) EXISTING MANUFACTURER.—The term "existing manufacturer" means a manufacturer which manufactured a tobacco product on or before the date of the enactment of this title.

(4) NEW MANUFACTURER.—The term "new manufacturer" means a manufacturer which begins to manufacture a type of tobacco product after the date of the enactment of this title.

(5) NON-ATTAINMENT PERCENTAGE.—The term "non-attainment percentage" means the number of percentage points yielded—

(A) for a calendar year in which the percent incidence of underage use of the applicable type of tobacco product is less than the baseline level, by subtracting—

(i) the percentage by which the percent incidence of underage use of the applicable type of tobacco product in that year is less than the baseline level, from

(ii) the required percentage reduction applicable in that year; and

(B) for a calendar year in which the percent incidence of underage use of the applicable type of tobacco product is greater than the baseline level, adding—

(i) the percentage by which the percent incidence of underage use of the applicable type of tobacco product in that year is greater than the baseline level; and

(ii) the required percentage reduction applicable in that year.

(6) SMOKELESS TOBACCO PRODUCT MANUFACTURERS.—The term "smokeless tobacco product manufacturers" means manufacturers of smokeless tobacco products sold in the United States.

NOTICES OF HEARINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will meet in open session of the Senate on Wednesday, June 10, 1998, beginning at 9:30 a.m. to conduct an oversight hearing on Bureau of Indian Affairs School Construction. The hearing will be held in room 106 of the Dirksen Senate Office Building. Those wishing additional information should contact the Committee on Indian Affairs at (202) 224–2251.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LUGAR. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry will meet on Wednesday, June 10, 1998 at 2 p.m. in SR–328A. The purpose of this meeting will be to examine livestock issues.

SUBCOMMITTEE ON EMPLOYMENT AND TRAINING

Mr. JEFFORDS. Mr. President, I would like to announce for information of the Senate and the public that a hearing of the Subcommittee on Employment and Training, Senate Committee on Labor and Human Resources will be held on Thursday, June 11, 1998, 9:30 a.m., in SD–430 of the Senate Dirksen Building. The subject of the hearing is Child Labor. For further information, please call the committee, (202) 224–5375.

SUBCOMMITTEE ON WATER AND POWER

Mr. KYL. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Water and Power of the Committee on Energy and Natural Resources.

The hearing will take place on Tuesday, June 16, 1998, at 2:30 p.m. in room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on the following measures:

S. 1398, the "Irrigation Project Contract Extension Act of 1997";

S. 2041, a bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the design, planning, and construction of the Willow Lake Natural Treatment System Project for the reclamation and reuse of water, and for other purposes;

S. 2087, the "Wellton-Mohawk Title Transfer Act of 1998";

S. 2140, a bill to amend the Reclamation Projects Authorization and Adjustment Act of 1992 to authorize the Secretary of the Interior to participate in the design, planning, and construction of the Denver Water Reuse project;

S. 2142, the "Pine River Project Conveyance Act";

H.R. 2165, an act to extend the deadline under the Federal Power Act applicable to the construction of FERC Project Number 3862 in the State of Iowa, and for other purposes;

H.R. 2217, an act to extend the deadline under the Federal Power Act applicable to the construction of FERC Project Number 9248 in the State of Colorado, and for other purposes; and

H.R. 2841, an act to extend the time required for the construction of a hydroelectric project.

Persons wishing to testify or who wish to submit written testimony should write to the Subcommittee on Water and Power, Committee on Energy and Natural Resources, United States Senate, Washington, D.C. 20510. For further information concerning the hearing, please contact James Beirne, counsel to the Subcommittee at (202) 224–2564 or Betty Nevitt, Staff Assistant at (202) 224–0765.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet in Executive session during the session of the Senate on Tuesday, June 9, 1998 at 3:30 p.m. to consider possible amendments relating to Bosnia.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, June 9, 1998, to conduct a hearing of the following nominees: Rebecca M. Blank, of Illinois, to be a member of the Council of Economic Advisors; Michael J. Copps, of Virginia, to be the Assistant Secretary of Commerce for Trade Development; and Awilda R. Marquez, of Maryland, to be Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Service.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, June 9, 1998 at 10:30 a.m. to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

UNIVERSITY OF MARYLAND WOMEN'S LACROSSE TEAM

• Ms. MIKULSKI. Mr. President, I rise today to congratulate the University of Maryland women's lacrosse team on winning their fourth consecutive national championship by beating the number one-ranked University of Virginia, 11–5. Simply put, this is unprecedented in the history of women's lacrosse. The Maryland women's lacrosse team is the only team in NCAA Division I history to accomplish this remarkable feat. As the Senator for Maryland, I couldn't be more proud.

Because lacrosse is the unofficial state sport of Maryland, the Terrapins' championship is especially sweet for people in my home state. You see, in Maryland, we love our lacrosse, and it seems like the Maryland women's lacrosse team always comes through for us. This year, Maryland made its 15th ninth consecutive NCAA Final Four appearance, advanced to the championship game for the fifth consecutive year, played its record-setting 29th tournament game, won its record-setting 21st tournament game, won its fifth national championship in the last seven years, and won its seventh national championship overall.

Five Terps were named to the NCAA All-Tournament team, including College Lacrosse USA Division I Woman Player of the Year Sascha Newmarch, Kathleen Lund, Alex Kahoe, Tonia Porras, and Cathy Nelson, who was honored as the tournament MVP. The Terps were led by head coach Cindy Timchal, who has a 203–51 career record and is the third-winningest coach in women's lacrosse history. Too often, women's sports go unnoticed. However, every single member of this fabulous team deserves to be recognized—not only for their championship, but for exemplifying what college athletics are all about.

Mr. President, I'm sure you can see why Maryland is so proud of its Terrapins. Like so many lacrosse fans in my home state, I can't wait until next season.•

HAMPTON HIGH SCHOOL OF ALLISON PARK, PENNSYLVANIA

• Mr. SANTORUM. Mr. President, on May 2 through May 4, 1998, more than 1200 students from across the Nation came to Washington, DC, to compete in the national finals of the "We the People . . . The Citizens and the Constitution" program. I am proud to announce that the class from Hampton High School of Allison Park represented Pennsylvania. These young scholars worked diligently to reach the national finals by winning local competitions in Pennsylvania, and ultimately won the Northeastern States Regional Award.

The distinguished members of the class representing Pennsylvania were: Angela Ambrose, Rebecca Amrhein, Aren Bierkan, Christine Brady, Heather Gahagan, Emily Huie, Jessica Kiefer, Lauren Klemens, Jessica Lin, Rina Mansukhani, Lauren Montgomery, Laura Ostapenko, Andrew

Scharff, Christian Spearline, Courtney Vetter and Katrina Werger.

I would also like to recognize their teacher, Mrs. Tara O'Brien, who deserves much credit for the success of the class. The district coordinator, Ms. Jennie-Lynn Knox, and the state coordinator, Ms. Christine Crist, also contributed much time and effort to help the class reach the national finals.

The "We the People . . . The Citizen and the Constitution" program is the most extensive educational program in the country developed specifically to educate young people about the Constitution and the Bill of Rights. The three day national competition simulates a congressional hearing whereby students are given the opportunity to demonstrate their knowledge while they evaluate, take, and defend positions on relevant historical and contemporary constitutional issues. The simulated congressional hearing consists of oral presentations by the students before panels of judges.

Administered by the Center for Civic Education, the "We the People . . ." program has provided curricular materials at upper elementary, middle, and high school levels for more than 75,000 teachers and 24 million students nationwide. Members of Congress and their staff enhance the program by discussing current constitutional issues with teachers and students.

The "We the People . . ." program is designed to help students achieve a reasoned commitment to the fundamental values and principles that bind Americans together as a people. The program also fosters civic dispositions, traits of public and private sector character conducive to effective and responsible participation in politics and government.

I congratulate these constitutional experts from Hampton High School for their success in the "We the People . . ." competition and commend them for their great achievement of winning the Northeastern Regional Award.•

VIOLENCE IN KOSOVO

• Mr. FEINGOLD. Mr. President, I rise today to express my grave concern, and that of my constituents, regarding the escalating violence in Kosovo. Fighting between Serbs and the majority ethnic-Albanian population in Kosovo has been on-going since Kosovo was declared to be part of Serbia in 1989.

Mr. President, I am deeply concerned about the safety of ethnic Albanians, many of whom have been murdered or forced to flee their homes by the ethnically-motivated attacks by the minority-Serb population. I am also concerned that this latest round of ethnic fighting in the Balkans could reignite unrest throughout the region.

The fighting intensified in late February of this year, and has been spiraling across Kosovo ever since. During the weekend of February 28 alone, approximately 30 people were killed there. When ethnic Albanians marched in the provincial capital of Pristina to protest these killings, they were met by Serb riot police armed with water cannon, clubs, and tear gas.

Since this latest wave of fighting began, a total of more than 200 ethnic Albanians, including women and children, have been killed, and more than 10,000 have fled into neighboring Albania. In early March, 22 members of the Jashari family were massacred on their farm in Prekaz. During the last weekend in May, at least 39 people were killed. These are but a few examples of the senseless bloodshed that has occurred in Kosovo during the last three months.

Day after day, the world is witness to this brutal fighting through television and print media coverage of the events in Kosovo. We saw the pictures from the massacre at Prekaz. We have seen soldiers in helicopters shooting at people trying to flee across the border into Albania. These pictures have an eerie resemblance to those from Bosnia, Rwanda, and other places where ethnic fighting has occurred in this decade.

The latest wave of fighting in Kosovo has been marked by an increase in violence and militancy. There is no question that there have been casualties on both sides of this conflict. What is troubling, however, is that very few of these casualties have been combatants fighting for their cause. Instead, the majority of the dead have been innocent civilians, many of them women and children. And most of these civilians have been killed simply because they happened to be Albanian.

I am pleased that the United States has contributed funding to the Yugoslav War Crimes Tribunal to begin an investigation into the involvement of Serbian forces in the violence in Kosovo.

I am also pleased that U.S. envoys Richard Holbrooke and Robert Gelbard, who traveled to the region last month, have been able to bring the two sides to the table to discuss their differences.

I was pleased that the first round of talks between Yugoslav President Slobodan Milosevic and Kosovo Albanian leader Ibrahim Rugova, which took place on May 15, opened a dialogue between the ethnic Albanians and the Serb government in Belgrade.

I was also hopeful that the May 29 meeting between President Clinton and Mr. Rugova would bolster attempts to reach a diplomatic solution to this ongoing crisis.

Unfortunately, the promise of the May 15 talks has been followed by continuing violence and attacks on civilians by the Serbian police and military. Today, the United States joined the European Union in issuing a ban on all new investment in Serbia and by freezing the assets of the Milosevic government. The U.S. had delayed the implementation of these sanctions prior to the May 15 talks, but now there is little choice but to impose these sanctions. I hope that these sanctions will help to stem the violence and bring the two sides back to the table.

The leaders on all sides of this conflict should not allow the escalating violence to derail plans for negotiations. While there remain many issues to resolve, I believe that only through continuing negotiations can a sustainable settlement be ironed out. I hope that people on all sides of this conflict are able to put aside their feelings of nationalism and ethnic pride and work together to achieve a peaceful solution to this situation before more innocent blood is shed, and before the fighting spreads into other areas of the Balkans.•

SUBMITTING CHANGES TO THE BUDGET RESOLUTION AGGREGATES AND APPROPRIAITONS COMMITTEE ALLOCATION

• Mr. DOMENICI. Mr. President, section 314(b)(3) of the Congressional Budget Act, as amended, requires the Chairman of the Senate Budget Committee to adjust the appropriate budgetary aggregates and the allocation for the Appropriations Committee to reflect an amount of budget authority provided that is the dollar equivalent of the Special Drawing Rights with respect to: (1) an increase in the United States quota as part of the International Monetary Fund Eleventh General Review of Quotas (United States Quota); and (2) any increase in the maximum amount available to the Secretary of the Treasury pursuant to section 17 of the Bretton Woods Agreements Act, as amended from time to time (New Arrangements to Borrow).

Section 203 of H. Con. Res. 84, the Concurrent Resolution on the Budget for FY 1998, allows the Chairman of the Senate Budget Committee to adjust the allocation for the Appropriations Committee to reflect new budget authority and outlays provided for the renewal of expiring contracts for tenant- and project-based housing assistance under section 8 of the United States Housing Act of 1937.

I hereby submit a revision to the budget authority aggregates for fiscal year 1998 contained in section 101 of H. Con. Res. 84 in the following amounts:

	Budget authority
Current aggregates	1,405,438,000,000
Adjustments	−20,208,000,000
Revised aggregates	1,385,230,000,000

I hereby submit revisions to the 1998 Senate Appropriations Committee allocation, pursuant to section 302 of the Congressional Budget Act, in the following amounts:

	Budget authority	Outlays
Current allocation:		
Defense discretionary	260,000,000,000	266,823,000,000
Nondefense discretionary	270,075,000,000	283,293,000,000
Violent crime reduction fund	5,500,000,000	3,592,000,000
Mandatory	277,312,000,000	278,725,000,000
Total	821,887,000,000	832,433,000,000
Adjustments:		
Defense discretionary		
Nondefense discretionary	−20,208,000,000	
Violent crime reduction fund		
Mandatory		
Total	−20,208,000,000	
Revised allocation:		
Defense discretionary	269,000,000,000	266,823,000,000
Nondefense discretionary	249,867,000,000	283,293,000,000
Violent crime reduction fund	5,500,000,000	3,592,000,000
Mandatory	277,312,000,000	278,725,000,000
Total	804,026,000,000	832,433,000,000

HONORING DONALD E. BARRIS

• Mr. LEVIN. Mr. President, I rise to honor one of Michigan's finest lawyers, Donald E. Barris, who is celebrating his 80th birthday on June 21st. Born and raised in Detroit, Don Barris attended Detroit public schools and Wayne State University, from whose law school he graduated in 1940. Don has spent his entire professional life, now approaching 60 years, in private practice in downtown Detroit. In 1968, he co-founded the firm of Barris, Sott, Denn & Driker and is its senior partner.

Known throughout southeastern Michigan as a premier trial lawyer, Don has also served as a trusted legal advisor to hundreds of families and businesses. Their problems have become his problems, as he passionately advocated their causes. Using his vast knowledge of zoning and land use law, Don has provided significant services to churches, synagogues and other nonprofit institutions throughout the Metropolitan Detroit area. He has been recognized by these appreciative clients for the zeal with which he has furthered their interests, often taking no compensation for his work.

Don Barris has been a generous benefactor of the Wayne State University Law School. He provided the funds for a student lounge named after his late wife, Miriam, and has contributed substantial resources to expand the Law School's computer laboratory. The Donald E. Barris Trial Practice Fund was established at the Law School by his law firm to honor his legal talents and many contributions to Wayne State.

It is a pleasure to recognize and honor Donald E. Barris, a great lawyer and a great humanitarian, on the occasion of his 80th birthday.•

RECOGNITION OF SUSAN CARLSON

• Mr. GRAMS. Mr. President, I take a moment today to express my gratitude and offer my congratulations to Susan Carlson, the First Lady of the State of Minnesota.

Susan Carlson will be honored tonight with a Leadership Award from the National Organization on Fetal Alcohol Syndrome for her work as the Co-Chair of the Governor's Task Force on Fetal Alcohol Syndrome. Through the efforts of Mrs. Carlson, Minnesota is one of the first states to put in place a comprehensive plan to prevent Fetal Alcohol Syndrome and improve the quality of life for those already affected by Fetal Alcohol Syndrome.

As we all know, Fetal Alcohol Syndrome is perhaps the most preventable contributor to our nation's ever-increasing health care costs. Low-birth weights, which lead to health complications for infants, developmental disabilities, and learning disabilities represent the tragic results of alcohol consumption during pregnancy. Clearly, Fetal Alcohol Syndrome is preventable and we spare a great deal of future pain by educating expectant mothers and their families about the risks associated with alcohol during pregnancy. In its campaign to eliminate Fetal Alcohol Syndrome, the National Organization on Fetal Alcohol Syndrome combines national and community-based awareness and educational programs with resource and referral clearinghouses.

Mr. President, again, I congratulate and thank Mrs. Carlson for her efforts. Minnesotans are fortunate to have her leadership on the important issue of preventing Fetal Alcohol Syndrome.•

TRIBUTE TO U.S. ATTORNEY ALAN D. BERSIN

• Mrs. FEINSTEIN. Mr. President, I rise today to pay tribute to Alan Bersin, a valued colleague and extraordinary public servant. During his four and half years as United States Attorney for the Southern District of California, the office became one of the premier prosecutorial offices in the country. Under Alan Bersin's leadership the caseload was transformed from one dominated by misdemeanor prosecutions to the largest number of felony prosecutions in the nation.

As the chief law enforcement officer along the most populous sector of the Southwest Border with Mexico, Alan Bersin has made border enforcement his highest priority, and is perhaps best known for his work as the Attorney General's Special Representative for Southwest Border Issues. He was appointed to the position in October 1995 at a time when the government was seeking new leadership and energy to deal with the proliferation of illegal activity along the southwest border which had become the principal corridor for smuggling of aliens and drugs into the country. Alan Bersin targeted for prosecution the large drug distributors and cartels on both sides of the border, and the repeat border crossers with felony records. He also coordinated resources in a manner never before attempted. Largely as a result of these strategic approaches, crime in the Southern District of California decreased 40 percent during Alan Bersin's tenure.

Shortly after taking office in 1994, Alan Bersin reached an historic accord with the San Diego District Attorney whereby the county, for the first time in San Diego history, prosecuted drug smuggling case which had a San Diego nexus. This has resulted in a dramatic increase in border drug smuggling prosecutions that is unprecedented, and has allowed the federal government to use its unique resources such as wire tap authority, to focus on the more serious violators. Alan Bersin also helped create a Specialized Drug Enforcement Operation in Imperial Valley which served as a prime trafficking route of the Mexican drug cartels. The special enforcement unit involves 17 federal, state and local drug-related law enforcement agencies, the California National Guard and the Department of Defense. Alan Bersin's ability to bring together enforcement agencies at all levels to cooperate in a number of successful enforcement initiatives has been praised by local, state and federal law enforcement leaders. Also, his ability to coordinate with our neighbor to the South has been most extraordinary. He worked tirelessly to bridge the cultural and political divide in a way that enabled both countries to see that it was in their best interests to find areas of mutual concern and work together to the maximum extent feasible, even though there are other areas on which we will continue to disagree.

As the patterns of illegal migration changed in response to increased law enforcement personnel and resources, criminal activity moved to new areas along the border. Under Alan Bersin's leadership both countries implemented collaborative programs to prevent criminal activity and to apprehend criminals who oftentimes preyed upon undocumented aliens. Alan Bersin also oversaw the creation of a civil rights working group comprised of federal law enforcement, immigrant rights' advocacy groups from San Diego and Tijuana, the Mexican Consulate in San Diego, the U.S. Consulate in Tijuana and the United States Attorney's Office to bring to the table all those affected by or involved in the enforcement of civil rights laws. The group provides assistance to investigators in locating evidence on both sides of the border to prove allegations of abuse. Other innovative programs launched during Alan Bersin's tenure include helping to establish a Binational Environmental Laboratory to facilitate the investigation and prosecution of environmental cases in Mexico and the U.S.

Mexico is not the only sovereignty with whom Alan Bersin negotiated well and successfully. At a time when Indian gaming was becoming an enormously difficult and controversial

issue in California, and aspects of the issue were being litigated in both state and federal courts, Alan Bersin managed to maintain a level playing field on a government to government basis between the State of California and the Native American tribes of San Diego County.

Finally, in addition to the official law enforcement achievements during the last four years, Alan Bersin has added a new dimension to public service. By example and by encouragement, he has increased enormously the involvement of his staff in community projects, ranging from training programs to mentoring and public outreach. His commitment to the community will continue as he begins a new career as Superintendent of Schools for the San Diego Unified School District. I am confident he will bring to that position the same vision, inspiring leadership and commitment which made him such an outstanding United States Attorney. He has brought great credit to his office, to the Justice Department and to the nation. Congratulations Alan, and best wishes for every success as Superintendent of the San Diego Unified School District.•

POLITICAL TRANSITION IN NIGERIA

• Mr. FEINGOLD. Mr. President, I rise today to note the death of Nigeria's military ruler, Gen. Sani Abacha, yesterday in Abuja, the capital city of Nigeria. Although the circumstances surrounding his death remain unclear, it is my hope that his death will provide an opportunity for a new era in Nigeria.

As the Ranking Democrat of the Senate Subcommittee on Africa, I have long been concerned about the collapsing economic and political situation in Nigeria. Nigeria, with its rich history, abundant natural resources and wonderful cultural diversity, has the potential to be an important regional leader. But, sadly, it has squandered that potential and the good will of the world with repressive policies, human rights abuses and corruption, all of which proliferated during Abacha's tenure.

Although there was no clear line of succession, Nigeria's top military leaders met into the night yesterday to select Gen. Abdulsalam Abubukar as the new head of state. We do not know much about Gen. Abubukar, but we know that he has an historic opportunity to effect real political change for the country.

Last month, I introduced the Nigerian Democracy and Civil Society Empowerment Act (S. 2102). The provisions of my bill include benchmarks defining what would constitute an open political process in Nigeria. I call on Gen. Abubukar to implement as soon as possible some of these important changes, such as the repeal of the repressive decrees enacted under Abacha's rule, so that genuine reform can finally take place in Nigeria. The new leadership should demonstrate respect for the rights of all Nigerians to express their views. Most importantly, Gen. Abubukar should take advantage of this opportunity to immediately move toward free and fair elections and unconditionally release all political prisoners, including the winner of the annulled 1993 elections, Chief Moshood K.O. Abiola.

Abacha's death should represent not just a change in leadership, but ought to result in real change for the average Nigerian.

Finally, I believe the United States should take a clear and public stand to demonstrate its support for a clear transition to civilian rule in Nigeria. Now is the time for the United States to make unequivocally clear that the military should exercise restraint in the near and long term, begin to build bridges to the pro-democracy forces, and do everything possible to end the current political crisis and restore legitimacy to the Nigerian government.

I urge the Administration to communicate these sentiments quickly to Nigeria's new leadership.•

TRIBUTE TO JUNE SALANDER

• Mr. JEFFORDS. Mr. President, I rise today to pay tribute to June Salander of Rutland, Vermont. On May 9, 1998 June Salander celebrated her bat mitzvah at the remarkable age of 89. Mrs. Salander is a dear neighbor, mentor, and friend from my days growing up in Rutland, Vermont. It is believed she is the oldest Rutlander to celebrate a bat mitzvah. Over a hundred people attended the ceremony, one of many indicators of the inspiration she is to her family, friends, community, and faith.

Born in 1908 in Poland, June Salander came to America in 1920 to New York City with her family via Ellis Island. In 1941 she married her husband and moved to Vermont where she has resided ever since. In her many years as a citizen of Rutland she has been an active member of the community. She has served as a volunteer at the Rutland Jewish Center, as a Hebrew School teacher, and at the Rutland Hospital with the Grey Ladies.

In addition to filling the role as a bedrock member of her community she has also filled many stomachs with her famous cooking. Her strudel is legendary throughout the area and to the many people traveling through who she has opened her home to over the years. Her strudel recipe was even featured in a cookbook containing Jewish recipes honed in the United States. I can personally attest to the greatness of June Salander's cooking as I was able to eat breakfast at the Salanders when I was growing up as a boy on Kingsley Avenue in Rutland. She continues to teach cooking informally and will appear on a cooking video that will air on PBS in the near future.

Perhaps her most admirable quality is the energy she continues to display as she reaches her golden years. For some it means an idle time in their life but not for June Salander. When she was sixty-two she received her real estate license and remained active until recently. She picked up tennis when she was seventy-three and played for almost ten years. This fall she will travel all the way to Israel to attend the wedding of a niece.

I am glad my wife Liz was able to attend June's bat mitzvah on that Saturday and pass on our well wishes to June. I also wish her well as she approaches her ninetieth birthday on June 28, 1998. Mr. President, I would like to publicly recognize June's upstanding citizenship and the inspiration she is to the rest of us as she continues to embrace life into her nineties.•

TRIBUTE TO JACQUELYN BENSON AND ALEXANDER KAUFMAN 1998 UNITED STATES PRESIDENTIAL SCHOLARS

• Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to Jacquelyn Benson and Alexander Kaufman of New Hampshire for being named 1998 United States Presidential Scholars.

Jacquelyn Benson is a student at Winnacunnet High School in Hampton Falls, New Hampshire, and has been active in her school's National Honor Society and Art Department. Jacquelyn plays the piano, is currently working on a book of fiction, and plans to attend Northeastern University in the fall. She chose Ms. Toni Talas as her most influential teacher.

Alexander Kaufman is also a 1998 Presidential Scholar. As a student at Phillips Exeter Academy in Dover, New Hampshire, Alexander has excelled in writing and math and was the editor of the school's poetry journal. He is also active in environmental issues and will be attending Harvard University in the fall. Alexander selected the late Frederick Tremallo as his most influential teacher.

The United States Presidential Scholars Program was established in 1964, by Executive Order of President JOHNSON, to recognize and honor some of our nation's most distinguished graduating high school seniors. Each year, the White House Commission on Presidential Scholars selects up to 141 Scholars on the basis of their accomplishments in many areas: academic and artistic success, scholarship, leadership, and involvement in school and community. The Commission invites the students to Washington, DC, to be honored for their accomplishments during National Recognition Week.

The Scholars, as guests of the Commission, along with their families and the teachers whom the Scholars have chosen as the "most influential" in their academic and artistic endeavors, will be involved in many activities while in Washington, DC. They will participate in informative panel discussions, a ceremony sponsored by the White House, a reception and art exhibit of the work by Scholars in the Visual Arts at the National Museum for American Art, and an evening at the Kennedy Center featuring performances by the Scholars in the Performing Arts.

As a former teacher and school board chairman, I recognize the challenges involved in providing students a quality education. Congratulations to Jacquelyn and Alexander for their distinguished recognition. I am pleased they have been recognized for their success and it is with great pleasure that I represent them in the United States Senate.•

CONGRATULATIONS TO MRS. GRACE BABCOCK

• Mr. BURNS. Mr. President, it is my great pleasure to honor Mrs. Grace Babcock of Helena, Montana. Grace will be 88 years young on July 29, 1998. She has the wonderful distinction of being the oldest state employee for my home state of Montana. I join Grace's family, friends, and co-workers in thanking her for a job well done!

Grace was born on July 29, 1910 in Deer Lodge, Montana. She was one of nine children. Early on, here family moved to the Canton Valley outside of Townsend, Montana. She married Carter Babcock in 1930. They became the proud parents of two girls, Marilyn and Joyce. In 1941, the family moved to Helena. Although Carter died in 1970, Grace kept the family going. She now dots on her seven grandchildren and eight great-grandchildren.

Grace worked for the accounting firm of Galusha, Higgins, & Galusha until her retirement in 1976. Then, in 1980, it was the beginning of here career with the State of Montana. Grace is certainly a role model not only for active seniors but also for so many young people across our state. She has been blessed with good health and uses her talents to help others.

On behalf of all Montanans, I would like to congratulate you, Grace, for your help in making our state truly the "last best place!" Mr. President, I yield the floor.•

TRIBUTE TO BLUEMONT ELEMENTARY SCHOOL

• Mr. BROWNBACK. Mr. President, I rise today to recognize a group of outstanding students from the state of Kansas. Cindy Garwick's first grade class from Bluemont Elementary School in Manhattan, Kansas, has been chosen as a finalist team in the Toshiba/National Science Teachers Association (NSTA) Exploravision Awards Program.

The NSTA Exploravision Awards Program is the largest K–12 student science competition in the country. This year, there were nearly 5,000 entries from more than 17,000 students in the United States and Canada. The class was chosen as a finalist for this prestigious award for their invention display prototype, "The DNA Door Open."

It is difficult to imagine how much time and energy was spent on this project by these outstanding young students. The award that they have received is a testament to their hard work and dedication. It gives me great pleasure to acknowledge Bluemont Elementary School's first grade class for the honor they have received. I congratulate them and wish them continued success.•

TRIBUTE TO DONALD BODETTE—A VETERAN'S VETERAN

• Mr. JEFFORDS. Mr. President, I rise today to pay tribute to a fallen hero. His name is Donald Bodette and he passed away last August 10th after a long battle with cancer. However, his legacy lives on and he will be honored on June 14th at the Dodge Development Center in Rutland.

Don retired from the Marine Corps in 1968 and received a Purple Heart for wounds sustained in Vietnam. For those of us who knew Don, this information was a well kept secret. He was never inclined to tell you about his heroics. He did tell war stories as a way to draw other Vietnam Veterans out of their isolation. Don's theory was a very simple one and is the premise used today to help Vietnam Veterans worldwide—discussing traumatic war experiences with another veteran with a similar experience is the best way to heal.

An article in The Rutland Herald on August 12, 1997 announced that Donny had passed away, at age 48, at the VA hospital in White River Junction. As I read, I was struck by some of the tales recounted by his fellow veterans. Three of Don's best friends, Jake Jacobsen, Albert Trombley and Clark Howland, talked about meeting Don through a newspaper ad that only said, "Vietnam Veterans, we need to talk." According to Trombley, "He didn't have any master plan. He would stop and look for people, he would put advertisements in the paper to get veterans to come out, and once he found one or two, they would find two or three. He got all around the state of Vermont."

In the late 1970s, Don was instrumental in shaping the course of a fledgling organization known as the Vietnam Veterans of America (VA). He believed that the VA should be more than an activist group, and Don was so successful in his efforts to establish local chapters that Rutland, Vermont boasts the first VA chapter in the country. According to Jake Jacobsen, "Donny and I never worried about membership. If we're good enough, they'll want to join us."

Don helped found the Veterans Assistance Office (VAO) in Rutland sixteen years ago. It was designed as a non-profit community based organization to support veterans in a variety of different ways. The VAO still serves in that capacity today. The VAO's current director, Clark Howland, says of Bodette, "I owe him a lot. He helped an unknown number. I'd say it would run in the thousands of veterans. And what we're doing now is just to carry on for what Donny started."

Farewell Don. Your legacy of service will live on through your selfless acts that improved the lives of countless Vermont veterans.•

CBO COST ESTIMATE—S. 1275

• Mr. MURKOWSKI. Mr. President, when the Committee filed its report on S. 1275, the Northern Mariana Islands Covenant Implementation Act, the cost estimate of the Congressional Budget Office was not available. The estimate has since been received and I ask that it be printed in the RECORD for the information of the Senate.

The cost estimate follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 8, 1998.

Hon. FRANK H. MURKOWSKI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1275, the Northern Mariana Islands Covenant Implementation Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are John R. Righter (for federal costs), Marc Nicole (for the state and local impact), and Ralph Smith (for the private-sector impact).

Sincerely,

JUNE E. O'NEILL,
Director.

Enclosure.

S. 1275—Northern Mariana Islands Covenant Implementation Act

Summary: S. 1275 would amend the covenant act between the United States and the Commonwealth of the Northern Mariana Islands (CNMI), a territory of the United States, to reform the immigration laws of CNMI. It also would establish a special committee to set minimum wage rates by industry within CNMI. The estimated cost of S. 1275 depends on whether the Attorney General would elect to apply the provisions of the Immigration and Nationality Act (INA) to CNMI. If the Attorney General (AG) decided not to apply the INA, CBO estimates that, on average, implementing S. 1275 would increase annual costs by less than $500,000, subject to appropriation of the necessary amounts. If the AG did apply the INA, as modified for CNMI by S. 1275, CBO estimates

that, subject to appropriation of the necessary amounts, implementing S. 1275 would increase costs—mostly at the Immigration and Naturalization Service (INS)—by less than $500,000 in fiscal year 1999 and a total of between $7 million and $8 million over the 1999–2003 period.

In addition to the increase in discretionary costs, S. 1275 also could affect direct spending if the AG applies the INA to CNMI; consequently, pay-as-you-go procedures would apply. CBO estimates, however, that any change in direct spending would have no significant net budgetary impact each year.

S. 1275 contains intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) because the bill would preempt the immigration and minimum wage laws of CNMI. CBO estimates that the costs of such mandates would not be significant and that the threshold for intergovernmental mandates established in UMRA ($50 million in 1996, adjusted annually for inflation) would not be exceeded.

S. 1275 contains private-sector mandates as defined in UMRA. Section 2 would impose a mandate on employers by limiting the number of temporary alien workers who could be legally present in CNMI. Section 3 would impose a mandate on employers by increasing the minimum wage which they would be required to pay their employees; the amount of the mandated increases in wages would be determined by an industry committee established as a result of enactment of this legislation. CBO cannot determine whether the direct cost to employers of those mandates would exceed the $100 million inflation-adjusted annual threshold specified in UMRA.

Description of the bill's major provisions: Within one year of enactment, S. 1275 would require that the AG determine whether CNMI possesses the institutional capacity to administer its own system of immigration control, consistent with minimum safeguards selected by the AG, and the will and commitment to enforce the system of immigration control. During this period, the bill would limit the number of temporary alien workers on CNMI to the number of individuals present at the date of enactment. If the AG determines that CNMI has both the institutional capacity and the commitment, then the INA would not take effect, although the bill would require that the AG make a new determination every three years thereafter.

If the AG determines that CNMI lacks either the institutional capacity or the political will to enforce its own system of immigration control, the bill would require that the Department of Justice (DOJ) develop a program to phase-in the INA, as modified for CNMI by S. 1275, over a period of no more than 10 years. The transition period would begin six months after the AG's determination. The program would include procedures for issuing visas to nonimmigrant temporary alien workers, family-sponsored immigrants, and employment-based immigrants. S. 1275 would allow CNMI to request that the federal government exempt certain family-sponsored and employment-based immigrant visas from certain limitations established by the INA.

For temporary alien workers who would not otherwise be eligible for admission into CNMI, S. 1275 would require that DOL establish and administer a system for issuing a decreasing number of annual permits to employers allowing them to hire such individuals during the transition period. The bill would authorize DOL to charge employers a fee for the permits; however, DOL could only use amounts collected from such fees to the extent authority was provided in advance by appropriations. To allow for the admission of temporary alien workers, the bill would authorize the Department of State to issue nonimmigrant visas.

To help implement the INA, S. 1275 would require that DOL and the Department of the Interior (DOI) develop a program to assist employers in hiring employees who are citizens of the U.S. or the freely associated states (Federated States of Micronesia, Republic of the Marshall Islands, and the Republic of Palau). The bill also would authorize DOL and DOJ to establish and maintain operations in the CNMI. Within five and one-half years of enactment, the bill would require that the President report to the Congress on the effectiveness of the Administration's efforts to implement the INA in CNMI.

In addition to the provisions affecting immigration control, S. 1275 would establish a special committee to determine minimum wage rates by industry for CNMI. The CNMI committee would be modeled after similar committees established in American Samoa, Puerto Rico, and the Virgin Islands. The committee would review wage rates once each biennium until such rates are equal to the minimum wage of the United States. In setting each rate, the bill would require that the committee consider the effect of the change on the industry's level of employment. In any event, S. 1275 would limit the amount of any annual increase to 50 cents.

Estimated cost to the Federal Government: The estimated cost of S. 1275 depends on whether the AG would require that the INA be applied to CNMI. On the one hand, if the AG decides not to apply the INA, we estimate that implementing the bill would increase annual costs, on average, by less than $500,000, subject to appropriation of the necessary amounts.

On the other hand, if the AG decides to apply the INA, we estimate that, subject to appropriation of the necessary amounts, implementing S. 1275 would increase costs by a total of between $7 million and $8 million over the fiscal year 1999–2003 period. In addition, beginning in fiscal year 2000, S. 1275 would decrease net direct spending by less than $500,000 each year.

The estimated budgetary impact of the bill is shown in the following table. The costs of this legislation fall within budget functions 800 (general government), 750 (administration of justice), 500 (education, training, employment, and social services), and 150 (international affairs).

[By fiscal year, in millions of dollars]

	1999	2000	2001	2002	2003
COST IF THE IMMIGRATION AND NATIONALITY ACT IS NOT APPLIED TO CNMI					
Spending subject to appropriation:					
Estimated authorization level	(1)	(1)	(1)	(1)	(1)
Estimated outlays	(1)	(1)	(1)	(1)	(1)
COST IF THE IMMIGRATION AND NATIONALITY ACT IS APPLIED TO CNMI					
Spending subject to appropriation:					
Estimated authorization level	(1)	1	2	2	2
Estimated outlays	(1)	1	2	2	2
Direct spending:					
Estimated budget authority	(1)	(1)	(1)	(1)	(1)
Estimated outlays	(1)	(1)	(1)	(1)	(1)

[1] Less than $500,000.

BASIS OF ESTIMATE

This estimate assumes that the bill will be enacted by the beginning of fiscal year 1999 and that the necessary amounts will be appropriated for each year. The amounts necessary will depend on whether the INA is applied to CNMI.

Estimated cost if the Justice Department does not apply the INA to CNMI

The increase in costs from not applying the INA would result primarily from establishing the special committee to determine minimum wage rates for CNMI. Based on information from DOL, we estimate that the committee would cost between $500,000 and $1 million every two years, or less than $500,000, on average, each year. In addition, DOJ would incur minor costs in fiscal years 1999 and 2002 to review CNMI's system of immigration control.

Estimated cost if the Justice Department applies the INA to CNMI

S. 1275 could result in additional costs if the AG applies the INA to CNMI. The bill also could reduce direct spending under this scenario; however, CBO estimates that the net reduction in direct spending would total less than $500,000 a year.

Immigration and Naturalization Service.—The increase in costs from applying the INA would result primarily from the INS administering the INA in CNMI, including the cost to relocate and hire the necessary personnel to handle immigration inspections, investigations, adjudications, and deportations. Based on information provided by the INS, we estimate that applying the INA would gradually increase its annual costs from about $500,000 in fiscal year 2000 to about $3 million in fiscal year 2003. That estimate assumes that the INS would phase in its operations over several years, eventually stationing around 40 people on CNMI. (By comparison, the INS currently spends about $5.7 million annually to station 82 employees on nearby Guam, another U.S. territory that has a considerably larger population than does CNMI, although its population is situated on a single island.) According to the INS, about half of the estimated costs would be financed from the collection of additional user fees, which could be spent without further appropriation. The other half of costs, which we estimate would increase from less than $500,000 in fiscal year 2000 to about $1.5 million in fiscal year 2003, would be subject to availability of appropriated funds.

Other Agencies.—Under this scenario, DOL would incur costs to issue permits to certain employers. Based on information provided by DOL, CBO estimates that implementing the permit system would not affect DOL's budget in fiscal year 1999 but would increase its costs by several hundred thousand dollars a year in 2000 through 2003. In addition, we estimate that DOL would collect an equivalent amount of permit fees each year, which would decrease direct spending. (The department would not be able to spend receipts from the new fees without appropriation.)

According to DOI, the federal government already is providing technical assistance to CNMI, and thus, the provision requiring that it and DOL assist employers in CNMI would not significantly increase federal costs. In addition, DOL and DOJ already have some personnel stationed in CNMI and would increase their personnel anyway to implement the INA. Thus, CBO estimates that authorizing the agencies to establish and maintain operations in CNMI would have no budgetary impact in this case.

Finally, based on information provided by the Department of State, we estimate that, subject to available funds, implementing S. 1275 would increase its annual costs by less than $100,000 in fiscal year 2000 and by between $100,000 and $200,000 a year in 2001 through 2003. Those amounts would cover the costs to add one to two officers overseas to process the additional visas that would result under S. 1275.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act specifies procedures for legislation affecting direct spending and receipts. Pay-as-you-go procedures would apply to S. 1275 because the bill could affect direct spending if the AG applies the INA to CNMI. In that case, we estimate that enacting S. 1275 would gradually increase the amount of offsetting receipts collected by the INS from less than $500,000 in fiscal year 2000 to about $1.5 million in fiscal year 2003. Because the INS could spend such receipts without further appropriation, the provision would have no net impact on direct spending.

If the INA is applied, S. 1275 also would allow DOL to collect fees from issuing permits to certain businesses operating in CNMI. According to DOL, it would charge fees at a rate that would cover its costs to issue the permits. We estimate that enacting S. 1275 could increase offsetting receipts by less than $500,000 a year.

Estimated impact on State, local, and tribal governments: S. 1275 contains intergovernmental mandates as defined in UMRA because the bill would preempt the immigration and minimum wage laws of CNMI. (CNMI would be considered a state for the purposes of UMRA). Section 2 of the bill would preempt the immigration laws of CNMI. Section 3 of the bill would preempt the minimum wage laws of CNMI and would require employers, including governmental employers, to increase the minimum wage that they would pay their employees. The amount of the mandated increase in wages would determined by a special industry committee but could not be more than 50 cents per year. Based on information from DOI and CNMI, CBO estimates that the costs of complying with these mandates would not be significant because the number of public employees affected by the bill would be limited and because the change in the workload of the Commonwealth's immigration staff would be small.

Estimated impact on the private sector: S. 1275 contains private-section mandates as defined in UMRA. Section 2 would impose a mandate on employers by limiting the number of temporary alien workers who could be legally present in CNMI. Section 3 would impose a mandate on employers by increasing the minimum wage which they would be required to pay their employees; the amount of the mandated increases in wages would be determined by an industry committee established as a result of enactment of this legislation. CBO cannot determine whether the direct cost to employers of those mandates would exceed the $100 million inflation-adjusted annual threshold specified in UMRA.

Estimate prepared by: Federal Costs: John R. Righter, Impact on State, Local, and Tribal Governments; Marc Nicole; and Impact on the Private Sector: Ralph Smith.

Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.●

RIVER AND HARBOR ACT DEAUTHORIZATION

Mr. McCAIN. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of calendar No 391, S. 1531.

The PRESIDING OFFICER (Mr. ALLARD). The clerk will report the bill.

The bill clerk read as follows:

A bill (S. 1531) to deauthorize certain portions of the project for navigation, Bass Harbor, Maine.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. McCAIN. Mr. President, I ask unanimous consent that the bill be considered read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1531) was considered read a third time and passed, as follows:

S. 1531

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

SECTION 1. BASS HARBOR, MAINE.

(a) DEAUTHORIZATION.—The portions of the project for navigation, Bass Harbor, Maine, authorized on May 7, 1962, under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577), that are described in subsection (b) are not authorized after the date of enactment of this Act.

(b) DESCRIPTION.—The portions of the project referred to in subsection (a) are described as follows:

(1) Beginning at a bend in the project, N149040.00, E538505.00, thence running easterly about 50.00 feet along the northern limit of the project to a point N149061.55, E538550.11, thence running southerly about 642.08 feet to a point, N148477.64, E538817.18, thence running southwesterly about 156.27 feet to a point on the westerly limit of the project, N148348.50, E538737.02, thence running northerly about 149.00 feet along the westerly limit of the project to a bend in the project, N148489.22, E538768.09, thence running northwesterly about 610.39 feet along the westerly limit of the project to the point of origin.

(2) Beginning at a point on the westerly limit of the project, N148118.55, E538689.05, thence running southeasterly about 91.92 feet to a point, N148041.43, E538739.07, thence running southerly about 65.00 feet to a point, N147977.86, E538725.51, thence running southwesterly about 91.92 feet to a point on the westerly limit of the project, N147927.84, E538648.39, thence running northerly about 195.00 feet along the westerly limit of the project to the point of origin.

WATER RESOURCES DEVELOPMENT ACT DEAUTHORIZATIONS

Mr. McCAIN. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of calendar No. 392, S. 1532.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A bill (S. 1532) to amend the Water Resources Development Act of 1996 to deauthorize the remainder of the project at East Boothbay Harbor, Maine.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. McCAIN. Mr. President, I ask unanimous consent that the bill be considered read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1532) was considered read a third time and passed, as follows:

S. 1532

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

SECTION 1. DEAUTHORIZATION OF REMAINDER OF PROJECT AT EAST BOOTHBAY HARBOR, MAINE.

Section 364 of the Water Resources Development Act of 1996 (110 Stat. 3731) is amended by striking paragraph (9) and inserting the following:

"(9) EAST BOOTHBAY HARBOR, MAINE.—The project for navigation, East Boothbay Harbor, Maine, authorized by the first section of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved June 25, 1910 (36 Stat. 657).".

Ms. SNOWE. Mr. President, I rise today to thank my colleagues for their support of my legislation, S. 1531 and S. 1532, introduced on behalf of the towns of Tremont and East Boothbay, Maine. S. 1531 deauthorizes certain portions of the navigational project for Bass Harbor, and S. 1532 deauthorizes the final portions of East Boothbay Harbor.

Bass Harbor has the greatest concentration of fishing boats on Mt. Desert Island and all mooring spaces are currently full, with a long waiting list to obtain future moorings. When the townspeople approached the U.S. Army Corps of Engineers to obtain a permit for expansion, they were told that no improvements could be made until the federal project area boundary was moved to the proper location by legislative action. I was happy to do this on their behalf. The Selectmen, Town Manager, and Harbor Committee will now be working with the Corps and the State in anticipation of having the harbor dredged, which last occurred in 1966, so that they may make space available for more and larger boats.

S. 1532 deauthorizes the remainder of the federal navigational project at Boothbay Harbor. The current marina owners purchased the former shipbuilding yard in East Boothbay in 1993 and have since turned it into a full service marina. In the process of getting all the permits together for further economic development, the marina discovered that parts of the harbor, while no longer used as such, were still deemed a federal navigation project created back in 1913, when mine sweepers and other ships were being built there for World War I. Because part of the federal navigation project is still considered active, the Corps told the town that nothing could be done in the water until the entire area was deauthorized. My bill takes care of this

final deauthorization, the rest of which was accomplished in the last reauthorization of Water Resources Development Act, but the coordinates were ultimately found to be inaccurate. This legislation, with the assistance of the Corps, addresses that small section still requiring deauthorization.

I am especially pleased for the towns of Tremont and East Boothbay, with whom I have worked in the long deauthorization process, so as to allow them to continue with much needed harbor development. I want to thank Senator CHAFEE and his Environment and Public Works Committee for moving these bills out of committee and to the Senate floor. When passed by the House and signed into law, the bills will allow the towns to get on with much needed economic development in their harbors.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. McCAIN. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on the Executive Calendar: Nos. 643, 644, and 645. I further ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

Mr. President, for the benefit of colleagues, those executive calendar items, Nos. 643, 644, and 645, those nominations are Joseph Westphal, Assistant Secretary of the Army; Mahlon Apgar, IV, Assistant Secretary of the Army; and Hans Mark, Director of Defense Research and Engineering.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF DEFENSE

Joseph W. Westphal, of Virginia, to be an Assistant Secretary of the Army.

Mahlon Apgar, IV, of Maryland, to be an Assistant Secretary of the Army.

Hans Mark, of Texas, to be Director of Defense Research and Engineering.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 105–49

Mr. McCAIN. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following treaty transmitted to the Senate on June 9, 1998 by the President of the United States: Inter-American Convention Against Illicit Manufacturing and Trafficking of Firearms, Ammunition, Explosives, and Other Related Materials (Treaty Document No. 105–49); I further ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials (the "Convention"), adopted at the Special Session of the General Assembly of the Organization of American States (OAS) at Washington on November 13, 1997. The Convention was signed by the United States and 28 other OAS Member States on November 14, 1997, at the OAS Headquarters in Washington. So far, 31 States have signed the Convention and one (Belize) has ratified it. In addition, for the information of the Senate, I transmit the report of the Department of State with respect to the Convention.

The Convention is the first multilateral treaty of its kind in the world. The provisions of the Convention are explained in the accompanying report of the Department of State. The Convention should be an effective tool to assist in the hemispheric effort to combat the illicit manufacturing and trafficking in firearms, ammunition, explosives, and other related materials, and could also enhance the law enforcement efforts of the States Parties in other areas, given the links that often exist between those offenses and organized criminal activity, such as drug trafficking and terrorism.

The Convention provides for a broad range of cooperation, including extradition, mutual legal assistance, technical assistance, and exchanges of information, experiences, and training, in relation to the offenses covered under the treaty. The Convention also imposes on the Parties an obligation to criminalize the offenses set forth in the treaty if they have not already done so. The Convention will not require implementing legislation for the United States.

This treaty would advance important U.S. Government interests, and would enhance hemispheric security by obstructing the illicit flow of weapons to criminals such as terrorists and drug traffickers. In addition, ratification of this Convention by the United States would be consistent with, and give impetus to, the active work being done by the United States Government on this subject in other fora, such as the United Nations, the P–8 Group, and the OAS Inter-American Drug Abuse Control Commission (CICAD).

I recommend that the Senate give early and favorable consideration to the Convention, and that it give its advice and consent to ratification.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 9, 1998.*

ORDERS FOR WEDNESDAY, JUNE 10, 1998

Mr. McCAIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 11 a.m. on Wednesday, June 10th. I further ask that on Wednesday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate then resume consideration of S. 1415, the tobacco bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. I further ask unanimous consent that the cloture vote occur immediately upon convening, and the mandatory quorum under rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. McCAIN. Mr. President, for the information of all Senators, tomorrow there will be a joint meeting in the House Chamber to hear an address by the President of South Korea. Senators are asked to be in the Senate Chamber by 9:40 a.m. in order to proceed as a body to the Hall of the House of Representatives to hear the address.

The Senate will then convene at 11 a.m. and immediately proceed to the second attempt to invoke cloture on the pending tobacco bill. Assuming cloture is not invoked, it will be the leader's intention to try to reach an agreement similar to the agreement reached today with respect to the drug issue, which will call for two votes on the marriage penalty issue, at 1 p.m. or 2 p.m. on Wednesday.

Therefore, votes will occur during Wednesday's session of the Senate, with the first vote being the second attempt to invoke cloture on the tobacco bill.

ADJOURNMENT UNTIL 11 A.M TOMORROW

Mr. McCAIN. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:10 p.m., adjourned until Wednesday, June 10, 1998, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate June 9, 1998:

DEPARTMENT OF HOUSING OF URBAN DEVELOPMENT

WILLIAM C. APGAR, JR., OF MASSACHUSETTS, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT, VICE NICOLAS R. RETSINAS, RESIGNED.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

MICHAEL H. TRUJILLO, OF NEW MEXICO, TO BE DIRECTOR OF THE INDIAN HEALTH SERVICE, DEPARTMENT OF HEALTH AND HUMAN SERVICES, FOR A TERM OF FOUR YEARS. (REAPPOINTMENT)

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE AS DEAN OF FACULTY, UNITED STATES AIR FORCE ACADEMY, A POSITION ESTABLISHED UNDER TITLE 10, UNITED STATES CODE, SECTION 9335, AND FOR APPOINTMENT TO THE GRADE INDICATED IN ACCORDANCE WITH ARTICLE II, SECTION 2 OF THE CONSTITUTION OF THE UNITED STATES:

To be brigadier general

COL. DAVID A. WAGIE, x...

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10 U.S.C., SECTION 12203:

To be brigadier general

COL. GEORGE W. KEEFE, x...

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIG. GEN. KENNETH W. HESS, x...

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10 U.S.C., SECTION 12203:

To be major general

BRIG. GEN. RICHARD C. COSGRAVE, x...

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLED 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. THOMAS J. KECK, x...

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. MARVIN R. ESMOND, x...

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

GEN. RICHARD B. MYERS, x...

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. PATRICK K. GAMBLE, x...

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. RICHARD S. COLT, x...

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

KEITH B. ALEXANDER, x...
DORIAN T. ANDERSON, x...
ELDON A. BARGEWELL, x...
DAVID W. BARNO, x...
WILLIAM H. BRANDENBURG, x...
JOHN M. BROWN, III, x...
PETER W. CHIARELLI, x...
CLAUDE V. CHRISTIANSON, x...
EDWARD L. DYER, x...
WILLIAM F. ENGEL, x...
BARBARA G. FAST, x...
STEPHEN J. FERRELL, x...
THOMAS R. GOEDKOOP, x...
DENNIS E. HARDY, x...
STEVEN R. HAWKINS, x...
JOHN W. HOLLY, x...
DAVID H. HUNTOON, JR., x...
PETER T. MADSEN, x...
JESUS A. MANGUAL, x...
THOMAS G. MILLER, x...
ROBERT W. MIXON, JR., x...
VIRGIL L. PACKETT, II, x...
DONALD D. PARKER, x...
ELBERT N. PERKINS, x...
JOSEPH F. PETERSON, x...
DAVID H. PETRAEUS, x...
MARILYN A. QUAGLIOTTI, x...
MAYNARD S. RHOADES, x...
VELMA L. RICHARDSON, x...
MICHAEL D. ROCHELLE, x...
JOE G. TAYLOR, JR., x...
NATHANIEL R. THOMPSON, III, x...
ALAN W. THRASHER, x...
JAMES D. THURMAN, x...
THOMAS R. TURNER, II, x...
JOHN M. URIAS, x...
MICHAEL A. VANE, x...
LLOYD T. WATERMAN, x...

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIG. GEN. EVAN R. GADDIS, x...
BRIG. GEN. ALFRED A. VALENZUELA, x...

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. ROBERT F. FOLEY, x...

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS CHIEF OF THE BUREAU OF MEDICINE AND SURGERY AND SURGEON GENERAL AND FOR APPOINTMENT TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 601 AND 5137:

To be vice admiral

REAR ADM. RICHARD A. NELSON, x...

IN THE ARMY

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

ISAAC V. GUSUKUMA, x...
ROBERTA M. JANSSEN, x...
MORRIS D. MOOREHEAD, x...
JAMES I. PYLANT, x...

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

MICHAEL D. CORSON, x...
KENNETH H. NEWTON, x...

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY AND REGULAR APPOINTMENT IN THE MEDICAL SPECIALIST CORPS (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624, 628, AND 3064:

To be major

* TIMOTHY C. BEAULIEU, x...

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624, 628, AND 3064:

To be major

* JAMES E. RAGAN, x...
* FAYE M. JONES, x...
ROBERT F. BECHTOLD, x...
* MATTHEW J. SCHOFIELD, x...
* GLEN J. MESAROS, x...
* RICHARD D. PRICE, x...
* JOHN H. CHILES, x...

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS FOR REGULAR APPOINTMENT AS PERMANENT LIMITED DUTY OFFICERS IN THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 5589:

To be captain

WILLIAM M. AUKERMAN, x...
JOSEPH BRANCO, x...
ANTHONY M. BROOKER, x...
PATRICK W. BURNS, x...
KATHY M. CHARETTE, x...
ROBERT E. CHOTE, x...
STEVEN P. COUTURE, x...
STANLEY A. CUNNINGHAM, x...
MICHAEL P. DANHIRES, x...
SAMUEL E. DAVIS, x...
DOUGLAS E. DIPPOLD, x...
KELVIN F. DUDENHOEFFER, x...
KEITHA DUTTON, x...
GREGORY D. EDWARDS, x...
DOUGLAS M. FINN, x...
KELLY O. FLODSTROM, x...
GERALD M. FOREMAN II, x...
PAUL A. FOX, x...
CHARLES G. GROW, x...
RICHARD D. HARDIN, x...
KATHLEEN A. HOARD, x...
MICHAEL J. KENNETH, x...
TODD E. KUNST, x...
ROY E. LAWRENCE, x...
LANE A. MASSEY, x...
ROBERT T. MAXEY, x...
ALONZO H. MAYS, x...
JAMES D. MCCOY, x...
JESSE MCRAE, x...
ROBERT R. NEWTON, JR, x...
DAVID L. NICHOLS, x...
CHARLES E. PARHAM, JR, x...
DOUGLAS W. PHILLIPS, x...
ANDREW M. ROSE, x...
DANIEL S. RYMAN, x...
CARLOS D. SANABRIA, x...
GEORGE M. SEXTON, x...
JAMES T. TAYLOR, x...
CHARLES L. THRIFT, x...
ELLEN P. TIPPETT, x...
DAVID W. TOMILSON, x...
GABRIEL J. TORRES, x...
JOSEPH J. WAYNE, x...
FRANK L. WHITE, x...
JOHN W. WOMACK, x...
DAYLE L. WRIGHT, x...

CONFIRMATIONS

Executive Nominations Confirmed by the Senate June 9, 1998:

DEPARTMENT OF DEFENSE

JOSEPH W. WESTPHAL, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE ARMY.

MAHLON APGAR IV, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF THE ARMY.

HANS MARK, OF TEXAS, TO BE DIRECTOR OF DEFENSE RESEARCH AND ENGINEERING.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

WITHDRAWAL

EXECUTIVE MESSAGE TRANSMITTED BY THE PRESIDENT TO THE SENATE ON JUNE 9, 1998, WITHDRAWING FROM FURTHER SENATE CONSIDERATION THE FOLLOWING NOMINATIONS:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

WILLIAM C. APGAR, JR., OF MASSACHUSETTS, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT, VICE MICHAEL A. STEGMAN, RESIGNED, WHICH WAS SENT TO THE SENATE ON FEBRUARY 25, 1998.

HOUSE OF REPRESENTATIVES—*Tuesday, June 9, 1998*

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore (Mr. BALLENGER).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
June 9, 1998.

I hereby designate the Honorable CASS BALLENGER to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 3811. An act to establish felony violations for the failure to pay legal child support obligations, and for other purposes.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 21, 1997, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to 30 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to 5 minutes.

The Chair recognizes the gentleman from Guam (Mr. UNDERWOOD) for 5 minutes.

GUAM'S CENTENNIAL COMMEMORATION OF THE SPANISH-AMERICAN WAR

Mr. UNDERWOOD. Mr. Speaker, the Spanish-American War, which we are in the 100th year commemorating this year, was not a self-contained event. To the contrary, those events 100 years ago have far-reaching consequences today.

The fact that I am standing here representing Guam, speaking from the floor of the House, is testimony to the effects of the Spanish-American War. Guam's American journey began on June 20, 1898, when Captain Glass, U.S. Commander of the USS *Charleston*, accepted the surrender of Spanish forces based on Guam. From that initial point, our relationship with the U.S. has progressed from an island governed by the Navy Department and subjected to travel restrictions to an American unincorporated territory with a democratically elected local government.

However, the people of Guam continue to strive for political development, and since 1988, Guam has continually requested a new political status, a Commonwealth with the United States. Unfortunately, this next step in our political development has not yet been fully addressed.

The centennial anniversary is a time of reflection for our island. I have spoken from the well many times on the significance of this occasion, and I believe the centennial anniversary of 100 years under American governance should be a time for enlightened retrospection on Guam's relationship with the U.S.

If one were to analyze our relationship with the United States, it does not take a think tank strategist to figure out that Guam was and continues to be of primary strategic importance in the Pacific. If you were to fly a 7-hour airplane trip from Guam in any direction, you will hit a larger percentage of the world's population than if you fly from any city inside the United States. In fact, Guam was first used by American forces as a coaling station, and today we are an important base for the forward deployment and strategic positioning of military forces in the Asia-Pacific region.

One would also easily notice that Guam's relationship with the United States is characterized by the faith of the people of Guam in the American system of government and promise for self-determination. For example, Guam's first petition regarding the clarification of their political status was in 1901, 2 years after Guam was acquired. In 1933 a petition signed by the island was presented asking for political status clarification.

Guam is the only American territory that was occupied by enemy forces during World War II. Not only did the people of Guam withstand brutal marches and abuse for 32 months under the occupation forces, men and women even risked their lives to clothe and feed U.S. servicemen hiding from the Japanese Army.

To assist in our efforts to further understand the Spanish-American War, I am pleased to announce that the University of Guam's Richard Flores Taitano Micronesia Area Research Center is sponsoring a conference entitled "The Legacy of the Spanish-American War, a Centennial Conference."

I would like to enter into the RECORD a calendar of events. We have international participants for this truly international issue. Academic and professionals from the United States, Spain, Germany, Philippines, and Guam will be on hand to discuss the Spanish-American War itself. On June 21, later on this month, there will be a reenactment of the raising of the American flag over Guam.

Commemorating the centennial of that flag-raising will be a once-in-a-lifetime opportunity for many. However, I would like to emphasize, that for the people of Guam, 1998 is a year of commemoration, a year to remember Guam's transfer from Spanish to American jurisdiction. It was an act of colonialism based upon a previous Spanish act of conquest and an American victory in war. The people of Guam, my people, really had very little to do with it.

The Treaty of Paris, signed between the United States and Spain, stipulates that the United States Congress is obligated to determine the civil rights and political status of Guam's native inhabitants. One hundred years has passed, and this obligation has not been entirely fulfilled. The people of Guam certainly have much to reflect upon, and I hope that we do not wait for another 100 years before this country brings the full meaning of democracy to an area first taken in the spirit of imperialism.

Mr. Speaker, I include the program of the conference I mentioned earlier.

The material referred to is as follows:

[The Richard Flores Taitano Micronesian Area Research Center, University of Guam]

THE LEGACY OF THE SPANISH AMERICAN WAR IN THE PACIFIC: A CENTENNIAL CONFERENCE—17, 18 AND 19 JUNE 1998

Inauguration: Hilton Hotel, Wednesday 17 June 1998, 6:15 p.m.–9:30 p.m. Panels: Hilton Hotel, Thursday 18 June 1998, 8:00 a.m.–5:00 p.m. Guided Tour to Historical Sites: Friday 19 June 1998, 8:00 a.m.–5:00 p.m. Conclusion: Hagana Cathedral-Basilica Friday 19 June 1998, 7:00 p.m.

Registration, Hilton Hotel, Wednesday 17 June 1998, 5:00 p.m., $25.00.

Join this interdisciplinary conference, which offers the possibility for an exchange of ideas among local, national and international scholars. As an academic conference, it will increase discussion regarding the effects of 1898, not only on Guam, but on other areas of the Pacific.

This year, 1998, the centennial of the Spanish American War, provides an opportunity to reflect on the events that directly affected

the people of Guam and the Pacific. It is important to consider those historical events that show the links of Guam with the Philippines and Spain in the past and with the United States today, while paying significant attention to the expectations of its people.

Featured Panelists:

Key Note Speaker, Congressman Robert Underwood.

Lourdes Diaz-Trechuclo, Ph.D., Universidad de Cordoba, Spain "Spanish Politics and the Mariana Islands."

Herman Hiery, Ph.D., University of Bayreuth, Germany "War with Germany is Imminent: Germany and the Philippines in the Spanish American War."

Thomas H. Neale, U.S. Library of Congress "Reluctant Imperialist? U.S. Congress and the War of 1898."

Wilfrido Vallacorta, Ph.D., De la Salle University, Philippines.

Logan Wagner, Ph.D., University of Texas "Architectural and Urban Design Legacy of Guam's Spanish Period."

Javier Galváin, Architect, School of Architecture, Madrid "The Preservation of the Architectural Legacy of Micronesia."

Jorge Loyzaga, Senior Architect, Mexico.

Dirk A. Ballendorf, Ed.D., University of Guam "The Americans, the Spanish-American War, and the Caroline Islands."

Prof. Augusto de Viana, University Ateneo de Manila "Apolinario Mabini and other Revolutionaries exiled in Guam by the Americans."

Florentino Rodao, Ph.D., Universidad Complutense, Madrid "Monsignor Olano, Bishop of Guam."

Arnold M. Leibowitz, Esq., Washington, D.C. "The Concept of Commonwealth and Freely Associate States."

Most Rev. Anthony Apuron, O.F.M. Cap, D.D. "The Role of the Church in the Preservation of the Chamorro Language."

Rafael Rodiguez-Ponga, Ph.D., Director General of International Cooperation of the Ministry of Education and Culture of Spain "The Spanish Influence in the Chamorro Language."

Laura T. Sauder, Ph.D. CEO, Betances & Associates, Chicago "Enduring Legacies: A Catholic Socio-religious Identity, An American Socio-political Identity."

Antonio Garcia-Abasolo, Ph.D., Universidad de Cordoba, Spain "Spanish Migration and Population to the Philippines."

Ann Hattori, Ph.D. candidate, University of Hawaii at Manoa "Feminine Hygiene: Gender and Health Under the U.S. Naval Government of Guam, 1898–1941."

Robert E. Statham, Ph.D., University of Guam "The U.S. Commonwealth of Puerto Rico: Pragmatism and the Empty Promise of Confederal Autonomy in the American Federal Republic."

Michael Phillips, Esq., Guam "Give 'em an inch; they take a yard. Grant 'em an easement; they take it all."

Donald Platt, Ph.D., University of Guam "Humanitarianism, Imperialism, or what? Demythologizing the United States' Reasons for going to War with Spain in 1898."

Robert F. Rogers, Ph.D., University of Guam (R) "From Spanish Lake to America Lake: The Enduring Geopolitical Legacy of the Spanish American War."

For more information contact RFT MARC 735–2150 or Professor Omaira Brunal-Perry, Chairperson Organizing Committee 735–2157.

This program is supported by The University of Guam, The Richard Flores Taitano Micronesian Area Research Center, the Director General of International Cooperation of the Ministry of Education and Culture of Spain, the Guam Preservation Trust, the Guam Visitors Bureau, the U.S. Department of Interior, the Office of Delegate Robert Underwood, Title VI NRC/FLAGS Grant Project, the 24th Guam Legislature and the Centennial Task Force.

THE 2000 CENSUS: POLLING VERSUS AN ACTUAL COUNT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Florida (Mr. MILLER) is recognized during morning hour debates for 5 minutes.

Mr. MILLER of Florida. Mr. Speaker, we are less than 2 years from the beginning of the decennial census. The decennial census is a requirement of our Constitution where we count everybody living in America every 10 years. Since 1970 we have been doing it, and we are gearing up now for the 2000 census. It is one of the most important and controversial issues faced in public policy today.

It is controversial because, for the first time in history, the Clinton administration has proposed a radically different approach to be conducting the census. They have proposed this radical change without the approval of Congress. For the first time in history since 1790, for the first time, they do not want to count everybody. They only want to count some of the people and guess at the rest of them. They want to use science to come up with estimates of a population, rather than actually counting people, the hard work of counting people. From the days of Jefferson and Washington, we have been counting the population. Now they have come up with this radical idea.

It is a very important issue because it is fundamental to our democratic system of government, because most elected officials in this country are dependent upon an accurate census, and hundreds of billions of dollars flow out of Washington and out of State capitals on the census, so it is a critical issue.

The problem we are facing is we are moving towards a failed census. The General Accounting Office, who is the independent auditor of the Federal Government, has reported time and again that we are moving towards a failed census. The Inspector General for the Commerce Department has also warned us. So we have a serious problem.

Last week the President flew to Houston, mainly to raise money, but also to talk about the census. I am glad the President has entered this debate personally. His arguments in Houston were exactly why we should not use his plan.

What the President talked about was polling versus sampling. Polling is something we are all very familiar with. It is used in politics and actually in business and for a wide variety of areas. What the President was saying, and there is an interesting analogy, is that polling, and let me quote the President, "Most people understand that a poll taken before an election is a statistical sample. Sometimes it is wrong, but more often than not, it is right." That is what the President said. "Sometimes it is wrong, but more often than not, it is right."

Well, let us look at what really happens with polling. We will see the problems with it and why it is so dangerous and risky to try to use polling on the upcoming decennial census. One of the best ways to evaluate whether a poll is accurate is looking at election results. Let us look back at the last Presidential election in 1996, less than 2 short years ago.

Right before the election in November, all the major polls came up with the results that weekend before the Tuesday election. As we all know, President Clinton won and beat Bob Dole by 8 percentage points. That is a factor, what do you win by, and what is the difference between the winner and loser. Bill Clinton won and got 8.4 percent higher votes, percentage points, than Bob Dole.

CBS/New York Times, on the weekend before the election, the polling said the victory is going to be 18 points, not 8 percent, 18 percentage points. ABC said 12 percentage points. The Harris poll said 12 percentage. The Wall Street Journal/NBC, said it was going to be a 12-point election. CNN/USA Today, conducted by the Gallup poll, said a 13-point spread, not 8 points. That was a 50 percent mistake.

How can we rely on polling? We cannot just say it is close enough for government work. We are going to spend $4 billion on a poll that is not going to be close, if it is based on the polling ideas, the President wants us to risk that, and especially since it is something that is so important and that is fundamental to our democratic system. It is just wrong.

The President did not mention that back in 1990 we attempted to use sampling. It failed in 1990. When they tried to use sampling to adjust the population enumeration, it was a failure. It was a failure because it would have, for example, taken a congressional seat away from Pennsylvania and given it away without justification, because it turned out 2 years later it was a computer error and never should have been recommended.

It also says that adjusting, based on sampling, is less accurate when you have populations of less than 100,000 people. I am sure big-city mayors may like this, but we have to work with census tracts, we have to work with smaller communities. How do we show this is going to be trustworthy?

There is another thing I was concerned about in President Clinton's

comments. I do not think President Clinton means to divide America. He said that Texas would have gained $1 billion if we had used sampling. We are talking about a zero sum game. A zero sum game means if you give $1 billion to Texas, you are going to take away $1 billion from somewhere else. We only have a fixed amount of money when we get to block grants. When we take money from one area to another area, we had better explain to people why we are taking the money away.

For example, when we start adjusting the census and subtracting people from the population, which they tried to do in 1990, that is when we start making people upset and not trusting our system. We cannot use this. This is not close enough for government work. It is wrong. We need to do an actual enumeration.

E-RATE/TRUTH IN BILLING

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Oregon (Mr. BLUMENAUER) is recognized during morning hour debates for 5 minutes.

Mr. BLUMENAUER. Mr. Speaker, over the course of recent months, I have taken to this floor in support of one of the critical elements of the 1996 Telecommunication Act, which was an agreement that was forged between Congress and the telecommunications industry for the benefit of our schools and libraries.

It was decreed that the concept of universal service, which has been employed since 1934 to subsidize the cost of extending service to rural areas, areas that provide very high costs, would be extended to include the Internet access for our schools and libraries through a mechanism known as the E-Rate.

It was determined that the E-Rate would be paid for by the savings that would be received by the telecommunication industry as a result of deregulation.

Over the course of this last year and a half, 30,000 schools and libraries across America are seeking to capitalize on this provision in the agreement. They have put tens of thousands of dollars into developing technology plans and applying for the discounts on services they need to give America's school kids access to the information highway. This is an important opportunity to remedy the fact that barely a quarter of America's classrooms have Internet access today.

Through a mechanism that would provide discounts ranging from 20 to 80 percent based on the cost of providing service and the poverty level in the individual community, this access would be provided.

Of late we have seen a certain amount of controversy arise surrounding the FCC and its handling of the new E-Rate authority. I will be the first to admit that there are a host of management and universal service issues. There are concerns, perhaps, about the mechanism chosen by the previous FCC Chair to pursue application approval.

□ 1245

But as evidenced by the recent surcharges that have been imposed by some of the giant telecommunications companies, and the people's reaction to them, there is also some controversy over whether adequate savings have materialized to cover the E-Rate costs or whether phone companies are seeking to recoup costs they have already recovered under deregulation.

I have received and examined information from the FCC that suggests that there are already over $2 billion worth of savings that have been granted to the telecommunications industry with hundreds of millions of dollars more underway; more than enough to offset the proposed $2 billion that is currently in the pipeline of applications from our schools and libraries.

But my concern, Mr. Speaker, is that we cannot let these controversies derail the promise of Internet and the benefits for schools that were approved under the act in 1996.

Mr. Speaker, I am introducing legislation today that would call for a General Accounting Office study on the actual savings and give consumers some truth in billing. It would show how much money has been saved by the telecommunication carriers as a result of these hundreds of millions of dollars in reduction. It would show how much has been passed back through to the consumers, and how much additional cost telecommunications carriers will have to bear, if any, in the implementation of the E-Rate.

In addition, my legislation would require that for those companies that seek to add additional line items to their bills, that these line items reflect the full and the accurate picture of both savings and costs to the carriers as a result of the Federal regulatory actions.

Similar language has already passed in the United States Senate, a part of their antislamming legislation, by a vote of 99-to-nothing.

The complex arguments surrounding implementation of a complex bill are hard for everybody to follow, but it will be lost on the thousands of representatives of our communities who are now operating in good faith to take advantage of what they understood to be a promise to help our schools and libraries.

We cannot end up holding our kids hostage to an intergovernmental dispute. This Congress will end up doing very little for education, the number one priority for most Americans. We must ensure that America's school kids have access to the information resources they need.

NATIONAL MEN'S HEALTH WEEK

The SPEAKER pro tempore (Mr. BALLENGER). Under the Speaker's announced policy of January 21, 1997, the gentleman from Florida (Mr. FOLEY) is recognized during morning hour debates for 5 minutes.

Mr. FOLEY. Mr. Speaker, I have just returned from Florida and had my usual town hall meeting where we have a chance to discuss issues of the day with our constituents, and one of the things I find myself frequently talking about is health care, the cost of health care, the spiraling cost of health care and its impact on the human spirit and the human condition.

Regrettably, in society, we are spending a lot of time finding ways to spend money after disease onsets the human body. We talk about prostate cancer after the fact rather than PSA tests that could quickly arrest prostate cancer in the early beginning.

I found myself this morning reading a magazine on my flight from Florida, Men's Health, and I see a new nationwide survey reveals that men are not only avoiding important health checks, they are significantly behind women in the awareness of the importance of preventive health care. A nationwide survey conducted for Men's Health Magazine and CNN by Opinion Research Corporation finds that 1 in 10 or approximately 7 million men have avoided getting regular health exams for more than a decade. Over all, slightly more than 15 million men have not had a basic health check in over 15 years.

Let us talk about some of the statistics affecting men's health. An estimated 184,500 new cases of prostate cancer will be diagnosed in 1998. At least an estimated 2.5 million men, or one-third of all men with diabetes, do not even know they have the disease. Despite advances in medical technology and research, the life expectancy of men continues to be an average of 7 years less than women.

Nearly 120,000 men aged 25 to 64 died from heart disease or stroke in 1995. The death rate of men from prostate cancer has increased by 23 percent since 1973. Twenty-seven percent of men will die within one year after having a heart attack.

In 1997, the bulk of government funding for breast cancer research was approximately $332 million; for prostate cancer, $82.3 million. An estimated 39,200 men will die of prostate cancer in 1998. It is the second leading cause of cancer death in men.

Women visit doctors 30 percent more than men do. In 1995, nearly three-fourths of heart transplant patients in the United States were male and over 30 percent of men in the United States are overweight.

Why do I reveal these statistics? Because it is vitally important that America get healthy. One simple change would be encouraging men to take an active role, as women do, in regularly visiting their physician for basic treatment and examinations. The rate of male mortality could significantly be reduced if we would encourage men to seek treatment before symptoms have reached a critical stage.

For example, a good friend of mine, Senator Bob Dole, is alive today because he sought early care for prostate cancer. Others, such as Muppet creator, Jim Henson, and Time-Warner Chair, Steve Ross, waited far too long for medical advice.

Now, in 1994, Congress inaugurated National Men's Health Week, which begins this year on June 15 and culminates on Father's Day, June 21.

Why is it vitally important that men become more aware of their health care needs? First and foremost for their longevity. Secondly, for the quality of life. Thirdly, as we look at the Federal budget and the growth of funding in Medicare and other programs, it is vitally important to rein in the costs of spending. It is much better in society for us to take preventive measures, to look at the healthy aspect of life, to look at ways to prevent the onslaught of disease by doing several things: One, exercise; one, controlling fat intake; one, obviously eliminating smoking as part of one's lifestyle; minimizing drinking. All of these things can be accomplished.

In addition for this week, nongender-specific issues such as heart disease, cholesterol count, blood pressure; specific health issues that deal with men such as stroke, colon cancer, prostate cancer, suicide, alcoholism, and men's fear of doctors, among others, should be focused on.

What will a week's difference make in the scheme of things? What will the difference in June 15 to June 21 yield? Well, when the problems of women's breast cancer and its rising rates became apparent over the past several years, the designation of October as National Breast Cancer Awareness Month enabled a broad collation of health organizations, associations, individual groups and the media to focus on the vital role simple steps such as breast exams can play in preventing this deadly disease. As a result, more women than ever before are taking steps to detect and treat breast cancer in its earlier stages, thereby sustaining their life and preventing the onslaught of a ravaging disease.

By developing an entire week on the broad range of health issues affecting men and ultimately their families, National Men's Health Week attempts to achieve the same positive behavioral changes among men that is already being undertaken by women.

So I urge men to follow the advice, read up on publications, try and exercise in order to preserve their health and, obviously, their family's.

DON HENLEY AND THE WALDEN WOODS PROJECT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Texas (Mr. LAMPSON) is recognized during morning hour debates for 5 minutes.

Mr. LAMPSON. Mr. Speaker, I want to take a moment to honor a special man, Don Henley. Many of us know Mr. Henley for the numerous hit records that he has produced over the years. He has been recognized countless times for his fine musical achievements.

But today I want to honor Don Henley for something far more than the hit music that he has brought to us over the years. I want to recognize him for the wonderful work that he has done with the Walden Woods project and the Thoreau Institute to preserve the area around Walden Pond. These woods served as an inspiration for Henry David Thoreau's great work, "Walden."

Don Henley was drawn to Thoreau's writings as a high school student growing up in East Texas. He was troubled when he learned that the Walden Woods were threatened in 1989 by two commercial development projects. Plans were underway for the construction of an office complex 700 yards from Thoreau's cabin site and 139 condominiums less than 2 miles from Walden Pond itself.

In 1990, Mr. Henley founded the Walden Woods project, a nonprofit organization focused on the preservation of the land within the Walden Woods ecosystem. The project was able to raise enough money to purchase and to protect 100 acres of the woods, including the two sites slated for development.

Don Henley's work continues as the Walden Woods project has combined efforts with the Thoreau Society to form the Thoreau Institute. On June 5, the Institute was formally inaugurated at the same beautiful landscape that captivated the attention and the appreciation of the great author.

The Thoreau Institute will work to unite interest in saving the environmental riches of the woods with the study of Thoreau's scholarly writing. The Institute aspires to bring Thoreau's writings to individuals around the world.

Last September, Mr. Henley was awarded a National Humanities Medal by President Clinton for his extraordinary work to save Walden Pond. The President noted that the award was given to those men and women who keep the American memory alive and infuse the future with new ideas.

Mr. Henley has always been committed to the goals of preserving our environment and our natural resources. Through his hard work and his dedication, Don Henley has ensured that the legacy of Walden Pond will continue to be an inspiration for generations to come.

SELF-DETERMINATION FOR THE AMERICAN CITIZENS OF PUERTO RICO

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Puerto Rico (Mr. ROMERO-BARCELÓ) is recognized during morning hour debates for 5 minutes.

Mr. ROMERO-BARCELÓ. Mr. Speaker, 3.8 million American citizens of Puerto Rico are eager to exercise self-determination. We care passionately about our political status and we support congressional measures which call for a referendum, define status options, and provide for the implementation of the status choice that prevails.

Opponents of these bills object to the fact that if a majority of the 3.8 million U.S. citizens vote for statehood, a process might begin which would lead to the islands's full incorporation into the United States as an equal partner. So, some may be wondering what is the problem? What is the problem with having American citizens achieve the right to vote and the right to representation? If my colleagues should ask me, nothing. But some Members of Congress want to impose a supermajority requirement on Puerto Rico if we were to vote for statehood. If they have their way, even if a majority of American citizens in Puerto Rico voted for statehood and only 44 percent voted for Commonwealth, we would remain as a Commonwealth.

Why? Why should the will of a minority decide the relationship of 3.8 million American citizens? Why should a minority keep almost 4 million American citizens disenfranchised and denied the right to participate in their Nation's democratic process?

Mr. Speaker, is the imposition of such a threshold not unprecedented and shameful? Of course it is. It is also undemocratic.

H.R. 856 or S.472 would allow the American citizens in Puerto Rico to exercise their right to self-determination. They would give the American citizens in Puerto Rico an honest choice by providing congressionally approved and constitutionally sound definitions which explicitly detail the privileges and limitation of each of the status options.

In such a contest, statehood most probably would prevail. That apparently is not acceptable for the opponents of Puerto Rican self-determination. They imagine that the voters of all the territories overwhelmingly favored statehood before entering the Union and Puerto Ricans should do likewise.

But that simply is not the case. Most territories never even held referendums on statehood and, in some instances, the progress towards incorporation was advanced or stalled by whether or not the voters accepted their State constitutions. By this measure, voters in Colorado, Wisconsin, and Nebraska were decidedly ambivalent about the prospect of statehood, yet they all became States.

In Colorado's case, Congress passed an enabling act, but the citizens of the territory resoundingly rejected their first State constitution. A second State constitution was drafted and it prevailed by a narrow majority of 155 votes. But that is just the beginning of the story. President Andrew Johnson vetoed two statehood measures because Colorado's constitution differed substantially from the enabling act. Another 9 years passed before Colorado's voters managed to ratify a constitution compatible with the statehood measure.

Nebraska, for its part, could be nicknamed the reluctant State. Its voters rejected the first proposal floated for a convention to draft a State constitution and were happy to let the matter rest there. But 4 years later, Congress seized the initiative and, without a mandate from territorial residents, passed an enabling act for Nebraska.

□ 1300

The voters wanted nothing to do with it and wasted no time in defeating the second proposal for a State constitutional convention. Two years later, in a referendum which was plagued with irregularities, Nebraskans grudgingly consented to join the Union with statehood prevailing by a mere 100 votes.

Incorporating Texas into the U.S. was a cliffhanger as well. When the Republic of Texas and the U.S. each failed to ratify a treaty of annexation, Congress jettisoned the treaty process. It adopted a different strategy, drawing up a joint resolution for annexing Texas to the United States. Even that almost failed. In the Senate, the resolution squeaked by with just two votes to spare.

Last but not least, all of the States south of the Mason-Dixon line decided to secede from the Union in the 1860s, but they were forced to remain against their will. How can anyone claim that in order for 3.8 million American citizens to be allowed a vote and to become a State or share as partners in equal terms a simple majority is not enough?

Given the historical record, we need to abandon this pretense, this exercise in revisionist history, that this Union was conceived and expanded without thoughtful reservations on the part of all participants. We need to reject unprecedented requirements which are designated to frustrate the exercise of democracy rather than enhance it. We need to extend to the American citizens of Puerto Rico the right to self-determination in the same way it was proffered to all the territories, freely. It is the only fair and just thing to do. It is the right thing to do for Congress and for our Nation.

RECESS

The SPEAKER pro tempore (Mr. BALLENGER). Pursuant to clause 12 of rule I, the Chair declares the House in recess until 2 p.m. today.

Accordingly (at 1 o'clock and 2 minutes p.m.), the House stood in recess until 2 p.m.

□ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. UPTON) at 2 o'clock.

PRAYER

The Reverend Kathleen Baskin, Greenland Hills United Methodist Church, Dallas, Texas, offered the following prayer:

Let us pray:

Most gracious one full of goodness and mercy, justice and righteousness, we know You ache for Your people to be one, as You are one with us. We pray today with a desperate longing for what is wrong in our lives and the life of our global community to be made right.

Children gaze dispassionately upon their distended bellies, and youths strike out unmercifully against family, friends, peers, and we, entangled in our own chaotic lives, struggle fiercely to soothe the world's troubled soul. Instill in us all, most especially in Your faithful servants of this body, the vision, the passion, the commitment to move beyond self-interest and to move toward peace for all Your people.

Thankful for Your confidence in us, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Ohio (Mr. TRAFICANT) come forward and lead the House in the Pledge of Allegiance.

Mr. TRAFICANT led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

WELCOMING THE REVEREND KATHLEEN BASKIN

(Mr. SESSIONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SESSIONS. Mr. Speaker, today I have been joined by my preacher, the Reverend Kathleen Baskin from Greenland Hills United Methodist Church in Dallas, Texas, and it is especially important for me to be here today with my preacher because, Mr. Speaker, every week when I go home, I am met by those people who are members of the church, who embrace me and my family and offer the very best to me as one of the Members of Congress, and so it is wonderful that she today is a part of that which we get to do to open the House of Representatives today.

Mr. Speaker, I give thanks not only for our heritage and our freedom, but the ability to share my preacher, a woman who speaks from the Bible, the Scripture, and who has abiding faith in our country and in our government.

So I thank you, Mr. Speaker, for allowing Kathleen Baskin and myself to be a part of that which we do today. God bless America, and God bless Texas.

KEEP THE WORKERS AND GET RID OF THE TOP DOGS AND FAT CATS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, last year the top dog at Bank One made $9 million. The big barker at Edison Brothers made $5 million. The kennel master at K-Mart made $6 million.

Mr. Speaker, if that is not enough to potty train a Rottweiler, the big Doberman at AT&T made $26 million, and do my colleagues know what he did? He got rid of 23,000 workers at AT&T.

Unbelievable. Big dogs go to the penthouse, American workers go to the dog house.

I think these companies are all screwed up. I think they should keep the workers and get rid of the fat cats at the top.

And listen to this very carefully: I say they can hire CEO's a lot cheaper in Mexico, too. Think about that.

HUMAN RIGHTS ATROCITIES BEING COMMITTED BY BURMESE MILITARY FORCES

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, I rise today on behalf of persecuted religious believers in Burma also known as

Myanmar. The Burmese Government engages in horrifying human rights violations against numerous religious and ethnic minorities.

I met a few weeks ago with a group of Christians from Burma. Reports tell of one Karen family which fled Burma after the military forced the husband to help build a pipeline for the UNOCAL and TOTAL oil companies. The husband escaped the forced labor, but soldiers hunted him down, then tortured his wife and seriously burned their 2-month-old baby. The baby died, and the rest of the family fled to refugee camps in Thailand.

This story is not unusual for the Karen and Chin peoples of Burma.

Mr. Speaker, I have photographs which reflect the atrocities committed by the Burmese military forces. The photos show the murder of a Karen man and woman. They are too horrible to describe and show, but if any Member wishes to see them privately, they can come to my office.

Human rights violations like this must not be allowed to continue. I urge the State Peace and Development Council to immediately cease these horrible human rights abuses.

SYRACUSE'S HALL OF FAME LACROSSE COACH ROY SIMMONS, JR. RETIRES

(Mr. WALSH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALSH. Mr. Speaker, I want to bring to my colleagues' attention an important occurrence in the world of collegiate sports and ask that they join me in saluting one of the sport of lacrosse's modern legends. Head coach of Syracuse University lacrosse Roy Simmons, Jr., who followed his father in making SU a national powerhouse in this increasingly popular sport, has announced his intention to retire this year. The entire sports community in Central New York and others across America who love the game of lacrosse recognize the impact of this momentous decision.

Roy Simmons, Jr., was named to the Lacrosse Hall of Fame in 1992. He has coached 140 All-Americans, four national players of the year, five national championship most valuable players, while winning six national championships. The 1990 National Championship team was the first ever collegiate lacrosse team to be invited to the White House, where they met President Bush.

Roy Simmons, the most successful current intercollegiate lacrosse coach, has revolutionized the game and built a program at Syracuse University which is second to none. The fans, the team, the staff will miss his wisdom and humor. We wish him the very best in his retirement.

Thanks for the memories, Slugger.

SCHOOLCHILDREN SPENDING TOO MUCH PRECIOUS CLASS TIME TAKING NATIONALIZED TESTS

(Mr. SHIMKUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHIMKUS. Mr. Speaker, there they go again. The Clinton administration is again attempting to force nationalized tests upon our schoolchildren. Unfortunately the President believes that our students must spend more precious class time taking nationalized tests created by some bureaucrats in Washington who think they know what is best for our children.

As a former teacher, instead of testing our children again, we should give them more time to do what they are supposed to do in school, learn. What a novel idea. For the last year and a half, a bipartisan majority of the House and Senate has expressed the will of the people and fought the administration on the creation of national tests. Congress has made it clear to the President that Americans do not want another standardized national test.

Please call the Federal bureaucrats back to their desk and out of the classrooms. Let the parents, teachers and local schools decide how best to test and educate our children.

Local control is still the best control.

URGING THE PRESIDENT NOT TO GO TO TIANANMEN SQUARE

(Mr. CHABOT asked and was given permission to address the House for 1 minute.)

Mr. CHABOT. Mr. Speaker, last week the world commemorated the ninth anniversary of the Tiananmen Square massacre where an estimated 2,000 unarmed prodemocracy activists were mowed down with machine guns and tanks on the orders from the Communist Chinese dictators. Later this month President Clinton plans to be received by the Beijing regime at that very site.

By doing the dictator's bidding, President Clinton will be disgracing the memories of those oppressed Chinese men and women who only wanted to enjoy the fruits of freedom, freedom that we as Americans take for granted. His presence at Tiananmen will be a setback for that cause and a public relations coup for the tyrants who routinely make a mockery of fundamental human rights.

Mr. Speaker, the United States has long been a beacon of hope for those around the world who long for the freedom that we enjoy. By joining the Communist dictators at Tiananmen, the scene of that horrible, horrible massacre, he will be insulting those throughout the world who aspire to be free.

Do not do it, Mr. President. Do not join the tyrants at Tiananmen Square.

THE CHINESE COMMUNISTS NEVER GIVE MONEY FOR NOTHING

(Mr. BALLENGER asked and was given permission to address the House for 1 minute.)

Mr. BALLENGER. Mr. Speaker, you have to look at Missilegate and ask yourself one question: Why? Why would the Chinese Communists give millions of dollars in campaign contributions to the Democrat party and not the Republican Party? What is it that the Chinese Communists want? What is it the Chinese Communist Government, what is their top priority, the one thing they desperately want that the Republicans do not want to let them have? Could it be high technology?

The response from the other side is highly revealing. They say, "Well, Reagan and Bush did it, too," but did the Reagan and Bush administration give waiver authority to the Commerce Department? No. Did the Reagan and Bush administrations have monitoring systems in place to ensure that no technology was used for military purposes? Of course they did. Did the Reagan and Bush administrations take campaign money from the Chinese Communists? Of course not.

And one thing to consider, the Chinese Communists never, never, never give money for nothing.

ADMINISTRATION MUST END POLICY OF SUPPLYING MASS DESTRUCTION TO ANYONE WILLING TO PAY FOR IT

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, last weekend a bomb exploded on a Pakistani train. Pakistan in turn immediately blamed India, its longtime adversary, for the death and destruction and vowed revenge. For many Americans now this tragedy makes a potential of a nuclear exchange between Pakistan and India a very, very real occurrence.

But, Mr. Speaker, the most alarming part of this scenario is that this administration and Communist China are responsible for helping both Pakistan and India acquire their nuclear technology that now threatens the peace in our world. Americans are just learning that this administration and its Commerce Department are responsible for selling nuclear weapons and missile guidance technology to China. Then China nearly provided this technology that Pakistan needed for its fledgling nuclear program. Meanwhile U.S. companies like Digital and IBM were playing a huge role in India's advances by supplying them with supercomputers.

Mr. Speaker, this administration has let the fire-breathing nuclear dragon out of its cage. The time has come for this administration to end its policy of

promoting and licensing mass destruction to anyone who is willing to pay for it.

PROVIDE FOR THE COMMON DEFENSE

(Mr. ROGAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROGAN. Mr. Speaker, the Preamble to the Constitution of the United States says America was established to provide for the common defense. That is the primary obligation of the President as Commander in Chief. But America is vulnerable today to a missile attack from abroad, and unbelievably this is the deliberate policy of the United States: to remain vulnerable to a missile attack.

How can this be? We justify this policy of mutual destruction based upon a treaty with a country that no longer exists. This policy is dangerous, obsolete and wrong. It is also deceptive because most Americans believe we are safe from a ballistic missile attack, although we are not.

It is time to honor our obligation to the Constitution and to the American people by building a missile defense system. We have the know-how, and we have the resources. It is time to act to protect America from a ballistic missile attack.

HARTMAN WIFE HAD DRUGS IN SYSTEM

(Mr. HASTERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HASTERT. Mr. Speaker, not to detract from next week's Drug-Free Athletes and Role Models Week, but today I must speak directly to the role models of our Nation's youth, and that most certainly includes the Hollywood elite.

The toxicology report is back on the death of actor Phil Hartman, and my colleagues guessed it. Hartman's assailant, his wife, was high on cocaine, other drugs and alcohol when she pulled the trigger ending his life.

□ 1415

How many more personal and public tragedies must this country endure at the hands of illegal drugs? Phil Hartman's passing, along with the deaths of Chris Farley and John Belushi, are not part of some so-called "Saturday Night Live" curse. These talented people are fatal victims of drug abuse.

As chairman of the Speaker's Task Force for a Drug-Free America, I urge the Hollywood elite to join this Congress in its commitment to win the war on drugs by the year 2002. As we all know, actions speak louder than any laws or any words.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. UPTON). Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas or nays are ordered or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after debate is concluded on all motions to suspend the rules, but not before 6 p.m. today.

REGARDING IMPORTANCE OF FATHERS IN RAISING AND DEVELOPMENT OF THEIR CHILDREN

Mr. McINTOSH. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 417) regarding the importance of fathers in the rearing and development of their children, as amended.

The Clerk read as follows:

H. RES. 417

Whereas studies reveal that even in high-crime, inner-city neighborhoods, well over 90 percent of children from safe, stable, two-parent homes do not become delinquents;

Whereas researchers have linked father presence with improved fetal and infant development, and father-child interaction has been shown to promote a child's physical well-being, perceptual abilities, and competency for relatedness with other persons, even at a young age;

Whereas premature infants whose fathers spend ample time playing with them have better cognitive outcomes, and children who have higher than average self-esteem and lower than average depression report having a close relationship with their father;

Whereas both boys and girls demonstrate a greater ability to take initiative and evidence self-control when they are reared with fathers who are actively involved in their upbringing;

Whereas, although mothers often work tremendously hard to rear their children in a nurturing environment, a mother can benefit from the positive support of the father of her children;

Whereas, according to a 1996 Gallup Poll, 79.1 percent of Americans believe the most significant family or social problem facing America is the physical absence of the father from the home and the resulting lack of involvement of fathers in the rearing and development of their children;

Whereas, according to the Bureau of the Census, in 1994, 19,500,000 children in the United States (nearly one-fourth of all children in the United States) lived in families in which the father was absent;

Whereas, according to a 1996 Gallup Poll, 90.9 percent of Americans believe "it is important for children to live in a home with both their mother and their father";

Whereas it is estimated that half of all United States children born today will spend at least half their childhood in a family in which a father figure is absent;

Whereas estimates of the likelihood that marriages will end in divorce range from 40 percent to 50 percent, and approximately three out of every five divorcing couples have at least one child;

Whereas almost half of all 11- through 16-year-old children who live in mother-headed homes have not seen their father in the last twelve months;

Whereas the likelihood that a young male will engage in criminal activity doubles if he is reared without a father and triples if he lives in a neighborhood with a high concentration of single-parent families;

Whereas children of single-parents are less likely to complete high school and more likely to have low earnings and low employment stability as adults than children reared in two-parent families;

Whereas a 1990 Los Angeles Times poll found that 57 percent of all fathers and 55 percent of all mothers feel guilty about not spending enough time with their children;

Whereas almost 20 percent of 6th through 12th graders report that they have not had a good conversation lasting for at least 10 minutes with at least one of their parents in more than a month;

Whereas, according to a Gallup poll, over 50 percent of all adults agreed that fathers today spend less time with their children than their fathers spent with them;

Whereas President Clinton has stated that "the single biggest social problem in our society may be the growing absence of fathers from their children's homes because it contributes to so many other social problems" and that "the real source of the [welfare] problem is the inordinate number of out of wedlock births in this country";

Whereas the Congressional Task Force on Fatherhood Promotion and the Senate Task Force on Fatherhood Promotion were both formed in 1997, and the Governors Fatherhood Task Force was formed in February 1998;

Whereas the Congressional Task Force on Fatherhood Promotion is exploring the social changes that are required to ensure that every child is reared with a father who is committed to be actively involved in the rearing and development of his children;

Whereas the 36 members of the Congressional Task Force on Fatherhood Promotion are promoting fatherhood in their congressional districts;

Whereas the National Fatherhood Initiative is holding a National Summit on Fatherhood in Washington, D.C., with the purpose of mobilizing a response to father absence in several of the most powerful sectors of society, including public policy, public and private social services, education, religion, entertainment, the media, and the civic community;

Whereas both Republican and Democrat leaders of the House of Representatives and the Senate will be participating in this event; and

Whereas the promotion of fatherhood is a bipartisan issue: Now, therefore, be it

Resolved, That the House of Representatives—

(1) recognizes that the creation of a better America depends in large part on the active involvement of fathers in the rearing and development of their children;

(2) urges each father in America to accept his full share of responsibility for the lives of his children, to be actively involved in rearing his children, and to encourage the academic, moral, and spiritual development of his children and urges the States to aggressively prosecute those fathers who fail to fulfill their legal responsibility to pay child support;

(3) encourages each father to devote time, energy, and resources to his children, recognizing that children need not only material

support, but more importantly a secure, affectionate, family environment; and

(4) expresses its support for a national summit on fatherhood.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana (Mr. MCINTOSH) and the gentleman from California (Mr. MARTINEZ) each will control 20 minutes.

The Chair recognizes the gentleman from Indiana (Mr. MCINTOSH).

Mr. MCINTOSH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 417 expresses the importance of fathers in the rearing and development of their children. This is a bipartisan measure and has the support of both the majority and minority leaders.

I am very pleased to have the opportunity this afternoon to move this resolution forward. Perhaps the committee selected me to move this forward because I am a recent father. Elizabeth Jenkins was born into our household last fall on October 23, and Ellie, as Ruthie and I have been calling her, is the source of unending joy for me and for my wife, and I share that joy with all of my colleagues who I know are also fathers, and it has meant a great deal to me.

I hope today by this resolution to be able to share some of the sense of joy and importance of fathers in rearing our children, because it should be alarming to all of us that half of the children born today are likely to spend half of their childhood in a family in which a father figure is absent. We should be especially alarmed when study after study shows new evidence of the negative impact of an absent father on children.

I would like to highlight one study in particular, a recent study that was released last October by the Department of Education's National Center of Education Statistics. This study, entitled "Father's Involvement in Their Children's Schools," found that a father's involvement, whether in a two-parent family, a single-father family, or a nonresident family had a very positive impact on the children.

Specifically, this involvement increased the likelihood of their children getting mostly A's in schools, reducing the likelihood of their having to repeat a grade, and reduced the chance of being suspended or expelled from school. These associations remained even after controlling for other factors, such as the parents' education level, household income or the mother's involvement.

The fact is, a strong father's presence can improve both fetal development and infant development, promote physical well-being, and increase the ability of children to get along with each other. Conversely, the lack of a strong father figure presents an increased likelihood of delinquency and criminal behavior when the child is grown.

Social scientists are not the only ones who realize this. A 1996 Gallup poll found that nearly 80 percent of Americans, 80 percent of Americans, believe the most significant family or social problem facing America is the physical absence of the father from the home and the resulting lack of the involvement of that father in the rearing and development of their children.

Last year the leadership recognized this as well, and, with that leadership, they appointed a Task Force on Fatherhood Promotion led by the gentleman from Pennsylvania (Mr. PITTS), the gentleman from North Carolina (Mr. MCINTYRE), the gentleman from California (Mr. ROGAN) and the gentleman from Texas (Mr. TURNER). This congressional task force was formed, along with a similar task force in the Senate, as well as one by the national Governors.

One of the main goals of these groups is to highlight the importance of fatherhood, to explore the social changes that are required and to ensure that every child, every child in America, is raised with a father who is committed to that child, who will be actively involved in the rearing of that child and be involved in the development of that child.

On June 15, the National Fatherhood Initiative will hold a summit. It is a National Summit on Fatherhood here in Washington, D.C. The purpose is to mobilize a response to the problem of absent fathers. It will mobilize this response in several of the most important sectors in our community, the most powerful sectors in our society, including the public policy sector, private and public social services, education, religion, entertainment, the media, and the civic community.

This resolution that we have before us today was first introduced to the House by the gentleman from Pennsylvania (Mr. PITTS) and others who want to express support for such a summit. This resolution goes on to state that the House of Representatives, one, recognizes the creation of a better America depends in large part on the active involvement of fathers in the rearing and development of the children; two, it urges each father in America to accept his full share of responsibility for the lives of his children, to be actively involved in rearing the children and to encourage the academic, moral, and spiritual development of his children; and, thirdly, it encourages each father to devote time and energy and resources to his children, recognizing that children need not only material support, but, more importantly, the love of both parents, who provide an affectionate family environment.

I would also note that during consideration of this resolution by the Committee on Education and the Workforce, an amendment by the gentleman from Tennessee (Mr. FORD) was unanimously accepted by the committee. This amendment added a clause urging the States to aggressively prosecute those fathers who failed to fulfill their legal responsibility to pay child support. I note that this amendment and modification is entirely consistent with the Deadbeat Fathers Punishment Act of 1998, which passed the House in May by a vote of 412 to 2.

In closing, I would like to commend the gentleman from Pennsylvania (Mr. PITTS), the gentleman from Tennessee (Mr. FORD) and all the members of the Task Force on Fatherhood Promotion, the majority and minority leadership and others involved for their efforts in this area. I urge my fellow Members to support this important resolution as we bring it to the House floor today, and, hopefully, we will have a unanimous vote in favor of it.

Mr. Speaker, I reserve the balance of my time.

Mr. MARTINEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to congratulate my colleague, the gentleman from Indiana (Mr. MCINTOSH), on the birth of his first child. The committee selected him because he was a new father, I guess they selected me because I am an old father, being the father of 5 children, the grandfather of 14 children, and the great-grandfather of 2 children.

I can tell the gentleman that he has got a lot to look forward to, especially when those children just before his eyes grow into adults, get married, and have children of their own. That is the greatest time, because you get to take your grandchildren and spoil them and send them home to their parents to run their parents crazy.

Mr. Speaker, this resolution and this topic, the importance of fathers in the raising and the development of their children, is extremely important. The role of the father in the family has been one of the more prominent issues to gain public attention in recent years.

Too many of our children are growing up in families which do not have the benefit of a father. In fact, the percentage of children growing up in a home without their father nearly tripled between 1960 and the early 1990s. Today, over 24 million American children are living without their biological fathers.

Most importantly, fatherless homes have a devastating impact on our children. National research tells us that without a father, children are four times as likely to be poor, twice as likely to drop out of school, et cetera. Fatherless children also have a higher risk of suicide, teen pregnancy, drug and alcohol abuse, and delinquency.

Clearly, the important role that fathers play in the development of their children cannot go unnoticed. Unfortunately, the issue of absentee fathers is not restricted to those who do not pay

child support, or "deadbeat dads," as they are commonly referred to. Many fathers are tragically caught between their duties at work and their responsibilities to their families. The problems encountered by today's families are not limited to deadbeat dads. Today's families are also hampered by dead-tired dads, who want to be there for their children but do not have the time.

In closing, I want to say I am encouraged by the work of the Congressional Fatherhood Promotion Task Force. Their efforts, throughout this resolution and other activities, have begun to center attention on this very important issue. I believe this resolution sends a strong message which all Members should support. I certainly do.

Mr. Speaker, I reserve the balance of my time.

Mr. McINTOSH. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. PITTS), the author of this resolution.

Mr. PITTS. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I am pleased to join my colleagues today to reiterate the importance of fatherhood in this country. As one of the cofounders of the bipartisan Congressional Task Force on Fatherhood Promotion, I am pleased to recognize the significance of this resolution.

Today, Members of Congress will commit to promoting the role that faithful, dedicated fathers play in the development of our young people and, indeed, of our Nation; and, how timely, for it is again that time of year when we honor our dads. In two Sundays, we will celebrate Father's Day, a day to acknowledge the special place which dads hold in our hearts, and recognize dad's role as father, husband, teacher, provider, care-giver, and friend.

Although every American has a father, not every American has a dad, one whom they know, love, spend time with and trust. Because of this fact, our country has suffered.

The United States is now the world's leader in fatherless families. This has taken its toll in our society, when you need no longer talk about the Dan Quayle versus Murphy Brown debate. And we have a litany of statistics supporting the position that a family unit with mother and father is an ideal environment for our children.

The realities are staggering. Four in ten children who go to bed tonight will sleep in a home in which their fathers do not reside. Overall, nearly 2.5 million children will join the ranks of the fatherless this year. This is a sad commentary. We must each be committed to bringing this to an end.

But this is not just about fatherlessness. We as a society must work to elevate the importance of fathers who value their commitments. Men across America struggle to be good dads. Many of us are co-laborers in this struggle. This is why we as elected officials must be the ones to lead by example, to take up the bully pulpit in order to effect change in this spirit of this country.

Through the events of the Congressional Fatherhood Promotion Task Force, we have sought to heighten the discussion of responsible fatherhood and emphasize the importance of fatherhood in neighborhoods and in community forums across the country.

Working with the National Fatherhood Initiative, we are looking forward to the National Summit on Fatherhood next Monday. Leaders from across the country, from the highest levels of government here in Washington to sports figures such as Evander Holyfield, Michael Singletary and entertainment celebrities such as actor Tom Selleck, all will gather to honor the role of the father and to turn our momentum to action. We will gather at the J.W. Marriott next Monday for this fatherhood summit. All Members of Congress have been invited to take part in this event, and I hope many of them will come.

The time has come for fathers to take hold of and be proud of their role as dad. In the words of filmmaker John Singleton, "Any boy can make a baby; it takes a man to raise a son." The choice to place children above others is a noble one, and one which we as a society must recognize and reward.

Mr. Speaker, I urge my colleagues to support this resolution. In doing so, together, we can commit to promoting an office above all others in this country, that of the father.

Mr. Speaker, I would like to read the comments of the testimony that heavyweight champion Evander Holyfield recently gave to the Subcommittee on Early Childhood, Youth and Families of the Committee on Education and Workforce.

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He said, "I, Evander Holyfield, did not meet my father until I was 21 years of age. I missed the advice, the guidance, and time that only a father can give. However, thanks to my mother, Annie Laura Holyfield, and my coach at the Warren Boys' Club in Atlanta, Carter Morgan, I was given the faith, determination, and perseverance that helped make the boy into the man and father I am today.

"Perhaps the absence of my own father, but the presence of a strong and moral father figure in my childhood has helped me realize how important fatherhood is. In fact, being an active and caring father to my sons and daughters is just as important as being the three-time heavyweight champion of the world."

His wife spoke, and, finally, they said this: "As father and mother to our children, even with the time constraints of our careers, we realize the importance of quality time with our children. Not only is this our obligation as parents, but it is also one of our greatest sources of joy. We especially stress the areas of faith and education with our children. We love them; and loving children requires not just good intentions and feelings, but also time and attention.

"We reiterate our strong feelings about this important issue. And with God's guidance and help, we will do our part in encouraging and elevating the status of fatherhood in America."

Mr. McINTOSH. Mr. Speaker, I would ask the Chair how much time is remaining on each side.

The SPEAKER pro tempore (Mr. UPTON). The gentleman from Indiana (Mr. McINTOSH) has 8 minutes remaining. The gentleman from California (Mr. MARTINEZ) has 17½ minutes remaining.

Mr. MARTINEZ. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. BONIOR), the minority leader.

Mr. BONIOR. Mr. Speaker, I thank my friend from California for yielding to me.

First of all, Mr. Speaker, let me commend the gentleman from Pennsylvania (Mr. PITTS) for this resolution, also the gentleman from Texas (Mr. TURNER), the gentleman from North Carolina (Mr. McINTYRE), and others who have worked on this, the gentleman from California (Mr. MARTINEZ), and others on this side of the aisle, the gentleman from Indiana (Mr. McINTOSH) who care about this issue.

The life of a child, it goes without saying, is so critical and so important. Nobody can replace a father in the life of a child, nobody. Fathers are role models, and they are teachers, and they offer, as the gentleman from Pennsylvania mentioned in his comments by Mr. Holyfield, they offer the most important ingredients that a child could have in their childhood: love; guidance; encouragement; discipline, which is so critical, it would carry with a child throughout his or her life; wisdom; and, yes, inspiration.

Fatherhood is a responsibility, perhaps one of the greatest responsibilities, in a man's life. It is also one of the greatest joys that a man can have, along with the bumps along the way in raising a child, the joy of having the input, giving the love, providing the guidance, providing the inspiration, the encouragement when it is needed. These are all so very important in a child's development.

Mr. Speaker, America needs strong families, and America needs strong fathers. This resolution has been long in coming, and I am so proud of the fact that Members have decided to raise this issue to a higher level in the country today.

Congress recognizes the important role fathers play and honors fathers for

their contribution. So it is with great pride that I rise today to thank my colleagues for offering this resolution, for recognizing fatherhood, for setting aside a day in which we can, as a community, come together and recognize the great values that emanate from fatherhood.

We sometimes talk about a lot of different issues in this institution, and we sometimes forget some of the very basic fundamental bedrock issues on which the others are built upon. Fatherhood is one of them. I am just very happy to be able to share some thoughts on this today.

I thank my colleagues for their leadership in this, and wish the event that will take place much success, and wish those who have put this together and who are trying to make sure that fatherhood is respected in this country and is honored. I thank them for their efforts.

Mr. MARTINEZ. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina (Mr. MCINTYRE).

Mr. MCINTYRE. Mr. Speaker, I rise today as an original cosponsor of House Resolution 417, which recognizes the importance of fathers in the rearing and development of their children. This resolution makes it clear that a better America depends on a better job at home, a more active, positive role model of our fathers in the rearing and development of their children, and honoring those who do. This resolution also calls on fathers to continually accept their fair share of responsibility in rearing children.

I am grateful for the example of love and leadership that my father has provided me throughout the years in the church and the community, and in civic, recreational, and political activities as well.

I am also grateful for the many wonderful loving gifts of time, talent, and treasure that my mother has given me in my life. And how appropriate it is for me to have this opportunity to say "thank you" to them as they celebrate the beginning of their union fifty years ago tomorrow, June 10th, when they have their golden wedding anniversary.

As one who served both as a charter member of the North Carolina Commission on the Family and a charter member of the North Carolina Commission on Children and Youth, I have looked at several legislative studies, considered several proposals.

I am excited today to think that here in the United States that we are giving this long-taken-for-granted role that the father plays, a much emphasized one, that we can honor fathers and encourage fathers to fulfill that important role in the lives of children.

This resolution emphasizes that family, faith, and future are the critical ingredients to the success of fathers here in America. First, unfortunately, the family often takes a back seat in many fathers' lives. Society itself has created an atmosphere in which job demands, commitments to various organizations and groups, and ambition often precede the responsibility at home.

The number of men who complain that work conflicts with family responsibilities has risen from 12 percent in 1977 to a staggering 72 percent in 1989. Other surveys show that 74 percent of fathers who live with their children prefer a "daddy track" job to a "fast track" job. Other studies show that positive father figures in the home clearly help reduce teen crime, reduce the dropout rate, and help reduce teen pregnancy.

Second, in addition to family, we, as Americans, must have faith that fatherhood can bring positive change to society. That is why, as cochairman of the Fatherhood Promotion Task Force, along with my colleagues here today who have spoken, and as a father of two boys, support efforts to make fathers a more positive influence in their children's lives.

Through a bipartisan effort such as you are witnessing right here before your eyes today, we can help focus national attention on the importance of the father in the home, or, where there may not be a father in the home for whatever reason, a positive male adult role model that can help fulfill that role. One step in this pursuit is H. Res. 417.

Third, with family and faith, we can work toward a better future for our children and for our country. This resolution sends an important message to America that the U.S. House supports fatherhood and the upcoming National Summit on Fatherhood to be held right here in Washington next Monday, June 15.

This resolution and the National Summit on Fatherhood can be just a beginning in mobilizing our society toward a positive and constructive response to the absence of fathers in home life.

I urge my colleagues to support this measure and to join me and to join all of us in the call for a positive force of fathers in the families, the faith, and the future of America.

Mr. MCINTOSH. Mr. Speaker, I yield myself 2½ minutes.

Mr. Speaker, the gentleman from Texas (Mr. DELAY) hoped to be able to make it, but is not able to be on the floor right now to endorse this resolution. I know how devoted a father he is. In fact, when I first came here, he shared with me how he had a special line put in for his daughter, that was only her number, that she could reach him in his office at all times.

He wanted to point out that oftentimes our government undermines the place of fathers in our society. When fathers abandon their families, our society does begin to break down. Fatherless children are five times more likely to be living in poverty. Violent crimes are committed overwhelmingly by males who grew up without fathers, 60 percent of America's rapists, 72 percent of adolescent murderers, and 70 percent of long-term prison inmates.

This chart here shows some of those statistics that were put together by the fatherhood initiative on the problems for children in broken homes.

It is also bad for the parents, by the way. If there are broken homes, it is likely the father will be more likely to suffer from respiratory diseases, more likely to have poor health and shorter life expectancy.

So the studies show time and time again what all of us know in our hearts, that a family that is intact, a father loving his children is the best for all of us, but certainly for those children to be raised, as many of the speakers on both sides of the aisle have said, knowing that the love of their father is there to sustain them through those troubled times that we all have in our lives.

One last thing in this 2½-minute segment, I wanted to share with my colleagues my favorite picture of my daughter and me that my wife took. She often will fall asleep on my chest. The knowledge that I have, that I have to protect and provide for her is an awesome responsibility. I would like to just encourage all of my colleagues here and all of those who are fathers around the country watching today never give up on that responsibility, because it will be a source of love and joy for you the rest of your lives.

Mr. Speaker, I reserve the balance of my time.

Mr. MARTINEZ. Mr. Speaker, I am pleased to yield such time as he may consume to the gentleman from Texas (Mr. SANDLIN).

Mr. SANDLIN. Mr. Speaker, I rise today in strong support of American families, American fathers, and House Resolution 417.

As a father of four children, two boys and two girls, and a former youth baseball, basketball, and softball coach, someone active in Boy Scouts, a former juvenile judge, I believe that investment in our children is the finest and best investment that we can make in the United States of America to secure the future of this country.

In today's society, a strong father figure is necessary. It is more important than it ever has been in the history of our country. Our children are faced today with many difficult choices, choices that I did not have to make as a young man, and choices that our parents did not have to make as young people.

If they are to make the right choices and grow up to be strong, productive, moral citizens of this country, they need good and strong role models with whom they can identify. They need strong fathers. These models can be

teachers, they can be preachers, they can be business leaders. They can be community leaders. They can be Members of Congress.

But now, more than ever, children need their parents and need their families. Children look most often to their parent. Many times even now when I have decisions to make in life, I look back and think, what would my mom and dad do? My dad gave me the one piece of advice that I take with me day in and day out and always will. My father told me, "Do right." Do right. That is what I try to do.

Right now the United States is the leader in fatherless families. That is a tragedy. And 30 percent of our families are single-parent families. That does not speak well for the future. It is a disgrace.

Next week Washington will welcome the National Summit on Fatherhood. The theme this year is moving from rhetoric to action. The issue is too important for us simply to pay lip service to it. We have to put our action, we have to put our money where our mouth is.

Now more than ever we need a national strategy to create effective solutions to the problems of a lack of leadership in American families. This gathering of civic, business, religious, philanthropic governmental and cultural leaders should be just the catalyst we need to begin the discussion and to begin the strategy in this country.

I urge all of my colleagues to support this. Support the American families. Support our fathers. Fathers in the Congress, let us take responsibility and work for H. Res. 417.

Mr. McINTOSH. Mr. Speaker, we have one more speaker on our side, and I would like to recognize him now. He is a freshman colleague of mine and also a father of four boys, who is expecting his fifth child sometime later this year.

Mr. Speaker, I yield such time as he may consume to the gentleman from Mississippi (Mr. PICKERING).

Mr. PICKERING. Mr. Speaker, I rise in strong support of the resolution recognizing the importance of fathers in America and also recognizing the hard and good work of the gentleman from Indiana (Mr. McINTOSH). My wife is a godmother of the gentleman's recent new addition to his family, to his daughter, and we proudly celebrate that.

As the gentleman mentioned, I am the father of four boys, four boys, ages 8, 6, 4 and 2; and we have just learned recently that the fifth is coming. This is my first public announcement of that good news, and so we are looking forward to maybe finding a little girl, maybe, somewhere in our house.

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Today I rise first to recognize the role of my father and grandfathers in my life, not because it is unique to me, but it is because of what fathers and grandfathers have offered this country over our proud history. They taught me leadership and discipline. They showed me what sacrifice and service means. They showed me commitment and integrity to faith and to community. They have given me the role model and the example and the path to follow.

As we approach Father's Day, I want to first recognize the role of my own father and my grandfather, one who was a farmer and one who was a high school principal and teacher and dean of men, and the role they played in my life.

My grandfather was committed to his wife, to his community, and to his church. He taught me what hard work meant and the joy of it. My father, who is now a Federal judge, taught me about public service. He is now the proud grandfather of 14 grandchildren, all under the age of 11. So with Father's Day coming, I thank them.

As we ask ourselves, what is the importance, what is the role of fatherhood in our country, let us put it in context. Let us put it in perspective. With the recent news of India and Pakistan and the possible escalation of the nuclear arms race, we say that that is a great threat to our security. We need to prepare for it and provide the resources, whatever it takes to defend ourselves in the future.

But I say, the greatest threat to our security is the loss of fathers in the home, and the lack of men stepping up and taking on the responsibility of being at home to teach and to provide for the well-being of their family.

As we look at education today, the greatest indicator of whether we will have educational success or failure goes back to the home and the role of the father being there. Violence and drugs are again tied back to the breakdown of the family, the loss and the lack of the male role model, of men and fathers being there; poverty.

Again, everything that we see facing our Nation, the greatest threats to our Nation, the greatest risk that we have, the greatest single determinant, the greatest factor that goes back to time and time again is whether men have accepted their role and have stepped up to the plate and assumed their responsibility. They have made a commitment and they have kept it.

Our challenge today is to call all men to assume their role, their responsibility in their home to be good husbands and to be good fathers. More important than anything we can do in this place, in Congress, is what happens in the home and what happens in the House, what happens with our families.

As the gentleman from Oklahoma (Mr. J.C. WATTS) said, the most important title to him is not Congressman, but daddy. There is no title, there is no position greater; the President of the United States, congressman, teacher, doctor, lawyer, whatever your title may be. The highest honor and the greatest obligation and responsibility, the greatest joy, is being called daddy and playing the role, and accepting the responsibility of being a good father.

Mr. MARTINEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will close by saying this is a resolution, as we have heard from people who are fathers and potential fathers, on how important the role of a father is. I think we simply have to look at the environment in which we live, where there are fatherless children, and those children usually run afoul of the law and have some kind of problem. We generally do not find that in a home where a father is present.

I was raised with a family of 10 children, but that important ingredient we had in our home to make our lives a success was our father being there for us in our time of need. I would simply say to all of my colleagues, this is a resolution that should get a unanimous vote.

Mr. Speaker, I yield back the balance of my time.

Mr. McINTOSH. Mr. Speaker, I yield myself such time as I may consume.

Let me first say, Mr. Speaker, I appreciate the gentleman from California and all of the speakers on the Democratic side who have been wonderful supporters of this resolution. It truthfully is a bipartisan effort.

Second, a very quick point, some people have asked me, what about the mothers involved? Of course, mothers are critical to the raising of our children, rearing of our children. I know I could not do it without my wife, Ruthie. And I know how much my mother meant to us, because, in fact, my father died when I was only 5 years old, and she had to serve both the role of mother and father in our family.

But I think everyone knows that all of us in my family and every family where they may not have an ideal circumstance, we truly wished my father could have been there and been with us. What we are trying to say in this resolution is, to the fathers of America, do all you can to be there, to love your daughters, love your sons, and be a great father to them.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. UPTON). The question is on the motion offered by the gentleman from Indiana (Mr. McINTOSH) that the House suspend the rules and agree to the resolution, H. Res. 417, as amended.

The question was taken.

Mr. McINTOSH. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. McINTOSH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Resolution 417.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

PERSONAL EXPLANATION

Mr. HOYER. Mr. Speaker, on Thursday, June 4, 1998, during the consideration of House Joint Resolution 78, I apparently voted contrary to my intent on one part of the amendment offered by the gentleman from Georgia.

I correctly voted "no" on the second part of the amendment, but thinking and intending to vote "no" on the first part, I apparently made a mistake and pushed the wrong button, and inadvertently voted "yes" on rollcall 198. I was shocked and disbelieving, Mr. Speaker, to discover my unintended vote of "aye" on the first part of the amendment, which would have stricken the reference to, and I quote, "acknowledge God in our Constitution" and replaced it with "freedom of religion." I did not and do not support that proposal.

As I said in my statement, Mr. Speaker, on House Joint Resolution 78, ". . . we do need to stress that faith in God and raising our voices in prayer continues to be one of the most important things that Americans can do." Mr. Speaker, the right to acknowledge one's God was fundamental to the founding of this great country. Indeed, the Founding Fathers acknowledged God as the source of our unalienable rights of life, liberty, and the pursuit of happiness.

SENSE OF HOUSE REGARDING FINANCIAL MANAGEMENT BY FEDERAL AGENCIES

Mr. HORN. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 447) expressing the sense of the House of Representatives regarding financial management by Federal agencies, as amended.

The Clerk read as follows:

H. RES. 447

Whereas financial audits are an essential tool to establish accountable, responsible, and credible use of taxpayer dollars;

Whereas Congress needs such information to accurately measure performance of Federal agencies and distribute scarce resources;

Whereas Federal agencies should meet the same audit standards with which such agencies expect State and local governments, the private sector, and Federal contractors from which such agencies purchase goods and services to comply;

Whereas sections 331 and 3515 of title 31, United States Code (as enacted in section 405 of the Government Management Reform Act of 1994 (Public Law 103-356; 108 Stat. 3415)), require that Federal agencies prepare annual financial statements and have them audited, and that the Secretary of the Treasury prepare a consolidated financial statement for Federal agencies that is audited by the Comptroller General;

Whereas the enactment of these provisions resulted in the first time ever that the financial status of the entire Federal Government was subjected to the same professional scrutiny to which many who interact with the Federal Government are subject;

Whereas section 3521 of title 31, United States Code, requires that the audit follow the Generally Accepted Government Auditing Standards, which incorporate the common, private sector guidelines of the American Institute of Certified Public Accountants Statements on Auditing Standards;

Whereas Congress intended these audit requirements to provide greater accountability in managing government finances by improving financial systems, strengthening financial personnel qualifications, and generating more reliable, timely information on the costs and financial performance of government operations;

Whereas the data found in the financial reports was not sufficiently reliable to permit the General Accounting Office to render an opinion on the Government's financial statements;

Whereas only 2 of the 24 Federal agencies required to submit reports have reliable financial information, effective internal controls, and complied with applicable laws and regulations;

Whereas the financial statements of the Department of Defense could not be relied on to provide basic information regarding the existence, location, and value of much of its $635,000,000,000 in property, plant, and equipment;

Whereas the Department of Defense could not account for 2 utility boats valued at $174,000 each, 2 large harbor tug boats valued at $875,000 each, 1 floating crane valued at $468,000, 15 aircraft engines (including 2 F-18 engines valued at $4,000,000 each), and one Avenger Missile Launcher valued at $1,000,000;

Whereas inaccurate or unreliable data, such as the findings that 220 more tanks, 10 fewer helicopters, 25 fewer aircraft, and 8 fewer cruise missiles existed than those reported in the system of the Department of Defense, harms deployment activities;

Whereas the Department of Housing and Urban Development spends $18,000,000,000 each year in rent and operating subsidies, with $1 of every $18 being paid out unjustifiably;

Whereas financial management is so poor within Federal credit agencies that the true cost of the Federal Government's loan and guarantee programs cannot be reliably determined;

Whereas the Federal Aviation Administration's records regarding $5,500,000,000 in equipment and property are unreliable, including $198,000,000 in recorded assets that no longer exist, $245,000,000 in spare parts that were omitted from the financial statements, and $3,300,000,000 in works-in-process that could not be verified;

Whereas the Forest Service lacks a reliable system for tracking its reported 378,000 miles of roads;

Whereas the Medicare program identified an estimated $20,300,000,000 worth of improper payments in fiscal year 1997;

Whereas the Social Security Administration has identified $1,000,000,000 in overpayments for fiscal year 1997;

Whereas the Department of the Treasury recorded a net $12,000,000,000 "plug" recorded as "unreconciled transactions", made up of over $100,000,000,000 of unreconciled, unsupported transactions, to make its books balance; and

Whereas the disclaimers, mismanagement, and poor recordkeeping in the Federal Government expose taxpayers to continued waste, fraud, error, and mismanagement, and provide inadequate information to Congress for budget, appropriations, and reauthorization decisions: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that—

(1) the first-ever Governmentwide financial audit demonstrated serious concerns with financial management by the majority of Federal agencies;

(2) current efforts with respect to financial management by all too many Federal agencies have failed; and

(3) therefore, Congress must impose consequences on Federal agencies that fail their annual financial audits and conduct more vigorous oversight to ensure that Federal agencies do not waste the tax dollars of the people of the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. HORN) and the gentleman from Ohio (Mr. KUCINICH) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. HORN).

Mr. HORN. Mr. Speaker I yield myself such time as I may consume.

Mr. Speaker, on April 1, 1998, the Subcommittee on Government Management, Information, and Technology held a hearing on the first ever audit of the United States government. We were presented with the consolidated government-wide financial statements issued March 31, 1998.

The Democratic 103rd Congress, in which I was a freshmen, enacted this law on a bipartisan basis in 1994. As a result of this audit, we found the Federal Government could not balance its books. That is why we gave them 5 years to do it way back in 1994. In fact, the information in the financial statements was so poor that the auditors were not able to determine the adjustments necessary to make the information reliable.

For the first time, however, Congress was provided a concise accounting for the many financial management problems faced by the executive branch of the Federal Government. This report, by the General Accounting Office, the audit arm of the legislative branch known as the GAO, confirmed that at least tens of billions of taxpayers' dollars are being lost each year to fraud, waste, abuse and mismanagement in hundreds of programs throughout the executive branch.

Government financial management is largely in disarray in some departments. Its financial systems and practices are obsolete and ineffective, and do not provide complete, consistent, reliable, and timely information to either congressional or presidential decision-makers, let alone to agency management, which is responsible for the

implementation of these various programs.

The GAO report provided a synopsis of the significant weaknesses in the financial systems: problems with fundamental recordkeeping and incomplete documentation. There were weak internal controls, including weak computer controls. These structural problems then prevent the executive branch from accurately reporting a large portion of its assets, its liabilities, and its expenses.

According to the General Accounting Office, "These deficiencies affect the reliability of the consolidated financial statements and much of the underlying financial information." More important, "These problems also," said the GAO, "affect the government's ability to accurately measure the full cost and financial performance of programs, and effectively and efficiently manage its operations."

Looking at some of the charts here, the subcommittee released the first report card measuring the effectiveness of the financial management at 24 Federal agencies, which were required over a 5-year period to prepare financial statements and have them audited. The grades were based on reports prepared by the various agency Inspectors General, independent public accountants, and the General Accounting Office.

The report card is a gauge for Congress to see where attention is needed to push agencies to get their financial affairs in order. A few agencies, most notably the Department of Energy and the National Aeronautics and Space Administration, demonstrated that they could effectively manage their finances.

However, these agencies were the exception, rather than the rule. Six other agencies earned commendable Bs. Eleven of the 24 agencies, 46 percent, were not able to meet the March 1 reporting date in the Act. That is 5 months after the close of the Federal fiscal year.

As of today, four laggard agencies, the Department of Agriculture, the Department of Education, the Federal Emergency Management Agency, the Department of State, have yet to submit audited financial statements. The Federal fiscal year ended 8 months ago.

Many other agencies could not pass muster. The Agency for International Development, the Department of Defense, the Department of Justice, the Office of Personnel Management, they all received Fs. Two more agencies that reported late, the Department of Commerce, Department of Transportation, also wound up with Fs. Another six agencies failed at the D level.

Mr. Speaker, I yield 10 minutes to the gentleman from Wisconsin (Mr. NEUMANN), the author of this resolution, one of the most fiscally conservative and fiscally articulate Members of this body, and one of the handful of us who have spoken on the unfunded liabilities facing the Federal Government. The gentleman from Wisconsin looked at a lot of these documents and drew up the resolution we have before us today.

Mr. NEUMANN. Mr. Speaker, I rise today to talk about this because I come from the private sector. In the private sector, for our business, our small business, we literally had to go through an audit every year, so I come into this looking at it with some private sector experience. I bring with me the standards and the expectations that were required of us in our business in the private sector.

I have to say, after a brief review of this, it becomes very apparent that the management here in the government is set by an entirely different set of standards than what was expected of us out in the private sector. I would like to explain exactly how an audit works, so it is clear what has happened here in this audit.

What happens in an audit is the auditors come in and look at all of the assets and the financial statements, and where the money went in a given agency. So, for example, if you are the Forest Service, you would look for a list of all the roads that were controlled and managed by the Forest Service, and where they spent their $3.4 billion in the Forest Service management. So you would take this whole list of things and then go into it and pull a couple of the things out. You would go looking for them.

Let me give another example. In the military, for example, in the Navy, they went looking for 79 ships. 79 ships they went looking for.

□ 1500

Out of the 79 ships they went looking for, they found out that in fact they could not find 21 of them. Twenty-one out of 79 they could not find. I am in the home building business and when they did an audit in my company, I gave them the list of all the lots we were working with and all the houses we had built and all the money I spent on a given house, all the money we took in on a given house. We had to give our auditors that and they would pull those records on a particular house out of 120 homes that we were building in a given year. They might pull out three or four or five and see if the money that we said we spent to pay for drywall, for example, we actually had a check that we could document that we spent that money.

No, in the private sector if one fails an audit, effectively the bank shuts the business down and the company goes out of business. The businessman must go find something else to do. That is what happens in the private sector.

Our purpose for being here today is to, number one, disclose the results of this audit; and, number two, disclose how different the standards are that are being applied here in the government and what is happening here; and three, to make sure that we start doing something about the mess that has been created.

Mr. Speaker, I have brought a few pictures with me to help make this clearer. When the Navy went looking for these 79 ships, they found out they were missing tugboats. I think that is important. We are not talking about rubber duckies in the bathtub. We are talking about the tugboats, for heaven sakes, that the Navy has on their list that was not available when they went looking for it.

Another thing the Navy went looking for, they went looking for these two skiffs. These things are supposed to be out there. They are not there. They are on their list, they say where they are, they say they are supposed to be available. They are not there.

So when we go looking for 79 ships on the inactive list and 45 on the active list, 21 of the 79 could not be found. But think about this for a minute. On the active available military ships, 2 out of 45 were not available. That is to say if we were to go to some sort of a military conflict, assuming that these ships are available to move troops around or to do whatever they might do, 2 out of 45 could not be found.

I have some more examples here. As I go to the Air Force, and I go to this one that I think is very, very important, they went looking for missile launchers. In fact, they found out they could not find this particular missile launcher. Now, since the audit has been completed, they believe they have found the missile launcher. But the facts are when the time came for the auditors to go looking for this missile launcher that was supposed to be available, they could not find the missile launcher.

Now, in all fairness to the people in the uniform, and I want to make this very clear, this is not a reflection of our young men and women who are doing so much to defend our country. This is a reflection of mismanagement by bureaucrats in Washington, D.C. That is what we need to go after. This should not in any way reflect negatively on our military.

In fact, as we understand that these military parts and pieces of equipment that are so necessary for our military cannot be found, we should understand that it puts our young men and women in uniform in jeopardy and that is why it is so significant that we do something about correcting this problem.

Mr. Speaker, here is another one with the Air Force which is particularly disturbing. They said we had a C–130 transport plane. This is what it looks like. And again this is a huge plane. It is designed to move troops around. So if we were to have a military conflict and they went looking for this C–130, this troop transfer plane, it does not exist anymore.

It turns out when the auditors went to look for this C–130 plane, it had been destroyed 4 years ago in a test involving corrosion. So the military gave this list of available military equipment that if we were to have a military conflict of some sort they were expecting to be able to find, but when the auditors went looking for this particular plane, this C–130, and, remember, they just went looking for a small sample, when they went looking for this it turns out the thing had been destroyed several years back.

I do not want to stop at just the military. That would be very unfair. As we went through this audit, we found similar activities in virtually every agency we went into and looked at. Coming from the private sector, if we had ever been in this shape in the private sector, we would have been out of business instantaneously because there is not a bank in the world that would have loaned us money if we could not have found the houses we built or if we could not find the lots we were supposed to own to build the houses on in our company. That is just exactly how ridiculous this situation is.

I have here a picture of a computer. This thing weighs 825 pounds and is 5 feet tall. The Energy Department listed this $141,000 computer on their asset sheet. When they went looking for the computer, it was nowhere to be found. When people say we cannot control Washington spending and we have no more room to get spending under control in Washington, we do not have to look any farther than this waste and mismanagement to understand how far it is that we still have to go to get government spending under control.

I would like to give a couple more examples.

HUD. We hear so many cries that we have homeless people in America and HUD needs more money. It turns out the auditors went into HUD. This is the housing department and provides housing for homeless and poor people in this country. They have a budget of about $18 billion, and when they went looking for the money, approximately 1 out of the $18 billion could not be accounted for.

Let me put this in perspective. I live in Wisconsin and part of my district is a city of 85,000 roughly, Kenosha, and another city of 80,000 people called Racine. The amount of money that HUD was missing is enough to house all the people in the city of Kenosha and all the people in the city of Racine for an entire year. That is just the money they cannot find and cannot account for in HUD.

This one hit particularly close to home. We went over to the FAA, and in this audit they went looking for some of the assets that were listed on the FAA sheets and they said they had this building out there. Well, the auditors went to look for the building. The building had been demolished years ago. I guess we were not supposed to feel too bad about that because they went to another lot that was supposed to be vacant and they found out they had built a day care center on it, but it did not show up on the asset list.

The point again is just the total mismanagement of what is going on in these agencies and how far we have to go to get this government spending under control.

I would like to read specifically, and I had this prepared as a summary for my office on this GAO audit, I would like to read a couple of the different parts and I would like to start with Medicare. This is what it says and I quote, and this is a GAO summary prepared for my office.

Quote on Medicare: $23 billion, or about 14 percent of the total payments, this is for Medicare, for reasons ranging from inadvertent mistakes to outright fraud and abuse; $23 billion in Medicare is missing. And the responsibility for reasons ranging from inadvertent mistakes to outright fraud and abuse.

Here is a scary one. This is regarding the Air Force Logistics Systems and I want to read this word for word, what the auditors found: These databases included in the Air Force's Central Logistics System contained discrepancies on equipment, on the number of assets on hand, including ground-launched and air-launched cruise missiles, aircraft, and helicopters.

Let me say that once more. This is where there were discrepancies in this Air Force Logistics System, including ground-launched and air-launched cruise missiles. They are unaccounted for. The numbers that are actually existing out in the field versus the number that we are reporting that we have at the Pentagon are two different numbers. They are not accounted for.

Mr. Speaker, that is serious. That puts our Nation in jeopardy. We need to get this system under control.

Let me read just one more. Whenever anybody says to me, "Mark, you cannot do anything more with government spending, we need to spend more in the government, spending has to increase faster than the rate of inflation, we cannot get spending under control," I come back to this. And quote, word for word from the summary that was prepared for my office:

> The Forest Service could not determine for what purposes it spend $215 million of its $3.4 billion in operating and program funds.

They could not account for $215 million. We are not talking about a buck or two here out of our wallet; $215 million that they could not account for out of a $3.4 billion budget.

When we looked at overall Treasury, that is the cash flow of going from one agency to another agency and the billing back and forth, the Treasury was off by over $100 billion, some plus and some minus, and in the end a net of $12 billion.

Mr. Speaker, we need to pass this resolution, we need to move forward over the course of the summer and get this mess straightened out.

Mr. KUCINICH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think that every American agrees that we want fiscal responsibility and accountability. I think both sides of the aisle can agree on that. And I think what is important, as we set higher standards of accountability for our government is that we take an accounting of the measure of progress which has occurred under the Clinton administration, because the people of this country ought to know that before the Clinton administration took office there had never been a comprehensive review of how the government handles our tax dollars. As a matter of fact, after hearing a similar recitation to that just offered by the gentleman from Wisconsin (Mr. NEUMANN) in our Government Management, Information, and Technology Subcommittee, I questioned officials of the Department of Defense and found out that in fact for decades, for centuries, the Department of Defense has had its problems keeping track of their materiel. It does not excuse it for one year or one minute, but I think we have to establish a context of this discussion this afternoon.

When the Clinton administration began their efforts, there were no accounting standards for the Federal Government. Most Federal agencies had never issued a financial statement and there had been no governmentwide financial statement.

Furthermore, there had been no independent verification of the agencies' estimates of their financial positions. Now, thanks to the changes that have been put in place through the administration and, I might say with the help and the constant vigilance of people like the gentleman from California (Mr. HORN), we have more agencies than ever issuing financial statements and having them audited.

As Members of Congress are aware, the Subcommittee on Government Management, Information, and Technology headlined a series of hearings recently on the financial audits of the Federal Government. We conducted those hearings in a bipartisan manner because the issue of good financial management is not a partisan issue. And we need to continue to work in this manner. The sponsors of this particular resolution have accommodated our concerns, and while I may not completely agree with their positions, the need for increased attention to financial management and strong efforts leads me to support this resolution.

Without question, there is a need for intensified financial management by Federal agencies. The governmentwide

audit and many of the agency audits shows that the Federal Government has a long way to go. House Resolution 447 is based on the results of the first governmentwide financial audit conducted in 1997. I want everyone to listen very carefully. In 1997, we had the results of the first governmentwide financial audit conducted that year. The law mandating this audit was passed by a Democratic Congress, with the active support of the Clinton administration. The Clinton administration is addressing financial problems at Federal agencies that date back decades. And I feel it should get credit for serious attention to this longstanding problem, just as we must place on their shoulders, because they are there now, the responsibility for making increased progress.

But real progress has been made by this administration. The key to a financial audit is whether the financial information presented in the balance sheets is reliable. When the financial information is reliable, auditors issue what is called an unqualified opinion or a clean audit.

As we can see on this chart right here, Mr. Speaker, in 1990, only two agencies had an unqualified opinion. But by 1997 under President Clinton, nine CFO agencies had unqualified opinions. Clearly, additional improvement is needed. Getting an unqualified opinion is not sufficient. Adequate internal financial controls and compliance with laws and regulations are two other areas where agencies must improve.

However, it is clear that the Clinton administration has come a long way. And by 1998, the goal, as can be seen from this chart, is to come further and to keep reaching what I think is the next plateau of 16 clean and unqualified opinions.

□ 1515

The current administration is committed to these additional improvements and to achieving a clean governmentwide audit for fiscal year 1999. To that end, the President issued a memorandum to agency heads requiring that specific agencies prepare action plans to ensure that the government receives an unqualified opinion on its fiscal year 1999 audit. Federal chief financial officers now predict that at least 15 of the 24 Federal departments will receive clean opinions of their fiscal year 1998 financial statements.

Good financial management of taxpayers' money is too important for it to become bogged down in partisan warfare. There is simply too much to the done. For that reason, I am glad we have been able to address this issue in a bipartisan way.

Again, look at this, Mr. Speaker, 1997, how far we have come from 1990, and, again, when the administration began, there were no accounting standards for the Federal Government. Most Federal agencies never issued a financial statement. There had been no governmentwide financial statement, no independent verification of the agencies' estimates of their financial positions. So we have come a distance. We have a great distance to go.

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Speaker, I will not take a great deal of time on this debate, but I want to take this opportunity to commend the authors of this legislation, the gentleman from California (Mr. HORN) and the gentleman from Wisconsin (Mr. NEUMANN).

As amended, the resolution underscores the importance of sound financial management. The effort to promote sound financial management should be and is bipartisan. As amended, this resolution deserves bipartisan support.

The recent governmentwide audit shows that many Federal Government agencies do not have adequate financial management. This resolution sends an important message that we need to do more.

It is also important to recognize the progress that has been made by this administration, by the Clinton administration, and by Vice President GORE's reinvention efforts. In 1992, only one Federal agency had a clean audit. Due to the administration's efforts, nine agencies now have clean audits. Next year 15 agencies are expected to have clean audits. So it is clear that while we have a long way to go, we are making progress.

This resolution says that we want to build bipartisan support to push for more progress. In that effort I join my colleagues in urging all of the Members to vote for this resolution.

Mr. KUCINICH. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. Mr. Speaker, I thank the gentleman for yielding me this time.

First of all, I would like to thank the ranking member, the gentleman from Ohio (Mr. KUCINICH), for his hard work on this, and also the Chair on the subcommittee on which I had the honor to serve for many years, the gentleman from California (Mr. HORN), for working hard on this and for accepting some changes in the language from the Democrats to Resolution 447, which we are now supporting.

The bad news contained in this resolution is that the Federal Government, the world's largest financial entity, has financial problems. These problems are not new; they have existed for decades. We knew this when we decided to initiate reforms. When we began reforms, there were no accounting standards for the Federal Government. Most Federal agencies had never issued a financial statement, and there had been no independent verification of the agencies' estimates of their financial position. So in a bipartisan effort, a Democratic Congress crafted and passed the Government Management Reform Act along with the Republicans in 1994, and a Democratic President signed it into law.

The administration has worked hard to implement this law. Next year 15 of the 24 major agencies are expected to receive clean financial opinions. This year the administration met the bill's statutory deadline by completing the first governmentwide audit ever, the first in more than 200 years. We should congratulate them for this effort.

I commend the ranking member and all who have worked on this. As we have worked in the past for increased procurement reform, for increased debt management and position systems, I join my colleagues in supporting this.

Mr. KUCINICH. Mr. Speaker, I yield myself such time as I may consume.

I think it is important for the American people to have a progress report at this moment as to Federal financial management, because that is what this resolution lends itself to. We have stated earlier that prior to the administration taking office, that there were no general standards, but now a structure has been put in place to assure fiscal accountability for the American people.

Qualified chief financial officers and deputy chief financial officers have been appointed so there is accountability and there is a system of command. Accounting standards have been issued. We have had a foundation for agency financial statements, the accounting standards that have been developed by the Treasury, the Office of Management and Budget and GAO, working together through the Federal Accounting Standards Advisory Board, and that was initially created in 1990 to fill a void. But so far, through the help of OMB, we have seen some real strength put into that process, and accounting standards have been issued. And that information has been transmitted down through the departments.

The OMB has issued financial system requirements, and the agencies are now issuing audited financial statements.

I would also like to point out that it was on March 31, 1998, that the Department of the Treasury issued the first ever audited, consolidated financial statement for the Federal Government.

The President's budget states the objective of having an unqualified audit opinion, a clean audit on the government's 1999 financial statements, so the President has firmly stated the administration's goal of receiving a clean opinion on the 1999 governmentwide financial statements, and also the administration has been very interested in identifying weaknesses in the audit as far as the first ever governmentwide statement for fiscal year 1999.

As I am sure many Members know, the President has directed agency heads to submit action plans to address impediments to an unqualified audit opinion on the government's 1999 financial statements.

Mr. Speaker, we could ask, as we are thinking of our financial status and whether or not the American people are getting a good accounting, we could look at a glass and say, is it half full or is it half empty. We can point today to deficiencies which do exist, and we could say the glass is half empty. But we could also say that with all the water that has gone under the bridge, we have a lot of progress that has been made towards rebuilding the financial accountability of the country.

I know with some testimony I heard in committee, it would seem as though the glass is neither half empty nor half full, it is missing. Wherever that is the case, we certainly want to make sure that our audits work to identify wherever there is waste and inefficiencies in the Federal Government, and we need to work to rid it out.

Again, Mr. Speaker, we have come a distance. We have a great distance to go to have the kind of accountability which the American people have a right to expect, but I think at this time a progress report has been in order.

Mr. Speaker, I reserve the balance of my time.

Mr. HORN. Mr. Speaker, I first thank both the former ranking member and the current ranking member. We have worked on a bipartisan basis. We have got a lot accomplished. I appreciate their kind words.

Mr. Speaker, I yield the balance of my time to the gentleman from Texas (Mr. ARMEY), distinguished majority leader, Ph.D. in economics, who also knows how to read a balance sheet.

The SPEAKER pro tempore (Mr. UPTON). The gentleman from Texas (Mr. ARMEY) is recognized for 5 minutes.

Mr. ARMEY. I thank the gentleman for yielding me this time.

Mr. Speaker, I want to thank the gentleman from California (Mr. HORN) and the gentleman from Wisconsin (Mr. NEUMANN) for their persistence on this matter.

I listened with some interest to the remarks that were being made as I came in. It is always interesting to try to debate whether the glass is half full or half empty, but I think we would all agree that in any enterprise in America, other than the government, whether it be our family, whether it be our business, whether it be even a State or local government enterprise, everybody would understand that they have to have an audit to determine how much water is in the glass. Then we can debate whether it is half full or half empty, as long as we know that half of the capacity for the glass is taken up. And our problem with our government, Mr. Speaker, it does not know what it has. It does not know what it does. It loses things, sometimes things that would be fairly difficult to lose.

A missile launcher was identified as lost for 6 months, and it is not clear to us that they realized that it was lost until Congress encouraged them to have an audit, find out what they had and where it was.

They did finally find the missile launcher. I am not so sure that without the work of this committee they would have suffered enough embarrassment and awareness of their loss to have found the missile launcher. But the job is not done. We still are missing a tugboat, a crane and other large equipment.

Nobody here is seeking to be angry or nasty about this. We are not even particularly interested in criticizing or blaming. But the fact of the matter is that every organization in the world must know what it is doing with its money, and certainly the Federal Government of the United States, a government that is given the trust and confidence of the American citizens to spend literally $1.5 trillion of our money, should be willing to subject itself to the same auditing principles, the same accountability as any small enterprise that may, in fact, find itself subject to the audits of some of those very same government agencies that are not doing so well in these audits.

Jerry Jeff Walker has a wonderful song. The song is "The Pot Can't Call the Kettle Black." If the government will not accept the rigors of auditing, the rigors of accountability, how can the government have any moral basis by which they would themselves hold you and I accountable for these same rigors as they seek to regulate and invest in our lives?

The IRS might even come in and lock your doors, throw the business owners in jail for negligence, embezzlement or worse.

Now, I, as the gentleman from California said, I am an economist. I deal with all these things in theory. I am proud to tell colleagues that in theory my world is, as they like to say, tractable, all the pieces fit. That is very comforting to me.

My daughter, on the other hand, pity her, is an auditor. She understands that when she shows up, she is not going to be welcomed with open arms. As I said earlier before the committee, pity the poor auditor. They are always the skunk at the garden party.

□ 1530

But the auditor in any business will tell you, the audit department is absolutely imperative. I have made the homely observation before many times that ARMEY's axiom is, "Nobody spends somebody else's money as wisely as they spend their own." The auditor does that. The auditor comes in and says to the agency of the Federal Government that is not doing well, not showing up well on the books, "You and I are doing the same thing here. We're really quite the same. I spend that money like it's my money, and you spend that money like it's my money."

Everybody in every agency should be encouraged to take the rigor, face the hard recordkeeping, the disciplined process of knowing exactly what they are doing with the taxpayer's dollar, having a clear idea what their responsibilities are, how they intend to fulfill those responsibilities, and what and how they spend of the taxpayers dollars in the fulfillment of those responsibilities, and then just having the fundamental decency to be accountable in the expenditure of those dollars.

Where does the Congress come in in this process? The Congress of the United States is as if we were the board of directors. It is our job to see to it that the rigors and the disciplines, the protocols, the techniques and the methods are as rigorously adhered to in each and every agency of this Government as this Government in fact would require them to be adhered to by each and every business enterprise, each and every charitable enterprise that exists in our districts.

There is another old saying that maybe comes into play here: "What's good for the goose is good for the gander." The Federal Government of the United States in fulfilling its obligations and its duties to police the integrity of business practice and enterprise in America so that markets can work smoothly cannot possibly have a moral authority by which that is done unless they first accept that responsibility and fulfill that responsibility in full accountability in the manner in which they do their own job. That is really what this is all about. Will this Congress accept its responsibility, and by so doing so, can we assure our constituents that, in response, every agency of this Government fulfills its responsibility so that we can measure and we can judge and we can improve the extent to which the taxpayer gets something that is known in the private sector as value for your dollar.

Once again, I want to thank the committee for their hard work.

The SPEAKER pro tempore (Mr. UPTON). The time of the gentleman from California (Mr. HORN) has expired. The gentleman from Ohio (Mr. KUCINICH) has 5½ minutes remaining.

Mr. KUCINICH. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. HORN).

Mr. HORN. Mr. Speaker, I am sure the gentleman from Ohio who supports this resolution, I appreciate that, and the ranking member on the committee, I have appreciated his support.

Mr. Speaker, I yield to the gentleman from Wisconsin (Mr. NEUMANN) who did the craftsmanship of this particular resolution.

Mr. NEUMANN. Mr. Speaker, I would just say it is very important to me that we keep this from becoming a partisan issue. This is not about Republicans or Democrats, or even about the Clinton administration. This is about where we are right now today. In my opinion after reviewing this audit, we have a long way to go in this Government.

It is incomprehensible to me, coming from the private sector, to look at this situation and say it is okay. It is not okay. Before we go out and spend $1.7 trillion more of the taxpayers' money next year, I think we should put some things into place that force these agencies to at least know what it is they have, where it is located, and how they are spending their money. I would hope we proceed with that over the course of the next 6 months here yet this year.

Mr. HORN. Mr. Speaker, I think as the gentleman from Ohio knows and certainly as the gentlewoman from New York (Mrs. MALONEY) knows, the ranking member, the aim of our committee over time is to assure that the Federal Government not only has audits but also that the Federal Government can measure the effectiveness of its programs which has to be basic when the President has to make a determination between do I keep this program or do I reduce or do I add to it, and the same decision has to be made by the Congress. There is only one State in the union that has a system like that, that is the State of Oregon with its benchmarking of programs. There are only two countries in the world that have a fiscal system such as that, and that is Australia and New Zealand. We have a lot to learn from both of them.

Over the last 3 years, we have been holding various hearings on how this could be done so that the program analysis becomes part of the monetary cost of the particular unit of program. That is what is important if we really want to make sure that the taxpayer dollars are not wasted.

I do not think there is a person in this Chamber that wants to waste taxpayer dollars. I think sometimes by either our failure to be very specific in a law or the executive branch's failure to interpret the law, regardless of party, regardless of ideology, but you have got a culture there that when you get to the end of the fiscal year that says, "Well, let's spend it, and if we don't spend it, the Congress won't give it to us." I have seen that in universities, I have seen that in city government, I have seen that even in business, in large corporations. It is something that we have got to fight if we are going to be conscious of where the money comes from. It comes from the pockets, the hard-earned pockets of the American taxpayer.

Mr. KUCINICH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I first want to say how much I appreciate a chance to work with the gentleman from California (Mr. HORN) on issues of this import in the Subcommittee on Government Management, Information, and Technology. I congratulate him for his tireless dedication to the American taxpayer. I also want to congratulate the gentleman from Wisconsin (Mr. NEUMANN) for bringing this resolution forward and for working with us in crafting the language which would enable it to have bipartisan support.

I think it is important that we proceed in a bipartisan manner here, because the American people expect us to, and they know the only way we can make Government accountable is if we insist from both sides that Government be accountable. Certainly it needs to be said again that the Clinton administration has taken the lead in highlighting and addressing the problems that have been discussed here today.

In 1993, Vice President GORE recommended annual consolidated financial reports and comprehensive Governmentwide accounting standards as part of his Reinventing Government Initiative. The Federal Accounting Standards Advisory Board completed basic Federal Government accounting standards in record time. And as has been previously stated, the administration submitted the first Governmentwide financial audit by the statutory deadline of March 31, 1998. President Clinton has sent a memorandum to each agency head requiring that specific agencies prepare action plans to ensure that the government receives an unqualified opinion on its fiscal year 1999 audit.

Mr. Speaker, the administration needs both of us, needs all of us, to work with it to make Government work better. I remain dedicated to that cause. I know that is a dedication that I share with my colleagues, with the gentleman from California (Mr. HORN), with the gentleman from Wisconsin (Mr. NEUMANN) and with everyone else.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. HORN) that the House suspend the rules and agree to the resolution, House Resolution 447, as amended.

The question was taken.

Mr. HORN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

LAKE CHELAN-WENATCHEE NATIONAL FOREST BOUNDARY ADJUSTMENT

Mrs. CHENOWETH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3520) to adjust the boundaries of the Lake Chelan National Recreation Area and the adjacent Wenatchee National Forest in the State of Washington.

The Clerk read as follows:

H.R. 3520

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

SECTION 1. BOUNDARY ADJUSTMENTS, LAKE CHELAN NATIONAL RECREATION AREA AND WENATCHEE NATIONAL FOREST, WASHINGTON.

(a) BOUNDARY ADJUSTMENTS.—

(1) LAKE CHELAN NATIONAL RECREATION AREA.—The boundary of the Lake Chelan National Recreation Area, established by section 202 of Public Law 90-544 (16 U.S.C. 90a-1), is hereby adjusted to exclude a parcel of land and waters consisting of approximately 88 acres, as depicted on the map entitled "Proposed Management Units, North Cascades, Washington", numbered NP-CAS-7002A, originally dated October 1967, and revised July 13, 1994.

(2) WENATCHEE NATIONAL FOREST.—The boundary of the Wenatchee National Forest is hereby adjusted to include the parcel of land and waters described in paragraph (1).

(3) AVAILABILITY OF MAP.—The map referred to in paragraph (1) shall be on file and available for public inspection in the offices of the superintendent of the Lake Chelan National Recreation Area and the Director of the National Park Service, Department of the Interior, and in the office of the Chief of the Forest Service, Department of Agriculture.

(b) TRANSFER OF ADMINISTRATIVE JURISDICTION.—Administrative jurisdiction over Federal land and waters in the parcel covered by the boundary adjustments in subsection (a) is transferred from the Secretary of the Interior to the Secretary of Agriculture, and the transferred land and waters shall be managed by the Secretary of Agriculture in accordance with the laws and regulations pertaining to the National Forest System.

(c) LAND AND WATER CONSERVATION FUND.—For purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9), the boundaries of the Wenatchee National Forest, as adjusted by subsection (a), shall be considered to be the boundaries of the Wenatchee National Forest as of January 1, 1965.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Idaho (Mrs. CHENOWETH) and the gentleman from American Samoa (Mr. FALEOMAVAEGA) each will control 20 minutes.

The Chair recognizes the gentlewoman from Idaho (Mrs. CHENOWETH).

Mrs. CHENOWETH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first I would like to recognize the gentleman from Washington (Mr. HASTINGS) for all of his excellent work on this bill. The gentleman from Washington has spent numerous hours,

working with the Departments of Agriculture and the Interior, finding a solution that all parties agree to. That is a monumental task, and he did it.

H.R. 3520 is a rather simple but very important piece of legislation. With this bill, 88 acres of land is placed under one jurisdiction, that of the U.S. Forest Service. Additionally and more importantly, this bill fulfills a longstanding commitment made by the National Park Service to Mr. George C. Wall, the private landowner whose acreage is within the Lake Chelan National Recreation Area. This legislation eliminates the confusion that was once caused when both the U.S. Forest Service and the National Park Service shared jurisdiction over this land. Finally, H.R. 3520 removes one of the many in-holding conflicts we currently have on our Federal lands.

This is a good bill, and it is the right thing to do. It has the support of the administration. It will help end the jurisdictional gridlock by consolidating the management authority under the U.S. Forest Service and let us keep the National Park Service's commitment to Mr. Wall. I urge my colleagues to support H.R. 3520.

Mr. Speaker, I yield such time as he may consume to the gentleman from Washington (Mr. HASTINGS), the author of the legislation.

Mr. HASTINGS of Washington. Mr. Speaker, I thank the gentlewoman from Idaho for yielding me this time.

Mr. Speaker, I rise today to speak in favor of my bill, H.R. 3520, which would adjust the boundary line between the Lake Chelan National Recreation Area and the Wenatchee National Forest. This is a relatively simple, noncontroversial measure which is supported by both the U.S. Forest Service and the National Park Service.

This boundary line adjustment is meant to consolidate the property of Mr. George Wall under the jurisdiction of the U.S. Forest Service. Unfortunately, due to an original drafting error, a portion of Mr. Wall's property is included in the Lake Chelan National Recreation Area and a portion in the Wenatchee National Forest. This condition creates some confusion regarding the coordination of Federal land policy in this area.

First of all, let me make this point, that this is a very remote area of central Washington. It is several hours away by boat from the nearest city. It is primarily national forest and national wilderness lands with very little privately held land in this area. This bill is targeted to help not only one landowner but also the American people as a whole and will have no impact on any other private land.

In 1968 when the Lake Chelan National Recreation Area was created, Mr. Wall was assured that his property would remain within the Wenatchee National Forest. H.R. 3520 would uphold this original commitment to Mr. Wall by placing all of his property under the U.S. Forest Service jurisdiction.

This legislation is personally important to Mr. Wall and it is administratively important to the agencies involved. With the enactment of H.R. 3520, Mr. Wall's property would be entirely within the jurisdiction of the Forest Service, thereby alleviating Mr. Wall's continued need to respond to both Park Service and Forest Service management. Mr. Speaker, I would like to quote from a May 1995 letter from the Park Service to Senator SLADE GORTON of Washington regarding the need for this boundary adjustment. According to the National Park Service, changing the boundary would "contribute to enhancement of public service as well as more efficient administration of Federal lands and would be of benefit to the landowner in that it would eliminate the necessity of dealing with two separate Federal agencies with different congressional mandates and administrative procedures."

Mr. Speaker, Mr. Wall's property lies beside Lake Chelan, and the current border cuts through the lake and directly through his property. In order to adjust the border in the most efficient manner, H.R. 3520 would adjust the line starting on the opposite side of the lake toward the northern point of Mr. Wall's land. From there, the new border would wrap around Mr. Wall's property and back to the current border. This change would mean that 65 acres of the lake and 23 acres of Mr. Wall's property would now be outside the Lake Chelan National Recreation Area. All told, 88 acres would be transferred to the Wenatchee National Forest. I might point out that the 65 acres of Lake Chelan that will hereinafter be within the National Forest system will not affect the recreational use of the area.

Mr. Speaker, Mr. Wall has waited for nearly three decades for the Federal Government to address this situation.

□ 1545

He is now in poor health, and his family has asked that we might make this adjustment as quickly as possible. I urge my colleagues to support this legislation and uphold the original commitment made to Mr. Wall when the boundary was drawn in 1968, 30 years ago.

Mrs. CHENOWETH. Mr. Speaker, I reserve the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation proposes to adjust the boundaries of the Lake Chelan National Recreation Area in the State of Washington to exclude 88 acres. Currently a private landowner is subject to dual jurisdiction by the National Park Service and the U.S. Forest Service. This bill in effect would place the lands in the Wenatchee National Forest, which is solely administered by the U.S. Forest Service. Both the National Park Service and the U.S. Forest Service support this legislation.

Mr. Speaker, I want to thank the gentleman from Washington (Mr. HASTINGS) as the chief sponsor of this legislation and for bringing this matter to the attention of the House, and I do urge the adoption of this bill.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHENOWETH. Mr. Speaker, I have no more requests for time, and I yield back the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I have no additional speakers, but I do want to commend the gentlewoman from Idaho for her management of this legislation.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. UPTON). The question is on the motion offered by the gentlewoman from Utah (Mrs. CHENOWETH) that the House suspend the rules and pass the bill, H.R. 3520.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mrs. CHENOWETH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3520, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

NATIONAL UNDERGROUND RAILROAD NETWORK TO FREEDOM ACT OF 1998

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1635) to establish within the United States National Park Service the National Underground Railroad Network to Freedom program, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1635

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 "National Underground Railroad Network to Freedom Act of 1998".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds the following:

(1) The Underground Railroad, which flourished from the end of the 18th century to the

end of the Civil War, was one of the most significant expressions of the American civil rights movement during its evolution over more than 3 centuries.

(2) The Underground Railroad bridged the divides of race, religion, sectional differences, and nationality; spanned State lines and international borders; and joined the American ideals of liberty and freedom expressed in the Declaration of Independence and the Constitution to the extraordinary actions of ordinary men and women working in common purpose to free a people.

(3) Pursuant to title VI of Public Law 101–628 (16 U.S.C. 1a–5 note; 104 Stat. 4495), the Underground Railroad Advisory Committee conducted a study of the appropriate means of establishing an enduring national commemorative Underground Railroad program of education, example, reflection, and reconciliation.

(4) The Underground Railroad Advisory Committee found that—

(A) although a few elements of the Underground Railroad story are represented in existing National Park Service units and other sites, many sites are in imminent danger of being lost or destroyed, and many important resource types are not adequately represented and protected;

(B) there are many important sites which have high potential for preservation and visitor use in 29 States, the District of Columbia, and the Virgin Islands;

(C) no single site or route completely reflects and characterizes the Underground Railroad, since its story and associated resources involve networks and regions of the country rather than individual sites and trails; and

(D) establishment of a variety of partnerships between the Federal Government and other levels of government and the private sector would be most appropriate for the protection and interpretation of the Underground Railroad.

(5) The National Park Service can play a vital role in facilitating the national commemoration of the Underground Railroad.

(6) The story and significance of the Underground Railroad can best engage the American people through a national program of the National Park Service that links historic buildings, structures, and sites; routes, geographic areas, and corridors; interpretive centers, museums, and institutions; and programs, activities, community projects, exhibits, and multimedia materials, in a manner that is both unified and flexible.

(b) PURPOSES.—The purposes of this Act are the following:

(1) To recognize the importance of the Underground Railroad, the sacrifices made by those who used the Underground Railroad in search of freedom from tyranny and oppression, and the sacrifices made by the people who helped them.

(2) To authorize the National Park Service to coordinate and facilitate Federal and non-Federal activities to commemorate, honor, and interpret the history of the Underground Railroad, its significance as a crucial element in the evolution of the national civil rights movement, and its relevance in fostering the spirit of racial harmony and national reconciliation.

SEC. 3. NATIONAL UNDERGROUND RAILROAD NETWORK TO FREEDOM PROGRAM.

(a) IN GENERAL.—The Secretary of the Interior (in this Act referred to as the "Secretary") shall establish in the National Park Service a program to be known as the "National Underground Railroad Network to Freedom" (in this Act referred to as the "national network"). Under the program, the Secretary shall—

(1) produce and disseminate appropriate educational materials, such as handbooks, maps, interpretive guides, or electronic information;

(2) enter into appropriate cooperative agreements and memoranda of understanding to provide technical assistance under subsection (c); and

(3) create and adopt an official, uniform symbol or device for the national network and issue regulations for its use.

(b) ELEMENTS.—The national network shall encompass the following elements:

(1) All units and programs of the National Park Service determined by the Secretary to pertain to the Underground Railroad.

(2) Other Federal, State, local, and privately owned properties pertaining to the Underground Railroad that have a verifiable connection to the Underground Railroad and that are included on, or determined by the Secretary to be eligible for inclusion on, the National Register of Historic Places.

(3) Other governmental and nongovernmental facilities and programs of an educational, research, or interpretive nature that are directly related to the Underground Railroad.

(c) COOPERATIVE AGREEMENTS AND MEMORANDA OF UNDERSTANDING.—To achieve the purposes of this Act and to ensure effective coordination of the Federal and non-Federal elements of the national network referred to in subsection (b) with National Park Service units and programs, the Secretary may enter into cooperative agreements and memoranda of understanding with, and provide technical assistance to—

(1) the heads of other Federal agencies, States, localities, regional governmental bodies, and private entities; and

(2) in cooperation with the Secretary of State, the governments of Canada, Mexico, and any appropriate country in the Caribbean.

(d) APPROPRIATIONS.—There are authorized to be appropriated to carry out this Act not more than $500,000 for each fiscal year. No amounts may be appropriated for the purposes of this Act except to the Secretary for carrying out the responsibilities of the Secretary as set forth in section 3(a).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah (Mr. HANSEN) and the gentleman from American Samoa (Mr. FALEOMAVAEGA) each will control 20 minutes.

The Chair recognizes the gentleman from Utah (Mr. HANSEN).

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

H.R. 1635, as amended, is a bill introduced by the gentleman from Ohio (Mr. STOKES), my colleague. Mr. Stokes and the gentleman from Ohio (Mr. PORTMAN) are to be congratulated on working very hard on this bill which would establish the National Underground Railroad Network to Freedom Program within the National Park Service. This program facilitates partnerships among the Federal, State and local governments and the private sector to assist in interpreting and commemorating the network of buildings, museums and routes that portray the movement to resist slavery in the United States in the decades prior to the Civil War. H.R. 1635 does not create any new units of the National Park system and caps appropriation at 500,000 per year to staff and to coordinate this program.

Commemorating the Underground Railroad Network, as H.R. 165 will do, is well-deserved and will help every American understand what the Underground Railroad was and how it helped thousands of slaves to secure their freedom and their place in history.

Mr. Speaker, this is a completely bipartisan measure that is also supported by the administration, and I urge my colleagues to support H.R. 1635.

Mr. Speaker, I reserve the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am proud that the House of Representatives is finally considering legislation to honor the Underground Railroad. This bill, H.R. 1635, introduced by our highly respected colleague, the gentleman from Ohio (Mr. STOKES), would establish the National Underground Railroad Network to Freedom Program under the National Park Service. Mr. STOKES and my friend and colleague, the gentleman from Ohio (Mr. PORTMAN), worked together to establish this program to identify sites and areas important to the struggle for freedom known as the Underground Railroad. This bill is without a doubt a long and overdue recognition of an important piece of American history.

Mr. Speaker, the program will incorporate Underground Railroad routes and sites with interpretive information about the railroad and the people involved. The National Park Service will work in cooperation with State and local governments and the private sector to develop a comprehensive written history.

The Underground Railroad stretched for thousands of miles from Kentucky and Virginia across Ohio and Indiana. In a northerly direction it stretched from Maryland across Pennsylvania and through New York and through New England. This was not just a route north though, and the network this legislation establishes will link numerous locations and landmarks within the United States as well the Caribbean, Mexico and Canada.

It is estimated that in the decade before the Civil War, the Underground Railroad movement was responsible for helping approximately 70,000 slaves escape and journey safely to freedom. Many never made it to freedom, dying along the way or caught and forced to endure unspeakable punishments and torture. Attempts made through the Underground Railroad were made at tremendous risk for those fleeing slavery and anyone who helped along the way.

The movement involved Americans of many different backgrounds. Bringing its experience and lessons to bear on the present, it is inherently a multiracial process. Each generically different experience is grounded in race and personal wealth, but together they shared much in this experience of the freedom story that transcended race

and echoed common commitments among fellow human beings.

Mr. Speaker, I wholeheartedly support the intention of this legislation, but as I mentioned throughout consideration of this bill, I am deeply concerned that a $500,000 authorization will not cover the costs of this most important program. I understand that the majority Members feel that this is all that would be acceptable to their leadership, and therefore I will not fight it. But I would be remiss if I did not raise my belief that it would be a terrible disservice to the memory of the tens of thousands who suffered and braved so much to be involved with the Underground Railroad if this Nation does not adequately fund this important endeavor.

Mr. Speaker, I urge my colleagues to pass this important legislation.

Mr. MILLER of California. Mr. Speaker, as a cosponsor of H.R. 1635, I am pleased that this legislation has finally come to the floor of the House of Representatives for consideration. Although it has been a long and overdue process, I am happy to note that H.R. 1635 now has the bipartisan support of 148 cosponsors.

This bill will establish a National Underground Railroad Network to Freedom program within the National Park Service, to facilitate partnerships among Federal, state and local governments and the private sector to identify and commemorate the Underground Railroad.

This bill comes at a time when divisiveness among our Nation's races and cultures seems to be on the rise. Through the program, structures, routes, and sites which were significant to the Underground Railroad will be identified. The National Park Service will create a logo to identify these sites and distribute interpretive information for visitors to understand the use of the Railroad.

The uplifting stories of the risks taken by all involved with the Underground Railroad put against the stark reality of our past with slavery, will provide visitors with powerful examples of the precious value of freedom and the strengthen of cooperation.

Mr. Speaker, the Underground Railroad is probably the best example of successful civil disobedience this nation has ever seen and the stories must be told. I commend our colleague, Mr. STOKES, for all his hard work on this legislation and I urge my colleagues on both sides of the aisle to vote for H.R. 1635 so that this powerful story may be preserved for generations to come.

Mr. FALEOMAVAEGA. Mr. Speaker, I reserve the balance of my time.

Mr. HANSEN. Mr. Speaker, the gentleman from Ohio (Mr. STOKES) and the gentleman from Ohio (Mr. PORTMAN) worked diligently on this piece of legislation, and I yield 5 minutes to the gentleman from Ohio (Mr. PORTMAN).

Mr. PORTMAN. Mr. Speaker, I thank the gentleman for yielding this time to me and mostly for all the help he has given us to this point. We would not be here this afternoon on the floor if not for the subcommittee Chairman's willingness to hold a hearing and then mark up this legislation, and I want him to know that both the gentleman from Ohio (Mr. STOKES) and I greatly appreciate that and moving it through the process.

I, of course, rise in very strong support of this historic legislation that will help preserve this powerful and often untold chapter in our Nation's history. I want to thank my colleague, the gentleman from Ohio (Mr. STOKES), who is seated on the other side of the aisle, for his leadership on this project. We have worked for the last few years on putting this legislation together and making this a reality. In addition to the gentleman from Utah (Mr. HANSEN), I also want to thank the gentleman from Alaska (Mr. YOUNG), the gentleman from California (Mr. MILLER), and the gentleman from American Samoa (Mr. FALEOMAVAEGA), who just spoke a moment ago, and the 150 other bipartisan cosponsors of this legislation.

Specifically the bill does three things. First it creates within the National Park Service a National Underground Railroad Network for the first time of all the existing sites, historic buildings, interpretive centers, research facilities, community projects and activities directly related to the Underground Railroad. The purpose is to commemorate and retell the future generations the important story of the Underground Railroad. So much of what we know, of course, about the Underground Railroad today has been handed down through oral traditions, and over the years as a result, as a recent Park Service study has told us, a lot of that tangible evidence is now in danger of being lost forever. So this bill will help collect, preserve and integrate all the pieces of this fascinating and important part of our history.

Second, it will require the Park Service to produce and disseminate educational materials, maps, handbooks, interpretive guides, electronic information; enter into cooperative agreements to help technical assistance facilities around the country that have a verifiable connection to the Underground Railroad; and will create a uniform official symbol for the national network and issue regulations for how that symbol can be used.

Third, and I think very importantly, it requires appropriate public-private partnerships so that we can facilitate strong private support for this important part of our history. I think this is perhaps one of the most significant parts of the legislation because it represents a way for us to maximize and leverage the resources from the private sector to enhance a national public network.

One brief example the gentleman from American Samoa (Mr. FALEOMAVAEGA) talked about, the funding in the bill, there is some funding in the bill, but in our own area of Cincinnati that I represent, we hope to raise up to $80 million for a National Freedom Center, which would be part of this linkage, and with those kinds of private sector funds we can do much more with regard to commemorating this part of our history.

The legislation, I think, really can foster a sense of racial harmony, and just as the Underground Railroad itself bridged a divide of race and religion and nationality, joined people together in common purpose, so has this bill. The powerful and largely untold stories of the brave men and women of the Underground Railroad can inspire us even today, and must, about racial cooperation, about reconciliation, about determination and about courage. In a very real sense this act, I think, is a tangible effort that is bringing together people of different races today that helps to advance our ongoing national dialogue we must have about race relations in this great country.

Like so many other people in this Chamber and around this country, I have a personal connection to the Underground Railroad. I knew about it before this project got started, but I learned a lot more about it. The family home of my namesake and grandfather, whose name was Robert Jones, was a stop on the railroad. His great-grandparents and grandparents were Quakers and abolitionists who lived in a farmhouse near West Milton, Ohio, just north of Dayton. In fact, I visited their home a couple of weeks ago with my family and was able to show my three children the attic above the kitchen where my grandfather told me that, in fact, slaves were harbored as they sought freedom.

Many of the prominent figures of the Underground Railroad, it turns out, lived and worked in the district I represent. Levi Coffin, considered by many to be the president of Underground Railroad, worked for most of the time out of Cincinnati, also a Quaker. Harriet Beecher Stowe was a native of Cincinnati who wrote portions of Uncle Tom's Cabin, which helped in Cincinnati, and of course that book helped galvanize antislavery forces in the 1850s and 1860s.

John Parker of Ripley, Ohio, in my district was a former slave who bought his freedom, was a successful inventor and foundry owner and entrepreneur, and became a major conductor on the Underground Railroad. We are now trying to restore his home in Ripley, Ohio.

The Reverend John Rankin, also of Ripley, sheltered over a thousand people fleeing slavery. His home is restored. It is a site that sits on the hill above Ripley, Ohio, and one of the people who he saved was the character of Eliza actually in Uncle Tom's Cabin.

Another town in my district, Springboro, Ohio, has a number of stations, they think 15 or 16 stops, on the Underground Railroad, and they are now doing more work to uncover and authenticate those sites.

One of the very exciting aspects of this bill is its encouragement of public-private partnerships. In the greater Cincinnati region I represent, a national Underground Railroad Freedom Center, which expects to raise about, as I said, $70 million of private sector money, has been started. The freedom center is expected to open in the year 2003 on the banks of the Ohio River, an appropriate place, the dividing line between free and slave States. It will employ state-of-the-art technology and advance interdisciplinary education to commemorate, educate, and inspire and promote reconciliation, assisted by a national advisory board of distinguished leaders in their number. I will just list a few: Desmond Tutu; Rosa Parks; Dick Cheney, a former Member of this Chamber, and others.

This center will be an international resource for scholarship, human relations education and genealogical study. It will be one of the first distributive museums around the country, meaning it will be in contact with this linkage that we are setting up through this legislation, the networking, and it will also be the first major museum focused exclusively on the Underground Railroad experience. The center will create cooperative programming and educational opportunities across the continent. It has already attracted substantial private sector support, and again it should be a critical and leading link in the network envisioned by the legislation.

I would like to give special thanks today to a friend and a fellow Cincinnatian, Ed Rigaud, who is leading that effort in Cincinnati and has taught me a lot about the national significance of the Underground Railroad. Also, Iantha Gantt-Wright is with the National Parks and Conservation Association, and that group has worked with the gentleman from Ohio (Mr. STOKES) and myself over the last couple of years, gave us a lot of input in the process of putting together the legislation.

□ 1600

Finally, I want to single out Jan Oliver of my staff and the staff of the House Committee on Resources for all their good work on the legislation. I urge bipartisan support of this important and I think landmark legislation, to preserve the story of the Underground Railroad, the lessons of which can guide us in our quest for racial cooperation and understanding even today.

Mr. FALEOMAVAEGA. Mr. Speaker, I certainly want to compliment the gentleman from Ohio (Mr. PORTMAN), the cosponsor of this legislation, for his eloquent remarks.

Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Speaker, I thank my friend from American Samoa for yielding me time.

Mr. Speaker, I rise in support of H.R. 1635, the National Underground Railroad Network to Freedom Act of 1998. As an original cosponsor, I am pleased the House is considering this important legislation today.

Mr. Speaker, I would like to take this opportunity to talk about the important role that Oberlin, Ohio in my district played in this struggle for freedom. Oberlin is probably best known as the site of an historic uprising in which 300 residents of Oberlin and neighboring Wellington rescued John Price, an escaped slave from Kentucky, from arrest by a determined group of slave catchers led by a U.S. marshal in September 1858. This incident drew international attention to the plight of American slaves, contributing to an increasing awareness of the abolitionist movement. The participants in the rescue included students, freed slaves and townspeople of all classes. The open defiance of the residents of Oberlin led to the nickname "The town that started the Civil War."

In April, I was pleased to join Interior Secretary Bruce Babbitt in Oberlin to designate the Wilson Bruce Evans House as a National Historic Landmark which was home to Wilson and Henry Evans, two of the leaders in this historic uprising.

Additionally, the City of Oberlin is home to several other sites which played prominent roles in the Underground Railroad movement. First Church in Oberlin served as a meeting site for the Oberlin Anti-Slavery Society.

Erected in Martin Luther King Park are several monuments, including a memorial to the three African-American men, Shields Green, John Copeland and Lewis Sheridan Leary, who died with John Brown during his march on Harper's Ferry, Virginia, which served as a prelude to the Civil War. Additionally, several other homes of prominent abolitionists, including James Monroe and John Mercer Langston, still stand in Oberlin.

Mr. Speaker, we must ensure that future generations learn about the role that brave and righteous women and men in communities like Oberlin played in establishing and running the Underground Railroad and how their actions led to the end of slavery in the United States and the beginning of the civil rights movement.

Mr. Speaker, I add my support to H.R. 1635, thanking especially the gentleman from Ohio (Mr. PORTMAN) and the gentleman from Ohio (Mr. STOKES) for their leadership.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Ohio, (Mr. STOKES), a cosponsor of this legislation.

Mr. STOKES. Mr. Speaker, I want to thank the distinguished ranking member, the gentleman from American Samoa (Mr. FALEOMAVAEGA), for yielding me time.

Mr. Speaker, I rise in support of H.R. 1635, the National Underground Railroad Network to Freedom Act. I am proud to share authorship of this legislation with my friend and colleague, the gentleman from Ohio (Mr. PORTMAN). It has been a pleasure to work with him and his able staff in bringing this historic legislation to the floor.

I want to express my appreciation to the chairman of the full committee, the gentleman from Alaska (Mr. YOUNG), for his support and interest in this legislation. I also wanted to thank my good friend, the gentleman from Utah (Mr. HANSEN), chairman of the subcommittee, for his cooperation in conducting an excellent and outstanding hearing on this legislation and for also marking it up in the subcommittee.

Since its introduction, the Underground Railroad bill has enjoyed broad bipartisan support. We are pleased to bring this bill to the floor with 156 cosponsors from both sides of the aisle and congressional districts across America. I must also acknowledge the significant role that the National Park Service provided in working with me and the gentleman from Ohio (Mr. PORTMAN) at all stages of this legislative process. Their assistance has been invaluable.

Mr. Speaker, second only to the protests and martyrdom of abolitionists, the Underground Railroad was the most dramatic protest against slavery in the history of America. The Underground Railroad, which reached its peak from 1830 to 1865, spanned more than 22 States, crossed the Mexican and Canadian borders, and thrived in the District of Columbia and the Caribbean. The railways were back roads, waterways, mountains, forests and swamps. Its conveyances were mules, wagons and boats. In short, the railroad was every route escaped slaves took or attempted to take to freedom.

Last year when we introduced the National Underground Network to Freedom Act, we did so in memory of the contributions made by our ancestors, black and white, Quaker and Protestant, Native American and many others who played key roles in the quest of American slaves for freedom. As we debate this issue today, we realize that regardless of whether we trace our ancestry to those who were enslaved, those who were slave owners, or those who were abolitionists and freedom fighters, the Underground Railroad bill will allow us to engage in constructive dialog and memorialize an important period in American history.

Mr. Speaker, I am proud to have authored, along with the gentleman from Ohio (Mr. PORTMAN), this significant legislation, which will enable the National Park Service to identify routes, geographic areas and corridors associated with the Underground Railroad.

The Park Service will also be charged with linking historic buildings and structures relating to the Underground Railroad. Lastly, the National Park Service will provide technical assistance and support to museums, institutions and centers to facilitate the telling of the story of the Underground Railroad.

This bill also encourages the Secretary of the Interior to enter into cooperative agreements with the governments of Canada, Mexico and appropriate countries in the Caribbean.

Mr. Speaker, before closing, I want to commend two members of my staff for their work on this bill, Joyce Larkin and Minnie Kenney. Their service has been outstanding.

Mr. Speaker, H.R. 1635 is a good bill that each of us should be proud to support. I urge my colleagues to vote in its favor.

Mr. FALEOMAVAEGA. Mr. Speaker, I thank the gentleman from Ohio for his most comprehensive and eloquent remarks concerning this legislation.

Mr. Speaker, I yield 3 minutes to my good friend, the gentleman from Maine (Mr. ALLEN).

Mr. ALLEN. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise today as a cosponsor and supporter of H.R. 1635, the National Underground Railroad Network to Freedom Act. The act has 156 cosponsors and enjoys substantial bipartisan support. The act requires the Secretary of the Interior to establish a nationwide network of historic sites and museums dedicated to preserving the legacy of the Underground Railroad.

Mr. Speaker, the Underground Railroad was used during the 18th and first half of the 19th century to smuggle African-American slaves to freedom. Maine's citizens were active participants in the Underground Railroad. There are 59 possible Underground Railroad sites across the State of Maine. These safe havens were used to harbor runaway slaves and are located in or near towns like Portland, Biddeford, Kennebunkport, Machias, and Waterboro.

In particular, the Abyssian Meetinghouse in Portland was an important link in the Underground Railroad. Oral history verifies that the site functioned as a way station for slaves on their way to freedom.

Oral history is a useful tool to help determine what buildings were part of the Underground Railroad. Someone's grandmother may remember hearing stories about how slaves were hidden in the town church. Organizations in Maine are working to recover these oral histories in order to identify additional Underground Railroad sites. As people age and die, the stories and information they carry with them die as well. The National Underground Railroad Network to Freedom Act will ensure the preservation of this aspect of American history so that future generations can learn and benefit from it.

Mr. Speaker, I am proud that Maine people were an important part of the national effort to help slaves attain their freedom. Maine served as a final link between the United States and freedom in Canada. The people that comprised the Underground Railroad were motivated by the principles on which our Nation's democracy rests, that all men and all women are created free and equal.

Mr. Speaker, I urge my colleagues to support this legislation.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. BONIOR), the distinguished minority whip.

Mr. BONIOR. Mr. Speaker, I thank my colleague for yielding me time and for the support.

Mr. Speaker, I want to take this time also to congratulate the gentleman from Ohio (Mr. STOKES) and the gentleman from Ohio (Mr. PORTMAN) on bringing this legislation to the floor. I also want to thank the gentleman from Utah (Mr. HANSEN) and the gentleman from Alaska (Mr. YOUNG) for being cooperative and supportive of this piece of legislation in the committee.

My interest, Mr. Speaker, on this issue revolves around the great history and the struggle that is part of the Underground Railroad and the cooperation to make it happen, but also because I have in my district a place called the Spring Hill Farm. It is located in Shelby Township, and from 1850 to 1865 this farm served as a place where runaway slaves could come and get shelter.

This was out in the middle of the country. The slaves would see this huge cedar tree, over 100 feet tall. They would know that the spring-in-the-hill cave on this farm was a place where they could get refuge. They would go there, and within the cave by the spring in the hill would be food and blankets and necessities to keep them going on their journey. The farm was owned by Peter and Sarah Lerich. They had 10 children, and they were able to even keep the secrecy of this facility from their children for many, many, many, many years.

The significance of this particular farm revolves around a couple of things. Number one, the owners and their agents trying to intercept the slaves would often go to the Detroit River, thinking the slaves would cross over to Windsor. But what actually was happening, they would go to this farm and then move up throughout my county of Macomb and into Saint Clair County and cross up at the Saint Clair River into Canada, which was 30 or 40 miles north of the Detroit crossing, thereby avoiding the agents and owners.

Interestingly enough, this farm was purchased by the late and great humanitarian and heavyweight boxer, Joe Louis, years later in my district, before he sold the property. It is a wonderful memorial to bravery and to cooperation and to reconciliation.

The Underground Railroad is a story of great courage and determination and the struggle for freedom in this country. It is an American story, but it is a universal story in its relevance. It teaches us the important lessons about liberty, understanding, cooperation and reconciliation.

So it is with great pride that I rise this afternoon to support this wonderful idea, so that we can memorialize and understand and pass on to our children and our grandchildren the great struggle that ensued in this country, so that they will never, ever forget the sacrifices that were made and, of course, the cooperation and help that was given.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from the U.S. Virgin Islands (Ms. CHRISTIAN-GREEN).

Ms. CHRISTIAN-GREEN. Mr. Speaker, I thank my colleague for yielding me time.

Mr. Speaker, I rise today, delighted that we finally have the opportunity to consider this bill on the floor of the House. I am especially pleased because H.R. 1635 is a fitting tribute to its sponsor, the gentleman from Ohio (Mr. STOKES), and I am honored to be among the 156 Members of the House who have joined our esteemed colleagues, the gentleman from Ohio (Mr. STOKES) and the gentleman from Ohio (Mr. PORTMAN) as cosponsors.

Mr. Speaker, the Underground Railroad network is an important part of our Nation's diverse history and deserves to be celebrated. I am particularly pleased to note that the borders of the network went beyond the North American Continent to the Caribbean. I trust that when the program which will be established by this bill is completed, it will include the escape routes to freedom which my ancestors from the Virgin Islands used to nearby Puerto Rico.

I urge all of my colleagues to unanimously support this bill. Because of H.R. 1635, we will come to know the many heretofore nameless individuals and groups who made the Underground Railroad route come alive and the traditions that created its culture. As we continue the ongoing national dialogue on race and its impact on our past, present and future, the memorializing of this testament to the courage and sacrifice of many people of all persuasions and to the spirit, strength and determination of the Africans who had been forced into brutal slavery will be an important legacy.

The Underground Railroad Network to Freedom Program will have an unlimited potential to be a part of the education process in our country, and

it will also be a source to further inspire and promote the healing of our diverse community, as well as serve as a source of strength, direction and hope for our children. I urge its passage.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from Texas (Ms. JACKSON-LEE).

□ 1615

Ms. JACKSON-LEE of Texas. Mr. Speaker, I could not help but listen to the passion and compassion of the gentleman from Ohio (Mr. PORTMAN) for this very important bill, and we thank him not only for his collaboration but the history of his family. He has joined with someone that we hold in such high respect, the gentleman from Ohio (Mr. STOKES).

We know that the gentleman will not be in the Congress in the next session, but we are gratified of his vision and his ability to collaborate and to represent, as the Portman and Stokes H.R. 1635 I hope passes unanimously in this House, what America is all about.

The Underground Railroad should be commemorated and celebrated, for it is the recognition of what volunteerism in the face of adversity can bring about. It did not single out any culture or race, any religion. Everyone who was concerned about the degradation and the tragedy in this Nation were able to participate. Up south, north, down south, south, all parts of this Nation could in some way contribute either in spirit or in actuality.

I am proud of the many midwestern States and cities whose people rose to the occasion; the Eastern Seaboard who, along that route, that was not pretty and attractive and well focused. There were no nice railroad beds. There was no stopping for refreshments, where you would stop in some lovely train station. It was, in fact, the Underground Railroad, unpleasant, but yet spirited.

Harriet Tubman, who was called General Moses, had her own way of taking tickets, for if you felt a little fearful and were about to turn around, the story tells us that Harriet Tubman had a way of saying, "if you turn around, you will not live; if you go forward, you can go and live with me."

So this was a challenging time. But the most important aspect of this whole Underground Railroad was a collaboration of Americans, people who came together for good, who did not ask of your background, who did not ask what color you were, but believed in freedom, and believed that this country would be better when slavery was eliminated and helped those who wanted to seek freedom, to work for freedom to be able to go safely into the night and to go into the free North.

So I want to thank the cosponsors of this legislation and particularly would like to acknowledge those who did not survive, all of those heroes and sheros who provided the food and the support that we may not even have in our history books, all the religious leaders.

In Philadelphia, in fact, the AME Church was noted as one that took in the freed slaves from the Underground Railroad, providing them with clothes, food, and support and providing them work. Everyone who became free wanted to work, wanted to contribute to America, wanted to make it better and great. So this is befitting.

We thank the gentleman from Ohio (Mr. PORTMAN) and the gentleman from Ohio (Mr. STOKES) for their vision on this. To those who are not here to hear their stories being told in the United States Congress, you are great Americans, you are great heroes and sheros; and for this, we salute you. The National Underground Network to Freedom Act will forever put in the annals to history our tribute to the Underground Railroad.

Mr. FALEOMAVAEGA. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore (Mr. STEARNS). The gentleman from American Samoa (Mr. FALEOMAVAEGA) has 1 minute remaining.

Mr. FALEOMAVAEGA. Mr. Speaker, I would like to ask my good friend, the gentleman from Utah (Mr. HANSEN) if I could indulge in his acceptance of my request for 2 additional minutes from his time.

Mr. HANSEN. Mr. Speaker, I am happy to yield 2 minutes to the gentleman from American Samoa or to one of his speakers.

Mr. FALEOMAVAEGA. I thank the gentleman.

The SPEAKER pro tempore. Without objection, the gentleman from American Samoa is recognized for an additional 2 minutes.

There was no objection.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Speaker, I am pleased to speak today on this bill, H.R. 1635. This bill requests the National Park Service, number one, to produce and disseminate appropriate educational materials to inform people about the Underground Railroad, provide technical assistance to the Underground Railroad Partnership, which includes individuals, Federal, State, and local governments, and the private sector to ensure coordination.

Thirdly, to create and adopt a symbol to be placed at all sites designated along the network known as the Underground Railroad.

During perhaps the worst period in American history, the Underground Railroad emerged, an important historic coalition of black and white, religious and concerned citizens joined together to form the abolitionists movement.

Many of the people involved in the Underground Railroad were called conductors. Many of them were former slaves. The conductors led other slaves out of bondage to freedom.

They developed their own terminology to protect those persons involved in helping to secure freedom as well as the slaves. The slaves were known as packages or freight. The route from one safehouse to the next was called the line. The safehouses were called stations. Those who aided the fugitive slaves were conductors.

The most famous of these conductors was Harriet Tubman. It is said that she personally conducted approximately 300 persons to freedom in the North. Reportedly, she even threatened to shoot any of her charges who wanted to turn back. She felt that moving forward or death was the only way to keep the locations of the stations secret.

Without fear for her personal safety, Harriet Tubman would disappear for weeks at a time to provide safety for her passengers on the Underground Railroad. She did so even though she was hunted by slaveholders and slave hunters.

Harriet Tubman worked closely with abolitionists such as John Brown and Germain Logan, Frederick Douglas, and countless other named and unnamed Underground Railroad supporters.

After the outbreak of the Civil War, Harriet Tubman also served as a soldier, a spy, and a nurse. During the war, with her keen knowledge of the route from the south to Canada, she served as a guide to many black soldiers.

The importance of our debate here today is to begin a coordinated effort to mark some of the many sites along the route of the Underground Railroad for generations to come. The work of assisting fugitive slaves along the Underground Railroad is a critical piece of our collective history.

Before the Civil War, it is estimated that approximately 70,000 slaves escaped and made the journey safely to northern States and Canada and subsequent freedom through the Underground Railroad.

It is my hope that the designation of the sites along the Underground Railroad, along with the educational programs and information that follows, will allow Americans of all walks of life to understand the important contribution to the history of the Underground Railroad.

I would like to thank my colleague, the gentleman from Ohio (Mr. STOKES) and everybody that has been involved in making this a possibility.

Mr. FALEOMAVAEGA. Mr. Speaker, I would like to ask my good friend, the gentleman from Utah (Mr. HANSEN) for 1 additional minute.

Mr. HANSEN. Mr. Speaker, I yield 1 minute to the gentleman from American Samoa.

The SPEAKER pro tempore. Without objection, the gentleman from American Samoa is yielded 1 additional minute.

There was no objection.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

I would just like to say again to the eloquence of my two good friends as cosponsors of this legislation, the gentleman from Ohio (Mr. PORTMAN) and the gentleman from Ohio (Mr. STOKES) for bringing this piece of legislation to the floor for consideration and to commend them both for the spirit of bipartisanship that we have this legislation, understanding the spirit behind it, the intention. Hopefully this will be one of those remarkable pieces of history that will be helpful not only for our generation but for future generations to appreciate what these people did as they participated in the Underground Railroad system.

Mr. Speaker, I also would like to say my personal tribute to my good friend and colleague who has certainly been an inspiration to me over the years that I have served in the House, my good friend, the gentleman from Ohio (Mr. STOKES), who will not be here since he is retiring, but just to let him know how much we really appreciate the service that he has rendered, not only to this body, to his district, and certainly to the American people.

Ms. CHRISTIAN-GREEN. Mr. Speaker, I rise today delighted, that we finally have the opportunity to consider this bill on the floor of the House, and I am honored to be among the 150 members of the House who have joined our esteemed colleague, Mr. STOKES and Mr. PORTMAN, as cosponsors.

Since he has announced that he will be leaving us when his team expires at the end of the Congress, it would be a fitting tribute for this House which Congressman STOKES has served so admirably, to pass H.R. 1635 unanimously.

I want to personally take this opportunity to publicly thank Congressman STOKES for taking me under his wing, as he has done for countless other new members, and guiding me through the complexities of this body, and to commend him for his leadership, not only on this issue before us today, but especially on health care and other matters importantly to the integrity of the Nation.

My colleagues H.R. 1635 is the result a Congressional study, mandated in 1990, which required the National Park Service to look at how best to interpret and commemorate the Underground Railroad. The bill before us would establish a program in the National Park Service to be known as the National Underground Railroad Network to Freedom.

Once established, the Secretary of Interior will produce and disseminate educational materials about the railroad and provide technical assistance to other governmental agencies, private entities or Governments of Canada, Mexico and the Caribbean to ensure coordination of the network.

As my district is located in the Caribbean, I am particularly pleased to note that the borders of the network will extend beyond the North American continent to the Caribbean.

I trust when the program which will be established by this bill is completed, it will include the escape routes to freedom which my ancestors used from the Virgin Islands to nearby Puerto Rico.

My colleagues the Underground Railroad Network is an important part of our nation's diverse history and deserves to be celebrated.

As we continue with the ongoing national dialog on race and its impact on our past, present and future, the memorializing of this testament to the courage and sacrifice of many people of all persuasions, and to the spirit, strength and determination of the Africans who had been forced into brutal slavery, will be an important legacy.

I urge all of my colleagues to unanimously support this bill. Because of H.R. 1635 we will come to know the many heretofore nameless individuals and groups who made the Underground Railroad route come alive and the traditions which created its culture.

In addition, The Underground Railroad Network to Freedom Network Program will have the unlimited potential to be a part of the education process in our country and to further inspire and promote the healing of our diverse community, as well as serve as a source of strength, direction and hope for our children.

Mr. POSHARD. Mr. Speaker, I rise today to register my strong support for H.R. 1635, the "National Underground Railroad Network to Freedom Act." This measure authorizes the National Park Service (NPS) to facilitate and coordinate federal and non-federal activities that honor and help people learn about the Underground Railroad. The bill establishes within the NPS the means to link Underground Railroad sites, produce educational materials and provide technical assistance to local organizations. In addition, H.R. 1365 encourages the Secretary of the Interior to enter into innovative public and private partnerships to tell the story of the Underground Railroad.

I am proud to count myself among the original co-sponsors of this important legislation. The Underground Railroad is one of the most significant events of the American civil rights movement, and although more than a century has passed since its inception, I feel that the stories of those who participated in the Underground Railroad remain vital sources of inspiration and can help promote racial understanding and cooperation. In my own congressional district, there is a building known as the "Old Slave House," which was built in 1834 and has served as a meaningful history lesson to those who have been fortunate enough to visit it. The Old Slave House is unique in that it is the only known remaining structure to have been used by kidnappers operating a kind of "reverse" Underground Railroad, and it is considered a key site by researchers and historians seeking to preserve relics of this critical time in American history.

Mr. Speaker, I am committed to ensuring that the Old Slave House and other sites receive the recognition and protection necessary for their preservation, so that future generations may benefit from the lessons they have to offer. The "National Underground Railroad Network to Freedom Act" represents a critical step in this process, and I urge my colleagues to vote for its passage today.

Mr. RUSH. Mr. Speaker, I rise today in support of an effort in the Senate to amend the Higher Education Bill. This amendment would give the Secretary of Education, in consultation with the Secretary of the Interior, the authority to provide grant money to create an educational center to research and celebrate the history of the Underground Railroad.

The Underground Railroad story is unique in American history. Tens of thousands of enslaved Black men and women risked their lives to pursue freedom. The common bond that led free Blacks, Whites, Native Americans and others to help secure safe passage for the fugitives was the firmly held belief that all human beings have an inalienable right to freedom.

Under the proposed Senate amendment, which may be considered in the next few weeks, the Department of Education would be authorized to evaluate proposals put forward by non-profit educational groups and select one that meets certain criteria, including the utilization of an existing public-private partnership and an on-going endowment to sustain the facility in the future.

In 1990, the Congress directed the National Park Service to conduct a study of alternatives for commemorating and interpreting the Underground Railroad. The Park Service found that there were numerous sites in several states involved in the Underground Railroad and, therefore, could not recommend a single site for an Underground Railroad memorial.

The effort in the Senate resolves the matter by providing funds for the development of a major "hub" site and the creation of satellite centers all across the country—as was the actual Underground Railroad operation. Including this bill in the Higher Education Bill also creates more than a historical monument; it provides an educational program dedicated to preserving, displaying and disseminating the history of the Underground Railroad.

Mr. Speaker, I hope the Senate will include this amendment and I encourage the House conferees to accept the language of the amendment in conference.

Mr. PAYNE. Mr. Speaker, I rise in strong support of H.R. 1635 the Underground Railroad Network to Freedom Act of 1998. With the passage of this legislation, which promotes the interpretation and commemoration of the path to freedom for escaped slaves, we will ensure that one of the most important stories in American history is told. It is a real-life drama, with all of the elements which make a compelling story—danger, courage, sacrifice and an undeniable longing for freedom which led to the establishment of the Underground Railroad. It is also a story which illustrates humanity at its best and worst, holding enduring lessons for present and future generations.

I am proud that the Underground Railroad's most famous conductor, Harriet Tubman, spent time in my home state of New Jersey carrying out her momentous mission. This brave African-American heroine, who was a fugitive slave, nurse, abolitionist, and social worker, risked her own life to lead hundreds of slaves to freedom.

Documented as an Underground Railroad Station is a home in Salem, New Jersey, which belonged to Abigail Goodwin, a Quaker and outspoken abolitionist, and her sister, Elizabeth. Under the initiative we are considering

today, attention will be given to the stories of people like the Goodwin sisters and those they helped usher to freedom. As we continue a national dialogue on race, we cannot fail to remember such a critical period in our history and its impact on the development of our nation.

Mr. Speaker, as a former educator, I firmly believe in this effort to educate the public about the movement to resist slavery in the United States in the decades leading up to the Civil War. I commend my friend and colleague, Congressman LOUIS STOKES, for introducing this legislation and I look forward to working with the National Park Service and others to successfully implement thus effort to facilitate partnerships among federal, state and local governments and the private sector to highlight the Underground Railroad.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield back the balance of my time.

Mr. HANSEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and pass the bill, H.R. 1635, as amended.

The question was taken.

Mr. FALEOMAVAEGA. Mr. Speaker, on that, I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. HANSEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 1635, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

ESTABLISHING MEMORIAL TO HONOR GEORGE MASON

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 423) to extend the legislative authority for the Board of Regents of Gunston Hall to establish a memorial to honor George Mason.

The Clerk read as follows:

S. 423

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

SECTION 1. EXTENSION OF LEGISLATIVE AUTHORITY FOR MEMORIAL ESTABLISHMENT.

The legislative authority for the Board of Regents of Gunston Hall to establish a commemorative work (as defined by section 2 of the Commemorative Works Act (40 U.S.C. 1002)) shall expire August 10, 2000, notwithstanding the time period limitation specified in section 10(b) of the Commemorative Works Act (40 U.S.C. 1010(b)).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah (Mr. HANSEN) and the gentleman from American Samoa (Mr. FALEOMAVAEGA) each will control 20 minutes.

The Chair recognizes the gentleman from Utah (Mr. HANSEN).

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 423 and urge its adoption. The bill grants a 3-year extension for the Board of Regents of Gunston Hall to construct a memorial to honor George Mason on Federal land within the District of Columbia.

In 1990, Congress passed public law 101–358 authorizing the Board of Regents of Gunston Hall to construct a memorial to George Mason, the American patriot who was the author of the Virginia Declaration of Rights that later served as the model for the Bill of Rights in the U.S. Constitution.

George Mason was a contemporary of George Washington, Thomas Jefferson, and James Madison. However, he died in 1792, years before his colleagues; and his contributions to the drafting of the U.S. Constitution are sometimes overlooked.

Mr. Speaker, section 10(b) of the Commemorative Works Act of 1986 provides that the legislative authorization to construct a memorial expires 7 years after the date the memorial was authorized by Congress. The date for the George Mason Memorial expired on August 10, 1997. This bill extends the legislative authority for the George Mason Memorial until August 10, 2000.

The Board of Regents of Gunston Hall, George Mason's historic ancestral home, have committed to raising the estimated $1 million necessary to construct this memorial and endow a maintenance fund.

The National Park Service has approved a site for this memorial garden on Federal land within the District of Columbia, adjacent to the span on the 14th Street Bridge, which has been named in George Mason's honor, and within site of the memorial dedicated to his renowned colleague, Thomas Jefferson.

Mr. Speaker, I urge my colleagues to support passage of S. 423.

Mr. Speaker, I reserve the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Senate bill 423 is a noncontroversial measure, passed by the Senate last year, that would extend for 3 years the legislative authority for the Board of Regents of Gunston Hall to establish a memorial to George Mason.

Public law 101–358 authorized the Board of Regents of Gunston Hall to establish a memorial to George Mason, who is widely recognized for his role in events surrounding the drafting of the U.S. Constitution and its first 10 amendments known as the Bill of Rights.

Plans for the memorial provide for its location on Federal land in the District of Columbia, near the 14th Street Bridge, which was previously named in his honor.

A 3-year extension of the memorial authorization is necessary in order to allow planning and fund-raising to be brought to a successful conclusion. Senate bill 423 was favorably reported from the committee on Resources last October, without amendment. The bill does have the support of the administration. I ask my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. MORAN of Virginia. Mr. Speaker, I rise today in support of S. 423, legislation to extend the legislative authority for the Board of Regents of Gunston Hall to establish a memorial to honor a distinguished Virginian, George Mason.

In 1776, George Mason wrote the Virginia Declaration of Rights, the first document in America calling for freedom of the press, freedom of religion, proscription of unreasonable searches, and the right to a speedy trial. The Virginia Declaration of Rights not only served as a model for our national Bill or Rights; but historians believe that Mason's refusal to sign the Constitution for its failure, initially, to include a declaration of rights was a major impetus for eventual adoption of the first ten amendments of the Constitution.

George Mason sacrificed friendships by insisting that a strong national government could not be secured without also firmly establishing individual rights, and Mason inevitably chose his family over politics. He retired from public office following the Constitutional Convention and died just a few years later in 1792. His contemporaries, Thomas Jefferson and James Madison, lived decades longer and were elected presidents of the United States, and thus Mason's contributions were soon overshadowed.

During the 101st Congress legislation authorizing a private, nonprofit organization to establish a memorial to George Mason on federal land in the District of Columbia passed and was signed by then-President George Bush. In the 102nd Congress, a resolution passed concurring that George Mason was an individual "of preeminent historical significance to the nation," and authorized the placement of the memorial within select Area I lands, in sight of the memorials of two of Mason's closest friends: George Washington and Thomas Jefferson. The legislation was signed into law on April 28, 1992 and approved by the National Capital Memorial Committee in December 1993.

To pay homage to a man whose ideas played a prominent role in the founding of the American republic, a fitting memorial has been designed for this site, located between Ohio Drive and the 14th Street Bridge, overlooking the Tidal Basin. The memorial designs have been completed and submitted for review to all necessary advisory and review boards and by agreement, the United States Park Service

is to maintain the memorial once completed. In accordance with the Commemorative Works Act of 1986, one million dollars must be raised in non-federal funds to construct this historic monument and ground breaking must occur no later than August 1998. The Board of Regents of Gunston Hall Plantation, a historical organization that oversees Mason's family home in Fairfax County, is dedicated to raising the necessary funds for the monument and seeing this important project through to its completion, however, the August 1998 deadline is rapidly approaching. At this time, fundraising efforts, while successful, will not be completed by the August 1998 deadline. That's why I support this necessary legislation granting an extension until August 2000.

The Commemorative Works Act requires two separate acts of Congress before a memorial may be placed in Area I lands. This monument has met both requirements. The final battle is a fundraising one and the Board of Regents of Gunston Hall has a plan of attack. Last year, they launched Liberty 2000, a campaign to share George Mason's legacy of liberty. The Board of Regents hope to build an endowment fund to ensure a secure future for Gunston Hall and attain the necessary nonfederal funds to break ground and complete their efforts to bring George Mason's legacy to the Mall.

This is non-controversial legislation that passed the Senate and the House Resources Committee unanimously. I ask my colleagues to join me in supporting this three-year extension so we may properly commemorate this great statesman and Virginian, George Mason.

Mr. HANSEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I have no additional speakers. I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and pass the Senate bill, S. 423.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid upon the table.

GENERAL LEAVE

Mr. HANSEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on S. 423, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the House by Mr. Sherman Williams, one of his secretaries.

□ 1630

U.S. HOLOCAUST ASSETS COMMISSION ACT OF 1998

Mr. LEACH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3662) to establish a commission to examine issues pertaining to the disposition of Holocaust-era assets in the United States before, during, and after World War II, and to make recommendations to the President on further action, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3662

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 "U.S. Holocaust Assets Commission Act of 1998".

SEC. 2. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established a Presidential Commission, to be known as the "Presidential Advisory Commission on Holocaust Assets in the United States" (hereafter in this Act referred to as the "Commission").

(b) MEMBERSHIP.—

(1) NUMBER.—The Commission shall be composed of 21 members, appointed in accordance with paragraph (2).

(2) APPOINTMENTS.—Of the 21 members of the Commission—

(A) 8 shall be private citizens, appointed by the President;

(B) 4 shall be representatives of the Department of State, the Department of Justice, the Department of the Army, and the Department of the Treasury (1 representative of each such Department), appointed by the President;

(C) 2 shall be Members of the House of Representatives, appointed by the Speaker of the House of Representatives;

(D) 2 shall be Members of the House of Representatives, appointed by the minority leader of the House of Representatives;

(E) 2 shall be Members of the Senate, appointed by the majority leader of the Senate;

(F) 2 shall be Members of the Senate, appointed by the minority leader of the Senate; and

(G) 1 shall be the Chairperson of the United States Holocaust Memorial Council.

(3) CRITERIA FOR MEMBERSHIP.—Each private citizen appointed to the Commission shall be an individual who has a record of demonstrated leadership on issues relating to the Holocaust or in the fields of commerce, culture, or education that would assist the Commission in analyzing the disposition of the assets of Holocaust victims.

(4) ADVISORY PANELS.—The Chairperson of the Commission may, in the discretion of the Chairperson, establish advisory panels to the Commission, including State or local officials, representatives of organizations having an interest in the work of the Commission, or others having expertise that is relevant to the purposes of the Commission.

(5) DATE.—The appointments of the members of the Commission shall be made not later than 90 days after the date of enactment of this Act.

(c) CHAIRPERSON.—The Chairperson of the Commission shall be selected by the President from among the members of the Commission appointed under subparagraph (A) or (B) of subsection (b)(2).

(d) PERIOD OF APPOINTMENT.—Members of the Commission shall be appointed for the life of the Commission.

(e) VACANCIES.—Any vacancy in the membership of the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(f) MEETINGS.—The Commission shall meet at the call of the Chairperson at any time after the date of appointment of the Chairperson.

(g) QUORUM.—11 members of the Commission shall constitute a quorum, but a lesser number of members may hold meetings.

SEC. 3. DUTIES OF THE COMMISSION.

(a) ORIGINAL RESEARCH.—

(1) IN GENERAL.—Except as otherwise provided in paragraph (3), the Commission shall conduct a thorough study and develop a historical record of the collection and disposition of the assets described in paragraph (2), if such assets came into the possession or control of the Federal Government, including the Board of Governors of the Federal Reserve System and any Federal reserve bank, at any time after January 30, 1933—

(A) after having been obtained from victims of the Holocaust by, on behalf of, or under authority of a government referred to in subsection (c);

(B) because such assets were left unclaimed as the result of actions taken by, on behalf of, or under authority of a government referred to in subsection (c); or

(C) in the case of assets consisting of gold bullion, monetary gold, or similar assets, after such assets had been obtained by the Nazi government of Germany from governmental institutions in any area occupied by the military forces of the Nazi government of Germany.

(2) TYPES OF ASSETS.—Assets described in this paragraph include—

(A) gold, including gold bullion, monetary gold, or similar assets in the possession of or under the control of the Board of Governors of the Federal Reserve System or any Federal reserve bank;

(B) gems, jewelry, and nongold precious metals;

(C) accounts in banks in the United States;

(D) domestic financial instruments purchased before May 8, 1945, by individual victims of the Holocaust, whether recorded in the name of the victim or in the name of a nominee;

(E) insurance policies and proceeds thereof;

(F) real estate situated in the United States;

(G) works of art; and

(H) books, manuscripts, and religious objects.

(3) COORDINATION OF ACTIVITIES.—In carrying out its duties under paragraph (1), the Commission shall, to the maximum extent practicable, coordinate its activities with, and not duplicate similar activities already being undertaken by, private individuals, private entities, or government entities, whether domestic or foreign.

(4) INSURANCE POLICIES.—

(A) IN GENERAL.—In carrying out its duties under this Act, the Commission shall take note of the work of the National Association of Insurance Commissioners with regard to Holocaust-era insurance issues and shall encourage the National Association of Insurance Commissioners to prepare a report on the Holocaust-related claims practices of all insurance companies, both domestic and foreign, doing business in the United States at any time after January 30, 1933, that issued any individual life, health, or property-casualty insurance policy to any individual on any list of Holocaust victims, including the following lists:

(i) The list maintained by the United States Holocaust Memorial Museum in

Washington, D.C., of Jewish Holocaust survivors.

(ii) The list maintained by the Yad Vashem Holocaust Memorial Authority in its Hall of Names of individuals who died in the Holocaust.

(B) INFORMATION TO BE INCLUDED.—The report on insurance companies prepared pursuant to subparagraph (A) should include the following, to the degree the information is available:

(i) The number of policies issued by each company to individuals described in such subparagraph.

(ii) The value of each policy at the time of issue.

(iii) The total number of policies, and the dollar amount, that have been paid out.

(iv) The total present-day value of assets in the United States of each company.

(C) COORDINATION.—The Commission shall coordinate its work on insurance issues with that of the international Washington Conference on Holocaust-Era Assets, to be convened by the Department of State and the United States Holocaust Memorial Council.

(b) COMPREHENSIVE REVIEW OF OTHER RESEARCH.—Upon receiving permission from any relevant individuals or entities, the Commission shall review comprehensively any research by private individuals, private entities, and non-Federal government entities, whether domestic or foreign, into the collection and disposition of the assets described in subsection (a)(2), to the extent that such research focuses on assets that came into the possession or control of private individuals, private entities, or non-Federal government entities within the United States at any time after January 30, 1933, either—

(1) after having been obtained from victims of the Holocaust by, on behalf of, or under authority of a government referred to in subsection (c); or

(2) because such assets were left unclaimed as the result of actions taken by, on behalf of, or under authority of a government referred to in subsection (c).

(c) GOVERNMENTS INCLUDED.—A government referred to in this subsection includes, as in existence during the period beginning on March 23, 1933, and ending on May 8, 1945—

(1) the Nazi government of Germany;

(2) any government in any area occupied by the military forces of the Nazi government of Germany;

(3) any government established with the assistance or cooperation of the Nazi government of Germany; and

(4) any government which was an ally of the Nazi government of Germany.

(d) REPORTS.—

(1) SUBMISSION TO THE PRESIDENT.—Not later than December 31, 1999, the Commission shall submit a final report to the President that shall contain any recommendations for such legislative, administrative, or other action as it deems necessary or appropriate. The Commission may submit interim reports to the President as it deems appropriate.

(2) SUBMISSION TO THE CONGRESS.—After receipt of the final report under paragraph (1), the President shall submit to the Congress any recommendations for legislative, administrative, or other action that the President considers necessary or appropriate.

SEC. 4. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this Act.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out this Act. Upon request of the Chairperson of the Commission, the head of any such department or agency shall furnish such information to the Commission as expeditiously as possible.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(e) ADMINISTRATIVE SERVICES.—For the purposes of obtaining administrative services necessary to carry out the purposes of this Act, including the leasing of real property for use by the Commission as an office, the Commission shall have the power to—

(1) enter into contracts and modify, or consent to the modification of, any contract or agreement to which the Commission is a party; and

(2) acquire, hold, lease, maintain, or dispose of real and personal property.

SEC. 5. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION.—No member of the Commission who is a private citizen shall be compensated for service on the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) EXECUTIVE DIRECTOR, DEPUTY EXECUTIVE DIRECTOR, GENERAL COUNSEL, AND OTHER STAFF.—

(1) IN GENERAL.—Not later than 90 days after the selection of the Chairperson of the Commission under section 2, the Chairperson shall, without regard to the civil service laws and regulations, appoint an executive director, a deputy executive director, and a general counsel of the Commission, and such other additional personnel as may be necessary to enable the Commission to perform its duties under this Act.

(2) QUALIFICATIONS.—The executive director, deputy executive director, and general counsel of the Commission shall be appointed without regard to political affiliation, and shall possess all necessary security clearances for such positions.

(3) DUTIES OF EXECUTIVE DIRECTOR.—The executive director of the Commission shall—

(A) serve as principal liaison between the Commission and other Government entities;

(B) be responsible for the administration and coordination of the review of records by the Commission; and

(C) be responsible for coordinating all official activities of the Commission.

(4) COMPENSATION.—The Chairperson of the Commission may fix the compensation of the executive director, deputy executive director, general counsel, and other personnel employed by the Commission, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that—

(A) the rate of pay for the executive director of the Commission may not exceed the rate payable for level III of the Executive Schedule under section 5314 of title 5, United States Code; and

(B) the rate of pay for the deputy executive director, the general counsel of the Commission, and other Commission personnel may not exceed the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(5) EMPLOYEE BENEFITS.—

(A) IN GENERAL.—An employee of the Commission shall be an employee for purposes of chapters 83, 84, 85, 87, and 89 of title 5, United States Code, and service as an employee of the Commission shall be service for purposes of such chapters.

(B) NONAPPLICATION TO MEMBERS.—This paragraph shall not apply to a member of the Commission.

(6) OFFICE OF PERSONNEL MANAGEMENT.—The Office of Personnel Management—

(A) may promulgate regulations to apply the provisions referred to under subsection (a) to employees of the Commission; and

(B) shall provide support services, on a reimbursable basis, relating to—

(i) the initial employment of employees of the Commission; and

(ii) other personnel needs of the Commission.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement to the agency of that employee, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(f) STAFF QUALIFICATIONS.—Any person appointed to the staff of or employed by the Commission shall be an individual of integrity and impartiality.

(g) CONDITIONAL EMPLOYMENT.—

(1) IN GENERAL.—The Commission may offer employment on a conditional basis to a prospective employee pending the completion of any necessary security clearance background investigation. During the pendency of any such investigation, the Commission shall ensure that such conditional employee is not given and does not have access to or responsibility involving classified or otherwise restricted material.

(2) TERMINATION.—If a person hired on a conditional basis as described in paragraph (1) is denied or otherwise does not qualify for all security clearances necessary for the fulfillment of the responsibilities of that person as an employee of the Commission, the Commission shall immediately terminate the employment of that person with the Commission.

(h) EXPEDITED SECURITY CLEARANCE PROCEDURES.—A candidate for executive director or deputy executive director of the Commission and any potential employee of the Commission shall, to the maximum extent possible, be investigated or otherwise evaluated for and granted, if applicable, any necessary security clearances on an expedited basis.

SEC. 6. ADMINISTRATIVE SUPPORT SERVICES.

Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services

necessary for the Commission to carry out its responsibilities under this Act.

SEC. 7. TERMINATION OF THE COMMISSION.

The Commission shall terminate 90 days after the date on which the Commission submits its final report under section 3.

SEC. 8. MISCELLANEOUS PROVISIONS.

(a) INAPPLICABILITY OF FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) does not apply to the Commission.

(b) PUBLIC ATTENDANCE.—To the maximum extent practicable, each meeting of the Commission shall be open to members of the public.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated not more than $3,500,000, in total, for the interagency funding of activities of the Commission under this Act for fiscal years 1998, 1999, and 2000, of which, notwithstanding section 1346 of title 31, United States Code, and section 611 of the Treasury and General Government Appropriations Act, 1998, $537,000 shall be made available in equal amounts from funds made available for fiscal year 1998 to the Departments of Justice, State, and the Army that are otherwise unobligated. Funds made available to the Commission pursuant to this section shall remain available for obligation until December 31, 1999.

The SPEAKER pro tempore (Mr. STEARNS). Pursuant to the rule, the gentleman from Iowa (Mr. LEACH) and the gentleman from New York (Mr. LAFALCE) each will control 20 minutes.

The Chair recognizes the gentleman from Iowa (Mr. LEACH).

Mr. LEACH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 3662, the United States Holocaust Assets Commission Act. The legislation enjoys broad bipartisan support, as well as the endorsement of the administration.

For nearly 3 years Congress and the administration have sought answers to questions about Nazi transactions and holdings in Switzerland and other neutral or occupied countries during World War II. The Committee on Banking and Financial Services has held a series of comprehensive hearings, really historical inquiries, on these issues. The research, including two interagency reports on U.S. and allied efforts to recover Nazi-plundered gold and other assets, revealed a broad pattern of neglect and denial of the truth.

The latest hearing, held last week, included thoughtful testimony from Under Secretary of State Stuart Eizenstat on the second of these interagency reports, which further documented the role of certain neutral countries in World War II.

Neutrality in the face of evil and on a personal and collective level is worthy of review by citizens of any age, particularly this one, where human relations had become complicated by unprecedentedly inventive instruments of war. If we as legislators are to discharge our public duties responsibly, we must develop an understanding of the evil of the Holocaust, and how many countries, including our own, responded at a time civilization was so violently challenged.

In the process of preparing reports on others, the United States has an obligation to look at its own record during the war. We have reason to take pride in the great sacrifices of American Armed Forces in combatting the Wehrmacht, but we also must remember that we did not open our doors to Jewish refugees during the war, even after our leadership had learned that Hitler had marked European Jews for extermination. We accepted only 21,000 Jewish refugees during the war, fewer than Switzerland in absolute terms, and fewer per capita than most other neutral countries.

In this context, one of the issues which remains unresolved and which H.R. 3662 is specifically designed to address is that of assets of Holocaust victims which may have been located in the United States. In the years following World War II, Congress recognized that some of the assets held in this country under nominal German or Swiss ownership may, in fact, have belonged to Jewish victims of the Holocaust who sent their assets abroad for safekeeping.

For that reason Congress, 35 years ago, authorized up to $3 million in claims for such heirless assets to provide relief and rehabilitation for needy Holocaust survivors. However, the political difficulties associated with such a commitment led Congress ultimately to settle on a $500,000 contribution. Although the document record and asset ownership was and still is sparse, it is likely that heirless assets in the U.S. were worth more than the 1962 settlement figure.

Today we have the opportunity to approve legislation which will resolve this question. It is fitting for the United States to undertake this task and practice what it preaches to others. To date, more than a dozen countries, including Switzerland, have formed historical committees or commissions to study their role and attitudes during the war period. H.R. 3662 would bring the United States into parity with other nations by creating a similar body.

The commission proposed under this bill would be composed of 21 individuals, including 8 Members of the House and Senate. Their mandate and responsibility would be to research and determine what happened to any Holocaust victims' assets that came under Federal Government control after January 30, 1933, the day Hitler came to power in Germany. The assets would be defined broadly to include everything from bank accounts and securities to real estate and rare books.

The commission would report its findings to the President and the Congress no later than December 31, 1999, with a goal as we enter the new millennium of helping to bring one of the darkest chapters in human history to a compassionate closure.

Moral quandaries are central to restitution issues. As one of our hearing witnesses, Professor Leora Baznitzky, noted, the Nazis robbed Holocaust victims not only of their possessions and lives, but also their memories of their existence on this earth.

Another witness, Professor Mark Larrimore, underlined this point. The map, he observed, with the help of which we try to orient ourselves as human beings, trying to live good and decent lives, is a map with Auschwitz on it. Inquiries into the nature of evil and how to behave in the face of it are not the normal stuff of governmental review.

In this case, however, such questions are relevant not only to the behavior of all countries involved in World War II, including our own, but to the question of establishing retrospective justice, and the broader responsibility of each generation of leadership to learn from the past.

Our century has been indelibly marked by the Holocaust, and our perception of human nature has been profoundly altered by it. It is imperative that every credible review effort be undertaken, of which this is one. Accordingly, I urge my colleagues to give this legislation broad bipartisan support.

Mr. Speaker, I reserve the balance of my time.

Mr. LAFALCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on June 4, 1998, the Committee on Banking and Financial Services reported H.R. 3662 by voice vote. The bill allows the United States to continue its leadership in uncovering the truth about the disposition of Holocaust assets during and following World War II. This bill mirrors closely Senate 1900, which was passed unanimously by the Senate on May 1.

The Holocaust Assets Commission Act would establish a commission comprised of Members of Congress from the House and Senate, representatives from the executive branch, and private citizens to research archived documents and investigate the disposition of Holocaust-related assets in the United States.

The commission would create a historical record that is both necessary and overdue. There are more than 350,000 Holocaust survivors, and approximately 100,000 live in the United States. It is important for those survivors living in the United States to know and understand the extent of assets that may have come under control of the United States or within United States borders.

Mr. Speaker, the United States has already demonstrated outstanding leadership through Under Secretary of State Stuart Eizenstat, who has directed two groundbreaking studies on the disposition of Holocaust assets.

The first was released in May of 1997 and revealed the extent of looted gold flowing to and through Switzerland from Germany, along with evidence that some of that gold was stolen from Holocaust victims.

The second report, released last week, showed the extent of involvement of the so-called neutral countries in supporting the Nazi war machine by providing essential war materials. In the process, these neutral countries filled their reserves with tons of gold. Yet, Under Secretary Eizenstat's report also reveals the complexity of the neutral countries' activities and their support of the Allies' activities, and their acceptance of thousands of Jewish refugees.

I cite these two reports to demonstrate the unwavering commitment of the United States to uncover the truth about Holocaust-related assets and the role of various countries during this Nazi period.

Since the United States began its investigations into the disposition of gold and other assets, several countries have established commissions and committees to do similar research. Among these are Switzerland, the United Kingdom, France, Belgium, Canada, the Netherlands, Norway, Sweden, Portugal, Spain, Argentina, Turkey, and Croatia. The United States must do no less.

Under Secretary Eizenstat's efforts and reports have spawned considerable worldwide effort to reveal the truth. Discoveries are made monthly about previously unknown accounts and about activities on the part of banks and insurance companies. Class action lawsuits have been filed, and framework agreements and negotiations have begun between commercial banks and the aggrieved parties.

The establishment of a U.S. commission to investigate the disposition of Holocaust assets in the United States is the logical and necessary next step to uncovering the truth and righting past wrongs.

Mr. Speaker, I urge support of H.R. 3662, and urge each of my colleagues to do the same. It is the right thing to do, and it is important that we do so now.

Mr. Speaker, I reserve the balance of my time.

Mr. LEACH. Mr. Speaker, I yield 5 minutes to my good friend, the gentleman from New York (Mr. GILMAN), a distinguished cosponsor of this particular bill.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I want to take this opportunity to commend our distinguished chairman of the Committee on Banking and Financial Services, the gentleman from Iowa (Mr. LEACH), who is also a senior member of our Committee on International Relations, for his ongoing leadership on this issue of Holocaust-era assets in Swiss banks, and his ranking member, the gentleman from New York (Mr. LAFALCE).

Having worked with the gentleman from Iowa (Mr. LEACH), Under Secretary of State Stuart Eizenstat, and the World Jewish Congress to resolve existing concerns, I am pleased to be able to support H.R. 3663, creating this U.S.-Holocaust Assets Commission.

In the past few years hearings, meetings, conferences, and negotiations have tried to reconstruct what happened to the assets of Jewish victims and others during the Holocaust period. As the gentleman from Iowa (Chairman LEACH) can attest, and as the gentleman from New York (Mr. LAFALCE) has noted, the dam has burst, and information is starting to seep forth on a variety of topics.

As a result, the disposition of Holocaust-era assets in our Nation needs to be reviewed as well. The proposed legislation seeks to empower a commission to discern the status of various types of Holocaust-era assets in our own Nation. These assets include gold, gems, jewelry, insurance policies, art books, manuscripts, religious objects, as well as bank accounts, domestic financial instruments, and real estate.

The measure before us would create a U.S. Holocaust Assets Commission, also to be known as the Presidential Commission on Holocaust Assets in the United States. This commission would be charged with reviewing Holocaust-era assets in our Nation to search for similar gaps as have been found in Europe.

The commission would be composed of private citizens, representatives of the Departments of State, Justice, and the Treasury, as well as Members of the House and Senate. The commission shall be charged with conducting a thorough study and developing a historical record in the collection and disposition of the assets that I have described.

It shall determine whether our government came into the control of any of these assets any time after January, 1933, and to determine the disposition of those assets through hearings, meetings, and the collection of information from a wide variety of sources.

I would like to note that the United States Mint is at West Point, in my district, or adjoining my district. I have been told there may very well be some gold bars that have been stored there that came out of that period of time, and I think that is worthwhile looking into.

The legislation proposes that the commission shall then make recommendations to the President regarding any legislative or administrative actions that should be undertaken as a result of their inquiry.

This commission is an important step in shedding much-needed light on what happened to billions of dollars of assets in the Holocaust era. Accordingly, I urge my colleagues to vote for the pending measure, and I want to commend the gentleman from Iowa (Mr. LEACH) and the gentleman from New York (Mr. LAFALCE), both of whom worked hard on this measure, and for bringing it to the floor at this time.

Mr. Speaker, I reserve the balance of my time.

Mr. LAFALCE. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. FILNER).

□ 1645

Mr. FILNER. Mr. Speaker, I rise today in strong support of the U.S. Holocaust Assets Commission Act. I believe this legislation is the most logical and responsible way in which to respond to the growing international appeals to address and resolve the issue of the ill-gotten bounty of the Holocaust.

The United States Federal Government must honorably and accurately determine what, if any, assets of Holocaust victims came into its possession and control and their current location and status. Only then, with this precise accounting, can we go about the duty of deciding what actions are necessary and appropriate to find the rightful owners or heirs to these resources.

The time is now to close this disturbing and unfinished chapter of one of the darkest periods in this century, and the U.S. Holocaust Assets Commission Act is the first step in the right direction toward achieving this just goal.

Mr. LEACH. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Florida (Mr. FOLEY), who has worked so hard, particularly on related insurance issues and is an author of a principal part of this bill.

Mr. FOLEY. Mr. Speaker, I thank the gentleman from New York (Chairman LEACH) for introducing this important legislation. I would also like to thank him for his skillful grace and intellect in holding the hearings that could have been highly charged and obviously deeply emotional. Chairman LEACH maintained decorum, a sense of calm, and a sense of purpose to resolve these critical issues.

Mr. Speaker, that is why we are here today with H.R. 3662, legislation that will help locate and eventually return assets confiscated by the Nazis. I especially want to thank the gentleman for accepting an amendment I offered in the Committee on Banking and Financial Services concerning what is perhaps the most important Holocaust asset issue: confiscated insurance policies.

At the end of World War II, many death camp survivors or their heirs attempted to collect on the insurance policies that were due. But because many of the policies had been paid out

to the Nazis or because of the companies' unwillingness to honor the claims, there was no money for the rightful heirs.

Over the years as information about the war came to light, the insurance companies' collusion with the Nazis became evident. Some companies, namely Allianz and Generali, attempted a small amount of restitution, but the vast amount of money owed the Holocaust survivors has never been paid.

Today, many survivors and surviving heirs are still struggling to regain property that is rightfully theirs. Whether the property is in a Swiss bank or a life insurance policy, restitution must be made by the responsible parties and Congress must see that restitution takes place.

The amendment I offered in the Committee on Banking and Financial Services will ensure that at least we will begin to get to the bottom of the unpaid insurance claims. Specifically, my amendment will direct the U.S. Holocaust Assets Commission to work with the National Association of Insurance Commissioners to list all insurance companies, both domestic and foreign, doing business in the United States at any time after January 30, 1933, that issued policies to any victim of the Holocaust. Included in the list will be the following information:

The number of policies issued by each listed company;

The value of the policies at the time of issue;

The total number of policies and the dollar amount that have been paid out; and

The present-day value of each listed company's United States assets.

Mr. Speaker, I thank the gentleman from New York (Mr. LEACH) for introducing the U.S. Holocaust Assets Commission Act, a bill that will help bring justice to the victims of the Holocaust. There is, however, another dynamic out of the jurisdiction of the legislation we are considering today that is also important to bring a full resolution to the problem of unpaid insurance claims.

While private insurers must be held morally and financially accountable to their obligations to Holocaust survivors and their heirs, so must the former Eastern Bloc Communist countries who control a substantial amount of the financial assets we are discussing today.

Following World War II, the Communists expropriated and nationalized insurance companies and their assets; countries whose governments, to this day, have not made an attempt to accept their responsibility in this situation.

Consequently, I have introduced a House Resolution to ask the U.S. State Department to raise the issue of insurance monies held by the Governments of Poland, Hungary, and the Czech Republic which rightfully belong to the Holocaust survivors.

Mr. Speaker, that is not a subject of today's debate. So I want to urge and ask my colleagues to strongly support H.R. 3662, and again thank the chairman, the gentleman from New York (Mr. LEACH) and the gentleman from New York (Mr. LAFALCE), the ranking member, for their hard work and efforts on this vital, important legislation on the floor today.

Mr. LAFALCE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LEACH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me just say in conclusion that I want to thank the gentleman from New York (Mr. LAFALCE), my good friend, for his co-leadership of this issue and my two distinguished friends who have spoken today.

Mrs. KENNELLY of Connecticut. Mr. Speaker, I rise in support of H.R. 3662, the U.S. Holocaust Assets Commission Act. There is no possible way that we could ever right all the wrongs of the Holocaust, but this legislation will allow us to recover various lost articles. H.R. 3662 would allocate 3.5 million dollars and all other privately received donations to examine the whereabouts of various assets lost during the World War II era.

This bill calls for a comprehensive search among private and public groups allowing us to redouble the efforts which are needed to provide much needed information on irreplaceable items including jewelry, art work, manuscripts and religious documents, along with other insurance policies. The universal feelings of love, comfort, and understanding that we associate with possessions accumulated from our loved ones past have been previously denied to many Holocaust survivors and their loved ones. This legislation will enable hundreds the opportunity to delve into previously untouchable treasures of the heart.

Six decades and more have passed since the confiscation of property began. We cannot return all that was lost, but we can try to return the hard-earned accounts, real estate and other such tangible items to their rightful owners.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. STEARNS). The question is on the motion offered by the gentleman from New York (Mr. LEACH) that the House suspend the rules and pass the bill, H.R. 3662, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. LEACH. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1900) to establish a commission to examine the issues pertaining to the disposition of Holocaust-era assets in the United States before, during, and after World War II, and to make recommendations to the President on further action, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1900

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 "U.S. Holocaust Assets Commission Act of 1998".

SEC. 2. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established a Presidential Commission, to be known as the "Presidential Advisory Commission on Holocaust Assets in the United States" (hereafter in this Act referred to as the "Commission").

(b) MEMBERSHIP.—

(1) NUMBER.—The Commission shall be composed of 21 members, appointed in accordance with paragraph (2).

(2) APPOINTMENTS.—Of the 21 members of the Commission—

(A) 9 shall be private citizens, appointed by the President;

(B) 3 shall be representatives of the Department of State, the Department of Justice, and the Department of the Treasury (1 representative of each such Department), appointed by the President;

(C) 2 shall be Members of the House of Representatives, appointed by the Speaker of the House of Representatives;

(D) 2 shall be Members of the House of Representatives, appointed by the Minority Leader of the House of Representatives;

(E) 2 shall be Members of the Senate, appointed by the Majority Leader of the Senate;

(F) 2 shall be Members of the Senate, appointed by the Minority Leader of the Senate; and

(G) 1 shall be the Chairperson of the United States Holocaust Memorial Council.

(3) CRITERIA FOR MEMBERSHIP.—Each private citizen appointed to the Commission shall be an individual who has a record of demonstrated leadership on issues relating to the Holocaust or in the fields of commerce, culture, or education that would assist the Commission in analyzing the disposition of the assets of Holocaust victims.

(4) ADVISORY PANELS.—The Chairperson of the Commission may, in the discretion of the Chairperson, establish advisory panels to the Commission, including State or local officials, representatives of organizations having an interest in the work of the Commission, or others having expertise that is relevant to the purposes of the Commission.

(5) DATE.—The appointments of the members of the Commission shall be made not later than 90 days after the date of enactment of this Act.

(c) CHAIRPERSON.—The Chairperson of the Commission shall be selected by the President from among the members of the Commission appointed under subparagraph (A) or (B) of subsection (b)(2).

(d) PERIOD OF APPOINTMENT.—Members of the Commission shall be appointed for the life of the Commission.

(e) VACANCIES.—Any vacancy in the membership of the Commission shall not affect

its powers, but shall be filled in the same manner as the original appointment.

(f) MEETINGS.—The Commission shall meet at the call of the Chairperson at any time after the date of appointment of the Chairperson.

(g) QUORUM.—Eleven of the members of the Commission shall constitute a quorum, but a lesser number of members may hold meetings.

SEC. 3. DUTIES OF THE COMMISSION.

(a) ORIGINAL RESEARCH.—

(1) IN GENERAL.—Except as otherwise provided in paragraph (3), the Commission shall conduct a thorough study and develop an historical record of the collection and disposition of the assets described in paragraph (2), if such assets came into the possession or control of the Federal Government, including the Board of Governors of the Federal Reserve System or any Federal reserve bank, at any time after January 30, 1933—

(A) after having been obtained from victims of the Holocaust by, on behalf of, or under authority of a government referred to in subsection (c);

(B) because such assets were left unclaimed as the result of actions taken by, on behalf of, or under authority of a government referred to in subsection (c); or

(C) in the case of assets consisting of gold bullion, monetary gold, or similar assets, after such assets had been obtained by the Nazi government of Germany from the central bank or other governmental treasury in any area occupied by the military forces of the Nazi government of Germany.

(2) TYPES OF ASSETS.—Assets described in this paragraph include—

(A) gold;

(B) gems, jewelry, and non-gold precious metals;

(C) accounts in banks in the United States;

(D) domestic financial instruments purchased before May 8, 1945 by individual victims of the Holocaust, whether recorded in the name of the victim or in the name of a nominee;

(E) insurance policies and proceeds thereof;

(F) real estate situated in the United States;

(G) works of art; and

(H) books, manuscripts, and religious objects.

(3) COORDINATION OF ACTIVITIES.—In carrying out its duties under paragraph (1), the Commission shall, to the maximum extent practicable, coordinate its activities with, and not duplicate similar activities already or being undertaken by, private individuals, private entities, or government entities, whether domestic or foreign.

(b) COMPREHENSIVE REVIEW OF OTHER RESEARCH.—Upon request by the Commission and permission by the relevant individuals or entities, the Commission shall review comprehensively research by private individuals, private entities, and non-Federal government entities, whether domestic or foreign, into the collection and disposition of the assets described in subsection (a)(2), to the extent that such research focuses on assets that came into the possession or control of private individuals, private entities, or non-Federal government entities within the United States at any time after January 30, 1933, either—

(1) after having been obtained from victims of the Holocaust by, on behalf of, or under authority of a government referred to in subsection (c); or

(2) because such assets were left unclaimed as the result of actions taken by, on behalf of, or under authority of a government referred to in subsection (c).

(c) GOVERNMENTS INCLUDED.—A government referred to in this subsection includes, as in existence during the period beginning on March 23, 1933, and ending on May 8, 1945—

(1) the Nazi government of Germany;

(2) any government in any area occupied by the military forces of the Nazi government of Germany;

(3) any government established with the assistance or cooperation of the Nazi government of Germany; and

(4) any government which was an ally of the Nazi government of Germany.

(d) REPORTS.—

(1) SUBMISSION TO THE PRESIDENT.—Not later than December 31, 1999, the Commission shall submit a final report to the President that shall contain any recommendations for such legislative, administrative, or other action as it deems necessary or appropriate. The Commission may submit interim reports to the President as it deems appropriate.

(2) SUBMISSION TO THE CONGRESS.—After receipt of the final report under paragraph (1), the President shall submit to the Congress any recommendations for legislative, administrative, or other action that the President considers necessary or appropriate.

SEC. 4. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this Act.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out this Act. Upon request of the Chairperson of the Commission, the head of any such department or agency shall furnish such information to the Commission as expeditiously as possible.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 5. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION.—No member of the Commission who is a private citizen shall be compensated for service on the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) EXECUTIVE DIRECTOR, DEPUTY EXECUTIVE DIRECTOR, GENERAL COUNSEL, AND OTHER STAFF.—

(1) IN GENERAL.—Not later than 90 days after the selection of the Chairperson of the Commission under section 2, the Chairperson shall, without regard to the civil service laws and regulations, appoint an executive director, a deputy executive director, and a general counsel of the Commission, and such other additional personnel as may be necessary to enable the Commission to perform its duties under this Act.

(2) QUALIFICATIONS.—The executive director, deputy executive director, and general counsel of the Commission shall be appointed without regard to political affiliation, and shall possess all necessary security clearances for such positions.

(3) DUTIES OF EXECUTIVE DIRECTOR.—The executive director of the Commission shall—

(A) serve as principal liaison between the Commission and other Government entities;

(B) be responsible for the administration and coordination of the review of records by the Commission; and

(C) be responsible for coordinating all official activities of the Commission.

(4) COMPENSATION.—The Chairperson of the Commission may fix the compensation of the executive director, deputy executive director, general counsel, and other personnel employed by the Commission, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that—

(A) the rate of pay for the executive director of the Commission may not exceed the rate payable for level III of the Executive Schedule under section 5314 of title 5, United States Code; and

(B) the rate of pay for the deputy executive director, the general counsel of the Commission, and other Commission personnel may not exceed the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(5) EMPLOYEE BENEFITS.—

(A) IN GENERAL.—An employee of the Commission shall be an employee for purposes of chapters 84, 85, 87, and 89 of title 5, United States Code, and service as an employee of the Commission shall be service for purposes of such chapters.

(B) NONAPPLICATION TO MEMBERS.—This paragraph shall not apply to a member of the Commission.

(6) OFFICE OF PERSONNEL MANAGEMENT.—The Office of Personnel Management—

(A) may promulgate regulations to apply the provisions referred to under subsection (a) to employees of the Commission; and

(B) shall provide support services relating to—

(i) the initial employment of employees of the Commission; and

(ii) other personnel needs of the Commission.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement to the agency of that employee, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(f) STAFF QUALIFICATIONS.—Any person appointed to the staff of or employed by the Commission shall be an individual of integrity and impartiality.

(g) CONDITIONAL EMPLOYMENT.—

(1) IN GENERAL.—The Commission may offer employment on a conditional basis to a prospective employee pending the completion of any necessary security clearance background investigation. During the pendency of any such investigation, the Commission shall ensure that such conditional employee is not given and does not have access

to or responsibility involving classified or otherwise restricted material.

(2) TERMINATION.—If a person hired on a conditional basis as described in paragraph (1) is denied or otherwise does not qualify for all security clearances necessary for the fulfillment of the responsibilities of that person as an employee of the Commission, the Commission shall immediately terminate the employment of that person with the Commission.

(h) EXPEDITED SECURITY CLEARANCE PROCEDURES.—A candidate for executive director or deputy executive director of the Commission and any potential employee of the Commission shall, to the maximum extent possible, be investigated or otherwise evaluated for and granted, if applicable, any necessary security clearances on an expedited basis.

SEC. 6. SUPPORT SERVICES.

During the 180-day period following the date of enactment of this Act, the General Services Administration shall provide administrative support services (including offices and equipment) for the Commission.

SEC. 7. TERMINATION OF THE COMMISSION.

The Commission shall terminate 90 days after the date on which the Commission submits its final report under section 3.

SEC. 8. MISCELLANEOUS PROVISIONS.

(a) INAPPLICABILITY OF FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) does not apply to the Commission.

(b) PUBLIC ATTENDANCE.—To the maximum extent practicable, each meeting of the Commission shall be open to members of the public.

SEC. 9. FUNDING OF COMMISSION.

Notwithstanding section 1346 of title 31, United States Code, or section 611 of the Treasury and General Government Appropriations Act, 1998, of funds made available for fiscal years 1998 and 1999 to the Departments of Justice, State, and any other appropriate agency that are otherwise unobligated, not more than $3,500,000 shall be available for the interagency funding of activities of the Commission under this Act. Funds made available to the Commission pursuant to this section shall remain available for obligation until December 31, 1999.

MOTION OFFERED BY MR. LEACH

Mr. LEACH. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LEACH moves to strike out all after the enacting clause and insert in lieu thereof the provisions of H.R. 3662, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill, (H.R. 3662) was laid on the table.

GENERAL LEAVE

Mr. LEACH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

COMMEMORATING 100 YEARS OF RELATIONS BETWEEN PEOPLE OF UNITED STATES AND PEOPLE OF THE PHILIPPINES

Mr. GILMAN. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 404) commemorating 100 years of relations between the people of the United States and the people of the Philippines.

The Clerk read as follows:

H. RES. 404

Whereas 1998 marks 100 years of special ties between the people of the United States and the people of the Philippines and is also the centennial celebration of Philippine independence from Spain which initiated relations with the United States;

Whereas the people of the Philippines have on many occasions demonstrated their strong commitment to democratic principles and practices, the free exchange of views on matters of public concern, and the development of a strong civil society;

Whereas the Philippines has embraced economic reform and free market principles and, despite current challenging circumstances, its economy has registered significant economic growth in recent years benefiting the lives of the people of the Philippines;

Whereas the large Philippine-American community has immeasurably enriched the fabric of American society and culture;

Whereas Filipino soldiers fought shoulder to shoulder with American troops on the battlefields of World War II, Korea, and Vietnam;

Whereas the Philippines is an increasingly important trading partner of the United States as well as the recipient of significant direct American investment;

Whereas the United States relies on the Philippines as a partner and treaty ally in fostering regional stability, enhancing prosperity, and promoting peace and democracy; and

Whereas the 100th anniversary of relations between the people of the United States and the people of the Philippines offers an opportunity for the United States and the Philippines to renew their commitment to international cooperation on issues of mutual interest and concern: Now, therefore, be it

Resolved, That the House of Representatives—

(1) congratulates the Philippines on the commemoration of its independence from Spain;

(2) looks forward to a broadening and deepening of friendship and cooperation with the Philippines in the years ahead for the mutual benefit of the people of the United States and the people of the Philippines;

(3) supports the efforts of the Philippines to further strengthen democracy, human rights, the rule of law, and the expansion of free market economics both at home and abroad; and

(4) recognizes the close relationship between the nations and the people of the United States and the people of the Philippines and pledges its support to work closely with the Philippines in addressing new challenges as we begin our second century of friendship and cooperation.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. GILMAN) and the gentleman from Florida (Mr. WEXLER) each will control 20 minutes.

The Chair recognizes the gentleman from New York (Mr. GILMAN).

GENERAL LEAVE

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am proud to have introduced this resolution commemorating 100 years of relations between the people of the United States and the people of the Philippines. I am pleased to bring it to the floor today for consideration, and I am pleased to be joined by our distinguished chairman of our Subcommittee on Asia and the Pacific of the Committee on International Relations, the gentleman from Nebraska (Mr. BEREUTER).

Mr. Speaker, it is right and fitting that the House of Representatives make note of the special relationship that our Nation and the Philippines have shared for nearly a century. The beginning of our country's relationship with the Philippines in 1898 also marks the beginning of our great interest in the Pacific and the development of strong, robust historical and cultural ties between the Philippines and the United States.

Mr. Speaker, though the United States and Philippines are literally an ocean apart, the large Philippine-American community, numbering over 2 million, has immeasurably enriched the social and cultural fabric of our Nation and serves as a sturdy bridge of friendship between our two countries.

Until the end of the Cold War, the United States maintained major military facilities in the Philippines which played a significant role in the maintenance of regional peace and stability. Today, the Philippines remains an important partner and ally in guarding the peace and maintaining stability in southeast Asia.

Our Nation is pleased with the flourishing of democracy in the Philippines. It is hoped that the Philippines will serve as an example to others in that region and will encourage progress and the furthering of democratic principles and practices, respect for human rights, and enhancement of the rule of law.

I am pleased to have had the opportunity to introduce this legislation and I urge my colleagues to support the measure.

Mr. Speaker, I reserve the balance of my time.

Mr. WEXLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this resolution. I would like to commend

the gentleman from New York (Mr. GILMAN) for introducing House Resolution 404 and moving it without delay through the legislative process. I am an original cosponsor of the resolution along with a number of our colleagues here.

Mr. Speaker, this is a constructive measure that recognizes the close partnership that we have enjoyed with the Philippines over the past 100 years, and voices support for a continuation of that partnership as we enter the second century of our bilateral relationship. I urge adoption of this measure.

Mr. Speaker, I reserve the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield 5 minutes to the gentleman from Nebraska (Mr. BEREUTER) the distinguished chairman of our Subcommittee on Asia and the Pacific.

Mr. BEREUTER. Mr. Speaker, I rise in strong support of H.Res. 404 and congratulate the distinguished gentleman from New York (Mr. GILMAN), the chairman of the Committee on International Relations, for introducing it today. I am pleased to be one of the bill's original cosponsors.

In the past 100 years, the Philippines at various times has served, and now serves, as a democratic counterpart, ally, trading partner, and friend to the United States. The Philippines is a republic basically patterned after our own democratic system and it continues to reshape and perfect its government in order to better uphold the ideals of democracy.

Since July 4, 1946, named Filipino-American Friendship Day in the Philippines, the U.S.-Philippines relationship has been largely characterized by cooperation. H.Res. 404 notes these cooperative efforts by citing our united forces in World War II and our efforts to promote peace and stability in the Asian-Pacific region. Though U.S. forces have not had a physical presence in the Philippines since 1991, the U.S. and the Philippines remain united by the 1951 Mutual Defense Treaty. This bond may be further strengthened by a newly negotiated Visiting Forces Agreement which is scheduled to go before the Philippines Senate for ratification later this year.

Despite the ongoing financial crisis in Asia, the Philippines has also become an increasingly valuable trading partner for the United States. The Philippines has demonstrated commitment to undertake economic reform, and this Member expects the new President-elect, Joseph Estrada, to continue to nurture this economic growth.

H.Res. 404 is timely legislation as its introduction coincides with the festive preparations now underway in the Philippines in anticipation of its centennial celebration of independence from Spain. It is altogether appropriate for this body to congratulate the Philippines on the centennial of its independence and applaud his accomplishments of the past 100 years. The Philippines has clearly become a positive role model for its Asian neighbors.

Mr. Speaker, I congratulate the gentleman from New York (Mr. GILMAN) on sponsoring this legislation and I urge all Members to support and approve H.Res. 404.

Mr. WEXLER. Mr. Speaker, I yield 3½ minutes to the gentleman from California (Mr. FILNER).

□ 1700

Mr. FILNER. Mr. Speaker, I thank the gentleman for yielding me the time.

I rise in strong support of this resolution, H. Res. 404, which congratulates the Philippines on the 100th anniversary of its independence from Spain in 1898, supports their efforts to strengthen democracy and human rights, and thanks the Philippines for fighting on the side of the United States in World War II, the Korean War and Vietnam.

I have personally met with both the President-elect and the Vice President-elect recently, and I know that they will continue the strong relationship between our two countries.

Mr. Speaker, I would like to suggest to my good friends who are speaking on this and who have sponsored this resolution today that there are two additional concrete steps that this body could take to adequately express the high regard we have for the Philippines on this 100th anniversary of their independence.

The first concrete act we could do is pass the bill, H.R. 836, an act introduced by the distinguished chairman of the House Committee on International Relations, the gentleman from New York (Mr. GILMAN), and myself. It is a bipartisan bill called the Filipino Veterans Equity Act. It has nearly 200 cosponsors at this time.

What the Filipino Veterans Equity Act says is that it is time to restore justice and honor and dignity to the veterans of World War II who fought side by side with us. These were soldiers of the Philippines who were drafted to serve in our Armed Forces by Executive order of President Roosevelt. They defended the American flag in the famous battles of Bataan and Corregidor. Thousands of them died during the Bataan death march, and many who survived were imprisoned under very inhumane conditions. The Filipino soldiers who fought under the American flag foiled plans for a quick takeover of the region and allowed the United States the time that we needed to prepare our forces for victory in the Pacific. But unbelievably after the war was over in 1946, the Congress of the time voted to take away the benefits and recognition that these Filipino veterans were promised. In the infamous Rescissions Acts of 1946, we said, thank you for all your work and help, but no thanks.

It is now 52 years later. Families who live in both the United States and the Philippines have been waiting for the justice, recognition and benefits that they deserve. H. Res. 404 thanks them for their service, but we need H.R. 836, sponsored by the gentleman from New York (Mr. GILMAN), to complete the job.

A second concrete step that we can take is to pass H. Res. 312, which was introduced by the gentleman from Guam (Mr. UNDERWOOD). This resolution outlines the compromise to return one of the famous Bells of Balangiga to the people of the Philippines. The two bells were brought to the United States early in the 20th century by American troops who were engaged in hostilities that had erupted between American and Filipino soldiers. These bells are currently on display at Warren Air Force Base in Wyoming.

The Republic of the Philippines has repeatedly requested the return of the bells. H. Res. 312 would return one bell and retain one bell in Wyoming. Two replica bells would be made so that each country would have one replica and one original bell.

On the occasion of the 100th anniversary of the Philippine Declaration of Independence, as a measure of friendship, another way to recognize this, in addition to the resolution we have on the floor now, let us share these priceless bells which are national symbols to the Filipinos.

Mr. GILMAN. Mr. Speaker, I thank the gentleman from California (Mr. FILNER) for his support of our Philippines veterans bill.

Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. ROHRABACHER), a member of our House Committee on International Relations.

Mr. ROHRABACHER. Mr. Speaker, it is my honor today to rise in support of this resolution remembering the Philippines 100 years as a nation.

It was 100 years ago when, during what is known as the Spanish-American War, the Philippines were liberated from their Spanish oppressors. Unfortunately sometimes we like to romanticize our own history and forget what happened a few years immediately after that liberation. Instead of doing what would have been consistent with our own philosophy as a country that believed in the Declaration of Independence, the United States decided instead of freeing the Philippines from foreign oppression, we decided to take control of the Philippines for ourselves, and, in fact, at the turn of the century there was a bloody war that went on in the Philippines that pitted the United States against many of the Filipino people who wanted freedom and independence, justifiably wanted their freedom and independence. In fact, tens of thousands of Filipinos

were killed at that time by the superior firepower of American military forces. That is a stain on American history.

However, let us say that there were the best of intentions. The people who were involved in that and the decision-makers felt that this would be a way to lead the Philippines to true democracy. And 50 years later, yes, in 1946, the Philippines were freed. I think it speaks very well of the Filipino people that they have forgotten that blight of what happened at the turn of the century and over the years became perhaps one of America's greatest friends in the Pacific, but also in the world.

The Filipino people are good friends and part of the American family and, since 1946, have always had a close relationship to us and during the Cold War stood with us. Unfortunately during the Cold War the Philippines reverted back during the time, and, again, which did not speak well of the United States, we recognized the demise of democracy under the rule of Mr. Marcos. President Marcos they called him, but one is not a President unless one is elected, so I will have to call him dictator Marcos. During that time corruption thrived, and again the United States did not live up to our own ideals, but yet the people of the Philippines know that we are a country of ideals, and, when we could, we stood with those people, Mr. Aquino, of course, who was assassinated by the Marcos gang, and we stood with the people of the Philippines to help reestablish democracy there.

I think, as a former member of the Reagan administration, that is one of the moments that I am the most proud of, where Ronald Reagan helped ease this dictatorship out of power in the Philippines and eased into place a more democratically oriented group of people. And then today, under President Ramos they have had a magnificently democratic country. We have had freedom of speech, freedom of the press and a growing economy. Under the past regime, they were so corrupt, they could not even grow. Today the Philippines stands as a jewel in the Pacific in the sense that its people are committed to freedom and democracy as we know it here in the United States. They are our good friends.

Unfortunately, here again at times we end up taking the Philippines for granted. We end up trying to give business advantages for our own businessmen to invest in countries like Vietnam that have had no democratic reform whatsoever, or in China, or in other dictatorial countries, even like Indonesia up until this current situation. Why should we ignore those people who are struggling to improve their lives, who are our best friends in the Philippines, and instead direct our people with grants and loans and subsidies for their investments from the IMF and from the Export-Import Bank; why should we direct them towards dictatorships when we should actually be helping our friends in the Philippines?

I am very proud to stand here today to say, I am a friend of the Philippines, and the people of the Philippines are good friends of democracy and freedom and good friends of the people of the United States.

Mr. WEXLER. Mr. Speaker, I yield 2 minutes to the gentleman from American Samoa (Mr. FALEOMAVAEGA).

Mr. GILMAN. Mr. Speaker, I yield 2 minutes to the gentleman from American Samoa (Mr. FALEOMAVAEGA).

Mr. FALEOMAVAEGA. Mr. Speaker, I certainly would like to associate myself with the compliments and statements made earlier by my good friend from California and certainly his support for the Philippines.

I rise in support of House Resolution 404, which commemorates 100 years of relations between the good people of the Philippines and the United States. I commend the chairman and ranking member of the House Committee on International Relations, the gentleman from New York (Mr. GILMAN) and the gentleman from Indiana (Mr. HAMILTON), for introducing and supporting adoption of this important measure. I am proud to join these gentlemen and our colleagues on the committee as an original cosponsor of the legislation and also my good friend, the chairman of the Subcommittee on Asia and the Pacific, the gentleman from Nebraska (Mr. BEREUTER).

Mr. Speaker, today we honor an old and enduring friendship that has linked the United States and the Philippines for almost a century. Our relationship dates back to 1898 when Commodore George Dewey sank the Spanish fleet in Manila Bay, ending three centuries of Spanish colonial rule and laying the foundation for Philippine independence from Spain.

For in the next 100 years, Americans and Filipinos have shared a special bond forged in war and strengthened in peace.

Mr. Speaker, the Philippines should be commended for being one of the most vibrant democracies in Asia. Since the people power revolt in 1986 that ousted Ferdinand Marcos, three Presidents have been placed in office by free and fair elections in the Philippines. Last month, Vice President Joseph Estrada was the runaway winner of the May 11 Presidential election against nine other candidates. On June 30, Mr. Estrada, an opposition leader, shall take office from President Fidel Ramos, again marking a smooth transition of power as befits a true democracy.

Under President Ramos' leadership, the Philippines has implemented economic reforms while embracing free market principles. The trade liberalization policy has led to an economic renaissance for the Philippines, going from zero growth in 1991 to an increase over 6 percent GNP in recent years. The United States has been and continues to be the largest trading partner and foreign investor in the Philippines. One-third of Philippines' exports come to America. Two-way annual trade between our two countries has exceeded over $12 billion.

Mr. Speaker, the people of the Philippines and the people of the United States have always had close relations. Today almost 2 million Americans are of Filipino descent, while close to 130,000 U.S. citizens presently reside in the Philippines.

People of the Philippines have always been a trusted ally of the United States in times of conflict. During World War II more than 100,000 Filipinos volunteered for the Philippine Commonwealth Army, fighting under American commanders alongside U.S. Armed Forces. Filipino soldiers also sacrificed their blood alongside U.S. troops in the Korean and Vietnam wars. This friendship and alliance continues today with our mutual defense treaty, which commits our nations to each other's defense in case of external attack, while preserving stability in the region.

Mr. Speaker, because of the deep and enduring ties that have traditionally bound the people of the Philippines and the U.S. together, I would strongly urge our colleagues to adopt this resolution before us. All Americans should honor our good friendship with the Philippines on this important commemoration of their independence, support their continued political and economic progress, and work to maintain the special and close relationship between our sister democracies.

Mr. GILMAN. Mr. Speaker, I reserve the balance of my time.

Mr. WEXLER. Mr. Speaker, I yield 3 minutes to the gentlewoman from Hawaii (Mrs. MINK).

Mrs. MINK of Hawaii. Mr. Speaker, I thank the gentleman for yielding time to me.

I rise today in very strong support of House Resolution 404, which celebrates and commemorates the 100 years of relationship between the Philippines and the United States. I take particular pride in rising today to support this resolution as the Chair of the Asian Pacific Caucus for the House of Representatives. We are joined together as Members of this Congress with strong Asian Pacific constituencies, and we have approximately 20 members in our caucus and about 65 Members of the House that have 5 percent or more Asian Pacific individuals in their constituencies.

The Philippines have had an unusual relationship with the United States. One hundred years ago they freed themselves from Spanish rule and began an association with the United States which was not always friendly

or pleasant. I am sure there were many torturous years prior to their development of a strong relationship, but the Philippines has always been a friend and an ally, and never more important was that relationship and dependence upon each other than during World War II, when the United States called upon nearly 100,000 Filipinos to join side by side with the United States to win the war in the Philippines and to conquer the enemy forces in the Philippines.

At that time the Filipinos that joined in to help the American forces in the Philippines were promised that they would be accorded recognition and veterans status. Regrettably, the Congress took away that promise in the Rescissions Act of 1946. And so today one of the gnawing difficulties we have in our constituencies in facing the veterans from the Philippines who now live in the United States is this question of when the United States is going to fulfill its honor and its promise.

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I would hope that along with the celebration of our relationship of 100 years that we recognize that we have still some unfulfilled promises that we have made to the Philippine people.

The Filipinos in the United States who are living here as residents or as citizens constitute a very large portion of our population. Persons in the United States of Filipino ancestry number over 2 million currently under the estimates that we have received from the Census Office. In my own constituency, there are about 170,000 persons of Filipino ancestry. We celebrate their presence. I cannot think of any other segment in our society that are harder working, more creative, more energetic and more loyal to the United States than those who count as their ancestry the Philippines. And so I agree with the gentleman from California that we should be at this time thinking of ways that we could strengthen this relationship through trade and other kinds of formulations to build their economy and to indicate to the people of the Philippines that it is more than just a token relationship; that they are friends, stable, reliable, and of great economic importance. It is important for this country to extend a helping hand in every way that we can. Hawaii is special because we have elected as our Governor a person of Philippine ancestry of whom we are very proud, the Honorable Benjamin Cayetano.

Mr. Speaker. I rise today to pay tribute to an old and enduring friendship that has linked the United States and the Republic of the Philippines. Friday, June 12, 1998 marks the 100th anniversary of the U.S.-Philippines relationship. I am pleased to join my colleagues in strong support of H. Res. 404 which recognizes the special link that Americans and Filipinos have shared.

As we celebrate this important relationship let us not forget the supremely noble Filipino World War II veterans.

The U.S.-Philippines relationship was indisputable when over one hundred thousand Filipinos, of the Philippine Commonwealth Army, fought side by side with the United States during World War II. Under President Roosevelt's Executive Order of July 26, 1941, the Philippine military was called on to join forces with the United States. Without hesitation they fought with bravery, tenacity and honor along side American forces in the battle in the Pacific Theater. Philippine soldiers who served in regular components of the United States Armed Forces were considered members of the United States forces.

Filipino fighters heroic service prevented the enemy from conquering the Pacific and allowed the United States troops, under the command of General Douglas MacArthur to return to the Philippines. The contributions and valor of these Filipino veterans were instrumental in the United States preparations for the final assault on Japan.

Notwithstanding promises made to these Philippine soldiers in 1946, Congress enacted The Rescission Act which stripped members of the Philippine Commonwealth army of being duly recognized as veterans of the United States Armed Forces.

It was not until 1990 that Congress passed the Immigration Act of 1990 permitting Philippine veterans of World War II to apply for naturalization in recognition of their wartime service.

Today, CBO estimates that at least 28,000 veterans of the Commonwealth Army and Philippine Scouts are U.S. citizens. According to information from the Immigration and Naturalization Service (INS), about 15,000 who live in the United States became citizens between 1991 and 1995 under the authority of the Immigration Act of 1990.

H. Res. 836, The Filipino Veterans Equity Act introduced in February reinstates the benefits of the Filipino World War II veterans unjustly denied by our Act of Congress in 1946. I am pleased to be a co-sponsor of House Resolution.

This year the Congress has the opportunity to address this injustice. The House Committee on Veteran's Affairs will hold a hearing on H. Res. 836. The United States has an obligation and the Congress the responsibility to live up to the original promise made to these soldiers. This year, the 100th Anniversary of our relationship, is a perfect time to correct this wrong.

After answering the call without question and serving valiantly in the defense of the United States, Filipino World War II veterans deserve, their long-overdue benefits.

This year, in many communities in the United States and the Philippines, extensive celebration of the Philippine independence and the enduring friendship between our two countries will occur. I believe it is time to honor our friendship by providing full veterans' benefits to these Filipino World War II veterans, who fought and died side by side with us for freedom and democracy.

Mr. WEXLER. Mr. Speaker, I yield 2 minutes to the gentleman from Guam (Mr. UNDERWOOD).

Mr. GILMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Guam (Mr. UNDERWOOD).

The SPEAKER pro tempore (Mr. STEARNS). The gentleman from Guam (Mr. UNDERWOOD) is recognized for 4 minutes.

Mr. UNDERWOOD. Mr. Speaker, I commend the gentleman from New York (Mr. GILMAN), the chairman of the committee, for this measure, and I rise in strong support of H. Res. 404.

One hundred years ago, President McKinley, mulling over territories which included Guam as well as the Philippines in the Asia-Pacific region, spoke of the revelation indicating that there was nothing left to do but to take the Philippines and to Christianize them. Obviously, he had forgotten that this had already occurred, and that the process of acquiring the Philippines has become in the beginning of this century one of the great controversies which consumed this country and which actually resulted in a guerilla warfare in which some 4,000 Americans died, 200,000 Filipinos died and over $200 million were spent.

On June 12, 1898, which is on Friday, our time, General Emilio Aguinaldo first unfurled the Filipino flag amidst the strains of the inspiring Philippine National Anthem, declaring that the Philippines had become independent from Spain. In doing so, they became the first indigenous group in the Asia-Pacific region to break the bonds of European colonialism.

Despite that, they soon found themselves ignored in the process of the Treaty of Paris, considered as war booty and eventually ended up under U.S. sovereignty, thus confounding some of the efforts of many anti-imperialists at the time, including Mark Twain, who remarked, "I am opposed to having the eagle put its talons upon any other land."

Despite these inauspicious beginnings and conflicted beginnings, Filipinos have remained the strongest and closest ally of the United States throughout this entire century. Filipinos fought, fighting under the American flag in World War I, keeping alive their own resistance effort and participating in their own liberation from the Japanese during World War II under both the U.S. flag and the Philippine Commonwealth banner, and under their own flag the Sun and Stars during the Korean and Vietnam wars. They have been with us shoulder to shoulder like no other nation on earth.

As we mark the 100th anniversary of Philippine-American ties, I urge my colleagues to reflect upon our relationship with the Filipino people and their republic. As we commemorate and celebrate this important milestone, I would like to remind our colleagues that this would be an opportune time for us to act and resolve long-standing issues that have occurred during the

past 100 years, including the Filipino Veterans Equity Act which has been so eloquently spoken to by both the gentlewoman from Hawaii (Mrs. MINK) and the gentleman from California (Mr. FILNER) as well as the return of the Bells of Balangiga. These bells were taken in the course of the guerilla insurrection, a compromise measure has been suggested at the expense of the Philippine government, and we should bring closure to this issue.

This coming Friday, the Sun and Stars will once again be unfurled on the same balcony General Aguinaldo first proclaimed Philippine independence some 100 years before. I think for the Filipino community on Guam, and I am proud to say that my congressional district is the closest to the Philippines, for Filipino communities all over the United States and all over the world and for all people who love democracy and independence, June 12, 1998, is a day to celebrate.

Mr. Speaker, I would like to also bring attention and enter an article on the Philippine Centennial in the debate at this time.

The text of the article is as follows:

Mr. Speaker, this coming June 12, the Republic of the Philippines, Filipinos, and freedom loving people from all over the world will commemorate the 100th anniversary of the declaration of Philippine independence. On this occasion, I would like to share with my colleagues the thoughts of Dr. Eddie Del Rosario, a Filipino-American who has been a long-time resident of Guam. In his article, Dr. del Rosario includes a poem written by Apolinario Mabini, a turn of the century Filipino nationalist who spent two years as a political exile on Guam.

THOUGHTS ON THE PHILIPPINE CENTENNIAL

(By Eddie del Rosario, MD, MPH)

By any measure, a hundred years is a highly significant milestone in any chronicle of a group of people, especially if it marks a great victory after an epic struggle for freedom. The Filipino people, on June 12, 1898, proclaimed their independence from the heavy yoke of colonialism and slavery imposed on them for 377 years, 2 months, 14 days and some odd hours by monarchic Spain. Unfortunately, it was largely ignored by most nations, especially by the defeated foe (Spain) and the ambivalent ally, the United States of America.

On that day, the Filipinos earned the distinct honor of being the first indigenous people in Asia and Oceania to wrest their freedom and independence by force of arms from their European colonial masters. It must have sent shock waves among the imperialist nations of Europe and more than a tingle of delight and renewed hope among the disenfranchised peoples of Asia and the native islanders of Oceania. I venture to guess that the exiled Filipinos called "deportados" and their progenies as well as the indigenous people on Guam, Rota, Tinian and Saipan who were likewise subjects of Spain at that time, must have murmured approvingly and must have wondered about their own deliverance.

By all intents and purposes though, it was not a democratic form of government that the leaders of the victorious Filipino revolutionaries proclaimed that day. General Emilio Aguinaldo, 27 years young, was a de facto military dictator. It didn't matter much to the 7 million Filipinos at that time. What mattered most was that they were free from the shackles of the much-hated Spanish despots gathered in military uniforms, priestly cassocks and ostentatious period costumes of the "Ilustrados".

When the Philippine flag was finally displayed and raised for the first time from the balcony of that modest and now historic house in Kawit, Cavite, amid the soul-stirring strains of the new Philippine national anthem, the Filipino people broke in cheers and tears. Free at last! Or should it have been "Free Again!" since the pre-Conquest Filipinos were one of the freest societies in recorded Oriental history. Just like the pre-Conquest Chamorros in their flying proas, the itinerant and industrious Filipinos of yore cavorted freely among their 7,000 islands in their sleek and fast paraws and vintas. Their age of innocence was soon ended by the light-skinned conquerors from the other side of the world carrying swords and crosses and speaking in a strange tongue.

On that June day, the descendants of enslaved and conquered Filipinos who finally overthrew their masters in a rare, united effort, looked up with awe and reverence at their brown-skinned leaders who looked so young, so powerful, so determined and so trustworthy. The average age of the leaders of the Philippine-Spanish War was about 29 years. In the heady atmosphere of such jubilation marking the birth of a new, independent nation, no one even thought that 14 months later, these same citizen-soldiers would be fighting another foreign invader called "Americans". No one, except for a quiet, paraplegic intellectual sitting on his wheelchair by the name of Apolinario Mabini. He somehow knew that the Americans who were supposed to be friends and trusted allies harbored their own design, just like the other European powers, for these beautiful islands. On the last month of that fateful year of 1898, oblivious of the fact that an empowered group of self-determined Asian people overthrew and declared their independence from their powerful conqueror, the Americans pre-empted the Filipinos, the Chamorros, the Cubanos, and the Puerto-Ricanos in one fell swoop. In an arrogant display of naked imperialism and the power of international economics, culminating in the Treaty of Paris, millions of indigenous people found themselves vassals of another foreign power once more. How would colonial Americans have left felt if, right after July 4, 1776, the British sold their patrimony to the French for 20 million pounds sterling without their knowledge? Doubtless, there could have been second American Revolution. And that's precisely what happened in the Philippines 7 months and 22 days after the June 12, 1898 declaration of Phil. Independence and exactly 14 days after the First Phil. Constitution was promulgated, a product of the best Filipino minds in Congress Assembled in a stone church in the town of Malolos, province of Bulacan. All that time, Admiral Dewey knew that every act of self-determination that the Filipino freedom fighters did before and after the Treaty of Paris, consummated between Spain and U.S.A. on December 1898, were exercises in futility. It didn't matter that these brash islanders followed the "same script and recipe" that the Americans used in their earlier quest for independence and creation of a constitutional democracy. U.S. Pres. McKinley was determined to save his "little brown brothers" from paganism, inspite of the fact that most Filipinos had already embraced the Catholic Faith for hundreds of years.

On Feb. 4, 1899, the first skirmish marking the start of the Philippine-American War occurred on a narrow bridge in San Juan, Rizal adjacent to Manila, the home town of Joseph "Erap" Estrada, the newest and the 13th president of the Republic of the Philippines. Once again, true to the words of their national anthem, i.e., "Land dear and holy, Cradle of noble heroes, Ne'er shall invaders trample thy sacred shores," the Filipinos fought gallantly against all odds to repel the American invaders just as they did earlier with the Chinese, the Dutch, the British and the Spaniards. Much later, the Japanese also faced the wrath of the Filipino freedom fighters. Slow to anger, patient as Job, quick to forgive but unrelenting once he begins to fight—such was an apt portrayal of the Filipino by his enemy.

The Philippine-American War turned out to be "the most shameful episode in American history, worse than Vietnam and the Indian massacres", quoting noted Filipino columnist and writer, Hilarion Henares, Jr. Based on American official records, Henares noted that where the usual ratio between dead and wounded as 1 is to 5 in the Boer War, American Civil War, Spanish-American War and the World Wars, in the Philippine campaign, it was the exact reverse: for every one Filipino wounded in battle, five were killed. In some instances, "in Northern Luzon, 1,014 Ilocanos were killed and only 95 wounded, a ratio of 10 killed for everyone wounded." "Gen. Bell proclaimed: 'All able men will be killed!'" "Gen. Smith ordered the Massacre of Samar * * * and further ordered that all persons—men, women, and children down to 10 years of age—were to be executed." The Americans paid a high price in this bloodly and protracted war. Henares wrote that the Americans had six times more casualties fighting the Filipinos than they had fighting the Spaniards; it took them 42 months to defeat the Filipinos versus 6 months to defeat the Spaniards; almost a year longer than it took them to beat the Japanese in World War II. At the height of the carnage, Pres. McKinley denounced the zona system which was instituted to kill all members of a neighborhood for crimes committed by a few. He said, "It was extermination. The only peace it could beget was that of the grave."

Apolinario Mabini, the "Brains of the Phil. Revolution" and the "Sublime Paralytic" who never even wielded a machete nor fired a gun, much like Dr. Jose Rizal whose writings and martyrdom in December 1896 sparked the Philippine Revolution, was considered, ironically, by Gen. Arthur MacArthur (the father of the "American Caesar", Gen. Douglas MacArthur) as the most dangerous Filipino alive. Nationalist to the core and extremely brilliant, his blistering disclosures and writings critical of the new American rulers made life miserable and derailed the pacification campaign of the Yankee warloads. Guamanian nationalists would have loved to engage Mabini in great conversations about the "American Conquistadors" and their misguided philosophy of "Manifest Destiny". On Jan. 15, 1901, Gen. MacArthur threw his hands up and exiled Mabini to Guam to silence him. He followed the footsteps of the Spanish despots who, for 300 years, exiled thousands of men and women to the Marianas because of crimes committed, real or imagined, against the State and the Church. Among them was

Melchora Aquino (Tandang Sora), the "Mother of the Katipunan." Mabini's voice was effectively silenced but no one can break his unconquerable spirit. During his two years of exile in "Fort Asan," he started to master the English language to better parry the thrusts of his new adversaries. Such was the steely resolve of this frail but courageous patriot. His voice may be silenced but not his mighty pen and his sharp mind.

Apolinaro Mabini, together with 52 other political exiles and "Irreconcilables" who refused to pledge allegiance to the American flag, made good use of their time to ingratiate themselves with the native populace whom they felt close kinship with. A veritable Who's Who among the Phil. intelligentsia and revolutionaries, they included such luminaries as Generals Pio del Pilar, Mariano Llanera, Artemio Ricarte, and Maximino Hizon; prominent lawyers such as Leon Flores (father of the late Archbishop Felixberto Flores of the Archdiocese of Agana), Pancracio Palting (father of the late Guam Senator Paul Palting), Pablo Ocampo and Julian Gerona; seasoned patriots such as Maximo Lorenzo Tolentino was stayed and lived in Santa Rita, and many others.

For the longest time until his death on May 13, 1964 at the ripe age of 88, Maximo Tolentino was the only living, direct link on Guam between the tempestous past and the idyllic present. He was a living witness of the Philippine Revolution. He consorted with the great and the near-great of that epoch. Tolentino married a Chamorrita, Tomasa Crisostomo Lizama from Julale, Agana and sired a son (who died at the tender age of three) and two daughters, Mrs. Maria T. Ignacio and Mrs. Carmen T. Cruz, both of Santa Rita. As of this writing, the reconciled patriot Tolentino's descendants include ten grandchildren, one of whom is Emilesia T. Anderson who provided valuable information to this writer, and thirty great-grandchildren.

According to Monsignor Oscar L. Calvo, a local clergy and historian, the "Irreconcilables" were suave and debonair ("caballeros" as they were described on Guam). Hardly a weekend passed where there wasn't party to which they were invited. They invariably charmed their way into the hearts of their hosts. They were also allowed to hold parties of their own to reciprocate for the local hospitality. Monsignor Palomo and the U.S. Navy officials often engaged Mabini in long conversations as they promenade in their horse and carriage. Local people and government officials sought their legal assistance and advice which were freely given. There was no record of any attempt by these "dangerous exiles" to foment civil disobedience nor rebellion among the native inhabitants. Tony Palomo, a local writer and historian, wrote in the May 7, 1961 issue of the Territorial Sun that according to Maximo Tolentino, Gen. Artemio Ricarte who chose to go to Japan instead after the "Irreconcilables" were sent back to the Phlippines, wrote to him to induce him to get the Filipinos in Guam to start an uprising against the Americans. Tolentino wrote back asking Ricarte not to write to him anymore about these things, citing that the Filipinos have adopted Guam as their new home and that they are happy and contented with their families.

After most of the exiles finally decided to swear allegiance to the American flag, they were allowed to sail back to their motherland on Sept. 21, 1902. On the eve of their departure, Marine Sgt. James Holland Underwood gave them a big farewell party. A day after they left, a powerful earthquake shook Guam and demolished the church in Hagatna as well as most of the stone houses on the island.

Mabini was unshaken nonetheless in his resolve not to reconcile with America. Inspite of the ministrations of his brother Prudencio and regular check-ups by an American doctor to ease the distress brought about by his disabilities, he pined for his beloved country as he wrote his "opus magnum," the political masterpiece entitled "The Rise and Fall of the Philippine Republic." Agonizing over his frailty and mortality and fearing that he might die without a country, Mabini finally gave in. He wrote a beautiful and plaintive poem entitled "Adios, Asan" which he handed to Maximo Tolentino before he sailed back to the Philippines with Juan Villanio, a Spaniard who fought on the side of the Filipinos. On Feb. 26, 1903, moments after he alighted from the U.S.S. Thomas on Philippine soil, he took the oath of allegiance to the Stars and Stripes. Refusing offers of money and a high government position from U.S. officials, he deigned to live quietly in his nipa hut along the Pasig River in Manila. Barely three months later, he died, a victim of the cholera epidemic of 1903. Thousands of friends and foes alike bade him farewell as a twelve-horse carriage carried his mortal remains along the streets of Manila.

His words ring true almost a century later to remind us that a nation's freedom comes at a great cost.

". . . Let us fight while a grain of strength is left us; let us acquit ourselves like men, even though the lot of the present generation is conflict and sacrifice. It matters not whether we die in the midst or at the end of our most painful day's work the generations to come praying over our tombs, will shed for us tears of love and gratitude, and not of bitter reproach."

I like to think that Mabini spent a lot of happy and peaceful moments on Guam. Even now, as one visits his memorial on the quiet and timeless sands of Asan, in between the sound of the breaking waves, I whisper to this great patriot that he did not die in vain; that the American regime, for the most part, showered great benevolence to his beloved people; that the cruelty of the Spanish rulers was not enough to kill the humanity of the Filipino race because their Faith in God sustained them; that the Americans opened up the hearts and minds of a subdued people through the wonders of universal education, that the Americans, through the military genius of Gen. Douglas MacArthur whose father caused him undue torment, more than compensated for their past sins by dying by the thousands alongside their true brown brothers in the defense and eventual liberation of his beloved Philippines from the cruel and avaricious Japanese; that the fruits and blessings of a true democracy are enjoyed everyday by everyone which allows each individual to be independent, productive and integrated with society as a whole; that the Filipinos are well on their way to accomplish greater things, aided and abetted by a government of the people, by the people and for the people, a form of government wished by him for his country and ultimately handed freely by the Americans whom he suspected as just another cruel taskmaster, that on the beautiful island of Guam where he was exiled, there are now tens of thousands of inhabitants of Filipino lineage engaged in nation-building, aware of their proud heritage, thankful to their noble heroes for restoring their dignity as Freemen, ever-conscious of what Dr. Jose Rizal wrote in affirming the inalienability of rights: "God gave each individual reason and a will of his or her own to distinguish the just from the unjust; all were born without shackles and free, and nobody has a right to subjugate the will and spirit of another.", and ever-vigilant in guarding the principle that All Men are Created Equal.

If Mabini were alive today, he would exhort us with one of the timeless gems he wrote a hundred years ago in his True Decalogue. "Contribute to the progress of humanity by developing your own talents, working, studying, honing your abilities, never leaving the path of righteousness and truth. By doing so, you will be honored and being honored, you will glorify God."

ADIOS ASAN

(By Don Apolinario Mabini)

(English translation from Spanish original)

Adios, Asan! Adios, Agana!
We bid thee adieu, We, the unfortunate victims of the love for a sacred ideal;
We vow thee our loyalty for thy humanitarian hospitality.
Adios, Asan! Our favorite village, on whose sands our pains have been sprinkled, and our tears spread;
Your name I shall Never forget.
Adios, Agana! Soon I shall leave thee;
May heaven shower Happiness on thee;
Adios, my brothers, sisters, of my soul
Adios! Farewell! Adios!

Mr. Speaker, I would like to point out that Guam's own role in the Philippine independence movement was significant in that ironically a number of Philippine insurrectionists were put in exile on Guam at the turn of this century and many ties have resulted from that. I urge again this body to pass the resolution and more importantly to address the issues of Philippine veterans equity.

Mr. GILMAN. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. ROHRABACHER).

Mr. ROHRABACHER. Mr. Speaker, I would like to thank the gentleman from New York (Mr. GILMAN) for providing me this opportunity to just add a couple of points to the statement that I made earlier about the Philippines. Of course I support the gentleman's position that we should return those bells. It is an insult to the people of the Philippines. There is no reason for a country that is so close to us now that we should not bend over backwards to be sensitive to their pride in those parts of their culture. But let us note when we talk about the Philippines that that is one of the lesser problems and challenges they face. They are working hard to develop their economy, they are working hard and struggling hard to make sure that they maintain a democracy, but one of the greatest threats to the Philippines now comes from mainland China.

The Chinese, the Communist Chinese, are in a territorial dispute with the Philippines, and we in the United States who support democracy, we in the United States who believe in a more peaceful world and a peaceful solution to the problems in the Pacific should stand very closely to the Philippines at this time and let the Communist Chinese know that we will not

tolerate the use of military force the Chinese seem bent on doing in their intentions to grab the Spratley Islands.

Already we have been told that a permanent Chinese presence has been established in the last few years in the Spratley Islands. This is outrageous. We have found after just it seems like a few brief moments of not paying attention that the Communist Chinese have come into the Spratley Islands with their warships and established a presence in the Spratley Islands. This is an act of intimidation, it is an act of a bully, and our best friend in the Pacific, the Philippines, is being bullied by the Communist Chinese. We need to stand by the Philippines by giving them the means that they need at the very least to protect their own interests to their own territory.

To deter this type of aggression from China and belligerence from China, we need to move forward to ensure that as we have surplus ships and airplanes that we are taking out of service from the Cold War, we should be providing these to the Philippines, at no cost or at very low cost, because it does not cost us anything, we are just going to store them out in the middle of the desert, let us give these weapons that are surplus weapons, Cold War weapons, to the Philippines and let them defend themselves so that they can make sure that they deter any aggression in the future. This is what friendship is all about.

As we are now patting ourselves on the back and patting the Philippines on the back for being a democratic country, let us make sure we remember they are in need of somebody standing beside them in this confrontation with China.

Mr. WEXLER. Mr. Speaker, I yield back the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is an important and a timely resolution recognizing the importance of the Philippines and their relations with our Nation. It is supported by the administration and has significant bipartisan backing. Accordingly, I urge my colleagues in the House to fully adopt this measure.

Mr. ABERCROMBIE. Mr. Speaker, I rise in support for enactment of House Resolution 404, regarding relations between the people of the United States and those of the Philippines.

It is significant that we enact the resolution to salute and congratulate the Philippines on the 100th anniversary of its independence from Spain and its achievement of the establishment of its democracy.

It is also noteworthy that the resolution also thanks the Philippines for aiding the U.S. in World War II, the Korean War and in Vietnam. It underscores the need for Congress to enact the Filipino Veterans Equity Act to extend full veterans benefits to Filipino soldiers who fought along side U.S. soldiers in World War II.

Mr. Speaker, approximately 200,000 Filipino soldiers were under the command of General Douglas MacArthur during the early months of World War II. During that period, our armed forces in the Philippines were isolated from food, medical and ammunition supplies. Filipino soldiers displayed exemplary loyalty and courage in the defense of their nation and fought in every major battle, including Bataan and Corregidor.

Beyond the outstanding conduct of the regular Army forces, after the islands fell to Japan, thousands of courageous Filipinos took up arms to continue the fight through guerilla warfare against enormous odds. Not only did they undermine the occupation forces, but they provided valuable intelligence to U.S. forces in the Southwest Pacific, rescued downed American pilots and diverted powerful enemy forces from deployment elsewhere.

An estimated 60,000 to 80,000 surviving Filipino veterans, however, have been denied the full range and extent of veterans benefits available to American veterans with whom they fought side by side. This is an intolerable situation and we must resolve to remedy this tragic and insensitive dilemma.

I urge my colleagues to review the provisions of H.R. 836, the Philippines Veterans Equity Act, and support the effort to bring the bill to the House floor for debate and enactment.

Mr. BERMAN. I rise in support of H. Res. 404 regarding American-Philippines relations, regarding Taiwan's positive role in the Asian financial crisis and affirming American support for peace and stability on the Taiwan Strait and security for Taiwan's democracy.

There is no more apt time than the centennial of American-Philippine relations to salute the enduring friendship between our two countries. It is a friendship which has flourished despite its tragic beginnings in a conflict first with the Spanish and subsequently with Filipino independince fighters. But we learned from that struggle and subsequently worked diligently to grant independence as quickly as possible. American teachers spread throughout the archipelago bringing the benefits of modern education to the majority of the country. In World War II, Filipino troops fought bravely side-by-side with American forces and Filipino guerrilla fighters were indispensable in the liberation of the Philippines from Japanese occupation. The Philippines continued, even after independence, to be America's most important ally in Asia, again contributing troops to the Korean Conflict and to the Vietnam War. We owe a debt of gratitude, if not more, to our Philippine friends. We all rejoiced when the Filipino "people power revolution" overthrew the Marcos dictatorship. The Mulitlateral Aid Initiative for the Philippines that the Amercian Congress launched following the fall of Marcos was an effort not only to demonstrate our support for Filipino democracy but also to show our lasting commitment to an enduring close relationship with the Philippines. This continues to be the basis for our policy and it is instructive that during the current Asian financial crisis it is the democratic country of the Philipines which has so far escaped the worst effects of the crisis.

I urge my colleagues to support this resolution of which I am an original cosponsor.

Mr. MENENDEZ. Mr. Speaker, I rise in strong support of H. Res. 404 which commemorates the 100 years of relations between the people of the Philippines and the people of the United States.

As an original co-sponsor of this resolution and a Member who represents one of the largest Filipino communities in the Nation, I am keenly aware of the many contributions that Filipinos have made to this country and of the immense importance of continued good relations with the nation of the Philippines.

As President Clinton once said, the Philippines is our oldest friend in Asia.

This bill recognizes the great sacrifices that the Filipinos made in the struggle against Japanese imperialism in World War II where they fought alongside American soldiers, as they did again in Korea and Vietnam.

In addition to our historic ties, today our nations are also united by our strong economic ties. The Philippines is the twenty-first largest trading partner of the United States and absorbs a large amount of U.S. exports.

As the years pass, I am confident that our bilateral relations will only grow stronger—the bonds between our nations go beyond the diplomatic relations we have with most nations; these are bonds between people fostered by our historic relationship and maintained out of mutual respect and admiration for one another.

Mr. GILMAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. GILMAN) that the House suspend the rules and agree to the resolution, House Resolution 404.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

ACKNOWLEDGING POSITIVE ROLE OF TAIWAN IN ASIAN FINANCIAL CRISIS

Mr. GILMAN. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 270) acknowledging the positive role of Taiwan in the current Asian financial crisis and affirming the support of the American people for peace and stability on the Taiwan Strait and security for Taiwan's democracy, as amended.

The Clerk read as follows:

H. Con. Res. 270

Whereas the President of the United States has announced he intends to travel to Beijing in June 1998 to discuss the common interests of the United States and the People's Republic of China;

Whereas the American people desire strong relations with the people on both sides of the Taiwan Strait;

Whereas it is the policy of the United States Government to take all necessary action to ensure peace and stability on the Taiwan Strait, while continuing mutually beneficial trade relations with Taiwan's vibrant economy;

Whereas the American people have repeatedly welcomed and supported democracy for the people of Taiwan;

Whereas Taiwan set an example for democratization in the region having successfully held free and fair elections at the local and national level and encouraging the development of democratic institutions;

Whereas the American people seek to promote economic stability and growth amidst the current financial turmoil in the Asia-Pacific region;

Whereas Taiwan's economy has weathered the current Asian financial crisis better than others in the region;

Whereas Taiwan has proposed to use various means to help stabilize the economies of many of its neighbors, including possibilities for action by the Asian Pacific Economic Cooperation (APEC) forum of which it is a member;

Whereas Taiwan has expressed its willingness to provide financial assistance to its neighbors;

Whereas in the spring of 1996, the political leadership of the People's Republic of China used provocative military maneuvers, including missile launch exercises in the Taiwan Strait, in an attempt to intimidate the people of Taiwan during their historic, free, and democratic presidential election;

Whereas officials of the People's Republic of China refuse to renounce the use of force against the people on Taiwan;

Whereas the use of force, and the threat to use force, by the People's Republic of China against Taiwan undermines regional stability; and

Whereas a senior United States executive branch official has again recently called upon the People's Republic of China to renounce any use of force against Taiwan: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) the United States abides by all previous understandings of a "one China" policy and its abiding interest in a peaceful resolution of the Taiwan Straits issue; and

(2) the President of the United States should seek, at the June summit meeting this year in Beijing, a public renunciation by the People's Republic of China of any use of force, or threat to use force, against democratic Taiwan.

Amend the title so as to read: "Concurrent resolution acknowledging Taiwan's desire to play a positive role in the current Asian financial crisis and affirming the support of the American people for peace and stability on the Taiwan Strait and security for Taiwan's democracy.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. GILMAN) and the gentleman from American Samoa (Mr. FALEOMAVAEGA) each will control 20 minutes.

The Chair recognizes the gentleman from New York (Mr. GILMAN).

GENERAL LEAVE

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this measure.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to commend the distinguished gentleman from New York (Mr. SOLOMON), the chairman of the Committee on Rules, for introducing this timely resolution on Taiwan. I also want to thank the distinguished gentleman from Nebraska (Mr. BEREUTER), chairman of the Subcommittee on Asia and the Pacific, for his support of the measure. I am pleased to bring it to the floor today for consideration.

Mr. Speaker, it is particularly important that the House make a statement on Taiwan, especially in light of President Clinton's fast approaching summit with the Chinese in Beijing. Taiwan is of singular importance to our Nation. Taiwan plays a pivotal role in regional prosperity and stability. But this prosperity and stability can be threatened. We need only to remember back to the ominous period in the spring of 1996 when Chinese M–9 missiles flew across the Strait of Taiwan into international air and sea lanes in a heavy-handed attempt by Beijing to threaten the first democratic elections in 5,000 years of Chinese history. That sort of missile diplomacy on the part of China is unacceptable, and it is appropriate that we call on Beijing to renounce the use of force in settling the Taiwan question.

Finally, I want to commend Taiwan on the development of a vibrant democracy and a robust economy. I want to state my firm belief that the issue of one China must be settled peacefully and first and foremost by the Chinese people on both sides of the Strait of Taiwan, not by one side dictating terms to the other through missile diplomacy or otherwise. I support this resolution. I encourage my colleagues to do so as well.

Mr. Speaker, I reserve the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 270, which acknowledges Taiwan's desire to play a positive role in the Asian financial crisis and affirms American support for peace and stability on the Taiwan Strait and security for Taiwan's democracy.

I commend the gentleman from New York (Mr. GILMAN) the author of the resolution and the chairman of the Committee on International Relations, also the gentleman from New York (Mr. SOLOMON) the chairman of the Committee on Rules, and other colleagues that have worked toward adoption of this important measure. I am proud to join our colleagues in support of this legislation. Again, Mr. Speaker, I want to also commend the gentleman from Nebraska (Mr. BEREUTER), the chairman of the Subcommittee on Asia and the Pacific for his leadership and support of this measure.

Mr. Speaker, the people of Taiwan should be congratulated for the outstanding accomplishments of this thriving and prosperous democracy of 22 million people. Taiwan is one of the world's most compelling economic success stories, rising from the destruction of World War II to become a global trading power with foreign exchange reserves today second only to Japan.

Despite the financial crisis that has crippled many countries in Asia, Taiwan has shown great resilience. While South Korea, Indonesia, Japan and other neighbors have stagnant economies, Taiwan's gross domestic product is projected to increase by 6 percent in 1998. This maintains the momentum of the past three decades, where Taiwan's GDP growth averaged 9 percent.

□ 1730

Taiwan's stock market has also survived very well with market capitalization of some $300 billion. Taiwan's stock market has surpassed Hong Kong's to rank second only to Japan's stock market in Asia.

Mr. Speaker, in light of Taiwan's relative prosperity, her offer to extend financial assistance to her Asian neighbors undergoing financial turmoil is welcome and highly commendable. Whether Taiwan's assistance be provided through APEC or another forum, the United States should recognize and support Taiwan's significant efforts to promote economic stability in the Asian Pacific region.

Taiwan must also be commended its significant progress towards democratization with free and fair elections being held at the local and national levels. This movement came to full bloom in 1996 with Taiwan's first Presidential elections. The historic elections were conducted democratically and peacefully despite the threats and provocations issued by the People's Republic of China.

In the spring of 1996, I supported the actions taken by the Clinton administration in sending the *Nimitz* and the *Independence* carrier groups to the Taiwan Strait to maintain peace. China's missile tests and threatened use of force contravened China's commitment under the 1979 and 1982 joint communiques to resolve Taiwan's status by peaceful means. The joint communiques along with the Taiwan's Relations Act are the foundation of our One China policy which fundamentally stresses that force should not be used in resolution of the Taiwan question. Clearly it is in the interests of the United States and all parties that the obligation be honored.

Mr. Speaker, in light of our understanding of the One China policy and its support of the peaceful resolution of the Taiwan Strait issue, I will join our colleagues in urging that the President raise this matter in his summit meeting with Chinese President Jiang Zemin.

I support this legislation and urge my colleagues to support it and to adopt it.

Mr. Speaker, I reserve the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield 4 minutes to the gentleman from New York (Mr. SOLOMON) the sponsor of this resolution and the distinguished chairman of our Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman from New York (Mr. GILMAN) for yielding this time to me, and I certainly thank the chairman of the subcommittee as well.

Mr. Speaker, as the author of this very simple resolution, let me just say that it is necessary because of the continuing belligerent attitude of the Communist Chinese towards our great friends, the people in Taiwan, our stronger allies in the history of this Nation. We all know that Communist China has repeatedly and brazenly refused to renounce the potential use of military force to resolve its disputes with Taiwan, and it has shown on more than one occasion that it is willing to intimidate Taiwan with military force in these modern times, and that is terrible.

Let us recall that in March 1996, while Taiwan was conducting the very first free head of state elections in Chinese history, Communist China sought to intimidate the people of Taiwan by firing missiles just off Taiwan's coast. It was in anticipation of just this sort of rogue behavior which China is noted for by the Communist Chinese that induced those of us involved in writing the Taiwan Relations Act back 19 years ago to insert provisions designed to help defend Taiwan from Chinese military aggression. Go back and read the Taiwan Relations Act, and those provisions clearly state that the United States expects that the future of Taiwan will be decided by strictly peaceful means, and that any attempt by China to do otherwise would be considered a matter of grave concern to the United States of America while obliging the United States to maintain the capacity to resist any resort to force against Taiwan.

My colleagues, that is the law of the land, that is the American law, and it was in response to China's increasingly belligerent tone that prompted this House of Representatives in March of 1996 to pass the Cox resolution, which called on China to renounce force and explicitly informed Congress' views that the United States should, in fact, assist in defending Taiwan from invasion, attack or blockade by the People's Republic of China.

Regrettably this resolution today also seems necessary because of a disturbing trend in the Clinton administration's policy toward both countries. President Clinton has had in place a policy of unmitigated appeasement towards Communist China for 5 years now, but what is new, Mr. Speaker, is that in the past few months leading up to President Clinton's summit in Beijing, his administration has signaled in various ways that it may be ready to reach another Yalta accord with Communist China that would sell Taiwan down the drain. We have heard talk of yet another communique with the PRC. We have heard Secretary Albright talk of a strategic partnership with the PRC, and we have seen several former high-ranking Clinton administration officials, and I must say Republican administration officials as well that served under Reagan and Bush, touring China and Taiwan recently on what looks conspicuously like officially sanctioned missions and delivering the message that Taiwan cannot expect any help from the United States. If it declares independence, then China then invades.

These "blame the victim" statements are, of course, immoral, and they are outrageous. They remind me of the sole statements we heard in opposition to lifting the arms embargo from Bosnia from people who said that doing so would embolden the Bosnians. Imagine that. We might just have emboldened people who were being slaughtered, and now we just might embolden our friends, our staunch allies in Taiwan by pressuring the butchers of Beijing to renounce force.

Oh, no, Mr. Speaker, it is precisely because the approach of the China appeasers lacks moral depth that also makes it so strategically myopic and dangerous. Because the Communist leaders in Beijing also lack any morality, they are bound to interpret these emanations from the Clinton administration, if left unchecked, as a sign of dwindling U.S. commitment to the defense of Taiwan. These are exactly the kinds of green lights that Adolf Hitler received in the 1930s and Saddam Hussein and Slobodan Milosevic received in the early 1990s, and we will all know what happened each time that is. The fact is it is they, the Communists, the butchers of Beijing, who will be responsible if they invade Taiwan, and it is they who need to receive the message unequivocally and repeatedly that we expect them to resist using force.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

I certainly want to compliment the gentleman from New York (Mr. SOLOMON) for his deep understanding of the relationship existing between our country and Taiwan, and certainly like to say for the record I think the Clinton administration took appropriate action in showing our friends in China that two naval embattled carrier groups was sufficient to show that we also meant business. So I think along those lines, Mr. Speaker, I think the administration did the appropriate thing.

Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. BROWN), a distinguished member of the Committee on International Relations.

Mr. BROWN of Ohio. Mr. Speaker, I thank my friend from American Samoa for yielding this time to me.

Mr. Speaker, I rise in support of this resolution which calls upon the United States to support the people of Taiwan in their democratically-elected government in the face of uncertainties in this increasingly volatile region of the world. I do so, however, with reservations, since this resolution has been amended by the Committee on International Relations since its introduction to reaffirm our adherence to the One China policy.

Mr. Speaker, I would like to address a related injustice facing the people of Taiwan. Since 1972, the Taiwanese people have been denied membership in the World Health Organization. Young children and older citizens who are particularly vulnerable to a host of emerging infectious diseases are without the knowledge and the expertise shared among the member nations of the World Health Organization. With increased travel and trade among the members of our global village, these diseases surely do not stop at national borders and boundaries. So why should we erect boundaries to shared information which would help improve the lives and the health of the 20 million inhabitants of Taiwan?

Due to Chinese opposition Taiwan continues to be denied WHO membership. This hurts the people of Taiwan, and importantly it denies the WHO and all of us in the world community the benefit of Taiwan's knowledge and expertise.

Interestingly the world gains more from Taiwanese membership in the WHO probably than Taiwan gains from membership in the WHO.

The people of Taiwan and their democratically-elected government face many serious threats to their sovereignty. Chinese aggression and their continuing threat of force to settle their claim to Taiwan is a serious problem. Equally threatening are their efforts to continue to thwart Taiwan's efforts to help improve the health of its citizens.

I have introduced legislation urging the President to press Taiwan's case for membership in the WHO and to urge my colleagues to join in this effort. As a free people, we should support the will of the people of Taiwan to choose their own destiny.

Mr. FALEOMAVAEGA. Mr. Speaker, I reserve the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Nebraska (Mr. BEREUTER).

Mr. BEREUTER. Mr. Speaker, I rise in strong support of H. Con. Res. 270 and thank the gentleman from New York for yielding me this time.

As everyone in this body knows, the Congress has long played a critical role in the Taiwan relationship. Together with the other body, we have worked

with the various Presidential administrations over the years to ensure adequate U.S. arms sales to Taiwan to meet Taiwan's defense needs without provoking an arms race with the PRC or other countries in the region, and this body is, after all, the actual author of the Taiwan Relations Act. It remains the law of the land.

Taiwan and the U.S. now share numerous fundamental values both economically and politically. Last February Taiwan and the United States concluded a market access agreement which provides immediate market access for U.S. agriculture products in Taiwan, for example, as a way of loosening restrictions on U.S. telecommunications firms operating in Taiwan as well. This is important because really it paves the way for Taiwan's membership in the WTO.

Politically Taiwan is now a vibrant democracy characterized by free elections, a free press and dynamic political campaigns. Taiwan's political metamorphosis over the last decade has been fundamentally impressive and serves as a model for peaceful democratic change in the region and beyond.

H. Con. Res. 270, which was introduced by the distinguished gentleman from New York (Mr. SOLOMON) sends a clear message of Congress' deep respect and affinity for the people of Taiwan as well as a firm commitment to seeking a peaceful resolution regarding Taiwan's future. While it is true only the Chinese on both sides of the strait can determine their future, the United States must continue to play a role in ensuring the peace and stability of the region.

Mr. Speaker, this Member would commend the gentleman from New York for introducing H. Con. Res. 270 at this important point in U.S.-Chinese-Taiwanese relations. Mr. Speaker, I think it is particularly important that the Congress act on this legislation before the upcoming summit, and I urge adoption of H. Con. Res. 270.

Mr. GILMAN. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. ROHRABACHER), a member of our committee.

Mr. ROHRABACHER. Mr. Speaker, I rise in support of this resolution, which leaves no doubt on either side of the Taiwan Straits as to just what is American policy.

And it was not that long ago that this administration proclaimed strategic ambiguity as its position on certain issues concerning the China-Taiwan situation. More recently we have been told that President Clinton had some intention of proposing a strategic partnership to the Communist Chinese when he will visit Communist China later on this month. What we need to know is what is a strategic partnership; what does that mean?

When we talk about a strategic partnership with a Communist dictatorship, no wonder the democratic peoples around the Pacific begin to worry about whether or not the United States will stand strong with them against a belligerent totalitarian government like they have in Beijing. A strategic partnership? Well, I hope that President Clinton has put that one away and decided not to use that.

This resolution underscores the Shanghai Declaration that was put in place by President Nixon so long ago during the cold war at a time when it made a great deal of sense to try to make sure that we were not in a conflict with China or with Russia at the same time that that declaration made it very clear that we believe in a One China policy. That was our concession, and their concession was that they would only use peaceful means to settle any dispute with Taiwan.

□ 1745

This resolution reconfirms that declaration so long ago. Some people have been trying to suggest this has been an evolution of our policy, that in some way the talk of strategic partnership may well mean that we have not really maintained this same stalwart position on opposing the use of force against Taiwan.

No, that is what this resolution is about. We again state for the record in this resolution that as far as the Congress goes, yes, there is one China, and, yes, we insist that no force be used against the free and democratic people of Taiwan.

By the way, one note about one China. I believe there is one China, and, just as in the basis of what most Americans believe to be legitimate government, legitimate government is that government that has the consent of the governed. Legitimate government is that government that respects the human rights of its people. That is what our Founding Fathers said, that is what George Washington fought for, and that is what we write in our own founding documents.

So if there is one China, which I believe in, that one China has only one elected government, because the government in Beijing is not an elected government. We have one elected government in China and that is in Taiwan. We have a group of gangsters on the mainland. We have to make sure there is not force or violence to make sure that those two do not go into dispute.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I think, just for the clarity of the record, that the administration is quite clear as far as its policies concerning the one China policy. It is quite clear the administration policy is one of engagement with the People's Republic of China. It is quite firm also, the administration's policy towards Taiwan is to continue the current relationship as it has been in the past. So with regard to the comments of my good friend from California, I think there is no ambiguity about the policy of the administration.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is an important resolution stressing Taiwan's importance to our own Nation, and it is supported by the administration and deserves bipartisan support. Accordingly, I urge my colleagues in the House to fully support the measure.

Mr. BERMAN. Mr. Speaker, I urge my colleagues to support H. Con. Res. 270, the resolution on Taiwan. The Congress has always been a strong supporter of Taiwan. Taiwan's transition to a democratic state with a vibrant free market economy has solidified Congressional support. The emergence of a democratic Taiwan is indeed one of the most encouraging developments in Asia over the last decade. A democratic Taiwan is a shining example to all the countries in Asia which linger under the control of one man or one party. This resolution sends a clear signal of our continued interest in preserving Taiwan's achievement.

This resolution calls on the President to seek at his upcoming summit in Beijing a commitment by the Chinese to renounce the use of force against Taiwan. I think this is in China's interest. Sowing the seeds of fear in the Taiwan Strait benefits neither side given the growing trade, travel, and investment between both countries.

Let me also make clear that this resolution, while noting the United States' acknowledgement that China believes that Taiwan is part of China—the so-called "One China" policy, is not an endorsement by the Congress of the Chinese perspective. Taiwan no longer claims that it controls China. Only when China makes a similar declaration will both sides be able to move beyond their present conflict to its resolution. There is one China, but it does not include Taiwan.

I would also take this opportunity to urge the Administration to fulfill the commitment it made in its Taiwan policy review to seek membership for Taiwan in appropriate international organizations. Taiwan's singular political and economic achievement give it the potential to play a tremendous constructive role in the international community. As this resolution suggests, Taiwan has proposed to assist its neighbors in the recent Asian financial crisis. It could play more of a role if given the chance. I would urge special consideration be given to finding a role for Taiwan in the World Bank, International Monetary Fund, and World Health Organization. Just as it made no sense for the United States to pretend that China did not exist during the Cold War, it is equal nonsense to pretend that Taiwan does not exist in the post Cold War period.

I urge my colleagues to support this resolution of which I am a cosponsor.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of this resolution, which asks the President to seek to improve the relationship between Taiwan and China.

President Clinton's trip to China this month presents an opportunity to address a multitude of issues which will substantially effect the Pacific Rim, as well as American interests in the Pacific Rim. Taiwan's security is one such issue that should be discussed.

I understand that the relationship between Taiwan and the Chinese government is a tense one. This resolution seeks to reduce that tension by asking China to abstain from the use of military force in resolving the dispute.

In 1996, when China displayed a show of force in the Taiwan Strait, it was not just the people of China and Taiwan that were ill at ease, it was unsettling for the entire region. There is little doubt that the fragility of the situation poses a significant threat to American businesses that we want to protect.

I encourage the President to express to China our concerns for the stability of the region, and the importance that any dispute be resolved in a peaceful manner. And announce his support and America's support for the safety and security of the Democratic country of Taiwan—the Republic of China.

Mr. ORTIZ. Mr. Speaker, I rise today in support of H. Con. Res. 270, acknowledging the importance of the Taiwanese leadership in the current Asian financial crisis, as well as the importance of the stability of the Taiwanese Strait. I consider myself a good friend of Taiwan, and I am proud of the relationship that my Congressional District has with the government of Taiwan. Mr. Speaker, we all know that international trade is the essence of prosperity in this new economic era. There is perhaps no country which offers more promise for the United States and my home State of Texas than Taiwan.

I am proud of the role I have played in laying the foundation for our nation's relationship with Taiwan. It is my belief that the United States should embrace the people of Taiwan in matters of trade as the friends that they are.

Mr. GILMAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. STEARNS). The question is on the motion offered by the gentleman from New York (Mr. GILMAN) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 270, as amended.

The question was taken.

Mr. BEREUTER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

IRAN MISSILE PROLIFERATION SANCTIONS ACT OF 1997

Mr. GOSS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 457 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 457

Resolved, That upon adoption of this resolution it shall be in order to take from the Speaker's table the bill (H.R. 2709) to impose certain sanctions on foreign persons who transfer items contributing to Iran's efforts to acquire, develop, or produce ballistic missiles, with the Senate amendments thereto, and to consider in the House a single motion offered by the chairman of the Committee on International Relations or his designee that the House concur in each of the Senate amendments. The Senate amendments and the motion shall be considered as read. The motion shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the Committee on International Relations. The previous question shall be considered as ordered on the motion to final adoption without intervening motion or demand for division of the question.

The SPEAKER pro tempore. The gentleman from Florida (Mr. GOSS) is recognized for 1 hour.

Mr. GOSS. Mr. Speaker, for the purpose of debate only, I yield my friend, the gentleman from Ohio (Mr. HALL), the customary 30 minutes, pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate on this subject only.

Mr. Speaker, H. Res. 457 is a very straightforward rule designed to facilitate the last step in the legislative process for H.R. 2709, the Iran Missile Proliferation Sanctions Act of 1997.

Members may remember that this legislation was overwhelmingly approved by this House on a voice vote through the suspension process in November of last year. The other body considered the House bill and passed it on a 90 to 4 vote just a few weeks ago, changing only two dates in the legislation to reflect the passage of time and intervening events that occurred since the House first acted this past November.

Therefore, the purpose of this rule is to allow the House to concur in the action taken by the other body so we can send this measure on to the President, who will, we hope, sign it into law expeditiously.

In technical terms, Mr. Speaker, this rule provides for a single motion offered by the chairman of the Committee on International Relations or his designee to concur in each of the Senate amendments, which are as I have just explained. The rule provides that those Senate amendments and the motion shall be considered as read. The rule then provides for 1 hour of debate in the House, to be equally divided between the chairman and ranking minority member of the Committee on International Relations. It is a very simple rule, very straightforward, very fair, and, I believe, will get the job done quickly.

Mr. Speaker, in recent days and weeks Americans have been jolted back into reality from what has been a lulling period of complacency about the threat of weapons of mass destruction in this dangerous world. The President has said repeatedly and pointedly that tonight our children will go to bed with no nuclear weapons pointed at them. Unfortunately, he was wrong. The world is a more dangerous place today. Events in India and Pakistan, allegations about advances in the Chinese missile program, and the potential for serious danger to our national security dominate the news these days.

We have seen that nuclear weapons remain a tremendous threat to world security and peace, and we understand quite well that those who seek to proliferate in this deadly weapons race have not learned the terrible lessons of history.

Proliferation of weapons of mass destruction is a major issue of concern for the intelligence committees, for the Committee on National Security, for all the Members of the House and the other body, and, indeed, for every American. I must say that as chairman of the Permanent Select Committee on Intelligence, I continue to be more than disappointed in the Clinton administration's approach to dealing with this issue, especially as we have seen it unfold in the past few weeks.

I remain dismayed that time and time again it seems that the administration is willing to place perceived economic interests ahead of national security interests. The legislation we are bringing forward today is designed to send a strong signal to the world that we do not endorse such an approach and we specifically will not condone the transfer of missile goods or technology to Iran, a rogue nation that sponsors state terrorism and is actively engaged in weapons proliferation.

We know that Iran's intentions, with or without Khatemi, are clearly not in the best interests of our national security or our global stability. Yet that nation's capabilities are fast approaching the ability to produce medium- and long-range ballistic missiles. This legislation puts any foreign persons or entities who persist in providing missile technology to Iran on notice that their actions will result in stiff sanctions.

We are specifically interested in signaling to Russia and Russian firms that we expect their actions to speak as loudly as their words they used when, in January of this past year, the Russian Prime Minister issued a decree tightening legal controls on Russian exports of missile technology.

I think it is significant that the other body chose to use this January 22, 1998 date of that Russian decree as the effective date for the provisions of this legislation to underscore the importance of Russia implementing its stated policy. We are challenging them fairly and squarely to stop cheating,

and we are saying to the Clinton administration, no more winking at violations, no more giving the benefit of the doubt to those who do not deserve it.

Mr. Speaker, this is a simple and fair rule, and I urge Members to support it and support the underlying bill, which is an important and vital message.

I also remain hopeful that the President will do the right thing and sign this legislation into law as soon as possible.

Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank my colleague, the gentleman from Florida (Mr. GOSS), for yielding me this time.

Mr. Speaker, this rule, House Resolution 457, provides for the consideration of Senate amendments to H.R. 2709. This is a bill that imposes sanctions on foreign individuals and companies to block Iran from acquiring the capability to build ballistic missiles. It is directed primarily at Russian companies. As my colleague from Florida described, this rule provides 1 hour of general debate, to be equally divided between the chairman and ranking minority member of the Committee on International Relations.

Mr. Speaker, there is little disagreement in the House over the intent of this legislation. The House passed it by a voice vote last year, and there is support for the measure on both sides of the aisle. Though the Russian Government has taken a number of positive actions in the last year, including issuing several regulations, we need to see implementation of these regulations. We need to see the Russian Government increase border security and step up punishment of those who are involved in the illegal transfer of missile technology.

Despite the clear need for more action, I want to point out to my colleagues that there is some difference of opinion about bringing up the resolution at this moment. Later this month, U.S. and Israeli officials plan to get together and compare intelligence they have gathered regarding the transfer of missile technology to Iran. It may be more appropriate to wait until we have the benefit of that information.

Also there are new high-level discussions between our National Security Council and its Russian counterpart to address this very problem, and we need to coordinate with the administration on timing to make sure that we strengthen our position in dealing with Russia, not weaken it. Some observers argue that congressional action at this time is premature, when we are actually seeing some of the fruits of our efforts to stem the flow of technology to the Iranian government.

Mr. Speaker, despite these reservations about bringing the resolution to the floor at this time, I will not oppose the rule, so that the House will have the opportunity to fully debate the issue.

Mr. Speaker, I yield 5 minutes to the gentleman from Missouri (Mr. GEPHARDT), the minority leader.

□ 1800

Mr. GEPHARDT. Mr. Speaker, I rise today as a cosponsor and strong supporter of this legislation, but I do not think that it is the proper time to be holding a vote on this bill. I believe it is premature to act today on this legislation.

The intention in writing this bill was to influence the Russian Government's policy regarding the transfer of sensitive missile technology to Iran. This bill sought to demonstrate to Russia's leaders that we take these transfers very seriously and that we expected them to as well.

The development of ballistic missiles by Iran poses a threat not only to U.S. forces in the Middle East, not only to Israel and other U.S. allies in the region, but to Russia's national security as well.

There is evidence that Russia's leaders have received the message of this bill and have begun to address our concerns. The Russian Government has taken a number of steps to prohibit such exports and is working to implement measures that will effectively prevent them from occurring, but it needs to do more.

I believe that we must have action to stop these exports, not simply words and decrees. The Russian Government needs to convince us in a clear and comprehensive manner that it is exerting a 100 percent effort to prevent these transfers.

After an intense dialogue between some of our Nation's most senior diplomats and their Russian counterparts, we may be on our way to finally achieving this goal. In the past few months, we have begun to see evidence of Russia's leaders moving to close off channels of cooperation with Iran.

That is why I am concerned with the timing of this legislation today. The passage of this bill would, in effect, demonstrate an admission of defeat, that we have failed to influence Russia's government to this problem, and we are, instead, resorting to sanctions against individual companies that have engaged in these dangerous exports.

I am not ready to admit defeat. It is too early to throw in the towel, and neither is our closest ally in the Middle East.

Two weeks ago I visited Israel and met with Trade Minister Nathan Sharansky at his request regarding the transfer of missile technology from Russia to Iran. Minister Sharansky had just returned from Moscow where he had discussed this matter with senior Russian officials.

Minister Sharansky made two key points to me. First, he urged that the United States continue to press the Russian Government to take effective and tangible steps to stop the flow of missile technology to Iran. Second, he urged that we give the key players in the Russian Government an opportunity to implement what he thought were important measures to address this problem.

After visiting Israel, I then went to Moscow myself to discuss this and other issues with Russian officials. I met with Russia's new Security Council Director Andrei Kikoshin, who explained to me that the transfer of missile technology to Iran is as much a threat to Russia as it is to the United States or any other country in the world. He then described the steps that he and the Russian Government are taking to stem the flow of technology to Iran and laid out plans for additional steps in the immediate future.

Minister Kokoshin will visit Washington next week and has asked to meet not only with administration officials, but also with congressional leaders to update us on his government's actions to address our mutual concerns about these dangerous exports.

I also understand that in 2 weeks United States and Israeli intelligence officials will meet to compare information on the status of missile exports to Iran and to assess the effectiveness of steps the Russian Government is taking to stop them.

With all of these activities taking place right now, I am concerned that the passage of this legislation today will signal to Russia that we care more about sanctions than we do about the efforts it has made to address our concerns.

Passage of this bill would suggest that we do not want to work with them on cooperative efforts to stop future transfers, but, rather, are content to impose penalties on past transfers. It could very well create unintended obstacles for the efforts of Russian leaders to implement the very export controls needed to stop the flow of technology to Iran.

I also met with leaders in the Russian Duma, the Speaker of their Duma, the Deputy Speaker of the Duma. They both said that they were undertaking to pass legislation in the Duma that would be consistent with export flow legislation that has been passed by all of the G–8 countries.

I had hoped that we could monitor developments on this issue over the coming few weeks and then make an informed and reasoned determination about how to proceed. That is what I understand our friends in Israel wanted us to do as well. Consequently, I will be compelled to vote present today as an expression of my personal view that a vote on this bill today is premature.

Let me be very clear in conclusion, we may have to enact this legislation

in the very near future if our collective judgment is that Russia is not taking adequate steps to address this issue. We do not want to repeat our experience with China where, despite repeated assurances to the contrary, they continued to proliferate missile technology to unstable or rogue regimes.

We will not repeat those mistakes when it comes to Russia. We must act decisively in the event that the Russian Government is unresponsive to our concerns. But I do not believe we are able to make such an informed judgment today.

Mr. HALL of Ohio. Mr. Speaker, I yield back the balance of my time.

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just wanted to make a few remarks in response to the distinguished minority leader's information that he has shared with us on the floor.

It is true he has just been in Russia, and I admire the energies he has put into this process. I would suggest, however, that if the only problem is timing, that we are better going ahead now rather than waiting.

I would note that when we wait, bad things seem to happen. We waited in the Southeast Asia area after the Pakistanis flew a provocative missile, and we discovered that the Indians felt compelled to do some nuclear testing, which, of course, then led to the Pakistanis doing some nuclear testing, which then led to all the other proliferators in the area wanting to get in on the act.

I do not think now is a time to be sitting by waiting. I think now is a time to be making a very clear, strong statement. I do not believe there should be any doubt about where the United States Congress stands on the subject of proliferation between Russia and Iran or any other proliferation of weapons of mass destruction in the world.

Especially when Minister Kokoshin comes here, I think it would be most useful if we had a very strong vote so that there is a clear understanding that there are some matters in terms of cooperation that are not negotiable.

Cooperation means cooperation in a meaningful way. It does not mean more appeasement. It does not mean winking. It does not mean blinking. It does not mean nodding at nuclear proliferation. It means not tolerating it, period.

I believe this vote sends that message. I believe now is the right time. I am prepared to call for the vote after I yield back the balance of my time.

Mr. GILMAN. Mr. Speaker, will the gentleman yield.

Mr. GOSS. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, the minority leader, the gentleman from Missouri (Mr. GEPHARDT) has indicated they need some more time in the Russian Duma and the Russian administration to meet some of the requests that we are making with regard to this measure.

Let me ask the gentleman in a colloquy, if we were to pass, and I hope we will pass, this measure today, it then goes to the President. The President has 10 days in which to act. In the time he acts, if he does veto it, as he says he may do, it comes back, we are talking at least 3 weeks, are we not, before the measure comes back before the House?

Mr. GOSS. It is possible that that is a correct scenario.

Mr. GILMAN. Mr. Speaker, it would seem to me, in that 3-week period, the Duma would have certainly sufficient time in which to accomplish whatever they want to accomplish.

Mr. GOSS. Mr. Speaker, I yield back the balance of our time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider is laid upon the table.

Mr. GILMAN. Mr. Speaker, pursuant to House Resolution 457, I move to take from the Speaker's table the bill (H.R. 2709) to impose certain sanctions on foreign persons who transfer items contributing to Iran's efforts to acquire, develop, or produce ballistic missiles, and to implement the obligations of the United States under the Chemical Weapons Convention, with Senate amendments thereto and concur in the Senate amendments.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. GILMAN moves that the House concur in the Senate amendments to H.R. 2709.

The text of the Senate amendments is as follows:

Senate amendments:

Page 2, lines 15 and 16, strike out "August 8, 1995—" and insert "January 22, 1998—".

Page 6, lines 24 and 25, strike out "August 8, 1995—" and insert "January 22, 1998—".

The SPEAKER pro tempore (Mr. STEARNS). Pursuant to House Resolution 457, the gentleman from New York (Mr. GILMAN) and the gentleman from Indiana (Mr. HAMILTON) each will control 30 minutes.

The Chair recognizes the gentleman from New York (Mr. GILMAN).

GENERAL LEAVE

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill, H.R. 2709, and the Senate amendments thereto.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill before us, H.R. 2709, the Iran Missile Proliferation Sanctions Act, will make the world a safer place. It closes loopholes in our counterproliferation laws to address a matter of critical concern to our national security, the risk that Iran may soon obtain from firms in Russia and elsewhere the capability to produce its own medium- and long-range ballistic missiles.

Mr. Speaker, I introduced this legislation on October 23 of last year. Before we passed it by voice vote on November 12, it had over 240 House cosponsors, including both the Speaker, the gentleman from Georgia (Mr. GINGRICH), and the Democratic leader, the gentleman from Missouri (Mr. GEPHARDT).

The urgency of this legislation is apparent from recent press reports. As a result of critical assistance from Russian firms, Iran is making steady progress in developing medium- and long-range ballistic missiles. Unless something happens soon, Iran will be able to produce its own medium-range missiles within less than a year.

If the assistance from Russia continues, Iran is soon going to be able to produce long-range ballistic missiles as well, which will threaten not only the stability of the Middle East region, but the entire European continent as well.

For more than a year, our government has been in constant dialogue with Russia about stopping their assistance. Thanks in large part to the pressure brought to bear by this very legislation that we are considering today, some progress has been achieved, at least on paper.

Most importantly, on January 22 of this year, the Prime Minister of Russia issued an executive decree tightening legal controls on Russian exports of missile technology. That decree gave the Russian Government the legal authority it needed to block the transfer of missile technology to Iran. But in the nearly 6 months since that decree was issued, it has become apparent that the Russian Government is not fully committed to implementing it.

The fact is that even though there has been progress in some areas, the overall picture remains very discouraging. The evidence suggested that at least some elements of the Russian Government continue to believe that the transfer of missile technology to Iran serves Russian interests.

We in the Congress cannot change the misguided foreign policy calculations of some Russian officials, but we can give Russian firms that are in a position to sell missile technology to Iran compelling reasons not to do so. That is the purpose of the legislation presently before us.

□ 1815

I submit to my colleagues, the sanctions which this legislation threatens to impose will force such firms in Russia and elsewhere to choose between

short-term profits from dealing with Iran and potentially far more lucrative long-term economic relations with the United States.

To those who say that we should rely on the good faith of the Russian government rather than enacting this legislation, I respectfully submit that the Russian government has nothing to fear if it acts in good faith. It is only if Russia does not enforce its declared policy that they need fear any sanctions under this legislation.

In fact, enactment of H.R. 2709 will complement the administration's diplomatic efforts, and will provide a valuable enforcement mechanism to ensure that the actual behavior of Russian firms conforms to declared Russian policy.

Mr. Speaker, we passed H.R. 2709 by a voice vote on the suspension calendar. On November 12 of last year we sent it over to the Senate, and on May 22 of this year the Senate passed that legislation by a vote of 90 to 4.

The Senate also adopted two amendments which require us to act on the measure once again. The Senate amendments are very straightforward. All they do, in effect, is insert a new effective date into the legislation. When we passed the bill last year our effective date was August 8, 1995, the date on which Russia joined the missile technology control regime.

I submit that the new effective date adopted by the Senate is January 22, 1998, the date of the new executive decree in Russia, and it has not made any other major changes. Because the House passed this legislation before that decree was issued, we naturally had a different effective date, but now that the Russian decree has been issued, I agree with the Senate that it provides an appropriate effective date for this legislation.

Accordingly, Mr. Speaker, I strongly support the Senate amendments, and I strongly urge the House to concur in them.

Mr. Speaker, I recently received the Statement of Administration Policy on this legislation, and was very disappointed to learn that the Administration does not support this bill.

One of the Administration's complaints is that "the standard of evidence is too low and could result in the imposition of an unknown number of erroneous sanctions on individuals or business entities."

What the Administration fails to understand is that they have forced us to lower the evidentiary standard in this bill by their hesitation under other laws to impose sanctions even in the face of overwhelming evidence that sanctionable activity has taken place.

The "credible information" requirement of this bill is intended to be a very low evidentiary standard. For purposes of this bill, "credible information" is information sufficient to give rise to a reasonable suspicion. It is information that is sufficiently believable as to raise a serious question in the mind of a reasonable person as to whether a foreign person may have transferred or attempted to transfer missile goods, technology, technical assistance, or facilities of the type covered by the legislation. "Credible information" is information that, by itself, may not be persuasive. It is information that, by itself, may be insufficient to permit a reasonable person to conclude with confidence that a foreign person has transferred or attempted to transfer missile goods, technology, technical assistance, or facilities subject to the legislation.

We have adopted this very low evidentiary standard because of our dissatisfaction with the way the evidentiary standard contained in other counter-proliferation laws has been applied. These laws, including the missile technology proliferation sanctions of section 73 of the Arms Export Control Act and the Iran-Iraq Arms Non-Proliferation Act, essentially contain a "preponderance of the evidence" standard. Under these laws, sanctions for proscribed transfers need not be imposed until the President determines that such a transfer in fact occurred. In practice, however, the Executive branch generally has delayed imposing sanctions until all doubt about whether a transfer occurred has been erased. In effect, the Executive branch has elevated the evidentiary standard of these laws to a requirement of "proof beyond a reasonable doubt." We believe that this practice has undermined the effectiveness of our non-proliferation laws by blunting their intended deterrent effect. Accordingly, in order to ensure the effectiveness of this bill, we have adopted a lower evidentiary standard.

We see no reason not to impose the sanctions provided by this bill, on foreign persons about whom there is credible information that they may have made a transfer or attempted transfer covered by the bill. The three sanctions that this bill would impose on such persons—prohibitions on providing U.S. assistance, exporting arms, or exporting dual-use commodities to such persons—are all matters within the sole discretion of the United States government.

No one has a right to receive U.S. assistance. Because our foreign aid resources are limited, decisions have to be made everyday about who should receive our assistance and who should be denied our assistance. This bill basically directs that in any case where there is any doubt about whether a potential recipient of U.S. assistance has transferred or attempted to transfer missile technology, that person will be denied U.S. assistance. The Administration may believe we are being too harsh with this approach, but in fact they would have a hard time explaining to Members why we should provide limited U.S. foreign assistance funds to persons who we suspect may have made or attempted to make improper transfers of missile technology.

The same is true with regard to exports of arms and dual-use commodities. No one has a right to receive such exports from the United States. And, as a matter of national policy, we seek to deny such exports to foreign persons who cannot be trusted with U.S. arms or dual-use commodities. Why shouldn't the President be required to deny such exports to persons who we suspect may have made or attempted to make improper transfers of missile technology?

Mr. Speaker, there is also one technical point with regard to title II of H.R. 2709 that Chairman HYDE of our Judiciary Committee has asked me make.

Section 273 of H.R. 2709 replaces the exceptions to the automatic stay in paragraphs (4) and (5) of 11 U.S.C. 362(b) with both a broader exemption for governmental units and explicit language embracing organizations exercising authority under the Chemical Weapons Convention. Although Members of this body were not involved in crafting this provision, we view it as important for the legislative history to emphasize that the new paragraph (4) relates only to enforcement of police and regulatory power—a term which cannot appropriately be given an expansive construction for purposes of interpreting the new Bankruptcy Code language. The automatic stay, for example, will continue to apply to the post-petition collection of pre-petition taxes because such collection efforts are not exercises of police and regulatory power within the meaning of new paragraph (4) of Bankruptcy Code section 362(b). The language of section 273 of H.R. 2709 also explicitly excludes the enforcement of a money judgment—and exclusion designed to ensure that an exemption from the automatic stay cannot successfully be asserted for such an enforcement effort.

Mr. Speaker, I reserve the balance of my time.

Mr. HAMILTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to this bill. I am fully aware, of course, of how the votes will go in a few minutes, but I think it is important to set out the reasons in opposition to the bill. I hope it is agreed upon by all of us in this Chamber that we want to stop the transfer of missile technology to Iran. I want to do that. I know the supporters of the bill want to do that. I think the real question before us is not whether we want to stop the transfer of missile technology to Iran. We certainly do. The question really is the most effective way to achieve that goal.

I oppose this bill for three principal reasons.

First, the bill takes some hostages. The consideration of this bill has delayed for over a year another very important bill. The bill before us links a missile sanctions bill, H.R. 709, to the very important Senate-passed chemical weapons convention implementing legislation, S. 610. I believe the House should take S. 610 from the desk today and pass it so that it can be sent to the President for his signature.

Secondly, if enacted, this missile sanctions bill, in my view, will make it harder, not easier, for the United States to stop missile technology transfers from Russia to Iran.

Third, this bill is seriously flawed. Let me spell out my opposition in more detail.

First, this bill is holding up action, and has held it up, on the completion of implementing legislation on the chemical weapons convention. The

Senate acted in May of 1997 on S. 610, the chemical weapons convention implementing legislation. That bill has been sitting at the House desk for over a year. By attaching it to this missile sanctions bill, the House has delayed action for over 1 year.

Because of that delay, the United States is now out of compliance with its obligations to the chemical weapons convention. It will continue to be out of compliance until this implementing legislation, S. 610, is enacted.

Without this legislation in place, the U.S. chemical industry has no legal basis for providing data to the United States government, as required under the convention. Without this data from industry, the United States has been unable to submit its industry declaration, as we are required to do under the convention.

The United States, then, is now in violation of its treaty obligations. I believe we are now in the second year of violation. If we are not in full compliance with the chemical weapons convention, the United States cannot use its substantial influence for full compliance by others. We cannot press other parties to live up to their treaty commitments until we live up to ours.

Our failure to complete action on implementing legislation provides excuses for other countries to avoid full compliance with the treaty. Out of the 110 treaty members, some 28 have failed to submit information required under the treaty on their chemical industries. We give comfort to those in Russia, China, and Iran, and elsewhere who want to slip out of treaty compliance when we ourselves do not comply.

So we should not act on this bill. We should take from the House desk and pass today S. 610 so that the President can sign it, so that the United States will be in compliance with a treaty to eliminate chemical weapons.

Secondly, I believe, as I have indicated, that the Congress and the executive branch share the same policy goal. Everybody in this Chamber wants to stop the transfer of missile technology to Iran. The question before us is the most effective way to achieve that shared goal. Stopping the transfer of missile technology to Iran requires cooperation between the United States and Russia and the United States and its allies. The United States cannot stop the transfer of missile technology to Iran without cooperation.

The administration, from the President on down, including every senior official on the national security team, has spent a great deal of time and effort over the past 10 months working to stop Russian missile technology transfers to Iran. Important progress has been made through cooperation.

The Russian Government has issued repeated, authoritative statements at the highest levels in opposition to the proliferation of weapons and the technologies of mass destruction. President Yeltsin is committed to stopping these transfers.

On January 22, the Russian Prime Minister issued a catch-all export control decree. That decree empowers Russian authorities to stop any technology transfer to an end user that is developing weapons of mass destruction. Regulations have been issued and the United States and Russia are working closely. Iranians involved in weapons programs have been expelled from Russia. Russian authorities are more vigorous in monitoring suspicious individuals and companies.

Of the 13 cases of concern to us, there has been significant positive action on half of the cases. This cooperative approach is not perfect, but it is producing results. If this bill is enacted, cooperation and results will diminish.

On the remaining cases that are before us, clearly more needs to be done. The administration is convinced that more can be done. National Security Advisor Berger has established an important dialog with his Russian counterpart, Kokoshin. The problem the United States faces today is not Soviet power, it is Russian weakness. The government of Russia cannot collect enough taxes, pay its soldiers on time, or, in the immediate problem before us, enforce effective export controls.

In March, the United States and Russia set up a working group on export controls. That group met in April. We have in this country long experience on export controls, and we are now sharing that expertise with Russia. We are giving briefings, we are providing advice, we are reviewing their regulations and procedures. We are helping Russia to establish a process that is transparent and that is consistent with international norms.

Right now Russian officials and representatives from the electronics industry are in the United States taking an export control workshop. Next, we will train Russians from the aerospace industry. The Russians welcome more export control assistance, and we are willing to provide more assistance. There is no way to build an effective export control system in Russia other than working with Russians to build that system.

Sanctions will not solve proliferation problems with Russia. Cooperation, close cooperation of our export control experts with their officials, offers the best handle to get at this problem. Russian leaders can say and do all the right things about stopping missile transfers to Iran, but it will take an effective export control system to turn those words into actions. Helping Russia develop that export control system I believe is in the American national interest.

The question we need to ask is whether we will make more progress with Russia by going ahead with this sanctions bill now. The threat of sanctions I agree has been helpful in focusing Russian attention and getting Russian cooperation. But when this bill is passed tonight, it goes directly to the President. The enactment of this bill and the applications of the sanctions will be harmful. It will mean less Russian cooperation, not more. That is, of course, not my view alone. It is the view of the President, the Vice President, the National Security Advisor, and the Secretary of State.

It is also the view of senior Israeli officials, who recently visited at the White House with congressional leaders, as we just heard from the minority leader a moment ago. Israeli officials see this bill as useful pressure, but they are content to wait for a number of weeks. They see a new government in Moscow. They want to give the new Russian team some time, and give them a chance to carry out their commitments. They are not pressing for action on this bill now.

Third, this missile sanctions bill I believe has several serious flaws. The bill establishes too low a threshold for the imposition of sanctions. It would require the President to report and impose sanctions based on credible information it receives about transfers or attempted transfers of missile-related goods and technology to Iran.

"Credible information" is not defined in the bill, and is subject to broad interpretation. One report or one phone call could trigger a requirement to report and impose sanctions. This credible information standard in this bill is unprecedented in nonproliferation sanctions laws. It would require sanctions even when information later proves inaccurate.

Every sanction law currently on the books leaves the evidentiary determination of sanctions to the executive. The executive historically has applied a high evidentiary standard. That standard is high because of the serious consequences of an error. An error would harm U.S. industry and it would harm our nonproliferation policy. Sanctions imposed in error could needlessly damage U.S. credibility with other governments and our efforts to prevent Iran from obtaining missile technology.

What is missing from this bill is any balancing of judgment. This bill has no requirement for weighing evidence. It has no requirement for the preponderance of evidence. On any complicated issue, there is bound to be conflicting information. There will be credible information pointing one direction and credible information pointing another.

□ 1830

But the bill allows for no judgment. One single bad report could trigger sanctions. The bill has no requirement that actions subject to sanctions be taken knowingly. Sanctions would be

imposed on entities unaware that items are going to Iran or will be used in missiles. Such a provision is fundamentally unfair and will undermine U.S. credibility and the willingness of foreign entities to cooperate with the United States.

The bill sanctions U.S. subsidiaries of foreign firms, whether or not they participated in or were even aware of a transaction. The bill's standard for a waiver, essential to the national security interest of the United States, is a very high standard. It does not give the President sufficient flexibility to carry out his responsibilities under the Constitution for the conduct of American foreign policy.

Mr. Speaker, I believe this bill will have a strong negative impact on the American national interest. It will slow down our ability to get to the President a bill that he will sign so that we can meet our treaty obligations under the Chemical Weapons Convention. It will lead to less, not more, cooperation from Russia on stopping the transfer of missile technology to Iran.

Sanctions will not stop Russian firms from dealing with Iran. Some Russian firms are beyond the reach of U.S. sanctions. All of them are beyond the ability of the United States to control. Only the Russian Government can stop Russian firms from dealing with Iran.

Sanctions put at risk all the cooperation we have made working with the Russian Government to stop missile transfers to Iran. Russia's leaders agree with us. They are working with us. They have made some progress, but not enough progress. They say they want to make more progress. If we now turn around and sanction them, we put at risk all the progress we have made in stopping missile technology transfers.

The bill will also harm overall United States-Russia relations. The Duma is moving forward this month with hearings on START II treaty ratification. Russia is in the middle of a financial crisis. We should be sending a signal of support for Russia's actions in support of arms control and financial reform. So this bill sends the wrong signal to the Russian Duma and to financial markets. We send a chilling signal that will harm our own interests.

Mr. Speaker, I close by quoting the administration's statement of policy. "The administration strongly opposes H.R. 2709, the Iran Missile Proliferation Sanctions Act of 1997. The President's senior advisors would recommend that the President veto H.R. 2709, if it is presented to him in its current form. H.R. 2709 would not improve the ability of the United States to halt the transfer of missile technology to Iran. On the contrary, H.R. 2709 would weaken the U.S. ability to persuade the international community to halt such transfers to Iran. The bill's broad scope, retroactivity, and indiscriminate sanctions would undermine U.S. nonproliferation goals and objectives." End of quotation.

Mr. Speaker, I urge a "no" vote.

Mr. Speaker, I reserve the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just wanted to clarify one of the gentleman's statements. I want to respond to the suggestion that we hold back on this bill because of the alleged position of the Israeli Government. The fact of the matter is that passing this bill is important to American national security and to the security of all nations in the region and beyond it.

Because of the concerns that we have heard, and I have discussed this matter with the leaders of the Israeli Government, I wanted to be clear about the position of the Israeli Government at the current time. My staff spoke to Mr. Yitzhak Oren, Minister for Congressional Affairs, and we spoke just an hour ago to Uzi Arad, political advisor to the Prime Minister. They informed us that the Israeli Government has taken the following position, and I quote: "We felt that it was worthwhile to give more time for consultations; however, it is our view just like Americans, that what the Russians are doing is cover-up, which we view with serious concern. The problem here is that the Russian companies are violating Russian law. And since the Russians are unable to enforce their own law, we feel that it will be helpful to act in other effective ways."

So, Mr. Speaker, it would be my conclusion that if someone believes the Israeli Government is now requesting a delay, I believe that is a mistaken impression.

Mr. HAMILTON. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. I yield to the gentleman from Indiana.

Mr. HAMILTON. Mr. Speaker, let me just say to the gentleman that the precise statement we have from the Government of Israel's embassy in this town, and I quote it now, "It is not the clear position of the Government of Israel to pass this bill now." End of quote.

Mr. GILMAN. Mr. Speaker, reclaiming my time, we just spoke within the past hour and I just quoted his statement.

Mr. HAMILTON. Mr. Speaker, if the gentleman would again yield, the gentleman's statement that he just quoted said they wanted more consultation. That is precisely the point that the minority leader said and I agree it.

Mr. GILMAN. Mr. Speaker, again reclaiming my time, that was previous to this evening. Now they say they prefer we go ahead. They will have 3 weeks from the time we pass the measure, it goes to the President, the President vetoes it, it comes back here. There are 3 weeks of additional time which should be sufficient time.

Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania (Mr. WELDON), the distinguished chairman of the Subcommittee on Research and Development of our Committee on National Security.

Mr. WELDON of Pennsylvania. Mr. Speaker, I thank the gentleman from New York (Mr. GILMAN) for yielding me this time.

Mr. Speaker, I respect the distinguished gentleman from Indiana (Mr. HAMILTON), ranking member, although I strongly disagree with him. The ranking member is correct. We should not have to have this bill on the floor of this body today. But let us for a moment stop and think about why we are here.

Mr. Speaker, what we have had over the pattern of the past 6 years, and even beyond that into the ending of the last administration, was a pattern of not enforcing arms control agreements. That is what this whole debate is about. If our bilateral relationship is based on arms control agreements, then we have to enforce them when violations occur.

It was just 3 years ago, Mr. Speaker, that we saw the case where the Russians were transferring guidance systems to Iraq. In fact, Mr. Speaker, I would like to hold up two devices because this is what we are talking about. We are not talking about some paper debate or discussion. We are talking about devices that can harm the American people and our friends and our allies.

Mr. Chairman, this is an accelerometer and this is a gyroscope. These were both manufactured in the former Soviet Union. In fact, they were taken from SSN-18's, Mr. Speaker. And, Mr. Speaker, on three occasions, Russian entities sent these devices to Iraq.

Now, why is that important to us? Mr. Speaker, the largest loss of American life in our military in this decade was when 28 young Americans were killed by the Scud missiles. What do these devices do? They give the Scud missile pinpoint accuracy. What did the administration do when they found out this violation occurred three times? Not once, but three times? They said: We will convince Russia that they should not do it again.

Mr. Speaker, last fall the Russians quietly ended the criminal investigation of this transfer. No charges were brought. No criminal proceedings were started, and the entire technology transfer took place. We then have to deal with the consequences.

Last summer, Mr. Speaker, we saw again Russia transfer technology; this time, technology to allow Iran to build a medium-range missile that will hit Israel and 25,000 of our troops from any place within Iran. We caught them

dead in the water. We asked the administration to take action. To this date, no sanctions have been imposed.

Now, what do we have to do? This body passed legislation, with the other body, authorizing and appropriating 180 million additional dollars this year that could have gone for other purposes, to defend Israel, our Arab friends, and our troops against that Iranian missile proliferation. There is a real dollar that we have to pay because we could not control proliferation.

But the reason for this bill today is not just these instances. I did a floor speech 3 weeks ago, Mr. Speaker, and I documented in the RECORD 38 consecutive occasions of arms control violations in 6 years by China and by Russia to Iran, Iraq, to India and Pakistan. This administration imposed sanctions three times out of 38 and waived all three of those sanctions.

Do we wonder why we have a problem in the Middle East? Do we wonder why India and Pakistan are sabre rattling? Do we wonder why Iran and Iraq have medium-range capability now that threaten our allies? This is not about tweaking Boris Yeltsin or the Russian Government. If America has a company that violates our export laws and sends technology overseas, I want to prosecute that company. I want to make them pay.

What is wrong with our country saying to Russia if they have an entity that is proliferating technology, that entity must pay? We are not against the Russian Government. We are not trying to back Boris Yeltsin into the corner.

Mr. Speaker, I formed and I chair the Congressional Dialogue with the State Duma. I hosted eight of those leaders in this city 3 weeks ago, headed by the first deputy speaker. We are not about tweaking the Russian leadership. We want to work with them. I proposed, along with the gentleman from North Carolina (Mr. TAYLOR) a new housing mortgage financing mechanism. We are working with them to bring new economic development into that country. I want to empower the State Duma and we want to bring new markets into Russia. But we cannot tolerate this.

This administration has got to understand if the basis of bilateral relations is arms control, then we have to enforce those agreements. And if we cannot enforce those agreements, then they mean nothing. Our soldiers were killed in Saudi Arabia, 28 of them, young men and women, because of a Scud missile attack. They now have enhanced capability because of Russian technology. The Iranians will have that capability within 12 months.

Are we going to wait until Israelis are dead, until more Americans are killed, and then say we should take some action? I wish we were not here today. But unfortunately, because of this administration's lack of adherence to arms control agreements, we are where we are and this agreement needs to be passed.

Mr. HAMILTON. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from California (Mr. BERMAN).

Mr. GILMAN. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. BERMAN).

Mr. BERMAN. Mr. Speaker, I agree with the gentleman from Indiana (Mr. HAMILTON) on the question of timing. I agree with the gentleman from New York (Mr. GILMAN), the chairman of the Committee on International Relations, on the merits of the bill.

Mr. Speaker, one cannot make the case that U.S. national interests are served by bringing up this bill this evening rather than 3 weeks from now when the security advisor of the Russian President is coming here next week, when the Senate majority leader held up a vote on this bill in the Senate for over 5 months in an effort to encourage the diplomatic pressure, and then say today is the day that U.S. national interests compel a vote on this bill. I would suggest it is political interests, not national interests.

But the fact is that the leadership decides when a bill is brought up. This bill is now before us. We are going to go to a vote on this bill and this bill is worthy of this body's support, and I urge its passage.

Mr. Speaker, this legislation sends an important signal to anyone considering assistance to Iran's medium- and long-range missile program. Iran is designing missiles with a range of 930 to 1,250 miles and may even be working on a multistage intercontinental ballistic missile with a range of 3,500 miles. How long will it take Iran to attain this capability? Some estimate as soon as 1999 for the shorter-range missiles.

They may have a new President. They might want to get rid of all the baggage between our two countries. They may want to promote cultural exchanges. They may want to increase dialogue with the United States, with its academics and with its people.

□ 1845

The Government of Iran persists in its pursuit of weapons of mass destruction. Nothing about the election in Iran has changed that practice. Nothing about the statements of its new leadership has indicated any effort to move in a different direction. The more sophisticated assistance Iran receives from abroad, the quicker it will realize its goal. We must stop this now.

More than 2 years ago Assistant Secretary of State for Near Eastern Affairs Robert Pelletreau testified that only by imposing a real and heavy price can we and other countries convince the Iranian leadership that changing its threatening behavior is in Iran's own interest.

The administration claims that this legislation would weaken our ability to persuade other countries to halt assistance. But this legislation, as amended by the Senate to change its effective date from August 1995 to January 1998, comports with the administration's claims of success in convincing Russia to prevent dangerous exports.

January 22nd is the day the Russian Government issued a decree tightening export controls on goods and services that could advance missile and weapons of mass destruction programs. The Clinton administration officials say they have raised 13 cases of concern with Moscow and are pleased with Russian progress in about half of them. More needs to be done. The administration views this legislation as reinforcing its effort to persuade countries to cut off all aid to the Iranian missile program and to enforce export controls.

Language has improved this bill; language we suggested in committee was included. There remains some concerns regarding the definition of credible information. It is my expectation that the administration would employ its rigorous standards in determining what constitutes credible information.

The administration is also concerned that the bill's standard of sanctionable activity is not tied to any definition of knowing and that companies could be sanctioned for unintentional transfers. Given the types of equipment and technology involved, it strikes me as unlikely that many companies will be unaware of the potential end users of the exports. And while some companies may be unaware of the end users of the exports, ignorance should not be an excuse.

The companies that sell this technology, these items, must know who the end users are, and if they do not, they should be sanctioned. We should not be required to prove some difficult intent standard when we thereby will promote recklessness, head-in-the-sand behavior, a lack of thorough efforts to check who the end users are. We need to do everything we can to prevent the spread of weapons of mass destruction and the development of delivery systems.

Sometimes this is a lonely fight in which few of our allies wish to join us. For them short-term economic gain outweighs long-term peace. We should not sacrifice our honorable objectives to their selfish ends, for in the end we will all pay too high a price for failing to be vigilant. I urge my colleagues to vote for this important bill.

Mr. GILMAN. Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Speaker, it is an interesting debate, I think, from two different positions. I think the term "the administration's national security advisors" is an oxymoron,

that if you take a look at the history that that is based on, those advisors, I think you would fire them.

First of all, you take a look at the failed policies of an extended Somalia. Guess what? Aideed's son is still there. Billions of dollars in lost people in Haiti that could have stayed there for another 200 years and not been a threat, and guess what, Aristide is still there, and they still have the neckties. You look at Bosnia, arming the Muslims with Izetbegovic, and guess what, there is over 12,000 Mujahedin and Hamas there. If we ever pull out of there, it is going to be a tremendous disaster because then it is going to be Izetbegovic's forces.

"Expert control system" I think is another oxymoron. How do you define sanctions? What is too much to stop someone from shipping? I would think just a shipping company shipping AK-47s into California would stop us from using a shipping company. That same shipping company that ships chemical and biological weapons to Iran, Iraq and Syria, I would think that would be enough to sanction them and stop them. But, no, this administration wants to give them a former Navy security base right in the heart of California. Guess what? This same company just last week, shipping chemical nuclear weapons to Pakistan. Is that enough to bring on sanctions? No. So that is why I think that when we talk about export control system of the White House, it is an oxymoron.

Let us take a look at the Russian missile technology gone to Iran and Iraq. My colleague, the gentleman from Pennsylvania (Mr. WELDON), spoke of the technology that has gone to actually kill our friends. I have a business in my district. The gentleman invited me to a picnic. He was delighted to introduce me to a Russian scientist. That Russian scientist built and developed the SA-2 missiles that shot me down in Vietnam. But yet Russia is giving further technology to all of our allies, and yet that is not enough to have sanctions. Russia today is building, Mr. Speaker, a first strike nuclear site under the Ural Mountains. Why? The Cold War is over. They have one half its size to the northeast. But yet we need to just talk to them.

I say it is time that we do not walk softly and carry a big stick of candy, Mr. Speaker, because that is the White House's foreign policy, walk softly and carry a big stick of candy. Peace comes through strength. And can we engage Russia and China? Yes. Can we deal with them through business? Yes. But you need to hold them at arm's length, and you have to talk from a position of strength, not a position of candy.

I think unless we engage them with a dialogue that the gentleman is talking about, I think that is very healthy, but there is also time to draw a line in the sand, and we have not done that, Mr. Speaker. It is time. It is time now. It is always wait. It is always wait.

The worst thing, Mr. Speaker, at the same time we allow Russia and China to sell mass destructive weapons of chemical and biological and nuclear weapons and missile technology to foreign countries, we give it to them, we give it to them with Loral. I say, I ask you, what kind of policy is that? It is a failed policy, Mr. Speaker. We need to do something about it now, and we need to pass this bill.

Mr. BERMAN. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. HARMAN).

Ms. HARMAN. Mr. Speaker, I do not believe that sanctions are the perfect foreign policy tool, and I wish we did not have to resort to legislating sanctions today.

Unfortunately, however, we can do no less. Many good points have been made in this debate, and I do not want to repeat them, but let me identify several that I do not think have been stressed adequately.

First of all, the administration has been negotiating on this issue for over 14 months. We have had visits and consultations and briefings and high level ambassadors and conversations between the President and President Yeltsin and Vice President and former Prime Minister Chernomyrdin and so forth. Yet all we have really had is talk leading to talk. Talk needs to lead to action.

Second, we have evidence that proliferation continues and that it may even be increasing.

Third, we know that Russia, and this has been mentioned, has implemented a new executive decree in January which gives it added authority to crack down on those who transfer technology. It has not used this authority. In fact, in a case that the gentleman from Pennsylvania (Mr. WELDON) mentioned of technology transfers to Iraq, it specifically disregarded the fact that gyroscopes were transferred, called them scrap metal and took no action. So Russia is specifically failing to act even with new executive authority.

Fourth, the United States already has adequate authority to act. In fact Vice President GORE, when he was a member of the other body, authored that authority, and yet the administration has failed to use it even with a concurrent resolution passed by both houses last fall, of which I was one of the authors, directing it to use that authority.

So finally we come to this, the necessity to pass stronger legislation. I would point out, as we do this, and I predict we will do it by an overwhelming margin in just a moment, I would point out to the administration that there is still time in the intervening weeks between passing this bill and action that may be taken to override a veto, should the President make one, to get the administration to act and/or to get the Russian Government to act. We need action; we need these transfers stopped. There is time to do this. If the negotiations are ever to conclude, they should conclude now.

We might view this bill as an opportunity. The Congress is taking this action so that the administration has no choice but to act and to cause our ally Russia to act as well. These transfers must stop now, or Israel, our allies in the region and our troops are at risk.

Mr. Speaker, with the world still reeling from the explosion of nuclear devices by India and Pakistan, we must stand firm on our commitment to stop the proliferation of weapons of mass destruction.

Let's send a strong signal of our commitment to nonproliferation. Let's pass H.R. 3709 as amended.

Mr. GILMAN. Mr. Speaker, I thank the gentlewoman for her supporting remarks with regard to this measure.

Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. MCINTOSH).

Mr. MCINTOSH. Mr. Speaker, George Washington, our Nation's greatest military commander, said the most effective means of preserving peace is to prepare for war. Now, unfortunately, that is exactly what we must do today. There are those who say, let us pretend, let us pretend that if we do not defend ourselves against this missile threat from Saddam Hussein and others, that it simply won't happen. How novel, how naive.

I believe that the U.S. must diligently prepare to meet and repel any threat from any source from enemies around the world, and this includes protecting our U.S. troops and our allies from the threat of Iranian missile attack in the Gulf region.

We learned last summer, that has been debated today, that the Russians have helped the Iranians speed up the development and deployment of a missile capable of reaching U.S. troops. We have to act immediately. We know from the Gulf War that our troops are threatened by these. In fact, we lost more American lives because of a Scud missile than any other reason in the Gulf War. Israel also suffered from barbarous Scud attacks. Therefore I urge this House to learn from the tragic lessons of that war. Move to protect our brave men and women. Move to protect our allies. Support H.R. 2709.

This bipartisan bill imposes sanctions on entities that are aiding efforts by Iran to build a missile program that threatens our troops and our critical allies like Israel in the Gulf. I thank the gentleman for bringing this bill. I urge all of my colleagues on both sides of the aisle to support this effort.

Mr. BERMAN. Mr. Speaker, I yield 2 minutes to gentleman from New Jersey (Mr. MENENDEZ).

Mr. MENENDEZ. Mr. Speaker, I rise in strong support of the Iran Missile

Proliferation Sanctions Act. This legislation closes loopholes that allow countries to export sensitive technology to Iran. And because of these exports, in short order, within 1 year, Iran may achieve long-range missile capacity.

Opponents of the bill characterize it as just another sanctions bill. In reality what we are doing is providing Russian and Chinese firms with incentives not to trade with Iran.

Those who see a new Iran in President Khatemi are being led astray by conciliatory words while Iran continues to seek weapons of mass destruction, including long-range missiles, nuclear weapons to top those missiles, and chemical and biological warfare agents. President Khatemi may be the hope, but at present he does not have the power. Iran continues to support international terrorist organizations such as Hezbollah, Hamas and the Palestine Islamic Jihad. It is a rogue state. We would be naive to sacrifice our own security and the security of allies based on a few conciliatory words.

Late last year satellite reconnaissance of a research facility not far south of Tehran had picked up the heat signature of an engine test for a new generation of Iranian ballistic missiles, each capable of carrying a 2,200-pound warhead more than 800 miles, within strategic range of our ally Israel. In January a senior Clinton administration official told the Associated Press that Iran's purchase of Russian missile technology is giving Iran an opportunity to leap ahead in developing new weapons.

□ 1900

That is why I have introduced the Iran nuclear proliferation provision which I think is a companion ultimately to this bill.

Tehran's unrelenting quest for nuclear weapons and ballistic missiles clearly attests that the clerical regime has no intention of moderating its behavior. Appeasement by the West will only provide the mullahs with more room to maneuver. We need a comprehensive policy that both protects us from the current threat and safeguards our future interests in that part of the world. I urge my colleagues to be strongly supportive of this bill.

Mr. GILMAN. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from California (Mr. CAMPBELL), a member of our committee.

Mr. CAMPBELL. Mr. Speaker, I would like to engage the distinguished former chairman and ranking Democrat in a debate in at least the second half of my 3 minutes, because I believe that the bill does offer adequate protection of the concerns that the gentleman from Indiana had expressed. The bill provides a waiver of all sanctions if the President determines in the circumstances the individual suspected of transferring the technology in fact did not do so. That is under section 4. Then under section 5, the President has authority to grant a waiver on the basis of national security. As I read section 4, the President would be essentially making a judgment based on all the evidence, we attorneys might call it on a preponderance of evidence, that this transfer actually did not happen. And then the actual waiver as well as the underlying determination can be made in secret, it can be made in confidential form, in classified form, according to an amendment that was added to the bill between committee and when it came to the floor, and I refer to section 2(d) of the bill that all submissions can be made in classified form. So given that, I do not see the potential for embarrassment of U.S. foreign policy.

Mr. HAMILTON. Mr. Speaker, will the gentleman yield?

Mr. CAMPBELL. I yield to the gentleman from Indiana.

Mr. HAMILTON. Mr. Speaker, I thank the gentleman for yielding. I think we have to look at two things here. One is the imposition of the sanctions. With the imposition of the sanctions, you have a very, very low standard. All you have to find is credible information. You can have a mountain of information on the other side, but if you have any credible information, the sanctions apply. At the same time that you have a very low threshold on the sanctions, you have a very high threshold with regard to the waiver, and it is a national security interest waiver.

In talking with people on White House staffs, not just with this administration but in the past, finding a national security interest is not always easy. That is a very high standard. The gentleman is right, it does give the President discretion there on the waiver, but not on the sanction.

Mr. CAMPBELL. Mr. Speaker, the waiver, though, to which I was addressing my remarks was section 4, not section 5. The gentleman responded referring to the national security waiver in section 5 arguing that that was a high standard, and he may well be right. Section 4, however, allows the President to waive the imposition, and I am reading it, where the President is persuaded that the person did not, and then it goes on, actually transfer. So in the hypothetical that the gentleman from Indiana gives us where there is credible evidence that the transfer did take place but to use his own words a mountain of evidence the other way, well, surely then the President would waive on the basis of additional information under section 4.

I have the highest regard for the gentleman from Indiana or I would not have engaged in this discussion. If he has concerns, then I have concerns, but I believe the concerns are more than adequately taken care of in the draft with reference particularly to section 4.

Mr. HAMILTON. If the gentleman will yield further, I think the imposition of the sanctions creates huge problems in and of itself regardless of what the President's action may be. The mere imposition of the sanctions is going to trigger the reaction in Russia.

Mr. CAMPBELL. That submission can be made confidentially, not in public. I support the bill.

Mr. HAMILTON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York (Mr. ENGEL).

Mr. ENGEL. Mr. Speaker, I thank the gentleman from Indiana for yielding me this time, and I rise in strong support of the legislation.

Mr. Speaker, the House Action Reports just this week state very clearly that last year both U.S. and Israeli intelligence reports revealed a significant technology transfer between Russia and Iran. Successive reports detailed contracts signed between numerous Russian entities and Iran's Defense Industries Organization to help produce liquid-fueled ballistic missiles. These enhanced missiles are expected to have a range of 1,300 to 2,000 kilometers, well within the range of Israel, Turkey, Saudi Arabia and U.S. forces in the Persian Gulf region. There is a wide consensus within the intelligence community that Iranian ballistic missile development has proceeded much more rapidly than expected. The Director of the CIA recently testified that while last year he offered the assessment that Iran would have medium range ballistic missiles within 10 years, he now believes the timetable to be much shorter, and Israeli officials say it could happen by 1999.

Many experts are saying that with Russia's cash-strapped technical institutes and research facilities eager to sell to Iranian weapons purchasers, Russia's effective adherence to the obligations of the Missile Technology Control Regime is open to serious question. I think U.S. relations with Russia are very, very important but frankly I am tired of the role that Russia has played in transferring technology to Iran. They are playing a destructive role there, they are playing a destructive role in the whole situation in Kosovo with the Albanians and I think the Russians ought to really understand that there is a limit to how much patience we have. I support this legislation.

Mr. Speaker, I want to also say that I am very concerned about Syria as well, that the Israeli Defense Minister says that Syria is continuing to develop all these kinds of strategic surface-to-surface missiles, and that of greater concern is that Syria is developing these capabilities with the aid of North Korean know-how and Russian raw materials. It is these technologies and material transfers on which the bill before the House focuses today.

I just wanted to say to the chairman of the committee that I would hope that the committee would be willing in the future to consider the issue of proliferation of ballistic missiles and weapons of mass destruction in Syria as it considers such other issues in the Middle East.

Mr. HAMILTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in response to the comments of the gentleman from Indiana (Mr. HAMILTON), let me just emphasize that the credible information requirement of this bill is intended to be a very low evidentiary standard. We have adopted this low evidentiary standard because of our dissatisfaction with the way the evidentiary standard contained in other counter-proliferation laws has been applied.

There is no reason not to impose the sanctions provided by this bill on foreign persons about whom there is credible information that they may have made a transfer or attempted transfer covered by the bill. The three sanctions that this bill would impose upon such persons, prohibitions on providing U.S. assistance, exporting arms, or exporting dual-use commodities to such persons, are all matters within the sole discretion of our Government.

No one has any right to receive U.S. assistance. Since our foreign aid resources are limited, decisions have to be made every day about who should receive our assistance and who should be denied our assistance. This bill basically directs that in any case where there is any doubt about whether a potential recipient of U.S. assistance has transferred or attempted to transfer missile technology, that person will be denied U.S. assistance. The administration may believe we are being too harsh with this approach, but in fact they would have a hard time explaining to our Members why we should provide limited U.S. foreign assistance funds to persons who we suspect may have made or attempted to make improper transfers of missile technology.

I submit the same is true with regard to exports of arms and dual-use commodities. No one has a right to receive such exports from our Nation, and, as a matter of national policy, we seek to deny such exports to foreign persons who cannot be trusted with U.S. arms or dual-use commodities. Why should the President not be required to deny such exports to persons who we suspect may have made or attempted to make improper transfers of missile technology?

I submit to my colleagues that it is time we stop the spread of missile technology to Iran. Let us prohibit foreign aid to suspected missile proliferators, and let us prevent arms sales to suspected missile proliferators. Vote "yes" on the Senate amendments to H.R. 2709.

Mr. WELLER. Mr. Speaker, the United States has an obligation to support our very loyal and only democratic ally in the Middle East, Israel. We have a key responsibility to think long term—the long term security of Israel and the Middle East.

Some reports show that if the current flow of missile technology from Russia to Iran continues, Iran could, within a year, have the capability of developing ballistic missiles that could reach Israel and much of Europe.

The activities of Russian entities which are engaged in the transfers of these technologies threaten our own national security interests as well as those of Israel and much of Europe. Despite the resolution issued by the then-Russian Prime Minister earlier this year, which stipulated that Russian firms "should refrain" from such transfers, U.S. intelligence reports indicate that Russian entities have signed contracts with Iran to help produce ballistic missiles. There is also evidence that the sale of high-technology laser equipment and other supplies needed for the manufacture and testing of missiles has been negotiated. Beyond the technology transfers, thousands of Russian scientists, engineers and technicians are reported to be operating in Iran as advisors.

It is now time for the Congress to say that enough is enough. We need protect ourselves and our allies. The Government of Russia needs to understand that the United States will not stand idly by as entities under Russian authority assist a rogue nation in acquiring weapons of mass destruction. With this legislation, we will be giving Russian firms compelling reasons not to trade these important technologies with Iran.

Mr. Speaker, I urge my colleagues to accept the Senate Amendments so that we can protect ourselves, and our allies such as Israel, from the proliferation of Iranian weapons of mass destruction.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of the Senate amendments to the Iran Missile Proliferations Sanctions Act of 1997. I am currently a cosponsor of H.R. 2709 (H.R. 2930). The potential for a strategic arms race in Asia, evidenced by the nuclear tests conducted by India and Pakistan, means that we must redouble our efforts to combat the proliferation of nuclear weapons around the world.

H.R. 2709 would require the administration to publish periodic reports identifying companies or research institutes that have transferred, or have attempted to transfer, to Iran prohibited missile-related technology since August 8, 1995 (i.e., the date Russia signed the Missile Technology Control Regime, a multilateral agreement to prevent the spread of ballistic missiles). In other words, this sanctions bill is intended to close loopholes in the United States' counterproliferation laws in order to address the risk that Iran may soon obtain from firms in Russia, and elsewhere, the capability of producing its own medium- and long-range ballistic missiles, thus creating a threat to stability in the Middle East and southern Europe.

With respect to Russia, the proliferation threat seems to stem from two complex issues: (1) Since the dissolution of the former U.S.S.R., the Russian government has been unable to pay its scientists, engineers and academics whose former careers are virtually nonexistent today. Some have lent their skills, for pay, to help produce ballistic missiles. (2) Second, Russia is having difficulty enforcing its own arms control laws, which ban defense experts and scientists from selling their services abroad for at least five years, as effectively as it can.

For example, a columnist for The Washington Post reported in January that about $30 billion worth of illegal exports and imports flowed across Russia's once tightly sealed borders last year. In total, this smuggling and other underground activity account for 40 percent of the Russian economy today. In short, the threat is as much a human problem as it is an actual weapons problem. It should be clear to everyone that it is in the interests of the United States and Russia to prevent nuclear material and missile technology from being smuggled across Russia's borders. Thus, this problem encompasses both a human and material component.

Mr. Speaker, I encourage my colleagues to take a concrete step to halt the spread of weapons of mass destruction by supporting the Senate amendments to H.R. 2709.

Mr. LEVIN. Mr. Speaker, I rise in strong support of H.R. 2709, the "Iran Missile Proliferation Sanctions Act."

It is clear that Iran is seeking to improve its ballistic missile capability. In addition, it is clear that Iran's ballistic missile program is receiving outside assistance and support, most notably from Russia. Entities within Russia have supplied Iran's missile program with crucial technologies, materials and technical assistance. As a direct result of Russia's assistance, Iran may soon become self-sufficient in missile production; more ominously, Iran could be within a year or two of fielding an intermediate range missile capable of striking targets in Turkey, Saudi Arabia and Israel.

Mr. Chairman, this assistance to Iran's missile program must end. I can think of no greater threat to regional stability in the Middle East than Iran's coming into possession of weapons of mass destruction and the means to deliver them. These weapons would constitute a clear and present danger to American troops stationed in the Persian Gulf as well as Israel and our other allies in the region.

I appreciate that the Clinton Administration has been working with the Russian Government to curb the proliferation of missile technology to Iran. Real progress has been made, and the Administration is to be commended for its efforts. Unfortunately, while the flow of missile technology between Russia and Iran has slowed, it has not stopped. I was alarmed to learn that earlier this year a shipment of 22 tons of missile-quality steel was smuggled out of Russia bound for Iran, despite the fact that the Administration had alerted Russian authorities several days before the shipment left Russia. Fortunately, the steel—which is used to construct rocket fuel tanks—was impounded in Azerbaijan before it crossed the border into Iran.

The legislation before the House today would impose sanctions on foreign entities, wherever they may be, that contribute to Iran's efforts to develop ballistic missiles. H.R. 2709 sends a clear message that the United States

will not tolerate further proliferation of missile technologies to Iran.

I urge every member of the House to support this vital legislation.

Mr. GILMAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BURR of North Carolina). All time for debate has expired.

Pursuant to House Resolution 457, the previous question is ordered.

The question is on the motion offered by the gentleman from New York (Mr. GILMAN).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. GILMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Without objection, the Chair will reduce to 5 minutes the minimum time for electronic voting on each of the motions to suspend the rules that were postponed earlier today, provided that those proceedings resume as pending business immediately after this 15-minute vote.

There was no objection.

The vote was taken by electronic device, and there were—yeas 392, nays 22, answered "present" 3, not voting 16, as follows:

[Roll No. 211]

YEAS—392

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Fattah
Fawell
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hoyer
Hulshof
Hutchinson
Hyde
Istook
Jackson (IL)
Jackson-Lee (TX)
Jenkins
John
Johnson (CT)
Johnson (WI)
Jones
Kaptur
Kasich
Kelly
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Moakley
Mollohan
Morella
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Ryun
Salmon
Sánchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Young (AK)

NAYS—22

Brown (CA)
Conyers
Dooley
Furse
Hamilton
Hastings (FL)
Hostettler
Jefferson
Johnson, E. B.
Kanjorski
Kennedy (MA)
LaFalce
Lofgren
McDermott
Mink
Moran (KS)
Moran (VA)
Murtha
Obey
Paul
Rahall
Yates

ANSWERED "PRESENT"—3

Bonior
Fazio
Gephardt

NOT VOTING—16

Bishop
Deutsch
Farr
Gonzalez
Goodling
Houghton
Hunter
Inglis
Johnson, Sam
Leach
Lewis (GA)
Rush
Sabo
Schumer
Wexler
Young (FL)

□ 1932

Messrs. RAHALL, CONYERS, DOOLEY of California, JEFFERSON, YATES, and MORAN of Kansas changed their vote from "yea" to "nay."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BURR of North Carolina). Pursuant to clause 5 of rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed earlier today in the order in which that motion was entertained.

Votes will be taken in the following order: House Resolution 417, by the yeas and nays; House Resolution 447, by the yeas and nays; H.R. 1635, by the yeas and nays; and House Concurrent Resolution 270, de novo.

Pursuant to the order of the House of today, the Chair will reduce to 5 minutes the time for each electronic vote in this series.

REGARDING IMPORTANCE OF FATHERS IN RAISING AND DEVELOPMENT OF THEIR CHILDREN

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 417, as amended.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana (MR. MCINTOSH) that the House suspend the rules and agree to the resolution, H. Res. 417, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 415, nays 0, not voting 18, as follows:

[Roll No. 212]

YEAS—415

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Barcia

Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Fattah
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Hoyer
Hulshof
Hutchinson
Hyde
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E.B.
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Ryun
Salmon
Sánchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)

NOT VOTING—18

Ballenger
Deutsch
Farr
Fawell
Gonzalez
Houghton
Hunter
Inglis
Johnson, Sam
Lewis (GA)
McDade
Rush
Sabo
Schumer
Snowbarger
Waxman
Wexler
Young (FL)

□ 1941

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

The title of the resolution was amended so as to read: "Resolution regarding the importance of fathers in the rearing and development of their children."

A motion to reconsider was laid on the table.

SENSE OF HOUSE REGARDING FINANCIAL MANAGEMENT BY FEDERAL AGENCIES

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 447, as amended.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. HORN) that the House suspend the rules and agree to the resolution, H. Res. 447, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 415, nays 0, not voting 18, as follows:

[Roll No. 213]

YEAS—415

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Hoyer
Hulshof
Hutchinson
Hyde
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood

Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Ryun
Salmon
Sánchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)

NOT VOTING—18

Ballenger
Deutsch
Farr
Gekas
Gonzalez
Houghton
Hunter
Inglis
Johnson, Sam
Lewis (GA)
McInnis
Rush
Sabo
Schumer
Waxman
Wexler
Wicker
Young (FL)

□ 1952

Messrs. BARRETT of Wisconsin, FATTAH, SMITH of Michigan, KANJORSKI and WATT of North Carolina changed their vote from "nay" to yea."

So (two-thirds having voted in favor thereof), the rules were suspended and the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

NATIONAL UNDERGROUND RAILROAD NETWORK TO FREEDOM ACT OF 1998

The SPEAKER pro tempore (Mr. BURR of North Carolina). The pending business is the question of suspending the rules and passing the bill, H.R. 1635, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and pass the bill, H.R. 1635, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 415, nays 2, not voting 16, as follows:

[Roll No. 214]

YEAS—415

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E.B.
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roybal-Allard
Royce
Ryun
Salmon
Sánchez
Sanders
Sandlin
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)

NAYS—2

Paul
Sanford

NOT VOTING—16

Ballenger
Deutsch
Farr
Gonzalez
Houghton
Inglis
Johnson, Sam
Lewis (GA)
Roukema
Rush
Sabo
Schumer
Waxman
Wexler
Wicker
Young (FL)

□ 2001

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. DEUTSCH. Mr. Speaker, I was unavoidably absent from the Chamber for rollcall vote Nos. 211, 212, 213, and 214. Had I been present, I would have voted "aye" on rollcall vote 211, "aye" on rollcall vote 212, "aye" on rollcall vote 213, and "aye" on rollcall vote 214.

CELEBRATING THE BIRTHDAY OF THE HONORABLE DON YOUNG OF ALASKA

(Mr. BARTON of Texas asked and was given permission to address the House for 1 minute.)

Mr. BARTON of Texas. Mr. Speaker, the gentleman from Alaska (Mr. DON YOUNG) is 65 today and eligible for Medicare. Today is his birthday.

ACKNOWLEDGING POSITIVE ROLE OF TAIWAN IN ASIAN FINANCIAL CRISIS

The SPEAKER pro tempore (Mr. BURR of North Carolina). The pending business is the question de novo of suspending the rules and agreeing to the concurrent resolution, House Concurrent Resolution 270, as amended.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. GILMAN) that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 270, as amended.

The question was taken.

RECORDED VOTE

Mr. BEREUTER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 411, noes 0, not voting 22, as follows:

[Roll No. 215]

AYES—411

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Hoyer
Hulshof
Hunter
Hutchinson
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E.B.
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roybal-Allard
Royce
Ryun
Salmon
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)

NOT VOTING—22

Ballenger
Deutsch
Farr
Gonzalez
Houghton
Hyde
Inglis
Johnson, Sam
Lewis (GA)
Miller (CA)
Murtha
Riley
Roukema
Rush
Sabo
Sánchez
Schumer
Talent
Waxman
Wexler
Wicker
Young (FL)

□ 2010

So (two-thirds having voted in favor thereof), the rules were suspended and the concurrent resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

The title of the concurrent resolution was amended so as to read:

Concurrent resolution acknowledging Taiwan's desire to play a positive role in the current Asian financial crisis and affirming the support of the American people for peace and stability on the Taiwan Strait and security for Taiwan's democracy..

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2888, SALES INCENTIVE ACT

Mr. DREIER, from the Committee on Rules, submitted a privileged report (Rept. No. 105–572) on the resolution (H. Res. 461) providing for consideration of the bill (H.R. 2888) to amend the Fair Labor Standards Act of 1938 to exempt from the minimum wage recordkeeping and overtime compensation requirements certain specialized employees, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3150, BANKRUPTCY REFORM ACT OF 1988

Mr. DREIER, from the Committee on Rules, submitted a privileged report (Rept. No. 105–573) on the resolution (H. Res. 462) providing for consideration of the bill (H.R. 3150) to amend title XI of the United States Code, and for other purposes, which was referred to the House Calendar and ordered to be printed.

COMMENDING THE STUDENTS AND TEACHERS OF MARTINSVILLE MIDDLE SCHOOL FOR ACHIEVEMENT IN PROJECT CITIZEN

(Mr. GOODE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOODE. Mr. Speaker, I rise today to commend the students and teachers of Martinsville Middle School in Martinsville, Virginia, for their participation and achievement in the inaugural Virginia State competition for Project Citizen, which was held on May 15 in the Virginia General Assembly Building.

I include for the RECORD a statement of the accomplishments of the students and their teachers, Mr. Speaker.

The statement referred to is as follows:

PROJECT CITIZEN—WE THE PEOPLE

May 15 the inaugural Virginia state competition for Project Citizen was held in the Virginia General Assembly building. This competition is a civics education program for students in grades 6–9. This program promotes competent and responsible participation in government by engaging students in learning how to monitor and influence public policy. As a class project, students work together to identify and study a public policy issue, then try to develop a solution to an issue, and form an action plan to "solve" the problem. The final product is a portfolio displaying their work. This year there were seven portfolios on exhibit for judging at the state competition. After the judging was complete, Martinsville Middle School students in Mrs. Linda Cox, Mr. Richard Tobler, Mrs. Carolyn Turner and Mrs. Betsy Ivey's classes won first, second and third places in the competition. The winning portfolio entitled "Homeless" examined the homeless situation in Martinsville/Henry County. Since there is no full time shelter for the homeless, the students want the local governments to investigate the possibility of a shelter where not only are the basic needs of food and lodging provided but also job training to break the homeless cycle. The students on this team were Andrea Lawhorn, Tarieton Walmsley, Jennifer Ward, Caroline Titcomb, Demarcus Tarpley, Justin Knighton, Sarah Draper, Shelby Higgs, and Christina Chaney. The portfolio of the winning team will be sent to Las Vegas, Nevada for national competition during the National Conference of State Legislatures July 19–23, 1998.

The second place team from Martinsville Middle School studied "Recycling—More Needs to be Done". The third place group investigated "Activities for the Elderly".

Helen Coalter is the Virginia state coordinator for We the People from the Center for Civic Education.

□ 2015

REPORT ON NATIONAL EMERGENCY CONDERNING WEAPONS OF MASS DESTRUCTION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 105–271)

The SPEAKER pro tempore (Mr. BURR of North Carolina) laid before the House the following message from the President of the United States; which was read and, together with accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

As required by section 204 of the International Emergency Economic Powers Act (50 U.S.C. 1703(c)) and section 401(c) of the National Emergencies Act (50 U.S.C. 1641(c)), I transmit herewith a 6-month report on the national emergency declared by Executive Order 12938 of November 14, 1994, in response to the threat posed by the proliferation of nuclear, biological, and chemical weapons ("weapons of mass destruction") and of the means of delivering such weapons.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 9, 1998.*

INTERNATIONAL CRIME CONTROL ACT OF 1998—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 105–272)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with accompanying papers, without objection, referred to the Committee on the Judiciary, the Committee on Commerce, the Committee on Transportation and Infrastructure, the Committee on Ways and Means, the Committee on Government Reform and Oversight, the Committee on Banking and Financial Services, and the Committee on International Relations, and ordered to be printed:

To the Congress of the United States:

I am transmitting for immediate consideration and enactment the "International Crime Control Act of 1998"(ICCA). The ICCA is one of the foremost initiatives highlighted in my Administration's International Crime Control Strategy, which I announced on May 12, 1998. The proposed legislation would substantially improve the ability of U.S. law enforcement agencies to investigate and prosecute international criminals, seize their money and assets, intercept them at our borders, and prevent them from striking at our people and institutions.

Advances in technology, the resurgence of democracy, and the lowering of global political and economic barriers have brought increased freedom and higher living standards to countries around the world, including our own. However, these changes have also provided new opportunities for international criminals trafficking in drugs, firearms, weapons of mass destruction, and human beings, and engaging in fraud, theft, extortion, and terrorism.

In response to these formidable threats to the American people, I have directed the Departments of Justice, State, and the Treasury, as well as the Federal law enforcement and intelligence communities, to intensify their ongoing efforts to combat international crime. In order to carry out this mandate most effectively, the many departments and agencies involved need the additional tools in the proposed ICCA that will enhance Federal law enforcement authority in several key areas, close gaps in existing laws, and facilitate global cooperation against international crime.

The ICCA's provisions focus on seven essential areas to improve the Federal Government's ability to prevent, investigate, and punish international crimes and criminals:

(1) INVESTIGATING AND PUNISHING ACTS OF VIOLENCE COMMITTED AGAINST AMERICANS ABROAD

—Broadens existing criminal law to authorize the investigation and punishment of organized crime groups who commit serious criminal acts against Americans abroad. (Current law generally requires a link to terrorist activity.)

—Provides jurisdiction in the United States over violent acts committed abroad against State and local officials while in other countries on official Federal business.

(2) STRENGTHENING U.S. AIR, LAND, AND SEA BORDERS

—Increases penalties for smugglers who endanger Federal law enforcement officials seeking to interdict their activities, introducing the Federal criminal offense of "portrunning" (i.e., evading border inspections, often through the use of force).

—Addresses gaps in current law relating to maritime drug interdiction operations, introducing the criminal offense of failing to stop ("heave to") a vessel at the direction of a Coast Guard or other Federal law enforcement official seeking to board that vessel.

—Provides clear authority to search international, outbound letter-class mail if there is reasonable cause to suspect that the mail contains monetary instruments, drugs, weapons of mass destruction, or merchandise mailed in violation of several enumerated statutes (including obscenity and export control laws).

—Broadens the ability to prosecute criminals smuggling goods out of the United States.

(3) DENYING SAFE HAVEN TO INTERNATIONAL FUGITIVES

—Authorizes the extradition, in certain circumstances, of suspected criminals to foreign nations in two separate cases not covered by a treaty: (1) when the United States has an extradition treaty with the nation, but the applicable treaty is an outdated "list" treaty that does not cover the offense for which extradition is sought; and (2) when the United States does not have an extradition treaty with the requesting nation.

—Provides for exclusion from the United States of drug traffickers and their immediate family members and of persons who attempt to enter the United States in order to avoid prosecution in another country.

(4) SEIZING AND FORFEITING THE ASSETS OF INTERNATIONAL CRIMINALS

—Expands the list of money laundering "predicate crimes" to include certain violent crimes, international terrorism, and bribery of public officials, thus increasing the availability of money laundering enforcement tools.

—Broadens the definition of "financial institution" to include foreign banks, thereby closing a loophole

involving criminally derived funds laundered through foreign banks doing business here.

—Provides new tools to crack down on businesses illegally transmitting money, and to investigate money laundering under the Bank Secrecy Act.

—Toughens penalties for violations of the International Emergency Economic Powers Act.

—Criminalizes attempted violations of the Trading With the Enemy Act.

(5) RESPONDING TO EMERGING INTERNATIONAL CRIME PROBLEMS

—Enhances enforcement tools for combating arms trafficking, including requiring "instant checks" of the criminal history of those acquiring explosive materials from Federal licensees and clarifying Federal authority to conduct undercover transactions subject to the Arms Export Control Act for investigative purposes.

—Addresses the increasing problem of alien smuggling by authorizing the forfeiture of the proceeds and all instrumentalities of alien smuggling.

—Cracks down on the international shipment of "precursor chemicals" used to manufacture illicit drugs, primarily by authorizing the Drug Enforcement Administration to require additional "end-use" verification.

—Provides extraterritorial jurisdiction for fraud involving credit cards and other "access devices," which cost U.S. businesses hundreds of millions of dollars every year.

—Authorizes wiretapping for investigations of felony computer crime offenses.

(6) PROMOTING GLOBAL COOPERATION

—Expands the authority of U.S. law enforcement agencies to share the seized assets of international criminals with foreign law enforcement agencies.

—Provides new authority, applicable in cases where there is no mutual legal assistance treaty provision, to transfer a person in United States Government custody to a requesting country temporarily for purposes of a criminal proceeding.

(7) STREAMLINING THE INVESTIGATION AND PROSECUTION OF INTERNATIONAL CRIME IN U.S. COURTS

—Authorizes the Attorney General to use funds to defray translation, transportation, and other costs of State and local law enforcement agencies in cases involving fugitives or evidence overseas.

—Facilitates the admission into evidence in U.S. court proceedings of certain foreign government records.

The details of this proposal are described in the enclosed section-by-section analysis. I urge the prompt and favorable consideration of this legislative proposal by the Congress.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 9, 1998.*

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

AS AMERICA'S DEFENSE FORCES DWINDLE, SECURITY THREATS INCREASE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

Mr. JONES. Mr. Speaker, having attended, like many of my colleagues, several Memorial Day services over the recent recess, I continue to become more and more concerned by America's dwindling national defense. By failing to maintain a strong military force, we are in effect dishonoring those who have served and died for our freedom. Please allow me to highlight some recent events.

Surprising the United States intelligence community, India conducted five underground nuclear weapons tests last month. Neighboring Pakistan has since conducted six nuclear weapons tests of its own. It has been reported that Iraq has enough deadly biological weapons to kill every human being on Earth. And despite administration claims that no nuclear missiles are aimed at American children, a CIA report released last month reveals that 13 of China's 18 long-range strategic missiles have nuclear warheads aimed at United States cities.

Mr. Speaker, we do not live in a safe world. America faces new threats and dangers each and every day, and yet we continue to cut our defense budget.

The President's request for the fiscal year 1999 defense budget represents the 14th consecutive year of real decline in defense spending. Our forces today are 32 percent smaller than they were just 10 years ago. In 1992, we had 18 Army divisions; we now have 10. And that same year we had 24 fighter wings; we now have 13. We also had 546 Navy ships in 1992; we now have 333.

Our forces are dwindling and yet threats to our freedom are ever increasing. Quite frankly, we seem to be taking our freedom for granted. This is a foolish thing to do. Just ask any veteran or any American who has lost a loved one in service to our Nation.

Mr. Speaker, in the name of all those who have fought and who have died for this country, we must continue to maintain a military readiness. We cannot throw away the security America has fought so hard for.

Right now while nuclear missiles are aimed at United States cities, our troops do not even have the basic ammunition they need. The Army is $1.7 billion short of basic ammunition and the Marine Corps has a shortfall in ammunition of over $193 million. I want to repeat that, Mr. Speaker. The Army is $1.7 billion short of basic ammunition and the Marine Corps has a shortfall in ammunition of over $193 million.

At the same time the President has cut defense nearly in half, he has deployed troops over 25 times during his tenure. Thirteen billion dollars-plus has been spent on these peacekeeping deployments, which have exhausted funds that would have otherwise been used to maintain our military readiness and have stretched our forces to the limit.

These peacekeeping deployments have also kept our men and women in uniform away from their homes and families for lengthy periods of time and have thereby decreased their morale. We cannot continue to ask our military to do more with less. This is why I was especially disappointed this year, to see that the President requested more than $100 billion in new domestic spending but failed to propose one dime in increased defense spending.

Mr. Speaker it is past time to once again provide our military with the resource its needs to do the very important tasks it faces of protecting America.

I urge my colleagues to help preserve our freedom and security and to support our Armed Forces. Thank you, Mr. Speaker, and may God bless America.

NATIONAL OCEAN CONFERENCE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Mrs. CAPPS) is recognized for 5 minutes.

Mrs. CAPPS. Mr. Speaker, this week I will be participating in the National Ocean Conference in Monterey, California. This historic gathering is taking place just up the road from the district I am privileged to represent along the central coast of California. I am pleased to be joining the President, Vice President, several Members of the Cabinet, some of my House colleagues, and hundreds of scientists, scholars, and conservationists from around the world at this important event.

This conference will highlight the important role the ocean plays in the daily lives of all Americans. Today over half of the population in the United States lives and works in coastal areas.

Mr. Speaker, one of every six jobs in the United States is marine-related. This is particularly true in San Luis Obispo and Santa Barbara Counties, where our tourism, recreation, fishing, education, and business communities are all dependent on a clean ocean environment.

Mr. Speaker, last week I had the opportunity to meet one of the world's renowned ocean explorers, the 1998 National Geographic Society Explorer of the Year, Dr. Sylvia Earle. Dr. Earle, who will be speaking at the Ocean Conference, is part of an incredible undertaking: the Sustainable Seas Expeditions.

This 5-year project will explore, document, and provide scientific data on America's 12 national marine sanctuaries, including the Channel Islands National Marine Sanctuary in my district. To do this, she will be using a deep-ocean submarine that is able to go thousands of feet underwater to explore uncharted territories.

I am one of the Members of this body who often speaks in this Chamber about the marvels of space exploration. Well, there is another world out there to be explored and instead of going up, we must go down. Down to the depths of the vast oceans to discover the wonders of the sea where we might find new resources, cures for diseases, and answers to scientific questions. But all of these diverse uses of our ocean's abundant resources are dependent on a clean and healthy ocean.

Mr. Speaker, I am very proud to be the sponsor of a bill, the Coastal States' Protection Act, which ensures the protection of our Nation's fragile coastline from new, unnecessary offshore oil and gas development. This is a bill that respects States' rights. The legislation stipulates that when a State establishes a moratorium on new oil drilling in State waters, this protection should be extended to adjacent Federal waters. Oil knows no boundaries and it does little good to protect coastal State waters without simultaneously protecting our adjacent Federal waters.

After all, as we in Santa Barbara know too well, an oil spill in Federal waters will not stop there. It will contaminate State waters and ultimately our shores. It will spoil our majestic beaches, devastating the tourism, recreation, and fishing industries that all depend on a clean organization.

I urge my colleagues here in the House to support this important legislation. I also hope the President takes the opportunity at the ocean conference to support this legislation and protect our Nation's coastlines.

To this end, I intend to bring with me to the conference evidence of the strong local support for this proposed moratorium. I will be presenting to the President letters from a wide variety of constituents including the business, fishing, and tourism community as well as local elected officials all united in expressing their strong opposition to any new offshore oil development off the spectacular coastline of California.

If Members think this opposition to offshore development is just a position taken by environmentalists, think again. A recent report issued jointly by the San Luis Obispo County Chamber of Commerce and the Environmental Center of San Luis Obispo County demonstrates the unified community position against offshore oil development.

The study points out that in 1998, the tourism industry is expected to generate over $60 billion in the State of California. Mr. Speaker, I quote from this report: "The travel industry is healthy and growing in San Luis Obispo County, with total visitor expenditures in 1997 in the county of $394 million. This would all change if offshore oil and gas development occurred in our community."

As policymakers, we must emphasize our commitment to the research, exploration, sustainable use, and protection of our oceans. Our economy and, indeed, our future depends on it.

As a representative of the central coast of California, I must do all I can do to protect our beautiful and valuable coastline. I look forward to participating in the exciting landmark conference which will recognize this as the International Year of the Ocean.

TRIBUTE TO LEROY COLVIN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. METCALF) is recognized for 5 minutes.

Mr. METCALF. Mr. Speaker, I rise today to pay tribute to a member of my staff, Leroy Colvin of Burlington, Washington. Leroy passed away suddenly on Sunday, May 17, 1998. His death was a great shock to those of us fortunate enough to have known and worked with him.

When I first met Leroy, he was a caseworker in the Bellingham, Washington office of my predecessor, Al Swift. I had always respected Leroy, so when I was elected in 1994, I asked if he would like to continue working for me in that office, and he did.

Leroy was one of the people that make the programs created in Congress work for the average American. If a person was having trouble with Social Security, veterans' affairs, or any other program, they could not have a better advocate than Leroy Colvin. He was the person on my staff that one could go to if they had a really tough case that needed a positive solution.

Leroy was born February 2, 1935 to a farming family in Skagit County, Washington State. During his days as a farmer, Leroy grew 120 acres of strawberries, 20 acres of raspberries, and 100 acres of cucumbers annually.

□ 2030

As a farmer, Leroy was unique for his time in that he provided day care for the children of the migrant farm workers that would come way up North each year to harvest his crops. He was concerned with their welfare and always tried to do the right thing by them. He also operated a restaurant and lounge in Burlington for about 10 years.

My staff all have their own favorite stories and observations of Leroy, but one truth has come through consistently. Leroy loved a challenge. Like most Americans our age, Leroy was not used to the great many things that computers could do to provide information to help him do his case work. When he was shown the great wealth of information that was available on the Internet, Leroy was fascinated. He would often provide information on obscure topics to other members of my staff while they were on the telephone with a constituent talking about that subject. He would get on that thing and go while they were talking and bring them information. He loved a really hard case or a request for the most obscure fact or figure. He would work at it every day until he came up with the answer.

When a member of my staff wanted to reunite her husband with his son after a 30-year absence, it was Leroy that was able to search America via the Internet and finally locate him. The end of that story, they plan to meet later this year.

Leroy was also fascinated by genealogy. He was sort of a self-appointed family historian for the Colvin family of Skagit County. He had friends and relatives in the Ozarks, and he loved to travel to Branson, Missouri. Leroy had friends all across the country. He had lived in many places in America as a younger man and still had contact with the friends he made from this time of his life. He was a stranger to no one he met.

Mr. Speaker, on behalf of myself, my wife and my staff, I wish to convey our heartfelt condolences to the Colvin family on the passing of Leroy. No building or program will ever bear his name, but few have done as much on a daily basis with as much heartfelt caring to make American government work for the average person than Leroy Colvin.

I, along with my wife and staff, as well as the people in need of help from their government, will miss him deeply.

REMEMBERING EDDIE RABBITT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

Mr. BURTON of Indiana. Mr. Speaker, a few years ago I was riding on an airplane, and I sat down next to a fellow who was a little reluctant to start talking to me initially. But we had about a 3-hour flight, and, as the flight progressed, I got a chance to get to know this fellow. His name was Eddie Rabbitt, and he was a country and western singer who over the last 20

years had 26 number one country hits. And Eddie and I became very good friends, and we talked on the phone quite frequently. We did not get together very much, but we talked on the phone on a regular basis.

And about a year ago I found out that Eddie was suffering from lung cancer. He was 55 years old at the time, and he had part of his lung removed, and he went through chemotherapy and all the other things that people go through when they suffer from cancer of almost any type anymore. And Eddie was a very courageous fellow. He fought very, very hard to whip cancer, and they thought that they did have it whipped but, unfortunately, a couple of weeks ago Eddie Rabbitt passed away.

He was one of the finest men I had the opportunity to know. He was a good family man. He feared God. He cared about his country, and he believed that entertainment, country and western entertainment, should be very clean and free from obscenities. And he talked about that quite frequently.

He was one of the nicest guys that I had the opportunity to know over the past several years, and he will be missed by me and by a lot of other people across the country who really loved and admired his work.

At the height of his career, he decided to cut back on his performances because he had a son Timothy who had liver disease, and his son died in 1985, 1 month shy of his second birthday. It was very difficult for him, and he decided to cut back on his work so he could spend more time with his family. Rabbitt and his wife Janine had two other children, daughter Demelza, 16, and son Tommy, 11. They lived in the Nashville suburb of Franklin, Tennessee.

He was a wonderful man. He was a man who was loved by people all across this country. He was a great entertainer, a great artist, and he will be missed by people all over this country and all over the world.

REGARDING RELATIONS BETWEEN THE PEOPLE OF THE UNITED STATES AND THE PEOPLE OF THE PHILIPPINES

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. MILLENDER-MCDONALD) is recognized for 5 minutes.

Ms. MILLENDER-McDONALD. Mr. Speaker, today I rise in support of H. Res. 404 regarding the relations between the people of the United States and the people of the Philippines. In light of the Philippines 100th anniversary of its independence from Spain, this measure appropriately acknowledges the Philippines' efforts to improve its democracy and human rights, rule of law and expansion of the free market. Such accomplishments are reflective of a nation striving to fulfill its potential as a future leader in international diplomacy.

As a nation on the rise, the Philippines has made significant strides to uphold and promote democratic ideals. From open elections to establishing diplomatic relationships with free world nations, the Philippines has accepted its role as an emerging power in the international forum. This role has been further established by its efforts to promote human rights both domestically and abroad.

In the annals of U.S. military history, the Philippine people have made incredible contributions to the preservation of world democracy. Fighting side by side with American troops in World War II, the Korean War and Vietnam, Filipino troops demonstrated both valor and fighting prowess in all these engagements. In the constant face of adversity, these men and women endured and prevailed. The accomplishments of Philippine Americans have not only been noticed in military endeavors, but have also been noteworthy for their contributions to the United States.

As U.S. citizens, Filipino Americans have made great contributions to the growth and prosperity of our Nation. In the 37th Congressional District of California, the Filipino American community has contributed immeasurable leadership and vision. As a result of these contributions, the Filipino American community deserves the respect and gratitude of this country's government.

Unfortunately, some members of the Filipino community have not been accorded such respect. Amerasian children, children of mixed heritage borne by Philippine mothers and U.S. servicemen, have been denied the right to immigrate to the U.S.

In the spirit of today's House resolution, I would ask my colleagues from both sides of the aisle to join me in sponsoring my bill, H.R. 2540, the Amerasian Reunification Act. This legislation would help reunite families and children born in the Philippines. Your support of this legislation will send a resounding message to the citizens of the Philippines that Americans are willing to stand behind their democratic beliefs in assisting those less fortunate in need.

ON NIGERIA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, none of us should take comfort or have joy when someone loses their life. So I do not stand today on the floor of the House to celebrate the death of the despotic leader of Nigeria, Sani Abacha, for a human life has been lost.

Immediately upon his death, however, a military major general was appointed. I do think it is important that we look upon this opportunity for all of us who believe in human rights and human dignity and the full promise of a country like Nigeria with 115 million citizens, the largest nation on the continent of Africa. I do believe this is a time that we stand up and ask for democratic free elections, the respect of human rights and human dignity, and the assessing of the needs of the people of Nigeria and their needs being the highest priority over the greed of despotic leaders.

As I watch the news unfold, tragic that someone has lost their life, but it gives us an opportunity to speak up and stand up and be counted. Otherwise we all can turn our backs and our heads and we can say, well, there has been a nonviolent transition of government. Of course, it has. Military leaders selected another military leader.

The question is, will there be free elections in Nigeria? Will there be the opportunity for the people of Nigeria to have jobs, for the oil-rich Nigeria to translate some of those dollars into the education of their children, the health care, the opportunities for employment, or will business be as usual?

I for one think it is important that Nigerians around the world, people of goodwill who want their country to be restored to its natural promise of leadership on the continent of Africa and in the world, the place where it has been in the past and the place where it has been in recent years, when it helped America in the Persian Gulf War, even Africa today looks to Nigeria to be a leader.

How tragic it was that the President of the United States in his visit to the continent could not include on his list the largest African nation to be part of that historic journey because it had not accepted the principles, the basic tenets of human dignity and human respect.

So Nigerians across the world, and particularly those in this great Nation, and to my good friends in Houston, Texas, it is time now for your voices to be raised and demand the transition that will transition the Nigerian Government into democracy, free elections into the fall. The major general who has now been despotically appointed by dictators themselves must commit himself to free elections. Our corporate friends who enjoy the largess of a country with respect to the businesses that are done there, their voices, too, must be raised.

I do know that overall sanctions at the drop of a hat do not necessarily work, but I think it is now high time for Nigeria to unshackle itself from despotic leadership, punitive measures towards its constituency base, the mass killings of writers, poets, activists and adversaries of the government,

and stand up and be counted for the democracy of which its promise can fulfill. Nigeria can be a leader on the African continent and in the world. We should be ashamed to allow the despotic leadership to continue.

Those of us who care about the continent in Nigeria, someone who has studied, as myself, in Nigeria, traveled in Nigeria, appreciate and love the people of Nigeria, have strong constituents who are in fact citizens or past citizens of Nigeria, I would simply say that now is the time for all voices to be heard. No one's head should be turned. No one should say, I am afraid that my name can be counted because the despot in Nigeria may haul me over from the United States or they may harm my family. What kind of country is that?

So it is so extremely important that we call upon this newly appointed new leader, self-appointed, if you will, not democratically elected, to bring about democracy to his people, freedom to his people, free elections to his people, human dignity to his people. And we in the United States of America must be in the front of the line demanding that kind of justice for the Nigerian people.

My friends who are Nigerians in this country, your voices must be the loudest, and you must join us in ensuring that there is, yes, a good atmosphere for doing business, but good opportunity for living a better quality of life in a democratic society. Nigeria deserves nothing less. This country should call upon it to do what is right.

□ 2045

HOUSE PASSES LEGISLATION TO STIFFEN SANCTIONS REGARDING MISSILE PROLIFERATION

The SPEAKER pro tempore (Mr. BURR of North Carolina). Under a previous order of the House, the gentleman from Pennsylvania (Mr. Fox) is recognized for 5 minutes.

Mr. FOX of Pennsylvania. Mr. Speaker, I rise tonight in the House to congratulate my colleagues for joining with myself and the gentleman from New York (Mr. GILMAN) in passing historic legislation which will stiffen sanctions against Russian organizations that have provided missile hardware and technology to Iran. The legislation imposes a minimum of 2 years of sanctions against Russian organizations and companies identified as having provided missile materials or technology or have tried to since January 22, 1998 when the Russian government issued a decree banning such activity.

The urgency of this legislation is apparent. Thanks to critical assistance from Russian firms, Iran is making steady progress in developing medium- and long-range ballistic missiles which is not in the best interests of the United States or in world peace. Unless something happens soon, Iran may be able to produce its own medium-range missiles within less than a year. If the assistance from Russia continues, Iran soon will be able to produce long-range ballistic missiles as well.

For more than a year, the Clinton administration has been in dialogue with Russia about stopping this assistance. Thanks in large part to the pressure brought to bear by the very legislation we have considered today, some progress has been achieved, at least on paper.

On January 22, the Russian government issued a decree to block the transfer of missile technology to Iran but in the nearly 6 months since this decree was issued it has become apparent that the Russian government is not fully committed to implementing it. Despite progress in some areas, the evidence suggests that at least some elements of the Russian government continue to believe that the transfer of missile technology to Iran serves Russian interests. Congress cannot change the misguided foreign policy calculations of some Russian officials but we can give Russian firms that are in position to sell missile technology to Iran compelling reasons not to do so. The sanctions contained in our legislation will require such firms in Russia and elsewhere to choose between short-term profits when dealing with Iran and potentially far more lucrative long-term economic relations with the United States.

As this legislation was adopted here in the House today, by a 392–22 vote, we hope that we will have similar support in the Senate and the President will sign it. Frankly this is a step in the right direction for protecting this country and for world peace.

I would like to thank the Speaker for this time to address my colleagues and to thank them for their support of this important legislation which came from the Committee on International Relations chaired by the gentleman from New York (Mr. GILMAN).

REQUEST FOR REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1704

Mrs. MALONEY of New York. Mr. Speaker, I ask unanimous consent to withdraw my name as a cosponsor from H.R. 1704.

The SPEAKER pro tempore. The unanimous consent request of the gentlewoman to remove her name as a cosponsor of H.R. 1704 cannot be granted because H.R. 1704 has been reported to the House and referred to the Union Calendar.

2000 CENSUS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Mrs. MALONEY) is recognized for 5 minutes.

Mrs. MALONEY of New York. Mr. Speaker I rise today to discuss the 2000 census and in particular the two lawsuits that have been generated because of the 2000 census.

As many of my colleagues know, Speaker GINGRICH and the gentleman from Georgia (Mr. BARR) each have filed a lawsuit challenging the constitutionality of the use of statistical methods when conducting a census. What my colleagues may not know is that 25 other Members of Congress who support the use of statistical methods when conducting a census have joined those two lawsuits to make sure that our position is represented in the court system.

As a Member of that group of 25, I want to give the Members of this House a status report on the two lawsuits. On Monday, April 6, 1998, the administration moved to dismiss both lawsuits on the constitutional grounds that the plaintiffs, GINGRICH and BARR, lack standing to sue the Census Bureau because they will not be harmed by the proposed plan and that the cases are not yet ripe for adjudication because the census is 2 years away.

The rhetoric from Members opposed to an accurate census suggests that the administration is hiding behind the procedural issues of standing and ripeness. This is simply not the case. As everyone knows, each case brought before a court must be reviewed procedurally before it can be reviewed on its merits. A case cannot go forward if it is not procedurally sound. The administration has repeatedly stated that it is eager to argue the merits of the case; however, it believes it has a legal obligation to also argue standing. Even if the administration did not bring up the issue of standing, a court has an obligation to dismiss a case if it is not procedurally sound, regardless of what the parties to the lawsuit allege.

My colleagues should remember that standing is also a provision of the Constitution. You cannot violate the Constitution, even with a wink and a nod, in order to get a ruling on the use of modern technology in the census.

What is not mentioned by my friends opposed to a fair and accurate census is that the administration in its motion to dismiss also argued the case on the merits, stating that the statistical method plan is both constitutional and in accord with the Census Act. Therefore, in addition to the procedural issues, the administration points out that the two cases should be dismissed on substantive issues as well.

Some of my colleagues may remember that there was a court challenge to the Line-Item Veto Act by some Members of Congress in January 1996. Congress passed the Line-Item Veto Act effective January 1996. Within the act, Congress created the right of expedited judicial review and attempted to create standing for Members of Congress.

Therefore, shortly after the effective date, some Members of Congress filed a lawsuit challenging the constitutionality of the Line-Item Veto Act. The defendants in the line-item veto case filed a motion to dismiss on procedural grounds. In that case, the Supreme Court upheld the Federal court's dismissal of the January 1996 Line-Item Veto Act challenge stating that the Members did not have standing to sue.

Likewise, with regard to the 2000 census, we have the 1998 Commerce, Justice, State Appropriations Act creating the right to expedited judicial review and attempting to create standing for Members of Congress to sue. Just like the January 1996 line-item veto case, these two lawsuits are being challenged on procedural grounds.

Constitutional scholars agree that these two cases lack the necessary procedural requirements to move forward. The courts cannot give advisory opinions as these two cases request. My anti-accurate census friends continually point to the Constitution when discussing the sampling details of the 2000 census but ignore the part of the Constitution that states that there must be a case in controversy in order for it to proceed and considered on the merits. The Constitution is very clear on that point.

I am as eager as anyone to have the courts review the substantive issues surrounding the use of modern statistical methods when conducting a census. I believe that if these cases reach the merits, the courts will determine, and the Supreme Court will uphold, that the 2000 census plan is constitutional and in accord with the Census Act. I would love to have these issues decided by the courts which are in the business of interpreting statutes and the Constitution.

In the meantime, I think it is imperative to set the record straight. Neither the administration nor the 25 Members who have joined the two lawsuits are afraid of discussing the merits of the two cases. We have said it before and we will say it again and again. The Census Bureau will obtain a fair and accurate count only by using statistical, modern methods.

This week in both the District and Virginia courts, there will be hearings at which each side will plead its case. On Thursday, arguments will be heard in Washington, D.C. and on Friday in Virginia. I am confident that we will prevail in the courts and in the court of public opinion. The American people deserve a fair and accurate census in which every person, rich or poor, black or white or Hispanic or Asian, is accounted for. The President has put forward a plan that will account for all Americans. The opponents of this plan want to repeat the errors of the past because they believe it is to their political advantage. The President's plan is true to the Constitution in both word and spirit, and it is the only plan that is fair to all people.

MANAGED CARE REFORM

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from New Jersey (Mr. PALLONE) is recognized for 60 minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, tonight I want to talk about the issue of managed care reform. This issue has without question become one of the most important issues on the minds of Americans today. Accordingly, it has also become one of the most pressing issues before Congress. In the last few weeks, there have been front page articles in the New York Times and in the Washington Post on the fever pitch the debate has assumed on Capitol Hill. This debate, as I will discuss tonight, has assumed a clear and identifiable framework. The debate is now one between supporters of managed care reform and the Republican leadership and insurance industry who are fighting tooth and nail to undermine the various managed care reform proposals that have been introduced. The issue has reached the dimensions it has because patients are being abused within managed care organizations. Patients today lack basic elementary protections from abuse and these abuses are occurring because insurance companies and not doctors are dictating which patients can get what services under what circumstances.

Within managed care organizations, or HMOs, the judgement of doctors is increasingly taking a back seat to the judgment of insurance companies. Medical necessity is being shunted aside by the desire of bureaucrats to make an extra buck and people are literally dying because they are not getting the medical attention they need and ironically enough are, in theory, paying for their premiums.

Mr. Speaker, this is not an exaggeration. I decided tonight to bring a few examples. Actually there are a number of examples of some pretty horrific examples that have been put together from news clips from various newspapers nationwide to just give some examples of some of the awful stories that have come forward about abuse by managed care organizations. I just wanted to give a few tonight. I have in front of me about 140 of them and I am certainly not going to go through all of them but I would like to give just a few.

This one is actually from the New York Post, September 20, 1995. It describes a 4-year-old girl who ran a high fever following a 5-hour hospital stay for a tonsillectomy, which is considered an outpatient operation by HMOs. Her mother took the girl to her HMO pediatrician who did not take the girl's temperature, did not examine her throat and did not refer the girl back to the surgeon, a routine procedure for postoperative problems. Unfortunately the girl died of a hemorrhage at the surgical site.

I have another example. This is from the Long Island Newsday, February 11, 1996. A mother in Atlanta called her HMO at 3:30 a.m. to report that her 6-month-old boy had a fever of 104 and was panting and limp. The hot line nurse told the woman to take her child to the HMO's network hospital 42 miles away, bypassing several closer hospitals. By the time the baby reached the hospital, he was in cardiac arrest and had already suffered severe damage to his limbs from an acute and often fatal disease and both his hands and legs had to be amputated. A court subsequently found the HMO at fault.

I do not like to give these examples because they really are horrific, but there are so many of them. I am just going to give another couple because I think that it is important for all of us to understand some of the problems that people face out there on a daily basis. This one is from the Enterprise Record from January 21, 1996. It describes a 27-year-old man from central California who was given a heart transplant and was discharged from the hospital after only 4 days because his HMO would not pay for additional hospitalization, nor would the HMO pay for the bandages needed to treat the man's infected surgical wounds. Well, the patient died.

A lot of these examples do not necessarily involve people who have died but who have had severe problems and severe handicaps, lifelong handicaps that have resulted from their experience with HMOs. I have said because of the importance of this issue there are a number of legislative proposals that have been introduced to give patients the protections that they deserve. Working with our Democratic Caucus Health Care Task Force, which I cochair, the gentleman from Michigan (Mr. DINGELL) introduced legislation which would provide patients with a comprehensive set of protections for managed care abuses. This is the Patients' Bill of Rights, as it is called, that so many Democrats have now cosponsored, and also some Republicans.

I should say that the Patients' Bill of Rights is not an attempt to destroy managed care. It is an attempt to make it better. Some have suggested that in reforming managed care and putting forth a bill like the Patients' Bill of Rights that somehow we or those of us who support this legislation do not like managed care. That is simply not true. We are simply trying to make managed care better because of the problems that we have faced with managed care and HMOs in the last few years.

□ 2100

Mr. Speaker, I cannot emphasize that point enough. Supporters of managed care reform want just that, reform, not a dismantling of managed care. The Patients' Bill of Rights would help bring about that reform by putting medical decisions back where they belong, with doctors and their patients, and we have, as I said, seven Republican cosponsors for our bill, so it really has become a bipartisan bill.

Unfortunately the Patients' Bill of Rights does not enjoy the support of the Republican leadership, and that is really the rub here. In fact, if we are to believe what we read in the paper, it is not just the Patients' Bill of Rights that the Republican leadership opposes, they appear to oppose the larger notion of managed care reform. They are simply not willing to cross the insurance industry in order to give patients better protections and doctors greater power over medical choices.

The week before Congress broke for Memorial Day, the chairman of the Republicans' health care task force, the gentleman from Illinois (Mr. HASTERT) announced that he would have a outline of a proposal before the recess, the day before the Congress adjourned for the Memorial Day recess, and Speaker GINGRICH quashed the managed care reform proposal that was put forward by his own Republican task force, the Hastert task force, and I have to say I think this move even surprised some of the Republicans who favored some kind of managed care reform. But following the Speaker's rebuke the Washington Post reported that, and I quote, "Gingrich's foot soldiers realize that they did not know exactly what he wanted. They weren't quite sure, said Representative HARRIS FAWELL. The Speaker did not like what he saw and sent his fellow Republicans," to use their words, "back to the dugout."

So now we know it is clear that the Speaker has rejected the Republican proposal, the Republican Task Force on Managed Care Reform proposal, because it had too many patient protections on it, and I have to repeat that. His own task force, speaking here of his own task force, presented him with a proposal that included patient protection similar to the Democrats' Patient Bill of Rights, and he rejected the proposal because of their inclusion.

Last week we had the gentleman from California (Mr. THOMAS), the chairman of the Committee on Ways and Means' Subcommittee on Health and a member of this Republican health care task force, call some of the ideas for patient protection being pushed by his fellow Republicans asinine. What the Speaker and Mr. THOMAS are after here is what I call a cosmetic fix. They understand that the public is clamoring for managed care reform, that the public wants something like the Democratic Patient Bill of Rights, but what they are probably going to do is come up with something that sounds like a patient bill of rights or a patient protection bill without any real patient protections. And that is why I think it is so important for us to keep coming to the floor on a regular basis explaining why patient protections are needed, why we need this managed care reform, and demanding that this House take up this issue and pass it in time before we adjourn and before this Congress runs out of time.

I have a lot more that I could say on this issue, but I do not know, and I see that my colleague is here from the Committee on Commerce, the gentleman from Pennsylvania (Mr. KLINK), and I know that he has been out there on a regular basis talking to his constituents, having forums on this issue of managed care reform, and as I have. We have gotten a tremendous response from our constituents, who really are demanding that we take up this issue. I yield to the gentleman.

Mr. KLINK. Mr. Speaker, I thank my friend from New Jersey for sticking with this message.

The point that I would make is that it does not matter who comes into our office either here in Washington, D.C., or our offices back in our districts. No matter what the issue is that they want to talk to us about, whether it is child care or whether it is farm subsidies or whether it has something to do with an industry, the conversation always gets back to health care and dissatisfaction that people have today across the board in this country that they themselves no longer have the ability to make the choices as it pertains to health care. People today are not empowered to have a conversation with their doctor and make medical decisions. It is someone with an insurance company who too often is making those decisions for them.

And I was very interested yesterday in seeing on the ABC Evening News an interesting look at HMOs. They said forget about the fact that you now have bureaucracies within insurance companies making medical decisions as to whether you can go to a doctor, which doctor you can go to, whether you can go to a hospital, whether you can go to a physical therapist, if you can to go a hospital, how long you can go to the hospital. Forget about all that.

The one thing they promised us they were going to do with HMOs is control costs. Guess what? They have not even controlled costs. Their costs are going through the roof. People cannot afford it. They are not even doing the one thing that they have promised us they were going to do.

My friend from New Jersey is right. The one fear that everyone has is that those of us who want to hand control back over to patients again, back over to the citizens of this country, hand control to them and their doctors to make these decisions, the one thing that everybody is saying against us is, well, it is going to cost more money.

The fact of the matter is it is already costing us more than we can afford to pay, and we are still losing lives. And I have said it on this floor before, and I will say it again. If you are prolife, you cannot agree with a medical delivery system that causes people to lose their lives because we do not let them go to a hospital when they need to, and the gentleman is right. He has a hundred plus stories; I have got as many from my district.

People are dying, and we are not saying it to be dramatic. It is a point of fact. When I go back to my district, we hold these fact-findings. Someone walks in and says, "My mother died. They wanted to keep her at the Cleveland Clinic, the doctor wanted to keep her, she wanted to stay, we wanted her to stay, but the insurance company wouldn't let her stay. She was released prematurely, and now she is dead."

So people are dying. There is case after case where that happens.

So if you are prolife, you cannot be for that. If you are prochoice, you have to want to give people the choice of the doctor that they are comfortable with, the choice of the medical treatment they are comfortable with. Call it healing. It is what is between our ears is that mind. It is feeling safe and secure in who is treating us. And now we have that gatekeeper, that primary care physician who we may not know, we may not have any knowledge of, and there is increased evidence that those primary care physicians too often, not always, but too often are put in those positions with the feeling in the back of their own mind, and maybe it is not so subtle the way it is put to them, if you give too many recommendations out of the network, you will not be in that position very much longer.

And we have got time after time where people are being denied insurance because of preexisting conditions; time after time when doctors are being told you cannot be in the system, and they are not told why they cannot be in the system, just their insurance company said, we already have enough doctors. I would ask is that not restraint of trade if a doctor is not able to see their patients anymore?

What about the providers of other services? What about the visiting nurses who are not included in that system anymore? What about the people who make the prosthetics, the artificial limbs, the artificial legs, and you are told you cannot go to that prosthesis manufacturer anymore, you have to go to somebody 2 hours away, an hour and a half away, 3 hours away that you never heard of before. Why? We do not understand why.

What about the formularies that these HMOs have created where you

cannot get the medicine that is the latest, the best medicine? You have to take the cheapest drug in that classification of drugs. Why are we working in this House of Representatives as Republicans and Democrats together to get the latest pharmaceutical products safely on the market again if our constituents do not have access to those drugs?

These are all questions that we have to answer, and what our Patients' Bill of Rights is saying is put that control back in the hands of the patients again. Empower the people of this country to participate in the decisions of their medical care. Do not leave it in the hands of those insurance companies alone.

When the Clinton health care plan was being chastised, when it was being ripped apart, when insurance companies were spending tens of millions upon tens of millions of dollars to talk about the fact that, oh, you do not want the Federal Government to control your health care, well, Mr. Speaker, now you do not have the Federal Government in control, you have the insurance companies in control, completely in control. How does it feel? How does it feel now that we have completely lost control?

My dear friend from New York, I think, was looking for a moment of time, and if the gentleman would continue to yield, we might be able to accommodate her.

DAYS OF REMEMBRANCE

Mrs. MALONEY of New York. Well, I really join the gentlemen with their concern on the Patient Bill of Rights, and I am a strong supporter of it, but I really rise with these few seconds today to remember the more than 6 million men, women and children who perished during the Holocaust.

On Thursday, April 23, we remembered the victims of the Holocaust at the United States Holocaust Memorial Museum's 1998 Days of Remembrance. This year's theme, Children of the Holocaust, their memories, a legacy, paid tribute to the more than 1.5 million children who lost their childhoods, their friends and their families throughout one of the darkest periods in our history.

It is particularly fitting that this year's theme centers on children because of the U.S. Holocaust Memorial Museum's exhibit, the Story of Daniel. The museum has collected the stories of numerous children through their diaries and poetry written throughout World War II and compiled them into one story of a young boy, Daniel. This exhibit was designed to teach our children what the children in World War II experienced. It tells and retells the stories of those children so we may never forget their stories of the Holocaust.

On behalf of the Days of Remembrance Committee of the United States Holocaust Memorial Museum, I would like to submit into the RECORD the speeches delivered in the memory of more than 1.5 million children that lost their lives in the Holocaust.

Mr. Speaker, I enter into the CONGRESSIONAL RECORD the following speeches:

CHILDREN OF THE HOLOCAUST: THEIR MEMORIES, OUR LEGACY

Remarks of Benjamin Meed, Chairman Days of Remembrance Committee, United States Holocaust Memorial Council

Members of the diplomatic corps, distinguished members of the United States Senate and House of Representatives, members of the United States Holocaust Memorial Council, distinguished guests, fellow survivors and dear friends, welcome to the 19th national Days of Remembrance commemoration.

First, let me take this opportunity to express our gratitude to the members of the United States Congress for their strong support of the Holocaust Memorial Museum. The enormous success of the Museum and its educational and Remembrance programs is due, in large part, to your efforts on our behalf. Thank you.

We gather together again to remember those whom we loved and lost in the pit of hell—the Holocaust. We dedicate this commemoration to all the precious children of the Holocaust, their memories, our legacy. More than a million and a half children—almost all of them Jewish—were struck down without pity. They were murdered simply for who they were, Jews.

The young ones, who were silenced forever, were the hope and future of our people. We will never know the extent of human potential that was destroyed—the scientists, the writers, the musicians—gifted talent burned to ashes by German Nazi hate.

At such tender ages, our children grew old overnight. They quickly learned how to conceal pain and how to cover up fear. More importantly, with natural compassion, they comforted those around them. The writer and educator Itazek Katznelson was so touched by an abandoned little girl caring for her baby brother in the Warsaw Ghetto that he composed a poem about her. And I quote:

Thus it was at the end of the winter of 1942
in such a poor house of shelter for children,
I saw the ones just gathered from the streets.
In this station, I saw a girl about five years old.
She fed her younger brother—and he cried.
The little one was sick.
In a diluted bit of jam, she dipped tiny crusts of bread
and skillfully inserted them into his mouth.
This my eyes were privileged to see—
to see this mother of five years, feeding her child
and to hear her soothing words.

How can we survivors forget these martyred children? Their lives, their laughter, their gentle love, their strength and bravery in the face of certain death are still part of our daily lives. Their acts of courage and resistance remain a heroic inspiration. Their cries to be remembered ring across the decades. And we hear them. They are always in our thoughts, in our sleepless nights, in our pained hearts.

Like all survivors, there are many horrible events that I witnessed, but one particular event deeply troubles me and hounds me. It was in April, fifty-five year ago, almost to this day. Passing as an "Aryan" member of the Polish community, I was Krasinski Square near the walls of the Warsaw Ghetto. Inside the Ghetto, the uprising was underway. Guns and grenades thundered; the ghetto was ablaze. From where I was standing, I could feel the heat from the fires. There were screams for help from the Jews inside the walls. But the people surrounding me outside the walls went about their daily lives, insensitive to the tragedy-in-progress. I watched in disbelief as, across the Square, a merry-go-round spun around and around to the joy of my Polish neighbor's children, while within the Ghetto only a few yards away, our Jewish children were being burned to death. To this day, that scene still enrages me. How can one forget the agony of the victims? How can we explain such moral apathy of the bystanders?

Many of us were children in the Holocaust. Whether by luck or by accident, we survived. Liberation by the Allied Armies restored us to life, and our gratitude to the soldiers will always remain. The flags that stand behind me from the liberating divisions of the United States Army and from the Jewish Brigade are far more than cloth. In 1945 and today, they are the symbols of freedom and hope for us survivors. Today we are bringing history together.

Liberation offered new opportunities and we seized them. The transition was very brief. We helped to create a new nation—the State of Israel, which celebrates its 50th anniversary this year. Our history might have been very different if only Israel had existed 60 years ago. Nevertheless, we are here, and Israel is our response and Remembrance of the Holocaust. Mr. Ambassador Ben Elissar, please convey to the people of Israel our commitment and solidarity with them.

Many survivors became part of this great country that adopted us, and we are grateful Americans. Although we are now in the winter of our lives, we look toward the future, because we believe in sharing our experiences—by bearing witness and educating others—there is hope of protecting new generations of men, women and children—who might be abandoned and forgotten, persecuted and murdered. We remember not for ourselves, but for others, and those yet unborn. Knowing that the impossible is possible, there is the chance that history can be repeated—unless we are mindful.

The task of preserving Holocaust memory will soon pass to our children and grandchildren; to high school and middle teachers; to custodians of Holocaust centers; and, most importantly to the United States Holocaust Memorial Museum. But monuments of stone and well-written textbooks are not enough. Personal dedication to Remembrance—to telling and retelling the stories of the Holocaust with their lessons for humanity—must become a mission for all humankind, for all generations to come.

In these great halls of Congress, we see many symbols of the ideals that America represents—liberty, equality and justice. It was the collective rejection of such principles by some nations that made the Holocaust possible. Today, let us—young and old alike—promise to keep an ever watchful eye for those who would deny and defy these precious principles of human conduct. Let us remember. Thank you.

AMBASSADOR BEN-ELISSAR'S ADDRESS

In the late 20s and early 30s of this century no one really paid attention to Hitler. In spite of his growing influence over the masses in Germany, no one really cared to take a good look at his ideas and plans described in detail in Mein Kampf. When the

general boycott of the Jews was declared in Germany on April 1, 1933, and subsequently, all Jewish physicians, lawyers, and professionals were prohibited to practice their professions, no one thought it was more than a temporary measure taken by an interim government. No one really reacted when, in 1935, the infamous laws on race and blood were adopted in Nurenberg.

No country in the world declared itself ready, at the Evian Conference on Refugees, in July 1938, to take in a significant number of Jewish refugees from Germany and the recently annexed Austria. The Kristalnacht, in November 1938, opened the eyes of some, but then, when gates to a safe haven were rapidly closing, when for the first time in history Jews were denied even the "right" to become refugees, the world remained silent. The only country to recall its ambassador from Berlin was this country—The United States of America.

There is a lesson to be learned—Whenever a potential enemy wants to kill you—Believe him. Do not disregard his warnings. If he says he wants to take away what belongs to you—Believe him. If he claims he will destroy you—Believe him. Do not dismiss him and his threats by saying he cannot be serious—He can!

In 1945, the world was at last liberated from the yoke of the most evil of empires ever to exist in the annals of human history. But for us it was too late. We were not liberated. By then we already had been liquidated.

In 1948, we actually arose from the ashes. Destruction was at last ending. Redemption was at hand. After two thousand years of exile, wandering and struggle the State of Israel was reborn.

We look back with indescribable pain on the terrible tragedy that has left its mark on us forever. Had the State of Israel existed during the 30s, Jews would not have had to become refugees. They could have simply gone home to their ancestral land. They would have not been massacred. They would have had the means to defend themselves.

Yesterday, the general staff of the Israeli army convened in Jerusalem at the Yad Vashem Holocaust memorial. Tough soldiers vowed that the Jewish people will never be submitted to genocide again.

Today, while we are celebrating the 50th anniversary of the State of Israel and commemorating the Holocaust, in the presence of United States senators and representatives, survivors, members of my Embassy and commanders in the Israel Defense Forces, may I state, that for us, statehood and security are not merely words, for us, they are life itself—and we are determined to defend them.

MILES LERMAN'S REMARKS

Distinguished ambassadors, honorable Members of Congress, ladies and gentlemen.

As the Honorable Ambassador, Eliahu Ben Elissar pointed out to you, the State of Israel is celebrating its 50th anniversary of independence.

The United States Holocaust Memorial Council was pleased to mark this occasion by including the flag of the Jewish brigade in the presentation of the flags of the American liberating units.

On behalf of the United States Holocaust Memorial Council, I would like to extend our best wishes on this special anniversary to the people of Israel and to the State of Israel.

It is our most fervent hope that the peace negotiations between the State of Israel and the Palestinian Authority will come to an understanding which will bring peace to this troubled region.

Happy anniversary and may your efforts for a permanent peace agreement be crowned with full success.

The theme of this year's national days of remembrance is remembering the children and fulfilling their legacy.

So let remembrance be our guide.

One of the expert witnesses called to testify at the trial proceedings of Adolf Eichman in Jerusalem was the world renowned historian Professor Salo Baron.

In his expert testimony, Professor Baron made the case not only for the terrible losses that the Jewish people suffered at the hands of the Nazis but he more specifically underscored the great loss that humankind at large has suffered for having been deprived of the potential talents and brain power of the one and a half million children who perished in the Holocaust.

Professor Baron stressed a point that the world is much poorer today because of these great losses.

He was bemoaning the losses of the future scientists and scholars who did not get to research. He was bemoaning the future composers who did not get to compose; the teachers who did not grow up to teach; and the doctors who never got to heal.

One and a half million murdered children is such a staggering number that it is most difficult to comprehend. This is why I thought that perhaps singling out and remembering the tragedy of one child would symbolize the great loss of all the children who were annihilated by the Nazis.

So today let us remember Deborah Katz.

In the Holocaust archives there is a letter written in 1943 by a Jewish girl by the name of Deborah Katz. She was nine years old when she and her family were taken out of the ghetto and loaded into cattle trains destined for the death camp of Treblinka.

Her parents managed to pry open a small window of the box car and threw the child out hoping that a miracle would happen and she would survive.

A Catholic nun happened to pass by and found the injured child. She brought her to the convent and hid her among the sisters who gradually nursed Deborah back to health.

The child was in comparative safety and she had a good chance to survive.

One morning, however, the nuns woke up and found a letter on Deborah's bed and this is what the nine year old child wrote.

It's bright daylight outside but there is darkness around me. The Sun is shining but there is no warmth coming from it. I miss my mommy and daddy and my little brother, Moses, who always played with me. I can't stand being without them any longer and I want to go where they are.

The following morning Deborah Katz was put by the Gestapo on the next trainload * * * destination * * * the gas chambers of Treblinka.

Today, I want to say to little Deborah, if you can hear me, poor child, and I know that you can. I want you to know that there is no more darkness, thank God. The Sun is shining again and warming little children like you. And what is most important, dear child, I want you to know that you did not die in vain. You have touched the hearts of many decent people, far, far away from the place where you lived and died.

There is a museum in Washington where within the last five years more than 10 million visitors came to remember the horrors of those dark days.

You are not forgotten, little Deborah, and you will serve as an inspiration to many children throughout the world to make sure that in years to come, no child of any people, in any country, should ever have to go through the agonies and pains that you have suffered.

"BLESSED IS THE MATCH * * *"

(Keynote Address by, Richard C. Levin)

The main camp at Auschwitz was situated, not in remote isolation, but in a densely populated region. To the east, immediately adjacent to the camp, was a pleasant village, complete with a hotel and shops, built to house SS troops and their families. One mile farther east was the town of Auschwitz, intended by the very men who worked the construction of the camps to be a center of industrial activity, a focus on German resettlement at the confluence of three rivers, with easy access to the coal fields of Upper Silesia.[1]

In his chilling work on the origins of Auschwitz, Robert-Jan van Pelt documents the Utopian vision that drove the systematic planning for German colonization of the East. In December 1941, Hans Stosberg, the architect and master planner, sent his friends a New Year's greeting card. On the front he wished them "health, happiness, and a good outcome for every new beginning." The card's central spread depicted his drawings for a reconstruction of the central market place in Auschwitz. The inspiration on the back of the greeting card connected Stosberg's current project with National Socialist mythology:

"In the year 1241 Silesian knights, acting as saviors of the Reich, warded off the Mongolian assault at Wahlstatt. In that same century Auschwitz was founded as a German town. After six hundred years [sic] the Führer Adolf Hitler is turning the Bolshevik menance away from Europe. This year, 1941, the construction of a new German city and the reconstruction of the old Silesian market have been planned and initiated."

To Stosberg's inscription, I would add that during the same year, 1941, it was decided to reduce the space allocated to each prisoner at the nearby Auschwitz-Birkenau camp from 14 to 11 square feet.

How, in one of the most civilized nations on earth, could an architect boast about work that involved not only designing the handsome town center depicted on his greeting card but the meticulous planning of facilities to house the slave labor to build it?

This is but one of numberless questions that knowledge of the Holocaust compels us to ask. In the details of its horror, the Holocaust forces us to redefine the range of human experience; it demands that we confront real, not imagined, experiences that defy imagination.

How can we begin to understand the dehumanizing loss of identity suffered by the victims in the camps? How can we begin to understand the insensate rationality and brutality of the persecutors? How can we begin to understand the silence of the bystanders? There is only one answer: by remembering.

The distinguished Yale scholar, Geoffrey Hartman, tells us, "the culture of remembrance is at high tide. * * * At present, three generations are preoccupied with Holocaust memory. There are the eyewitnesses; their

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[1] Robert-Jan van Pelt, "Auschwitz: From Architect's Promise to inmate's Perdition," Modernism/Modernity, I:1, January 1994, 80–120. See also Deborah Dwork and Robert-Jan van Pelt, Auschwitz: 1270 to the Present, New York: W.W. Norton, 1996.

children, the second generation, who have subdued some of their ambivalence and are eager to know their parents better; and the third generation, grand-children who treasure the personal stories of relatives now slipping away."[2]

The tide will inevitably recede. And if there are no survivors to tell the story, who will make their successors remember and help them to understand?

Holocaust Memorial Museum in Washington, along with those of sister museums in other cities, are educating the public about the horrors of the Shoah. Museums, university archives, and private foundations are collecting and preserving the materials that enable us to learn from the past, and it is the special role of universities to support the scholars who explore and illuminate this dark episode in human history. Our universities have a dual responsibility: to preserve the memory of the Holocaust and to seek a deeper understanding of it.

This is a daunting and important responsibility. To confront future generations with the memory of the Holocaust is to change forever their conception of humanity. To urge them to understand it is to ask their commitment to prevent its recurrence.

In the words of Hannah Senesh, the 23-year-old poet and patriot executed as a prisoner of the Reich in Budapest, "Blessed is the match that is consumed in kindling a flame." May the act of remembrance consume our ignorance and indifference, and light the way to justice and righteousness.

REMARKS BY RUTH MANDEL

The most vulnerable of victims, the children of the Holocaust speak to us in a very special way. Some of the most powerful echoes to survive that terrible time come to us from their voices. Captured in diaries, in poetry, in art, and later, in the reminiscences of those few who survived, their memories still engage and teach us. Their struggle and their spirit document their time, but serve as a poignant lesson for our own. Among us in the Capitol Rotunda are many reminders of them, and of the importance of securing a different future for the children of today.

In a few moments you will hear readings from diaries kept by children even as the safe, predictable world they knew shattered in the face of the Nazi onslaught. Their authors, exhausted and hungry, terrified and lonely, and certainly bewildered by their fate, were sometimes too desperate to write, then, having found some small reason for hope, recovered to write again, their words tell us that they were also resourceful, courageous, defiant, and, even at times, humorous.

You will hear these words from young people themselves—a young man who has worked intensively for two years with the Museum's Fannie Mae Holocaust Education Project, and a young woman, whose grandparents' rescuers were recognized by Yad Vashem as righteous among the nations at the time or her Bat Mitzvah last year. As they read from these diaries, another young woman will assist the memorial candle lighters and place a rose amid the tapers. Romani herself, she is here to commemorate the tragic fate of those gypsies, who, along with their children, were murdered by the Nazis and their collaborators.

And, you will hear from a Roman Catholic high school teacher whose growing engagement with Holocaust history led to his appointment to the museum's Mandel Teacher Fellowship Program which develops a national corps of highly skilled secondary teachers to serve as community leaders in Holocaust education.

Also gathered here are some of those who survived the Holocaust as children and teenagers—in ghettos, in camps, in hiding or by fleeing as my parents did with me. As we listen to the voices of children from over 50 years ago, we who survived are heartened that their voices are joined by those of the students and teacher with us today who are representative of the millions of students and thousands of teachers served by the United States Holocaust Memorial Museum in its first five years. With this joining of voices, we forever link the children of the past to the children of the future in a solemn pact of memory and education and charge you with that most sacred task, remembrance.

THE HARDEST STORIES TO TELL

By Daniel C. Napolitano

My daughter is four years old. Her name is Elena. Each night when I put her to bed she asks, "Daddy, tell me a story". So I tell her stories. I tell her stories of heroes and villains; of wise and foolish animals; of good hearted people and of people who know too much for their own good. Sometimes she'll interrupt me and say, "no, no, Daddy, just tell me a story about what you did at work today", and that is always the hardest story to tell.

You see, I am a teacher, and I teach a course on the Holocaust. Everyday I go to work and tell the story of how a society forgot about the importance of honoring the individual life and dignity of every human being; about how the vanities of nationalism superseded the moral wisdom of the ages, and about how people became so concerned with their own welfare that they failed to consider the welfare of their neighbors.

As a child I never heard the story of the Holocaust. In fact for the first thirty years of my life I heard very little about the Holocaust, and absolutely nothing about the history of antisemitism. Then 8 years ago my life changed. I was asked to teach a course on the Holocaust, and, suddenly, found myself immersed in courses and books on the Holocaust. I began to hear the story, Hearing and telling the story of the Holocaust over the past 8 years has radically altered the way I see my life as a Catholic and as a teacher. As a Catholic I have come to realize that the history of antisemitism and the history of The Holocaust are essential to understanding ourselves as Catholics, Christians and humans; and to appreciating the fullness of Judaism and its rich heritage.

Hearing and understanding the legacy of our antisemitic actions and teachings gives us a more complete picture of ourselves as Catholics and Christians. Through the study of our ancient and modern failures, our students come to see the import of their moral choices in our own times. In turn they become more committed as individuals, and more committed as people of faith dedicated to bearing witness to the redeeming presence of God in the world.

As a teacher I have learned the value and power of telling the whole story of life's most tragic events. James Carroll of "The Boston Globe" recently noted that "memory is less a neutral accident of the mind than a conscious interpretation of history, marked as much be deletion as by selection. How a community remembers its past is the single most important element in determining its future." I believe that it is in telling the whole story of the Holocaust that we most honor those who lived their lives with dignity, and it is in hearing the whole story that our students and children will learn to live their lives with integrity.

When my daughter calls out in the middle of the night and I run to her room, she sometimes says, "I had a bad dream. Will you hold me?" As I hold her I think about the mothers and fathers who died in the Holocaust, and were not able to hold their children in the middle of the night. I think about the children who called out and waited for parents who did not come.

As I hold her I am reminded of the young girl in "Schindler's list"; the one in the red coat. As she crawls under the bed, she knows that if she can just hide long enough her father and her mother will come take care of her. She knows that parents take care of their children; She knows that adults love children, and want them to be safe. As she crawls under the bed she thinks of the stories her father has told her, and she waits for her daddy to come.

Sometimes our children are four years old; sometimes they're twelve or sixteen. Regardless of their years, our children long to hear the stories we have to tell them. Do we know enough about the story of the Holocaust and the History of antisemitism to tell it to our children? Do we have the courage to tell them the whole story? We are here not only to remember the lives of those who perished in the Holocaust, but also to reflect upon the lives our children will live. The lives they lead will build upon the stories we decide to tell them. At times these stories will be easy to tell. At other times they will not. Let us not forget that sometimes the most important stories are the ones that are the hardest to tell.

Thank you very much.

Mr. KLINK. I thank our friend and would also wish to focus on that, but you know, as you were talking, I am also thinking, you know, we have got a very shameful situation in our own country right now. This is, you know, we kind of call ourselves the land of the free and home of the brave, we stand up for the lowest among us, and now we find ourselves here in the greatest democratic institution in the world, and we cannot get the leadership on the other side to work with us on solving this problem so that Americans can have access to the kind of health care that they deserve; in fact, the kind of health care that we have invested in with our tax dollars, the tax dollars on the appropriations bills that we vote on each year whether the Republicans are in charge or the Democrats are in charge.

We are putting funding into medical research. We are putting funding into NIH so that we can develop new and great methods of healing. And in the Pittsburgh area where I happen to come from, we were able to see tremendous successes back in 1950's. Jonas Salk, the University of Pittsburgh, Dr. Sabin and others cured polio. What a phenomenal day that was. And Dr. Thomas Starville and others led the world and pioneered in transplant surgery so that now some body parts are changed like automobile parts.

[2] Geoffrey Hartman, "Shoah and Intellectual Witness," Partisan Review, 1998:1, 37.

It is absolutely amazing. Yet my constituents, who may live almost across the street or around the corner from these wonderful medical institutions, cannot have access to those places of healing. Our constituents cannot get access to those new miracle drugs that are finding their way into the marketplace because there is a formulary within the HMO that says you cannot have those drugs.

And here we stand, and we cannot get, and we have, I will say, some of our friends on the Republican side have done yeoman work on this duty, but they, like us, are foot soldiers; they, like us, are voices in the wilderness if we cannot get the leadership to work with us to say enough is enough.

We stand for the lowest people that cannot be here on the floor of the House themselves, that their children, their spouses, their parents, their neighbors, everyone in their community deserves to have access to that medical care. They deserve to make the choices, not the insurance company, not a manufacturing plant somewhere who comes in to see us to say, "Well, we don't want the medical costs to go up."

I would ask them are they not concerned when their employees are on the phone managing an illness in their family? They cannot be productive when they are doing that, and people are forced to do that today. There are hidden costs because we are not providing people with adequate choices where they and their doctors can make the right choice to heal them, to make them and their family better.

Mr. PALLONE. Mr. Speaker, I want to thank the gentleman so much for his comments because I know how strongly he feels, and there is no question that he is absolutely right about what is going on out there.

□ 2115

I just wanted to give two examples, if I could, following up on what the gentleman mentioned. I do not have the specific physician, but there was something on TV that I watched one night, and I do not even remember what channel now, but the gentleman was talking about in Pittsburgh how so many medical breakthroughs took place, polio and some of the other things a few years ago.

In many cases, what is happening now with managed care and the way that it is operating is that those physicians who are on the front line and who are coming up with new ways and new techniques of doing things are almost penalized.

We had the example with the physician, and I do not have his name in front of me, unfortunately, who had grown up with a deformed ear or deformed ears, and he had gone to medical school and made it his life's ambition that he was going to develop a way of cosmetic surgery to do cosmetic surgery to make particularly children's ears so that they would look normal, so to speak, again. He had developed this surgical method, and was doing a great job and handling these specialty cases, and all of a sudden found that the HMOs would not pay for it. They would rather send someone, a young person, to another physician who had perhaps not developed this breakthrough technique because it was costing less to do so.

He actually ended up spending most of his time on cosmetic surgery, not to denigrate it, but with people who were trying to lose weight or take material off their thighs or whatever to make themselves look better, and could not devote his time to cases of children who had these kind of deformities.

This is what we are seeing now. We are seeing those physicians who have developed new techniques, new technologies, who are the best of the bunch, basically not allowed to practice their profession anymore because of decisions that are made by these insurance companies. It is an awful thing.

Mr. KLINK. If the gentleman will yield further, then it goes even deeper. The gentleman hit the nail so squarely on the head. It even gets worse than that.

I have heard from doctors in my area who say, in their forties, "We are walking away from the practice of medicine. We are going to go do something else. Not because we made so much money, but because we cannot afford, with the education that we have, to continue to work at this profession.

"Not only that, we are in this healing profession because we believe in it, we think it is a calling, it is an art, it is a healing art, it is a science. We would like to encourage other young people, the best and the brightest coming up through high school, to go to college, and those in college, go to medical school, become healers." They can no longer in good conscience recommend to the young people coming up to do that.

I am saying this: We are in danger of losing a generation and a half of what would potentially be our finest healers in this Nation. They are walking away from the field of medicine, or not even getting in it.

Mr. PALLONE. The other thing the gentleman mentioned that I wanted to bring up is this whole issue of cost, because we know that those who are against the managed care reform and the patient protections keep talking about costs.

We have numerous studies that show that legislation like the Patients' Bill of Rights will not result in any additional costs. To be honest, even if it did cost an extra dollar or two a month, which is probably the most it would cost, I do not think the average person would even care. But, interestingly enough, these same health insurance executives that are out there talking about the costs of managed care reform are the ones that are benefiting so much and getting these huge salaries.

It will not take too much time, but I had this document given to me that was put out by Families USA, called Corporate Compensation in America's HMOs, and it is long, but I just wanted to give you some of the summary here.

It says in keeping with the industry's extenuated focus on costs, this report analyzes the very different facets of managed care cost, namely the costs associated with compensation for high-level HMO executives. The report examines 1996 executive compensation for the 20 for-profit publicly traded companies that own HMOs with enrollments over 100,000.

These were the key findings. The 25 highest paid executives in the 20 companies studied made $153.8 million in annual compensation, excluding unexercised stock options. In 1996, the average compensation for these 25 executives was over $6.2 million per executive. The median compensation for the 25 was over $4.8 million.

Of the 25, the one with the largest unexercised stock option package in 1996 had stock options valued at $337.4 million. The average value of unexercised stock options for these 25 executives was $13.5 million.

The last thing it says, in conclusion, which I thought was interesting, it says that publicly traded for-profit managed care insurance companies are considerably more cost conscious when they oppose the establishment of consumer rights than when they approve compensation for their top executives. For a publicly traded managed care company, remuneration in annual compensation and unexercised stock options for top executives routinely reaches millions of dollars; indeed, for many, reaches tens of millions of dollars. The managed care insurance industry's protestations about costs appear to be highly selective. While they argue they will need to raise premiums to be able to provide basic protections for consumers, their top executives make millions of dollars each year.

I am not trying to begrudge anybody making $1 million. The economy is good, so be it. But in the case of the managed care organizations, the bottom line is more and more of the premiums are going to pay for profits and for top executives' salaries, and the squeeze is coming in terms of the quality of care provided. So they have no business complaining about costs, which I do not think are really going to go up anyway. But it is interesting, I think, the selectivity and the way they go about it.

I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. I thank the gentleman for yielding, and I thank

the gentleman from Pennsylvania for his passion, but also his insight, into this extremely crucial issue. I appreciate his leadership.

As well, I do believe that we are, in essence, doing important work, for I think we must cease and desist the trend of moving away from health care and basically providing Americans with tolerance care.

In our community, sometimes we have a phrase that is used not so much as it will sound tonight. Sometimes mothers will say it about their children, or a child that has gone astray, or sometimes someone will say it about an incident that has occurred. But I am going to say it tonight. Managed care for Americans will be the death of us. Sometimes someone says this incident or this child's behavior, or something happens, it is going to be the death of me.

I think managed care as it is now presently structured in America is, frankly, going to be the death of us. Although that declaration may sound a little bit far stretched, let me share with you that it is actually not.

It is comforting, yet it is distressing, to find so many physicians in my community raising their voices about managed care. No matter what community they serve in, each one says repeatedly, I cannot treat my patients.

We are in a country where we were used to the friendly doctor that came to our homes. He may not have or she may not have had all of the most extensive technology and science at their fingertips, but we knew when we called Dr. Jones or Dr. Smith, Dr. Jackson, Dr. Pallone, any manner of doctor, that they would come and give us the very best that they could. If we needed admitting to a hospital, we would get that.

I do not know if those doctors of early years filled their pockets with dollars. Some of the accusations that are made, doctors are the most wealthiest or wealthy population; every doctor is not. I know good doctors who are in county hospitals in rural communities, and they are not raking in the dollars. They truly took the oath because they believed in being nurturers and healing people and helping people to fulfill the good health promise of their life. Managed care now stands not as the gatekeeper, but the actual block to good health care in America.

I think I read a report that my good friend from Pennsylvania might have mentioned, or the gentleman was also commenting on. We have in this country good science. We have in this country good medical technology. In fact, every day someone is discovering some new medical technique in order to make us better. But I was listening to a late night television program where a physician was saying the reason why our health care system is not competitive as it relates to other countries around the world is because we have the technology and the medical research, but it does not translate to care for Americans.

Why? Because there is a block. And the block now has gotten stronger and uglier with HMOs. Constantly physicians are having to ask the bureaucrats lodged somewhere, where no one knows where they are, whether or not she can stay an extra day in the hospital, whether or not this mother with a C-section can stay 72 hours to 4 days or 5 days because of complications. There is no longer the decision to be made by that patient and physician relationship.

I had a member of the Federal staff say to me that they had to leave and fly down to Florida where their father was discharged from a hospital. He was under managed care. That person was calling long distance here in Washington trying to make arrangements for the care for their parent. The only thing they could get was we are sending him home out of the hospital in a taxi. We are giving him a walker and sending him home to his trailer.

That person had to fly down to Florida simply to ensure that that father had the kind of day-to-day care that was necessary, because the HMO sent him out of the hospital, threw him out, literally, if you will, did not provide him with any home care, did not provide him with the kind of physical necessities that he needed for someone who was suffering from a broken hip. Simply a walker, a taxi ride, and dropped off.

What about the elderly person who was in need of staying the extra days in the hospital? Yet because of their attitudes about not being in hospitals when the physician came, the elderly person said "Oh, I do not need any more care." What was written down hastily? "Refused service." Out of that refusal of service came a dastardly ailment that could have been detected if someone said, I am not governed by the HMO, I think this person needs more testing.

So we have to find a way to fix this broken system. We are one of, or at least considered, the richest country in the world, the United States of America, one where physicians have the best training. And I agree with my good friend from Pennsylvania, we may be discouraging a generation of nurturers, because they cannot practice their trade and their talent.

I believe that we have to fix the managed care system. It is long overdue. We must put the physician and patient relationship, as Humpty Dumpty, back together again. Otherwise, we are going down, down, down, and managed care will in fact be the death of us.

I think the legislation that we are looking at at this point, I would say to my good colleagues that managed care and good health and good managed care, if you will, is a bipartisan issue. Helping out physicians is a bipartisan issue. Dealing with senior citizens who cannot help themselves, children who cannot help themselves, people needing transplants who cannot help themselves, needs good bipartisan leadership.

So I would thank the gentleman for this special order and for his leadership, and ask my colleagues in the House to join unanimously, if you will, to raise their voices to get the managed care legislation that would fix a broken system, so that we could save more lives, and not be known as a country that has a system that is the death of those of us who are attempting to make a better quality of life.

Mr. PALLONE. I want to thank the gentlewoman again. I know that she has spoken out on this issue many times and how important it is to her, and I appreciate her joining us again this evening.

The gentlewoman mentioned the bipartisan nature of this. We have an example here on the other side of the aisle, the gentleman from Iowa (Mr. GANSKE), who is a physician, who has been outspoken on this issue of the need for patient protections. I would like to yield to him at this time.

□ 2130

Mr. GANSKE. Mr. Speaker, I appreciate joining my colleagues from Texas and from New Jersey on this important issue. As the gentlewoman mentioned, this should be a bipartisan effort. This is not something for Republicans or Democrats. It cuts across every segment of our society. Everyone needs health care.

What we are dealing with right now is that about 5 percent of the people who receive their insurance from their employer are now in managed care organizations. Very frequently, they are not given a choice. They are simply told by their employer, here it is. This is our plan. It is the cheapest we could find on the market. Take it or leave it.

So when I hear from my colleagues about, well, just let the market work out the problems in this, I just have to say, you know, the market is not working. There is a disconnect between who buys the insurance and who uses the insurance.

When you are only offered one choice from your employer, then it turns out that your only choice for health insurance may be that you have to quit your job and find a different one.

I am reminded of the fact that there is a very popular movie going around the country now. It is As Good As It Gets. In this movie, we had a waitress, Helen Hunt, who had a boy with asthma. She was in an HMO. She was not getting the proper care, having to take her child to the HMO all the time. Her appeals for specialist care were denied.

So in the movie, Jack Nicholson, who is an elderly gentleman who is squiring this waitress, very kindly gets her an appointment with a private physician to find out what is wrong with her son with asthma.

The physician says, well, what were the results of his skin tests? Standard procedure to find out what may or may not be causing asthma. Helen Hunt's face is blank. She says, well, it was not authorized. The doctor kind of looks at her, and then it is like a light bulb goes on. She gives a string of expletives about her HMO.

All across the country, this happened in Des Moines when I saw the movie, people cheer and clap. It is the most amazing phenomenon. I have never seen it in another movie.

Why would that be? Why would you get that type of universal response to mismanagement by managed care? It is because the public is realizing that there are some serious problems that need to be fixed in managed care. As an example of that, humor, which needs a universal medium, is being applied to HMOs.

Here is a cartoon that was in a newspaper. Here we have a medical reviewer for an HMO. The medical reviewer is on the telephone taking a call from somebody phoning in with a problem from the HMO.

The medical reviewer says, Kuddlycare HMO. My name is Bambi. How may I help you?

You are at the emergency room, and your husband needs approval for treatment?

Gasping, writhing, eyes rolled back in his head? Gee, does not sound all that serious to me.

Clutching his throat, turning purple, uh-huh. Have you tried an inhaler?

He is dead. Well, then, he certainly does not need care, does he?

Then she finishes up after she has hung up by saying: Gee, people are always trying to rip us off.

Does that seem overly harsh to you? Let me give you a real-life example. This is a woman who is 28 years old who was hiking in the Shenandoah Mountains. She fell off of a 40-foot cliff. She fractured her skull, was comatose, broke her arm, broke her pelvis. This is a picture of her just before she is airlifted to a hospital. She is taken to the hospital where she is in the intensive care unit, comatose, for weeks.

When she finally gets better, she is presented with a $12,000 bill by her HMO. They refused to pay for her care. Can you guess why? Because she did not phone for prior authorization. I mean, can you believe that? What was she supposed to do? Wake up from her coma when she is lying at the bottom of that cliff, reach into her pocket with her nonbroken arm, pull out a cellular phone, and make a phone call to an HMO a thousand miles away, say, oh, by the way, I just fell off a 40-foot cliff? I broke my skull, my arm, and my pelvis, will you authorize me to go to the hospital?

Then the HMO would not pay later on because they said that she did not give them timely notice when she got to the hospital. She was in the ICU on a morphine drip for weeks.

This is the type of problem that affects real people. These are not just anecdotes. The reason that this issue resonates with so many people is because almost everyone has had either a family member or a friend who has had an outrageous denial of treatment or delay in treatment or other problem related to their HMO.

Here is an anecdote. This is a woman who is no longer alive today because her HMO denied her the care that she needed. Talk to her two children and her husband about how she is just an "anecdote."

I mean, I am reminded of a scene from Shakespeare where a character says, "Do these anecdotes not bleed if you prick their finger?"

This is a real problem that we are facing in this country, and I am very glad to be able to join my colleagues on this. There are two bills before Congress right now. One is called the Patient Bill of Rights, and the other is called the Patient Access to Responsible Care Act. Both of them are very similar in many regards, and they are both bipartisan bills. Yet, we have a situation where, as my colleagues have outlined earlier tonight, we cannot get these bills to the floor, even though one of them has more than enough votes just from the sponsorship to pass.

Let me tell you about a bill that I have had for 3 years; 3 years I have had a bill in this House that has nearly 300 cosponsors, bipartisan bill, dealing with an aspect of managed care that would ban gag clauses.

Do you know what gag clauses are? These are contractual arrangements that HMOs have on provider contracts that say, before you can tell a patient what their treatment options are, you first have to get an okay from the company.

Think about that. Let us say that a woman has a lump in her breast. She goes in to see her doctor. He has got a gag clause in his contract. We know that these clauses exist all across the country, because we had congressional testimony before our committee on this.

So the doctor does her history and physical exam. She has got three options, one of which might be more expensive than another, but he has got a gag clause in his HMO contract. What does he have to do? He has to say, excuse me, leave the room, get on the phone and find out if it is okay with the HMO if he tells that lady all of her treatments.

That is an infringement upon first amendment rights. It is also a terrible infringement on doctor/patient relationships. Patients need to trust their physicians that their physicians are going to tell them the whole story, not just what their HMO wants them to tell the patient. Doctors should be patients' advocates. They should not be the company doctor.

Both of these bills have protections for patients in them that even some of the nonprofit HMOs have said are very good pieces of legislation and have called for Federal legislation.

I would just like to enter into this discussion with my colleagues because I think we need to explain to our colleagues here why we need Federal legislation. Why can we not just leave this to the State insurance commissioners or the State legislatures? I wonder if my colleague from New Jersey would like to address that issue.

Mr. PALLONE. Absolutely.

Mr. Speaker, if I can comment on that, and one other thing that the gentleman said so eloquently, the reason is because when we talk about insurance plans that are basically for the self-employed, if you will, we have the ERISA preemption.

Essentially what that means is that if the State, like my home State of New Jersey, passes a patient protection act, if they will, which they did, I should say, is now law, it does not apply to the majority of people who have health insurance in the State because of the Federal preemption, so to speak.

So if we do not pass a Federal bill like the two that you have mentioned, then the majority of people in New Jersey are not actually impacted by the State Patient Protection Act. So that is why we need Federal legislation.

Mr. GANSKE. Mr. Speaker, I know my colleague from Texas is an attorney, and I wonder, is this not a result of prior Federal law that we have this exemption, this exclusion?

Ms. JACKSON-LEE of Texas. Mr. Speaker, we have to correct it. Part of the additional reason, unlike my good friend from New Jersey, I am not sure of your State, Doctor, I like to call you doctor, because you have clearly outlined for us the real crux of the problem, my State as well has dealt with the question on a State level.

I think the problem is and why this is raised to a level of a Federal need is, one, because there is a lot of interstate commerce, if you will, between HMOs. Frankly, there needs to be consistency on the Federal level as far as the problem that was mentioned by my good friend in New Jersey. But because we created a problem federally, we now have to fix it federally.

It is much more apropos because, in many instances, our physicians are calling out of State for approval because they are under this HMO or that HMO. Many HMOs have put their offices in different States. Some have

moved to the more popular States. But many times, they are calling out of State.

To add to the consistency and not be subject to the individual State laws, we need the Federal correction of this problem, which is the problem of how you deal and protect the patient/physician relationship. It is key.

Mr. PALLONE. Mr. Speaker, my understanding is that the self-insured that come under the Federal law are actually a majority in many cases. The gentleman can tell us a little more about that.

Mr. GANSKE. Mr. Speaker, the problem that we have is that 25 years ago Congress passed a law primarily to deal with uniformity of pension standards that was then applied to health plans. An exemption from State insurance regulation was in that, that legislation.

So what we have happen is we have had a large amount of our health care now delivered by health plans that are not under State insurance quality regulation, and there is no Federal legislation. So they are basically totally unregulated.

That is why I and others who, in a bipartisan fashion, have supported this type of legislation, that 300 or so that are signed onto the Patient Right to Know Act which would ban gag clauses, are getting so frustrated with the leadership of this House and of the other body for not bringing this to the floor when it could pass overwhelmingly this type of legislation. It is why I think that it is very important that our constituents demand that Congress deal with this problem.

We are not talking about something radical here. We are simply talking about some uniform quality standards so that, when you have insurance and you get sick, that it actually means something, that you can actually use it.

I hear my colleagues say, just let the market work. Competition. I would liken this to buying an automobile. All of us buy an automobile that has Federal standards related to headlights, brakes that work, turn signals, seat belts. These are minimum safety standards that we know when we go out and buy a car, that is what we are going to have. Has that resulted in a nationalized auto industry? For heaven's sakes, no. There is tons of competition out there.

It is just that you know, when you buy your car, you are going to have some minimum safety standards. The same thing should apply, doggone it, for health insurance when you have got health plans that are making life and death decisions. It may be even more important in some respects than safety standards for some of the other things that Congress has legislated on.

Mr. PALLONE. Mr. Speaker, the reason that I was so impressed with the gentleman's comments earlier is because he was pointing out, really, how basic these patient protections are. I think that we cannot emphasize enough how this is really a floor. We are not doing anything radical here. These are basic patient protections that I think most people probably think are already there until they are faced with the reality of how to deal with the managed care organizations in certain circumstances.

I loved the gentleman's analogy of the emergency room situation, because that is really so typical. I do not think people can imagine that, if they need a hospital or other kind of care in an emergency, that they have to get prior authorization.

What we do in the Patient Bill of Rights, and I think that the Parker bill does the same thing, is to basically say that you use the prudent layperson standard. In other words, if I am in an emergency situation, I have to go to an emergency room, then the standard about the level of care that should be ensured is what the average layperson would think should be ensured in those circumstances.

□ 2145

Of course, the average person is not going to think that they have to have prior authorization or that they have to go to a hospital that is 40 miles away, the example I used before. The average person would think that they would go to the closest emergency room, and they would just walk in and get the care, because it is an emergency. It is a pretty simple phenomenon. It is very basic. It is nothing really abstract.

Those are the kinds of patient protections, the sort of floor, if you will, of patient protections that we are talking about here which make sense, I think, to the average person. That is why, I think, we are getting so much support from our constituents saying, do something about this, because it is not acceptable, what we have to face now.

Ms. JACKSON LEE of Texas. If the gentleman will continue to yield, Mr. Speaker, the gentleman raises the obvious. That is what we hear when we go home. I just want to raise a Texas issue.

Many of the Members are aware that there were fires burning in Mexico. There was the glaze that was reported in the news, I think the national news, a small glaze that was covering Texas, and it may come back again, with heavy air, and causing a lot of symptoms for our asthmatic citizens down there and our constituents down there.

Under HMOs, the other point of their fiscal responsibility is to limit the number of visits one can go to a physician for during a certain period of time. There are certain regulations along those lines. You are then interfering, because of an environmental problem that was exacerbating those people with asthma or respiratory illness. They were filling up the emergency rooms. They were not heart attack cases, they were not accident cases, not the comatose case, which obviously rings a bell with everyone, but they were coming in because they were in a confined situation, a bad haze, and it was exacerbating their problem.

In those instances, the questions of whether or not they would be accepted as having an HMO service because they were in there repeatedly, or they did not seem to be really an emergency case, this is what is happening around the country when we have a system that is not responsive to the physician treating the patient, the responsible physician treating the patient.

My Indian doctors from India, doctors who treat a particular clientele in Houston, a very diverse community, have raised concerns about them being on an HMO list. I do not know if we have discussed that this evening, about the difficulty, sometimes, of physicians being able to get on a list, and particularly a lot of physicians in the inner city.

These physicians who treat a certain patient clientele have had difficulty in maintaining their names on HMO lists so they can treat their patients and their patients can choose them; all kinds of problems that I believe reasonable men and women can come together and fix, so that the tragedies that the gentleman has mentioned, the humor that the gentleman has mentioned, that does not make it funny, can stop.

Because the question becomes, who are we as a Nation if we cannot provide the kind of health care to live up to our own reputation, with the excellent physicians? My own doctor, Michael DeBakey, traveled to Russia, and I think President Yeltsin is as fine and fit as I have seen him. That was a United States physician, trained in America, Dr. Michael DeBakey, who left here to supervise that open heart surgery. Today the President of Russia is considered healthy and robust physically, as Dr. DeBakey shared with me after his last check-up.

I think it is extremely important that we do not diminish what we have here in this country. We have it. We have the ability to be fiscally responsible with health care, and I understand that is important, and at the same time using the resources that we have to make our country one of the healthiest around.

What a tragedy, and the gentleman is a physician and he knows, that we have such a high death rate in certain instances because we are not getting the care and the technology and the expertise to the patient. If the doorkeeper is in there diminishing that access, that is why people cry out for universal access. They throw up their hands.

Mr. GANSKE. Mr. Speaker, if the gentleman would yield further, let me relate another example. I recently had a woman pediatrician in my office. She left her medical practice, which involved running a pediatric intensive care unit, partly because she could no longer handle the types of things, the demands that were being placed on her from managed care. Let me give an example that she told me about.

One day she had a 5-year-old boy come into her ICU. The boy was a victim of drowning, so he was attached to a ventilator. He had his IVs running. All the medicines were being given. He had been in the ICU, been in the hospital, about 4 hours. This team of doctors and nurses and other health professionals were standing there, doing everything they could for this little 5-year-old boy, with the parents standing there.

Think of how you would feel if this were your 5-year-old boy who had been in that hospital for about 4 or 5 hours. They were basically standing around the bedside holding hands, praying for a sign of life, and the telephone rings. It is an HMO reviewer from some distant place.

So this pediatrician gets on the line and she tells this nonphysician reviewer what the situation is, and how it does not look very promising. Do you know what that reviewer suggested? The reviewer said, well, if the prognosis is so bad, have you thought about sending the child home on a ventilator in order to save money?

Mr. PALLONE. That is incredible.

Mr. GANSKE. That is an incredible but true story. It shows that that reviewer did not know what she was talking about, or he was talking about, I do not know which.

But I know how it happened. This reviewer was sitting at a computer terminal, and she saw "Respiratory distress"; moved up the algorithm, "Ventilator"; moved up the algorithm, "Poor prognosis." The next question you ask is, have you thought about home ventilation?

Let me tell the Members, that is a situation where this little boy's life was hanging in the balance. There is nobody that I know of, including myself or my wife, who is a physician, that could take a child in that situation home without all the technology that you would need in that intensive care unit and have a chance of that little boy surviving. Yet that is the kind of recommendations that we are getting from people that should not be giving the recommendations.

That is why part of this legislation we are talking about says that if you are going to deny care, the denial of care has to come from somebody who is legitimate and qualified to understand the situation in order to deny the care.

Then the legislation says that if you do not agree with that denial of care, you can appeal it, but the appeal has to be adjudicated on a timely basis, not 6 months from now, when, like this poor unfortunate lady, you may no longer be in this world.

Mr. PALLONE. What the gentleman is bringing up again is so important, because we had a forum in New Jersey with Senator TORRICELLI and myself in my district, and the people that came and talked about the problems they had with managed care, their biggest concern was the bureaucracy of having to deal with a denial; in other words, denial of certain services, denial of certain equipment, and how they had to go about appealing that or finding someone who would hear their case.

I just could not believe the hours and hours parents or a relative would spend trying to get through that bureaucracy to try to have someone hear their case on appeal, or whatever the grievance procedure is. I think that that is a very important part of the legislation that we are talking about here today, because how many people can do that? A mother maybe can do it for her child if she is not working, but most of the time you have to call during the day, and a lot of people just cannot take the time to go through the morass that has been set up in these organizations.

Again, I just want to say to the gentleman from Iowa (Mr. GANSKE) that the reason it is so valuable to have the gentleman here tonight if he is just pointing out how common-sense these patient protections are.

The gag clause, again, I think most people would not believe that their physician is not allowed to tell them what the proper treatment should be or make recommendations because of some gag clause, or the circumstance the gentleman just described. We are only talking about things that I think most people would expect would be the norm, but unfortunately, they are not. That is the problem.

Mr. GANSKE. If the gentleman will yield further, Mr. Speaker, we always hear from opponents to this that this legislation will cost so much. It is going to make premiums double.

Phooey on that. As far as I know, there is one independent study that has been done by Coopers & Lybrand, a well-respected actuarial firm, by a nonpartisan group that has looked at the cost of a Patient Bill of Rights, exclusive of the liability provision, and the cost to a family for a year would be about $31. All sorts of surveys across the country have shown people would be willing to have their premiums go up more than that in order to have their insurance mean something.

Mr. PALLONE. Mr. Speaker, I want to thank everyone for joining us. This was certainly worthwhile. We have to keep pressing to have patient protection legislation brought to the floor.

Ms. JACKSON-LEE of Texas. I thank the gentleman. I think America deserves it.

GROWING THREAT TO NATIONAL SECURITY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from California (Mr. ROHRABACHER) is recognized for 60 minutes as the designee of the majority leader.

Mr. ROHRABACHER. Mr. Speaker, I came to the floor on April 30 as the chairman of the Subcommittee on Space and Aeronautics. As someone who holds that title, I have the responsibility to oversee NASA and America's space effort.

My purpose in that April 30 speech was to disclose what appeared to be a horrible threat to our national well-being. American companies, I charged, may have upgraded Chinese strategic missiles, compromising the safety of the American people, putting every man, woman, and child in our country in greater vulnerability to nuclear attack, a nuclear attack launched from the mainland of China.

Technology transfers, at the least, may have undercut our country's ability to deal with an aggressive Chinese Communist regime in the future. Even worse, of course, our gallant defenders in the future may be shot out of the sky or die in their submarines, victims of weapons researched and developed by the American taxpayer and delivered to our potential totalitarian foe by greedy American businessmen.

Since my initial warnings in that April 30 speech, information that has emerged suggests the horror story that I described of our country being more vulnerable to nuclear attack from the Communist Chinese and the upgrading of other weapons systems, that horror story that I described is much worse than I originally imagined, as I have continued to look into this matter.

That is what I would like to report tonight to my colleagues and the Members in the House, to those people watching on C-Span and reading the CONGRESSIONAL RECORD. I thought I would give them a little update of what has happened since the last time I gave a special order on the floor of this House concerning this, what I consider to be the worse scandal not only of this administration, but perhaps the worst scandal in terms of the transfer of deadly technology to a potential enemy of the United States since the Rosenbergs transferred the atomic bomb secret to Josef Stalin back in the late 1940s.

As I have continued to look into this, I and others have heard testimony and discovered evidence that not only verifies the serious charges that I have made, those charges in general that we have upgraded the missile system and other weapons systems, but suggest that there is even a greater threat to our safety.

In that April 30 speech, I suggested, number one, that as a Presidential candidate, Bill Clinton chastised President

Bush for coddling Communist China and granting the despots in Beijing most favored trade status, which is what he opposed during the election, coddling the Communist dictators in Beijing and opposing most favored trading nation status.

I thought President Clinton would probably be easier to work with than President Bush was. After being sworn in as President, Bill Clinton did an immediate about-face. He boldly, or perhaps the better word is brazenly, decoupled any linkage between human rights and trade negotiations in our dealings with the Communist Chinese. This was the worst single setback to the human rights movement in my lifetime.

I remember when it happened, I was out of town. All of us in Congress were out of town. The President expected that all of the controversy would just sort of pass over by the time Congress got back into session.

□ 2200

In the years since the decoupling, in the years since he, and we can only use the word "betrayed," the human rights movement and betrayed our fundamental principles in doing so, the brutality against religious believers and against democracy advocates in Communist China has intensified. The regime in Communist China, since the decoupling of trade negotiations with any human rights considerations, the human rights situation has gotten worse. The genocide in Tibet is worse. The killing of the Muslims in the far reaches of the western part of China has gotten worse.

President Clinton, even seeing this, has done nothing to rectify his precipitous decision to decouple those negotiations.

As a result, the tough guys in Beijing are confident that anything that is said by this administration about human rights is a hollow gesture for domestic consumption only. In fact, the Chinese Communist rulers have used the upcoming Presidential visit to China, with its opening ceremonies scheduled to be held in Tiananmen Square, they have used this in their callous campaign to stomp out the memory of those who were slaughtered in 1989, those hundreds of democracy activists who were slaughtered in that very same square.

On the recent June 4 anniversary of that tragedy, and it was just 10 years ago June 4 when the gallant democracy advocates were mowed down in Tiananmen Square and their papier-mache copies of the Statue of Liberty crushed under the treads of the tanks. On that anniversary, Communist China claimed the Communist Party and government made a correct conclusion, end of quote, to order that slaughter. And they ruled out any revision of that official judgment.

And this morning, this very morning, scoffing at congressional requests that Clinton not be received in Tiananmen Square, the U.S. Ambassador, our Ambassador to China, James Sasser, told the Chinese press that the President, quote, will be pleased to be welcomed in the Great Hall of the People, which of course is right next to Tiananmen Square. And that gesture on the part of our President will further the concept that we have heard recently coming from this administration of a, quote, strategic partnership, end of quote, between our two countries. That is what our Ambassador is suggesting.

In that mind-boggling atmosphere, if the President even mentioned human rights there while he is in Tiananmen Square or right next to Tiananmen Square in his upcoming visits, if he mentions human rights it will only be making things worse because the ruling clique in Beijing will know that it is just for show and that even our own President is willing to make a cruel joke, a mockery out of what many of us have been raised to believe is the essence of America, that being a sincere belief in democracy and freedom.

Is that not what our country is supposed to be about? Is that not what that flag is supposed to stand for? We are not just a geographic location. We are people who came here from all parts of the world, every race and ethnic background and every religion. We came here because our Founding Fathers and the people who came before us believed in freedom. That is what separated us from the rest of the nations in the world and that was our responsibility, to carry the torch when they put it down that they had so gallantly fought for, this freedom in the last 200 years.

Well, that is not what going to Tiananmen Square will signal the world. It will signal the world that America no longer holds that dear to our hearts. And maybe in times of trial and in times of the Cold War we had to compromise and associate ourselves with such dictatorships, but in a time of peace there is no excuse for this.

But most alarming, it appears that this administration's flawed strategic partnership view towards this brutal dictatorship in Beijing has even permitted the Communist Chinese to have access to the most sophisticated weapons that we built during the Cold War for our own domestic protection.

This idea of a strategic partnership has permitted sophisticated weapons related to aerospace technologies and defense technologies to be made available to a brutally harsh Communist dictatorship, a belligerent country that some day may be our enemy and may kill Americans. And even while making these technologies available, the administration cast a blind eye toward Beijing's role in spreading these weapons of mass destruction and the components of these weapons of mass destruction to other unstable areas of the world, making a mockery not only of America's fundamental beliefs in freedom and democracy and human rights, but also making a shambles out of our efforts to contain the proliferation of nuclear weapons technology so that countries like India and Pakistan do not face each other and possibly ignite a horrific conflagration that could cost millions of lives.

So this administration even turns an eye while Chinese Communists ship these weapons to these countries, causing great instability and causing a cycle of violence and a cycle of weapons advancement that will only put the entire world in greater threat.

In my April 30 speech, I outlined how our own country's elite has maintained a policy that has steadily shifted resources and power to China at the detriment of our own people. Not only the security of our own people, but to the economic well-being of our people.

What are we doing this for? Why are we making the Chinese better off, stronger, more capable of military aggression, more capable of beating us economically, putting our own people in jeopardy not only from nuclear weapons but also from being taken and shoved into the cold without a job, being shoved out of their jobs because of slave labor being used in China?

We have been watching a policy, an intentional policy that has been to the detriment of our people and building up China as a competitor and an adversary. Who is watching out for the American people? Is this not the fundamental job that we have as elected representatives? Who is watching out for the interests of our people?

First, we have obscured the trade relationship that allows China to charge 30 and 40 percent tariffs on American goods, so when we manufacture something here and want to sell it in China, they charge us 30 and 40 percent tariffs on the goods that are imported from the United States, while under Most Favored Nation status the Chinese goods which they produce over there flood into the United States with a mere 3 percent duty. How unfair is that to our own people? How about those people who are manufacturing those goods in the United States who are put out of work? It is one thing to say then Americans can buy low-cost Chinese commercial goods, but if our companies cannot sell over there without a large or huge tariff, then there are not any other jobs being created for these people who are put out of work.

Again, Mr. Speaker, this is a betrayal of the interests of our own people and it has been going on year after year after year. And when we try to fight against Most Favored Nation status, we are being told that it creates jobs. Yet we are using taxpayer dollars to subsidize the building of factories in

China that will end up exporting goods to the United States in competition with our own people, the people who pay those tax dollars to begin with.

This is the reason that we have this $50 billion annual trade deficit with Communist China. Fifty billion dollars. And that is a minimum every year that we have had for many years now with Communist China. That puts our money into their pockets. Fifty billion dollars a year.

What do they do with those $50 billion? First of all, it builds up their own dictatorship. It permits the Communist dictatorship to keep a stranglehold on anybody who would want democracy in that country. We upgrade their police techniques. We have trained their policemen for a totalitarian country. What do those people do when they go back? They throw Christians and other people in jail. They use their techniques to find out who wants democracy and to persecute them. We have them over here training in our country.

And that $50 billion, what is it used for? Yes, it pays for some of that training. Perhaps we might charge them a little. And it finances their arms buildup and puts our own people out of work. More than putting dollars in their pockets, the trade relationship is so unbalanced and we have permitted them to have this 30 and 40 percent tariff against our goods, which is unfair to us because their goods come in at 3 and 4 percent. But we have also permitted them to make outrageous demands over and over again of our own business community. And again these demands have been to the horrible detriment of thousands of American working people.

For instance, in order to sell airplanes to China, and there will be someone in my office tomorrow from Boeing Corporation, the largest employer in my district, to tell me why we have to make sure that we have those airplane deals to China. But in order to sell those airplanes to China, in the past the Communist Chinese leaders have demanded that we build airplane manufacturing and spare parts factories in Communist China. That means 10 years from now, they will have a modern aerospace industry to rival our own. It is short-term profit and even medium-term selling out our economic interests, not to mention the national security interests.

We even use U.S. tax dollars when they make these demands. "If we are going to buy your planes, you have to set up the wing manufacturing facility here in China," and we even use tax dollars through the IMF, through the Export/Import Bank and OPIC and other government subsidized agencies with our tax dollars, we use this tax money to guarantee the deal which builds those manufacturing operations in China.

We are building manufacturing units in China that will rival our own and put our own aerospace people out of work. In the medium run, again, a few fat cats may get rich. The Chinese will get a few more freebies. They get the technology and the American people will end up getting the pink slip.

With the wealth of technology that Bill Clinton and the corporate power brokers are transferring, China is steadily building a state-of-the-art Army, Navy, and Air Force and strategic missile force. This is a power that will threaten anyone who gets in their way. And we are financing it. We are subsidizing it. We are facilitating it. And this administration is celebrating it. And when the party is over, as I say, a very few rich Americans are going to be better off and a multitude of our own working people will be displaced by low-tariff imports.

And something else to consider: Our military personnel will be in grave danger and our country vulnerable to nuclear attack and high-tech warfare attack. All of this from this nonsensical policy. And it goes on and these are easy to calculate. They are easy to see.

What spurred my interest in this area was a few months back when I stumbled upon evidence that American technology was being used to upgrade Chinese rockets. It actually took my breath away to learn that U.S. aerospace companies may have flippantly violated lawful safeguards provided by previous administrations by providing the Chinese with technology they needed to upgrade their rockets and interballistic missiles putting millions of Americans in danger of incineration by a nuclear ballistic missile launched from China.

Recently, I have had a series of meetings with aerospace workers and I would invite anyone listening to this who has information about this to contact my office, because a number of aerospace workers, patriots in the aerospace industry, had information about this and contacted me and I met with them. They were disgusted that as patriotic Americans, technology was being used, American technology was being used in a way that would put our own country in jeopardy.

These workers that I have already talked to have firsthand knowledge of security breaches that put our country in jeopardy. I was told that U.S. technology to ensure stage separation of Chinese rockets had been addressed. Guidance systems and control systems were upgraded. There was MIRVing that was not possible by the Chinese before, and yet on May 2 the Chinese launched a Long March rocket.

□ 2215

Three out of four of them used to blow up. This is a perfect launch. And not only did it get up there, but once it was up, it was able to spit out two satellites instead of one because it now has MIRVing technology, the same technology that permits that very same rocket to carry multiple warheads, warheads that could be aimed right at Los Angeles or Chicago or Detroit or anywhere, anywhere in the United States.

I was also told about the laser ring magnetic gyroscope, this system that was so important that Americans discovered and built to make us the technological leader of the world, a stabilizing system that is absolutely essential for MIRVing and for submarines and other launch rockets launched from other places, and for airplanes. If these things do not have this type of high-tech gyroscope, they cannot really fire their weapons as accurately, and the fear is that the Chinese Communists now have that gyroscope.

All of these items, I was told, of course, are built at taxpayer expense. These aerospace workers knew all along they were working for the taxpayers. This was money that we spent during the Cold War to give us the edge. This was things that we spent billions of, hundreds of billions of dollars we spent to make sure that our people had the qualitative edge.

While talking to these aerospace people, I was told that among those involved in this diabolical betrayal of America's security was a senior vice president from Loral Corporation. Some of his fellow workers had been appalled years ago by this very same man's breach of routine security procedures, yet the company had inexplicably sided with the security violator instead of the whistleblower. Now we are told that this same top executive, who is now even higher in the company than he was then, was the point man in getting U.S. missile technology and know-how into the hands of the Communist Chinese.

In the investigating of this controversy, much attention has been paid to what occurred after the explosion of the Communist Long March rocket in February of 1996 and the 200-page technical review report given to the Chinese by a U.S. technical team. We have heard the claim that this report concerns a simple soldering problem; a soldering problem, that is what we are being told. Yes, that is it, a few bad solders is what caused two out of every three Chinese rockets to explode at launch, a few bad solders.

Some of the aerospace engineers I have been talking to about this told me when they heard that, they almost fell off their chairs laughing. To say that was not a believable explanation to these engineers who spent a lifetime building rockets.

After the explosion in 1996, Loral apparently went forward and intentionally and systematically upgraded the Chinese rockets, and we are not

just talking about a few bad solders. As is clear in a letter from this very same Loral vice president, who they complained about years ago for not following security procedures, that Loral vice president, a man named Wah Kun, stated in a letter, and I believe that this letter is a smoking gun, if there ever was a smoking gun, of evidence of a crime, in this letter from Dr. Wah Lim the vice president of Loral to Lou Jiyuan, to the chairman of the China Aerospace Corporation, which is a part of their government and a part of their military, that Loral Vice President Lim states that an important goal for this review was, quote, using the failure, that means the 1996 blowup, as an opportunity to ensure that the Long March vehicles have the best reliable record in the future. We at Space Systems Loral would like China to be a strong supplier of launch services, and we will do everything in our power to help you, end of quote.

And to ensure that, he says, your company, and I quote, your company will take their share of the world market for satellite launch services, end of quote.

Only a week and a half earlier, in a committee strategy report, Lim outlined, that is vice president of Loral Lim outlined the objectives for the review team that has gotten so much attention these last few weeks, including recommending to China Aerospace and its launching subsidiary, the Great Wall, any other areas of improvement. So thus they will give them any advice they need in any areas of improvement for their system so that they can capture a share of the world's launch services. I am including, and I will include in the CONGRESSIONAL RECORD tomorrow, a copy of the full text of the letter from Mr. Lim to the Chinese aerospace leader.

In May of 1996, before the draft committee, this is after the work of this committee, and it had a 200-page report on this blowup of this Chinese missile, but before that report was submitted to the State Department for security review, the security review is mandated under export control law, Vice President Lim of Loral faxed a copy of that report to the Chinese. Lim did this knowing full well that China Aerospace Company, which controls all space launches, is the same military-owned company that builds China's ballistic missiles, the same company that builds the missiles that would land atomic weapons in our country and incinerate our people. It is the same company that builds the satellite launching rockets, almost the same technology.

According to U.S. intelligence, at least 14 of these missiles that the Chinese already have are targeted at the United States. That was denied by this administration, of course. And just as the President has sometimes mentioned things that sort of do not make sense and we disagree with, in this particular case the President suggested that there are no missiles aimed at the United States in Communist China. Of course, we all know that it takes about a half an hour to retarget a missile, and I am not so sure how much credence you have to put in a situation like that in terms of people's statements that we do not have much to be worried about.

The New York Times published this story that we are talking about in terms of the Loral upgrading of the Chinese missile, and to its credit that paper and several other publications have done a diligent job in providing this all-important information to the American people.

This past Sunday, for example, 60 Minutes, the news program on CBS, did a compelling report on a story concerning the transfer of deadly weapons and technology to Communist China. The 60 Minutes program, which was also covered by the Washington Post, described how in 1993, the McDonnell Douglas Company was blackmailed by the Chinese Communists into selling at fire sale prices sophisticated machine tools for the building of jet fighters, the B-1 bomber and the cutting edge C-17 transport airplane. And like a scene out of a movie, the American workers at the Columbus, Ohio, factory who had offered to buy the equipment, they wanted to keep that plant going, and they were willing to buy it for $10 million, twice the price which the Chinese Government offered, those workers were turned down by the company, and like right out of a movie, they were there yelling epithets and attempting to block, quote, dark-suited Chinese officials, end of quote, who came there to inspect these huge machine tools which were used to produce sophisticated weapons.

And yes, our working people wanted those jobs, and they deserved the jobs that those tools could provide, but they also knew that those tools were going, Communist China would produce things that would kill Americans. But unlike management, the workers knew, I guess, and that plant, that when you see the term "U.S.," that means not just United States, it also means us. Who is the United States? When we are talking about America, the U.S. security interests, we are talking about us, all of us together, e pluribus unum. We are all together in this, and we believe in freedom. That is what ties us together. They knew they were being betrayed, and their interests were being betrayed. They could not even offer more money than the Communist China expected to get those pieces of equipment that would permit them to earn a decent living. They had only given half their lives in service to building weapons during the Cold War to protect our country.

The aerospace workers, the unsung hero of the Cold War, the aerospace workers are the ones who developed the technology we needed to deter war with Russia until it collapsed in its own evil. They were the ones that gave us that technological edge because we could not have matched them man for man. Now when it is all over, we sell our tools to Communist China, and they give their jobs away.

Although the sale of these tools was opposed by the Defense Department in the end, it had the support of the Clinton administration, and the Chinese got these tools, of course, and when they were buying the tools, they said they were going to use them to build civilian aircraft. Of course, guess what? Many of these same tools ended up in a Chinese factory that produces Silkworm missiles, missiles that will threaten American ships if we ever try to protect Taiwan again, thousands of our sailors put in jeopardy with American technology.

And in 1996, the U.S. Justice Department opened up a criminal investigation into whether McDonnell Douglas knew or should have known that the Chinese commitment to using these tools for civilian use was bogus. To their credit, the McDonnell Douglas officials reported that Chinese treachery immediately upon discovering that the tools had gone to the wrong location. However, neither the administration nor the company should have succumbed to the Chinese blackmail in the first place.

Even if the Chinese would not buy the civilian airplanes, we should not have told them we were going to build them a plant to build airplanes themselves. And even if those tools would have been used to build civilian airplanes rather than military planes, we should not have made that as part of our deal in the first place. Even if it did not put our national security in jeopardy, it certainly put our working people in jeopardy. Their jobs were in jeopardy.

In the end the Chinese, here is the hook on this whole thing, in the end the Chinese had promised to buy billions of dollars worth of planes from McDonnell Douglas if they sweetened that deal, if they could get their hands on all that defense-related technology, those tools and machine things that would permit them to build these weapons, but as soon as they got their hands on that technology, guess what, the rest of the deal fell apart. McDonnell Douglas did not even get the sale of their airplanes. They cut the deal short and only give them a minor, a minor purchase of McDonnell Douglas airplanes, while at the same time they not only now have all this technology at their disposal, but 1,000 skilled American workers were denied the chance to rescue their factory.

They wanted to buy it for $10 million, and they were denied that and denied

the decency of earning a living and owning part of the company, which they wanted to do out of some scheme that they thought would bring them untold riches from the China market.

□ 2230

Even if the deal was kept, the American workers would have had the shaft in the long run. The company sold out the ability of its own workers to compete by giving that technology to the Communist Chinese. And as I say, even in the short term, that profit was not realized because the Communists reneged on their agreement to buy all those airplanes.

In response to the public disclosure of these type of reckless export deals, the Clinton administration has reacted with its typical obfuscation and evasion, and this is what we have come to expect from this administration. This administration and its media allies have turned on the confusion machine now that this missile upgrade situation has reached a national controversy. Their confusion machine is designed to get the American people confused and mixed up.

First of all, the first purpose of the administration's strategy for confusing the American people is to minimalize the facts. We have been told, of course, that these technology transfers by Loral and others to the Communist Chinese were a little more than a few solderings, which we have already discussed. So you minimize. "Don't worry about it. We're just talking about a few solderings."

This is parallel to the FBI file scandal when President Clinton himself claimed that it was only a few FBI files that were mistakenly sent over to the White House by a Defense Department detailee. Remember those words? We all remember that being said on the White House lawn, only a few FBI files, and it was made by accident by a detailee from the Defense Department. Of course later we found out that that detailee was not just a detailee, after all. He was someone who had been placed at the Defense Department by the Clinton administration and sent back to the White House intentionally, and he was one of their people. He happened to be an opposition researcher for the Democratic Party, and he did not have just a couple of FBI files, he ended up with hundreds of FBI files in his possession. Of course this is all about just a few solders. Remember, just a few solders in a Chinese missile. That is all this is about.

Another tactic being used by this administration is to sidetrack the growing public rage over this scandal with an obvious attempt to confuse the public about what is the central issue that we are all upset about. If President Clinton and his apologists, his allies in the media, of course, if they can confuse the people, this incredibly serious issue might just be shrugged off as yet another attempt by Republicans to get this guy, as my good friend Geraldo Rivera implied on television and has implied several times, we are just out to get the President. No matter what, we want to get him.

No, that has nothing to do with what is going on in this case. I cannot talk for the other issues because I have not participated in these other scandals that have been talked about over this last year, but I can say this issue is very serious and deals with the survival or perhaps the death of millions of Americans who otherwise would not die, dying at the hands of Communist Chinese tyrants who have American technology.

So let me warn everyone about what they are facing, this tactic to try to confuse them. This administration and its liberal allies are trying to get you to believe that what we are upset about is nothing more than a decision to permit U.S. satellites to be launched on Chinese rockets. You will hear that over and over again. U.S. satellites launched on Chinese rockets, that is what everybody is upset about. Any newspaper or radio or television journalist or administration spokesman, or whoever, who starts talking about U.S. satellites on Chinese rockets as being the crisis or the scandal, at that moment, understand that that person is intentionally trying to lie by confusing you. So put that in the back of your head, if you hear someone say that, they are trying to confuse you, they are trying to lie, to get you not to understand the magnitude of what is going on. They know exactly what they are doing. It is called deception. So, please, my friends, do not be deceived.

Besides all the administration spokesmen who are trying to use this deceptive tactic, of course, the liberal left media troopers have been mobilized to throw dust into our face. Let me read to my colleagues a story from the Los Angeles Times from Monday, June 8:

> Republican leaders have charged that Clinton satellite exports may have jeopardized national security by helping China develop its missile capabilities.

It goes on.

> I am also worried if we can continue to play patty cake with China while they continue to be involved in weapons of proliferation, said Senator Majority Leader TRENT LOTT.

It goes on.

> Administration officials have countered that they were merely continuing the policy of satellite exports initiated by Presidents Reagan and Bush and that the satellites were exported under procedures that protected American technology.

Then the last sentence says,

> The Loral controversy is now the subject of congressional investigations.

Oh, all right. So we are talking about satellites here. Listen to the wording. You end up thinking that we are talking about a satellite controversy. And if you listen to the President or his paid spokesmen or his unpaid spokesmen or the spin masters, one thinks the issue is about satellites. And then it was pointed out that the Republicans, including Presidents Reagan and Bush and, by the way, including yours truly, Members of Congress like yours truly, suggested that U.S. satellites could be permitted to be launched on Chinese rockets. Thus if you listen to this and get confused enough by it, you believe that President Clinton is just acting consistently with everybody else and he is being unjustly attacked, that we are just out to get him and that everything is justified in what has happened and there is no grave danger.

> Reagan and Bush approved it, so forget it. Go to sleep. Have a good night's rest. Don't even ask any questions about it.

No, I am afraid that is not it. When the deception brigade starts talking about satellites, keep telling yourself, no, this is not accurate, these people are not concerned about satellites, that is not what they are upset about. In reality the core issue is not satellites. The core issue that people are upset about is the upgrading of Chinese Communist missiles. Let me repeat that. The upgrading of Communist Chinese missiles that can launch nuclear weapons at the United States and upgrading the Communist Chinese missiles puts millions of Americans at risk who would not otherwise have been at risk. All the others trying to talk to you about the satellite deal and the rest are doing their best to confuse the issue. Remember, when they talk about it, to tell yourself that. We are concerned about warheads landing in our country and incinerating our neighborhoods and with the incredible, just incredible thought that this could be happening and made more likely to happen with the use of American technology developed for our own defense.

The decision to let American satellites be launched on Chinese rockets may or may not have been a good idea. At the time of Reagan and Bush, they had strict enforcement provisions to ensure that there was no transfer of technology. The Chinese would not even gain any information from that. However, that was also at the time of before Tiananmen Square when China was evolving toward a more democratic society. The fact is that that may or may not have been a good decision, but that is not what is being called into question. Because no one who decided that those American satellites could be launched, no one believed that it was at all permissible and it would ever justify the upgrading of Chinese rockets. No one ever believed that. No one believed that the military capabilities of these rockets and missiles would ever be changed. This idea that we had some

knowledge of that or Reagan or Bush thought that that could happen is absurd. I believe that what we have got here is a Chinese nuclear weapons delivery system that has been made more efficient with the use of American technology. Is that enough? Is that not enough? So let us not confuse it by talking about satellites. Even though we did not think that could ever happen, it apparently happened.

We also know that some Federal watchdogs, Federal employees that were watching out for our security, they were minimalized during this whole situation. They were not permitted to do their job by pressure from on top. We also know that when an attempt was made to prosecute Loral for illegally transferring this technology, for upgrading this Communist Chinese missile, that President Clinton, against the advice of his own Justice Department, personally signed a waiver that he was warned would undermine any prosecution of Loral. In effect he was signing a retroactive permission for this deadly weapons of mass destruction technology and know-how to be given to the Communist Chinese. It is all a bit mind-boggling. There will soon be a House Select Committee to investigate the issue. It will be chaired by the gentleman from California (Mr. COX), a man of impeccable credentials and character. Each and every American is now in greater danger from Communist Chinese missiles and our defenders in military uniforms will find their lives in greater jeopardy.

We should, and this will be true if we ever, ever confront the Chinese if they become belligerent, this is something that makes the magnitude of the investigation of the gentleman from California (Mr. COX) many degrees more important to our country than any of the other charges that have ever been leveled at President Clinton. But let us not overlook that the upgrading of Communist Chinese nuclear weapons and delivery systems is just the most significant of the betrayals of our country's national interest in this administration's dealings with Communist China.

Businessmen, blinded by the prospects of fast megabucks, have been manipulated and used by the Communist Chinese over and over again. Not only Chinese rockets but a widening arsenal of high tech weapons have been provided to the Communist Chinese. These high tech weapons and the machines needed to build those weapons are now in the hands of the Chinese. We are upgrading their entire arsenal one way or the other. Economic cooperation with the Communist Chinese made sense at one time because the Communist Chinese were loosening their grip. It looked like the country might evolve. But that was reversed 10 years ago in the bloody action that took place in Tiananmen Square. That was almost 10 years ago exactly. The country had been seeming to move toward freedom. However, since that Tiananmen Square massacre, China has been sinking deeper into the vice grip of gangsters and thugs who are responsible for more tyranny, more terror, more human rights abuses, more belligerence than ever before. Even as they have broken promise after promise on their weapons of mass destruction program and even as they have transferred technology to other dangerous nations, this administration continues to lavish favors on its buddies in Beijing.

For the past 2 months, this administration has been suggesting that President Clinton would be proposing a, quote, strategic partnership and even more aerospace technology deals with this regime during his upcoming visit in Beijing. It was also leaked to the press that the President might even propose a greater cooperation in space efforts. When I heard the administration official at the International Relations Committee call for a strategic partnership, I could not help but ask, Against whom? Who are we going to have this strategic partnership against? Against India that has a democratically elected government? Against Taiwan with a democratically elected government? Against South Korea with a democratically elected government? Thailand with a democratically elected government? The Philippines with a democratically elected government? Or how about Japan with a democratically elected government?

We are going to have a strategic partnership with the one massive Communist dictatorship in a region filled with democracies? Give me a break. And then the administration official said,

> Well, partnership doesn't mean you're against anyone.

I said,

> Well, what does the word strategic mean if it doesn't mean you're putting yourself in juxtaposition with someone else and it has something to do with a military and economic power?

We should not be in a strategic partnership with a bloody Communist dictatorship. We should be encouraging people to invest in the democracies of the area instead of giving them an unequal trade relationship and subsidizing our businessmen when they want to do business in those areas. We should be directing them to the Philippines that are struggling for democracy, or some other country. If we are going to direct them anywhere, it should be to a democratic country. But not to a dictatorship where if a union person wants to form a union, he is thrown in jail or he is sent to the gulag, their laogai which is the equivalent of the gulag and worked to death so that they can export products here without any unions and without any labor legislation and without any dignity and without any ability to complain, without any ability to change your job, without any ability to worship God or have a day off.

□ 2245

So this administration wants to have a strategic partnership with that kind of regime.

So this looks a little bit, what we see happening and seen happening looks a little bit like parallel to what happened and was described in Gerry Aldrich's book, "Unlimited Access." The standards have broken down. This administration has blurred the lines, have violated the standards right from the beginning, the standards of being right and wrong, of good and evil, of democracy versus tyranny, of patriotism versus globalism. The standards have been broken down.

Unlimited access; there is unlimited access to the White House and unlimited access to American technology, and one cannot, and we must recognize, and this is what we are seeing right now, one cannot give up one's standards, one cannot give up time-honored principles without paying a serious price. And today we are increasingly in jeopardy. American national security has been undermined by political leadership without principles, and of course businessmen are blinded by the dream of a fast buck in the so-called China market. And we have been put in jeopardy because we have left our principles behind.

This fantasy of this fast buck in the Chinese market has made idiots out of executives who should have known better. There are cases, the McDonnell-Douglas fire sale and transfer of defense machine toolery to China, where much of it landed in this weapons factory. Motorola built a computer chip factory there, and now there are these chips being used. Guess where? Guess what we found the latest? The latest we found Motorola chips in land mines that have been built by the Chinese and put all over Southeast Asia. In Cambodia we have a U.S. Army team trying to deactivate some of those mines, and they found out that the new mines were blowing up, and they were killing the people who were trying to diffuse them. And why were they blowing up? Because these were different kinds of mines. These were smart mines, and when they finally got them open, what did they find out? They were smart mines; they were killing the people who tried to diffuse them. They were designed that way because they have a computer chip inside these mines, a computer chip made that came from a factory, a Motorola factory that had been built by Motorola in Communist China.

Is that what we want? And is that making people in the United States, are the workers at Motorola any better

because we built that factory over there? Nobody is any better, nobody is any better.

What about airplane wings? They are now being manufactured for transport planes. They were supposed to be, you know, for civilian aircraft. Yes, in order to have a deal to sell more airplanes, we set up the factory to build the airplane fuselages and their wings. And guess what? Now that factory is producing wings and fuselages for cruise missiles and Chinese fighters that will be sent against American forces if we ever have to confront them in the Taiwan Straits again.

American military personnel put at risk. We closed our eyes against even as Israel has transferred war technology, and AWACs technology was sent over there as well as other sophisticated radar communications gear has been sent by Israel to the Communist Chinese. We have closed our eyes to that.

Over and over again we see our technology paid for by billions of dollars just for our own security, and the American people believed we should give our military a qualitative edge so we would not have to fight, we could deter war. Like the C–17; the C–17 was developed for what? To give our military the most efficient and reliable military transport plane in the world, and now they are talking about turning it into a civilian model and selling it to the Communist Chinese. Of course the civilian model will be painted in pastels rather than that military green.

It is absurd. We did not develop the C–17 with all its incredible capacity to fight a war in order to help the Chinese Army move into Tibet, to destroy the Tibetan people, or to fight the Muslims in the far reaches of their country or to put down Christians in some part of their country. We did not do that. We did not build a C–17 for that. We built the C–17 to transport our own military in the defense of our country, and we were willing to put the research and development into that plane.

It is not just the C–17, but all of these equipment that we are talking about, all of this gear that we are talking about. We invested in it willingly. The American taxpayers did this because it would give us the edge to preserve our precious freedom, and we wanted our defenders to have that qualitative advantage so they could win and come home safely.

Well, today these weapons are being handed over for nothing, for nothing, to the Communist Chinese, and nothing maybe perhaps except for campaign contributions, some political campaign contribution. We will never get to the bottom of that. I wonder where all those Buddhist monks who gave those $5,000 contributions in that Buddhist monastery, where did they get that $5,000 from? They were impoverished Buddhist monks. They did not get it themselves. Where did it come from? We will never find that out.

We permitted an unfair trade relationship to provide Communist China with $50 billion in hard surplus and hard currency and their trade surplus to purchase high-tech weapons and tools and machines needed to produce these weapons. At a tiny fraction they are getting them of the cost that we invested in those weapons and those machines in the first place. They are getting the weapons at a bargain-basement rate, and the taxpayers are ending up through the Export-Import Bank financing some of these sales, some of the sales from manufacturing units. And what are the Communist Chinese—this is practically giving them this technology that will put us in danger and endanger the lives, endanger the lives of our military personnel if there is ever a confrontation with this bloody and belligerent Communist regime.

I think this is a scandal of monumental importance.

America's future is at stake. Our young people will live in a dangerous world, and what will they think when they learn that we made it more dangerous because we provided the world's most dangerous military power with weapons as well as tools and machines to produce their own tools and their own weapons. What will they think? And what will America's military personnel think when they find that their fellows and their brothers and sisters at arms are being wiped out and being torn apart, I mean blown out of the sky with weapons that were perfected by U.S. technology?

The 40 pieces of silver in the pockets of our corporate leaders will not just weigh upon their consciousness and their consciences if we let this happen, because it will not be just the corporate elite who is at fault, although they must bear the burden of making immoral decisions as well and decisions that hurt our country. But we ourselves will have to bear some of that responsibility. We ourselves will have to bear that responsibility if we do not put a stop to this, because today we are aware of the erosion of our national security, and if we do nothing to stop it, we must bear some of the blame.

We cannot afford to surrender the future of our country, the future of peace, forfeit the survival and freedom of America's next generation. It is impossible that the Chinese military could attack the United States; is that right? It is impossible; that is, we have heard that. It is not going to be impossible. Let me tell you in the future it will not be impossible for them to attack the United States.

We could confront, we could confront the Chinese in the Taiwan Straits a few years ago when they were launching the rockets across Taiwan trying to intimidate them. We confronted them with our aircraft carriers, confident that the aircraft carriers could defend themselves, all those thousands of our sailors on those carriers, and confident that our homeland would not be attacked by atomic bombs and missiles launched from the mainland of China. That is not true anymore, and every day what we are seeing is our American technology is making not true, and, if we have to confront them in the future, we will be doing so at great risk and perhaps lose thousands of our military peoples' lives.

In 1996, a Chinese publication, in a Chinese publication, a major general of the Chinese, in fact, it was the vice commander of the Academy of Military Services in Beijing, was quoted as saying, and I quote:

> As for the United States, for a relatively long time it will be absolutely necessary that we quietly nurse our sense of vengeance. We must conceal our abilities and bide our time.

End of quote.

They are biding their time. They are biding their time until we are vulnerable.

Finally, if a decade from now a crazed or power-hungry Chinese general even by mistake or perhaps unintentionally or even intentionally launches a missile attack on the United States, perhaps it will be just one rocket or maybe two, but they launch it over toward our country, millions of our people will be incinerated. The horror of it, and it is unthinkable, and if that happens at that ghastly time, we will have to remember that President Clinton opposed developing a missile defense system, and even worse, we may remember that the upgrades of those Communist Chinese missiles happened with American technology under President Clinton's watch. We cannot defend ourselves, and we have given the technology to kill us.

50TH BIRTHDAY OF THE STATE OF ISRAEL

The SPEAKER pro tempore (Mr. GIBBONS). Under the Speaker's announced policy of January 7, 1997, the gentleman from New York (Mr. OWENS) is recognized for 32 minutes, approximately one-half the time remaining until midnight.

Mr. OWENS. Mr. Speaker, I hoped to have a complete hour, but was going to be divided in two parts anyhow. One part I wanted to utilize to congratulate the State of Israel on its 50th birthday. I wanted to do that some time ago, but it has been very difficult to get time on special orders recently. So I am a little late, but it is still the year of the celebration of the 50th birthday of the State of Israel, so I think that it is appropriate that I make these remarks. And I want to make the remarks in the

spirit of comparison of Israel with many other nations and draw some lessons from the conduct of the leadership of Israel.

Second part of my presentation I wanted to deal with leadership in the United States as compared to leadership of Israel and other parts of the world on the vital issue of education, and I hope that I will be able to do that. I know the rules are that I cannot do that if the majority Representatives show up to claim the last 30 minutes. But I do hope to have the time to do that. If not, I will settle for just using the first 30 minutes to discuss the birthday of Israel and the significance of that in this modern world.

Mr. Speaker, I want to wish Israel a happy birthday and state that it is 50 years old, and among nations that is really an infancy, it is an infant nation. You know, the United States is 222 years old, and we are considered quite a young Nation at 222 years. Israel at 50 years is an infant nation.

But Israel is not alone. There are a lot of new nations in the world nowadays. There are many nations that are younger than Israel, and it is very interesting to compare some of the nations about the age of Israel, some of the nations that are younger than Israel, and some of the nations that are much older than Israel and look at the performance.

Israel has done a great deal. The leadership of Israel is to be congratulated on the achievements that they have accomplished in the 50 years of the State of Israel's existence. It is a tribute to leadership, and by leadership I do mean large numbers of people, not just the prime ministers and the Cabinet ministers. Israel has had layers and layers of leadership. As we say in basketball or football, the bench; they have a lot of people on the bench whose names you never know among the civil servants and the deputies and the assistants across a broad range of agencies and activities developing policies to maintain civility, a balanced civic life in the nation. At the same time for the entire existence of Israel, they have been under pressure and fighting for survival.

□ 2300

So I salute that leadership and want to talk about leadership. Sir Arthur Lewis, who was a Jamaican and shared a Nobel Prize in economics with a colleague of his, sir Arthur Lewis's major theme in his book on developing nations was that the key was leadership. The key was not natural resources. The key was not location, geographic location. The developing nations prospered and advanced in accordance with the leadership that they had, and that was the critical item.

If you look at the recently established nations, nations who received their independence even after Israel, you see a pattern where if natural resources and geographical location was a determining factor, they should be much further along than Israel.

For example, if you look at Nigeria, and I think of Nigeria because Nigeria is in the news today, Nigeria's strongman ruler, the dictator who has been in the position for 5 years, but they have had a lot of other military dictators, he died today. Sani Abacha died, and I do not care to comment on his death or his life. I certainly do not think it is the time to launch a critical analysis of his regime, but I would like to say that he leaves nothing behind that we can be proud of in history. He leaves a record of a sovereign predator who used his enormous powers, and we can see nothing good that came of his great use and abuse of his enormous powers.

Nigeria is a country blessed with natural resources. Nigeria is a country blessed with the particular natural resource which guarantees wealth. Nigeria has not only fantastic oil deposits, but they have a type of oil which is much sought after all over the world. So Nigeria has had oil wells pumping for a long time, and if natural resources alone could determine the faith of a developing nation, Nigeria would be among the leaders of the developing nations.

Nigeria is 37 years old. It was granted its independence by the United Kingdom October 1, 1960, so it is 37 years old. Israel is a little older, May 14, 1948. But Israel has no oil, no uranium, no gold, no great deposits of diamonds. Natural resources certainly do not exist in any significant abundance in Israel, so they did not have that boost.

Nigeria is 37 years old, and its oil wealth has been squandered by its leadership. The oil wealth has not been utilized to really build a prosperous country. It is a large country, more than 100 million people. It is the most densely populated country on the African continent. It has more population and more people. It is not the largest in size, but it has more people, 100 million. South Africa, has many fewer people, less than 30 million people. Nigeria has 100 million. But it has vast land resources and many other natural resources, but oil is the key, because it is the cash crop, the generator of cash in hard currency. The cash that can buy anything you want anywhere in the world, Nigeria had that. But it has all been squandered by the leadership of Nigeria.

The leadership of Israel is a great contrast. Having no natural resources, the only oil well Israel ever had was the oil wells in the Sinai Peninsula, and they developed the oil there while they were occupying the peninsula, and then they gave it up. The leadership decided at a critical moment that in order to make peace with Egypt, that they would agree to surrender the oil wells in the Sinai Peninsula. So their very short period of wealth by oil was ended.

So the leadership of Israel stands out even more when you take a look at the nature of the land that they occupied. It is land that had been given as desert, where nothing great was going to happen there, certainly nothing in the area of agriculture and self-sustaining food production. Yet they transformed that land into an agricultural giant. They became an agricultural giant, not only for production of food in the Middle East, but they exported large amounts of food to Europe.

At one point, agriculture was their major industry. It is no longer the major industry in Israel. Agriculture is not the major industry. High-tech industries, high technology industries based on brain power and the development of complex industrial operations to take advantage of the knowledge that is produced in the Israeli educational system and other parts of the world, because Israel does benefit from the fact that the leadership is drawn from a diverse group of people who came from all over the world.

The diversity in their leadership probably explains some of the reason it has been so effective. They have a great deal of wisdom they bring as a result of years and years of the Jewish people, centuries of the Jewish people suffering, but they also have a knowledge of all the cultures in the world. People came to Israel from all parts of the world. So Israel is a premier example of what great leadership can do. Nobody else has accomplished this.

No other Nation can say in 50 years they have accomplished as much as Israel. It is basically a self-sufficient society at this point, as much as any society is. Even the great United States of America, we depend on export markets and various other things, where if they were to collapse in other parts of the world, it would have an impact on us here also. So nobody is totally self-sufficient, but in 50 years Israel is about as self-sufficient as a Nation can become. Yes, they receive large amounts of aid from other countries, particularly from the United States, but they have made good use of that aid.

Let us examine the age of some of the other countries that are in existence now. One of the youngest, probably the youngest, is South Africa. I do not know of any country that has come into existence since South Africa reestablished itself May 10, 1994. So South Africa, the new South Africa, the democratic South Africa, the South Africa where all of its people, black and white, are allowed to participate in its government, is only four years old. So it is among the youngest.

The Congo is 37 years old. The new Congo that came into existence after the Belgians were forced to give it up is

37 years old. Most of that time it has been under one leader, the leader was installed after the death of Patrice Lumumba. He, of course, recently died also, and there was a whole new leadership that has taken over.

But since then the Congo, with the vast natural resources, vast wealth, huge land mass, the Congo is an impoverished country right now. It can barely feed its own people. It cannot even feed its own people. All of the potential that exists there in terms of its wealth and its minerals, tin and diamonds, very few things you do not have in terms of natural resources are there that do not exist in the Congo. Yet the Congo is a miserable place. The leadership of Mobuto established by the CIA, the Central Intelligence Agency, helped to over throw the Lumumba government and install Mobuto, and Mobuto reigned for many, many years with the help of the CIA and aid from this country, and he did nothing but pilfering the country. He was a sovereign predator with all of the power, and he did nothing but make himself and his cronies wealthy.

Some countries that came into existence recently include Guyana here in this hemisphere. Guyana is 32 years old. Jamaica is 35 years old. Trinidad is 35 years old. I remember being quite happy when the independence was granted to Trinidad and Jamaica and Guyana and Grenada, because in my Congressional district, you have large numbers of people from all of these countries. The West Indian population outside of the West Indies, the greatest concentration is in the 11th Congressional District in Brooklyn.

□ 2310

So I have experienced the joy of independence with all of these different groups. I also experienced the sadness that set in as a result of the various problems that each one of these nations has experienced. They have varying degrees of success in this hemisphere. But, generally, it is not a good picture when you look at the economics of these various nations.

Trinidad and Tobago have a great deal of oil. They had tremendous oil resources. They still have substantial oil resources. They were not utilized properly. The leadership did not utilize that wealth properly in the early days of independence.

If Trinidad and Tobago had made some decisions about utilizing their wealth to build a first class education system, if they had educated their populace and prepared for the complexities of this century and the kinds of economies that we have now, they might have done what they did in Bangalore, India, begun to develop a large pool of people who are educated in the area of computer science.

Bangalore, India is considered the computer programming capital of the world, because they have this tremendous pool of people, young people constantly being produced from their education system who are computer experts. Many American companies send their computer work over there by contract.

When they import professionals, people in the computer industry, into this country, they come from Bangalore, India in large numbers. In fact, there is an issue right now on the table concerning the new American Competitiveness Act which was passed by the Senate.

That act provides for us to solve our problems in terms of the shortage of personnel in the information technology industry by bringing in foreign experts, foreign computer workers, information technology workers. The greatest percentage of those workers would come from India.

Right now, there is a dispute because some people are wondering how can we have an American Competitiveness Act which is designed to make us more competitive by relying on outside workers to come in? Why do we not train our own workers? Why do we not build up our capacity here and make certain that large cities, the big cities, inner cities with large numbers with unemployed people, train the people who are able to take these jobs, and we would have the resource here in the Nation.

One fallacy of relying on outsiders is we are building the capacity of countries like India to create their own nuclear bombs and their own nuclear weapons. Many of the Indians that helped to create the nuclear bomb which was exploded recently and for which they have endured sanctions from our government and indignation from the rest of the world, many of those experts were trained right here in this country. They were trained here.

As you train more and more, you bring them in to work here, and you pay them, you are increasing the pool of people who come from India to be able to do that kind of thing.

I am not going to single out Indians and say we should not import more computer workers and information technology workers from India and discriminate against them, import them from other countries instead, I am saying we should not be importing them from anywhere because we have the potential pool right here.

The failure of leadership, to get back to my concern tonight, the failure of leadership in places like Trinidad, Jamaica, Guyana, Grenada, the failure to invest more in their own education systems places them outside the possibility of the realm of being able to have workers come from their countries with the same expertise as the workers who are trained in India or some other central European countries that will be soon exporting workers to this country, instead of us developing our own.

The answer to the problems is to develop our own. But if you are not doing that, this is an opportunity that the countries of this hemisphere had, but I do not think it is going to be there much longer.

So we have some countries that are younger than the Nation of Israel, and some have done very poorly in terms of their years of existence and foundations they have laid. I think Israel is to be congratulated for having done far better than the Soviet Union, which came into existence in December 1922.

Russia, Ukraine, a number of countries that made up the Soviet, existed long before the Soviet Union. The Soviet Union was 75 years old when it died. The Soviet Union is no more. It is dead. That is very interesting. Modern nations can die. Modern nations. A superpower we have watched die.

So Israel is not invulnerable. It will not go on forever. It is always going to need what they have now, and that is excellent leadership.

At 50 years, Israel is much further along than the United States was at 50 years. At 50 years, we had endured some pressure from the outside. We had to fight for survival. There were a number of different challenges to the new Nation. Of course we came into existence only after fighting a war with Great Britain. This new Nation was struggling along.

Thanks to Thomas Jefferson, we have doubled our size on to his presidency. When he died, the Nation was 50 years old. When John Adams died, the Nation was 50 years old. Thomas Jefferson, John Adams, James Madison, James Monroe, they all left a legacy which guaranteed that the Nation was strong enough to resist the greatest challenge that it faced in the 1800s when civil war erupted and the Nation had to fight for its life.

If we had had two nations resulting from the Civil War, history would be very different, I assure you. So we have had, after our first 50 years, we were much further along when the greatest challenge that the nations ever faced came along; that is, the Civil War.

Israel is not immune to some new catastrophe. They have suffered one catastrophe after another, one challenge after another, one war after another where everybody who is not familiar with the Israelis themselves counted them out and said they will never survive.

They were attacked from all sides at one time before they made peace with Egypt. Then they were attacked even after that later on, and they are under constant pressure.

If you take a look at the physical nature of Israel, you can understand why they are always at risk. Israel looms very large in the minds of most of us

because of the fact that they play a major role in terms of war and peace and the world. They have a large population in this country that, of course, keeps us very much aware of the problems of Israel and the achievements of Israel. So it looms large in our minds.

But when you go to Israel, the first shock that I had when I landed at the airport was that it is a very tiny country. You really begin to feel how tiny it is when you land at the airport in Israel.

I began immediately to feel it, even before we started traveling around the country and found that the country's dimensions physically are astounding. It is so tiny in that it is hard to conceive of the fact that its total area is 20,770 square kilometers. But you cannot really envision that.

Stop and think about the State of New Jersey. The State of New Jersey, which too many New Yorkers think of as sort of a suburb of New York, the State of New Jersey is a State in itself, but Israel is smaller than the State of New Jersey.

As of July 1997, you were talking about a population of 5,534,000. That is a great increase. When I first went to Israel in 1983, the population was about 3 million. So they have a great increase in population by bringing in groups from all over. But it is still only 5,534,000.

They occupy a very tiny strip of land. The width of Israel is a very narrow waist. Of course the length also is very short. The preoccupation of the Israeli leadership with land is very easy to understand. They have taken the little land that they have, and they have transformed it. The greening of the desert is discussed often.

□ 2320

They have used their knowhow, their ingenuity, to make good use of all the land available. But when it comes to their defense in military terms, the fact that it is so easy to penetrate with even short-range rockets or short-range artillery gives the Israelis a well-understood concern always about their survival in terms of land.

But the leadership, despite all these problems, has maintained itself, and everybody knows the military machine that the Israelis were able to build was a remarkable one, indeed. They have earned high praise for that.

But most people do not understand how at the same time the Israelis were under such military pressure, they have built a nation with a strong education system, they have built a nation with institutions of culture, they have built a nation that has a great deal of compassion and humanity.

In the midst of all their troubles, the Israelis rescued 40,000 black Jews, Ethiopian Jews, from Ethiopia and brought them into Israel. In the midst of all their troubles they made special provision for black Jews from Ethiopia. The Israeli leadership decided to undertake this very difficult job of assimilating people who have a different skin color.

They were not stupid. They knew very well that in the modern world color is very important, and that it is a new kind of problem. When I visited Israel the last time, I visited a school called Yemin Ord, where half of the 500 students there were Ethiopian. They deliberately reached out to bring in the Ethiopian youngsters in this village school setting.

They have tremendous achievements there. The Ethiopians have come from a pastoral society, and have been able over a short period of time to rise to the level and the challenge of Israeli education. The graduates from that school who were Ethiopian performed at an equal level to the other graduates from that school.

Since then, they have had some difficulties. We have had some headlines about Ethiopians rioting in the streets of Tel Aviv, and being very upset about the fact that some bigoted people in the Israeli blood supply system separated their blood out and threw it away without telling them because they thought there was something wrong with their blood, and some other incidents have taken place.

So they have had, as a result of reaching out to the black Jews of Ethiopia and recognizing that they were Jews, first of all, and color had to be secondary, they have had some special problems. The Israeli leadership is to be congratulated for taking on those problems with all the other problems that they have.

If I had to call names, of course, and I do want to call some names, David Ben-Gurion, the first Prime Minister of Israel; Golda Meir, the American schoolteacher who went to Israel and became Prime Minister; Menachem Begin.

Menachem Begin was labeled by the British as a terrorist, and he was in that sense a terrorist. He led the violent uprisings which helped to force a critical situation which led to the creation of the State of Israel.

Yitzhak Rabin and Shimon Perez. It is interesting that Begin and Yitzhak Rabin were both military people, they were coordinators of violence. They were successful generals and successful commanders of violent activities, of wartime activities, military activities. But Menachem Begin and Yitzhak Rabin were the greatest peacemakers of Israel. Men who have faced war and understood war were the ones who understood the necessity for peace.

Menachem Begin invited Anwar Sadat to come from Cairo to Israel and open the doorway to the peace agreement which Jimmy Carter presided over, and led to an agreement with Egypt and Israel which in many ways has done more for the security of Israel than any other action taken by the leadership of Israel since its existence.

They eliminated one front. They eliminated their largest and most effective enemy, Egypt, by negotiating peace at the proper time. They gave up some oil wells, some real estate that was very popular with the Israeli population. They gave up a lot, but they got peace and security as a result. Menachem Begin, Yitzhak Rabin.

Shimon Perez was very interesting individual, in the background for a large part of his life. If one person can be credited with building the Israeli military machine in terms of the equipment and the organization of it, and even the creation of the Israeli Air Force, and the creation of the series of activities which probably led to Israel developing a nuclear weapon of their own, and I cannot document this and nobody admits it, but certainly the Air Force and the military machine of Israel was built mostly through the ingenuity and leadership of Shimon Perez, who operated behind the scenes and never fully got the credit. It is important that there are unnamed Israelis that we will never know who helped to make Israel what it is.

Leadership means more than the people on top. The leadership in Nigeria, the leadership in Trinidad and Jamaica, et cetera, the problem often is that the leadership is too scarce. There is only one layer of leadership, and that layer of leadership, if they have errors and faults, there is nobody to balance them off. There are no people to criticize them.

Leadership in a nation means that you have to have newspaper editors, judges. The whole set of modern functionaries have to be present, and they have to sort of play off each other and keep each other in line, and you create something which, by trial and error, becomes a stable Nation.

The absence of this kind of leadership in most of the nations that have been newly formed is a serious shortcoming. If there is any remedy for underdeveloped nations or developing nations that we ought to look at, it ought to be some way to give them more and more aid to create more and more leaders. That means that education in other developing nations ought to take priority.

There are some nations which are pitiful. Somalia destroyed itself completely. Somalia is 37 years old, but they have completely destroyed themselves. There is no Nation of Somalia anymore. There is something on the map. They have no government at all, it is completely gone.

This is a nation where most of the people are of African descent. This is a nation where most of the people speak the same language, most are the same religion. We cannot understand quite what happened to Somalia, but because of faction fighting, they destroyed

themselves completely. Israel exists because they have been able to deal with each other. They have had this pool of leadership drawn from all over the world. They have been able to compromise and negotiate when necessary.

There are some very serious problems internally within the Nation now. At 50 years old, its existence is not guaranteed, I assure the Members, but certainly when we think of the pressure on the Jewish populations of Europe, which is part of what helped to create Israel, the man who created those pressures, Adolph Hitler, said that the Third Reich would reign for a thousand years. The third Reich is gone, it is no more, but Israel is very much alive with a lot of promise for growth in the future.

I salute the State of Israel on the occasion of its 50th birthday. The Jewish people have defied numerous catastrophes and they have survived for thousands of years. Now Israel has become a harvesting place for all of these centuries of suffering and the wisdom accumulated from that suffering. Happy birthday to the State of Israel.

Mr. Speaker, if the majority is not here, I would like to claim the other 30 minutes that is left for the second portion of my presentation.

The SPEAKER pro tempore (Mr. GIBBONS). The time of the gentleman from New York (Mr. OWENS) has expired. In the absence of a member of the majority party, the gentleman from New York (Mr. OWENS) is recognized for the remainder of his hour.

Mr. OWENS. Mr. Speaker, I want to talk about leadership again. The theme of leadership now shifts to the United States. It shifts to the Congress of the United States.

Last week on Friday we voted the majority budget into existence. That majority budget completely ignored a major need of this Nation. This Nation needs to reform its education system. At the heart of that reform process is a need for the construction of new schools.

In the Republican budget there are no funds allocated for the construction of new schools. In fact, the Republican budget represents an attack on education. They are going to wipe out Title I programs as we know them, and they will proceed to turn the dollars for Title I into vouchers.

They are going to completely ignore the major problems. The problems have been clearly delineated by the President, who started with his State of the Union Address delineating the problem of the schools, when he said we need $22 billion for the construction of new schools. That is his program. I wish we had a more direct way to deal with the problem of the schools, and not through a loan program.

□ 2330

He offers a $22 billion loan program where States and localities may borrow the money and the Federal Government would pay the interest. So they are interest-free loans. That is better than nothing, of course. It is significantly better than nothing. But I wish we would dedicate some portion of the funds that we have at the Federal level to the building of schools, grants outright to schools, especially in the inner-city communities and the rural communities where schools are in atrocious condition.

All over America, in the inner cities in the suburbs, and in the rural areas, we are beginning to find these schools that are 75, 85 and 100 years old. They need repairs at least. Many of them need extensive renovations. Then we find many situations where we need totally new schools and they are just not there. The Federal Government should take leadership and this Congress should take leadership.

We are facing a situation at this point where there is going to be a budget surplus of no less than $50 billion. No matter how they play with the numbers, there will be no less than $50 billion more in revenue collected than there will be expenditures. So with a surplus of $50 billion, now is the time. We have a window of opportunity to act and deal with the most pressing needs of our school systems.

Education reform needs a lot of different things, but what it needs most is the basics such as classrooms and safe schools; safe schools and classrooms in those schools which will allow us to then move to the President's second point.

His second point is that we need to use Federal resources to fund more teachers and decrease the student-teacher ratio so that teachers do not have so many students to teach, especially in the early years.

That makes a lot of sense and the education pedagogy, the surveys and studies, everything supports the fact that we would get a more effective and more efficient school system if in the early grades we had classrooms that are smaller; probably even in later grades too, but start with the early grades.

The President's proposal to provide Federal aid to reduce the number of children per class is the next step and it is very sensible, but it cannot take place in areas like New York City. Even if we had the money for more teachers, there is no place to put the classes. We have to have more classrooms if we are going to make use of the money for smaller classes.

The State of New York, the legislature, recently passed legislation which guarantees that in 5 years, every child will have a right to a pre-kindergarten education. Pre-kindergarten education will be universal in 5 years in New York, theoretically. Theoretically, it is going to be done. The money will be available for the State to fund a large part of it. But if we do not have the classrooms, and in the places where we do not have the classrooms like New York City, where are we going to put the pre-kindergarten kids when we have situations where we cannot take care of children who are already there?

We have situations like PS–161. And I had a group of students from PS–161 visit me last week. It is a great school, and I had been there to visit their school about a month ago. I was very much impressed with their school. Their school has been cited nationally. Even Diane Ravitch, who has very little positive to say about inner-city schools, cited this school as being an excellent school. Diane Ravitch is a former assistant secretary for OERI, the Office of Education Research and Improvement.

PS–161 is located about seven blocks from my district office on Crown Street in Brooklyn. PS–161 has a school building that was built for 500 students. They now have almost a thousand. They have twice as many students than they were built to hold. PS–161 has a coal-burning furnace. The school still has a furnace that burns coal, not only polluting the air around the school, but polluting the internal school building.

We cannot have coal-burning furnaces and not have coal dust escape. The first house I ever owned had a coal-burning furnace. I got a bargain because of that. No matter what filters we put in there or what steps we took, some of the coal dust escaped in the house. And after a while one can see the coal dust settling around.

Mr. Speaker, if a child sits in a school with a coal-burning furnace, and an old one at that because these premises are 50 years old or older, and the walls of the cellar and the walls in the area around the furnace, all of those are problem areas, the chimneys are problem areas, I assure my colleagues that if a child sits there for 6 years, day after day, year after year, his lungs will receive enough coal dust to affect his health in some way. They may never know.

But as I told the PS–161 students who came to visit me, they achieve despite it all. They are high achievers in reading and high achievers in math scores, among the highest in the city. They achieve no matter, despite all of this. But I hate to see one of those young people so gifted, and they are not necessarily gifted, but so well educated. They are normal children. They do not pick and choose them. They are not picked for gifted and talented attributes. They are just normal children. Most of them are poor. Ninety-five percent of the PS–161 students are eligible for school lunches. They are eligible for the school lunch program, which means they are poor. They are coming from low-income families. Nevertheless, they achieve at a very high rate despite it all.

I would hate to see one of those high-achieving students have their life cut short or their career made difficult because they develop aggravated asthma later in their teen or early college years. I would hate to see one of their lives cut short because they have lung cancer because they have sat in a building provided by the city fathers and the Board of Education that was unsafe.

We cannot control the environment that poor children come from. We do not have enough humanity yet to make certain that every child gets three meals a day and has a decent place to stay, and food, clothing, and shelter. We do not have that kind of society yet. But certainly when a child goes to school they ought to expect to have a safe place, a place free of harm to study, not a place which is a danger to their health.

So the coal-burning school, PS–161, is an abomination. The fact that we have 285 such schools in New York, out of 1,100 schools in New York, 285 have coal-burning furnaces. That is an abomination. That is cruel and inhuman treatment to children.

On top of that we add the fact that these same children are in a school that is overcrowded, so that some of them have to eat lunch at 10 o'clock in the morning. At PS–161 where despite it all they perform brilliantly, they have an excellent principal and they have teachers who care, somehow the reading scores, the math scores, any barometer we utilize shows that they are given an excellent education. But they are subjected to force feeding at 10 in the morning. To make a child eat lunch at 10 in the morning is a cruel and inhuman treatment. Some have to eat later on at 1 and 2 o'clock, and they are hungry. That is cruel also.

That has to happen, they tell me, because the lunchroom is not big enough to accommodate all the students. After all, the school was built for 500 students and it is accommodating almost twice that number.

If PS–161 was by itself, I would not be here today discussing this. But this is the rule, the pattern almost, in certain areas of the city. All of the schools have a problem that forces them to have very early lunches and very late lunches. Most of the schools have some problem there. Some are as bad as PS–161, and they have children eating lunch at 9:45 or 10 o'clock in the morning.

□ 2340

In PS–161, they have a very tiny library room, but it was filled with eager youngsters. They even have put in two sections where they have a ring of computers where the youngsters can practice on computers. The principal himself went out and begged and borrowed and got the money together, it did not come in the budget. Whatever has to happen he makes happen there.

He has a skilled staff that he keeps there because they like working there. Some of his teachers come in from the suburbs where they pay more money, and they could get jobs in the suburbs as teachers. They come there because they like what they are doing. They are in an environment with great leadership, to keep the theme of leadership going, because the principal is a great leader. They get things accomplished.

But in that library, they pack one on top of the other. The kids sit one next to the other. They can barely turn the page. But as a mark of what is happening in that school, you do not hear a single sound in terms of children complaining about not being able to turn the page because they are so close to one student, right next to another. They work; they read. They achieve despite it all.

I am here to salute PS–161 and all the people involved, the principal, the teachers, parents. They have an after-school program where the parents run it. The parents finance it. It is amazing what they do at PS–161.

But why should the leadership of the school system in New York, the leadership at city hall, we have a $2 billion surplus. This year we have a $2 billion surplus projected in the city budget. None of that has been proposed as a way to get rid of some of the coal-burning furnaces. At the State level we have more than a $2 billion surplus projected.

The Governor vetoed a bill recently which would have given $500 million to help alleviate the worst conditions in school buildings. So I cannot complain only about the Republican majority here in this body. We have a situation in our State and our city which shows that there is no compassion. The leadership wants to subject the children to cruel and inhumane treatment.

We have an American Competitiveness Act that is going to be on the floor soon, where the Senate has said the only way we can get the people we need for information technology, the only way we can meet the problem of Y–2000, you heard of that, where our computers are going to go wild, lots of things are going to happen if we do not get those computers changed which cannot deal with the year 2000. There is a mad race on behind the scenes to deal with the year 2000. We cannot get the people to do it. We do not have the personnel.

One of the reasons we are going outside the country to get personnel is because we are confronting that problem. But there is an ongoing need for information technology workers; 300,000 vacancies exist right now in the information technology industry. The Department of Labor projects that over the next 5 or 10 years we will have 1.5 million vacancies in the information technology industry, because they do not see the colleges and universities and the other places which produce these information technology workers, they do not have the capacity, they do not have the students in there now. Unless something radical happens, we are not going to be able to take care of those positions.

We have the American Competitiveness Act. If ever there was a misnamed piece of legislation, it is the American Competitiveness Act, which the House will be acting on soon, which calls for the importation of an extra 30,000 people in the category of professionals. We are going to lessen the quota in some other areas for immigrants and increase the quota for professionals in order to deal with this problem; 30,000 more in the first year and over a period of 2 or 3 years, 20,000 each year more.

Many of them are going to come from Bangalore, India. There is a special company over there which sends us large numbers, the same company that sends large numbers of Indian workers here for our information technology industry, that same company also has a large number of contracts to work on the Indian nuclear weapons. As I said before, you have a circle there where we are training people who can make the bombs, which we deplore, the proliferation of nuclear weapons.

So we have a problem of leadership in America. We have a problem with leadership in this House. There is no compassion for poor children out there who need the help of the Federal Government.

The Federal Government cannot do it all, but if we make the first step, we take the first step, we can push the States and the cities to use some of their surplus or more of their surplus or, if not the surplus, to find a way to meet us somewhere. Somebody has to have the compassion to see that you are putting children at risk in unsafe and dilapidated buildings.

I have not covered all of the hazards. Some of the schools still have lead pipes that are unhealthy. Some schools have lead paint. Some of the schools have top floors where there is deterioration as a result of too many leaks, and there are so many problems with the leaking that they cannot find it anymore. The walls are just caving in.

I am sure that this is not unique to New York. Other big cities and rural areas have similar problems with respect to defectiveness of school buildings. I want to salute the United Federation of Teachers, the affiliate of the American Federation of Teachers in New York. They took the case to court with respect to safety in school buildings, and they recently won a victory. A judge has ordered that all school buildings in New York have to be inspected for violations.

We inspect other buildings. Landlords are held to standards with respect to health and safety. But we have never had a situation where schools

have been held to the same standards. They have been exempt from inspections from the health or the buildings departments. The judge has now ordered that.

We remember what happened in Washington when they began to look at certain kinds of shortcomings in the schools. For 3 weeks they had to delay the opening of schools here in Washington, D.C., because roofs had to be repaired. We hope that we are going to confront this problem and really get down to admitting that we have a crisis and are subjecting children to a crisis.

We are endangering and injuring the national security of the United States. Our national security is now tied up with the degree to which we educate our population.

I am not going to belittle the need for a strong Air Force or a strong Navy, the need for the most effective modern weapons, but in addition to that and in order to keep that going, you need an educated population on a scale we have not yet recognized to keep everything going.

We have these surveys that have been done about the shortages of information technology workers in business. They only look at businesses. They surveyed businesses. They have not surveyed the nonprofit sector and their needs for information technology workers. They have not surveyed schools, which are trying to get going with more and more information technology, and they need personnel. When you look at all of the ways in which we are going to be utilizing information technology workers, the problem mushrooms. Our Nation's national security, our leadership economically, all is being jeopardized by the blind manner in which we insist on proceeding by not recognizing the importance of education.

The budget that has been submitted by the majority Republicans in this House does not recognize the educational crisis at all. It plays games with education. It is dangerous, the budget that has been submitted by this House.

We are ignoring a window of opportunity. We have a $50 billion surplus we can contemplate. And anybody who says that none of that surplus is going to be spent on anything but Social Security, that is a lie. That is a big lie, because we have left certain things undone. We have not fully funded the transportation bill, not fully funded the agriculture research bill. A number of places have not been fully funded.

You watch, as we go into the latter part of this session, we get to the last days of October, you watch them pull the rabbits out of a hat. You watch and understand that part of that $50 billion surplus is going to go toward meeting some of these needs, as it ought to. I am all in favor of some of the money being dedicated to Social Security.

When the President made his State of the Union address, we anticipated $8 billion. Certainly if you only had an $8 billion surplus, it should go to the Social Security contingency fund, rainy day fund. But if you have $50 billion, why not divide it the way that I propose. One-fourth of it can go to Social Security, $50 billion or more, one-fourth Social Security contingency fund. One-fourth should go to the reduction of taxes on people, families that earn $50,000 or less. And one-fourth should go to a direct grant system for school construction and repair and renovation and improvement. Another fourth should go to other education matters such as reduction of class sizes, the purchase of equipment, education technology.

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We can spend $50 billion in ways that would be an investment for national security. If you put it into education, it is an investment for national security, unlike any other expenditures. We are going to spend it on something, we might as well put on the table a discussion right now of how we are going to spend the $50 billion, how we are going to invest the $50 billion and not play games.

I put a statement in the RECORD on the budget where I said the following last week at the time of the discussion of the budget:

It is highly likely that there will be a budget surplus of no less than $50 billion for the coming budget year. For the first time in many decades, there will be a window of opportunity to make meaningful Federal investments in education. Unfortunately, the Federal share of the overall expenditures for education is merely 7 percent at present. This budget surplus offers an opportunity to bolster our national security by increasing the pool of brainpower to operate our increasingly complex society. I propose that the new budget surplus be divided in accordance with the priorities that I have just stated. This represents a worthy budget deal. Let us make a deal. Let the deal be on the table in respect to how we should spend the dollars, one-fourth for direct emergency for school funding, one-fourth for Social Security, one-fourth to reduce taxes for people at the bottom, and one-fourth for other education priorities. This represents a worthy budget deal which should immediately be placed on the table for discussion and debate. We need an open debate on the best use for the surplus. What American voters should fear most is a closed-door, smoke-filled room, a deal made in October with only representatives of the Republican-controlled appropriations committees and representatives from the White House present. There will be a compromise which will leave out very important, basic national security concerns, especially as they relate to education. School construction will be tossed aside in that kind of compromise. Let us talk about it. Let the American people hear the possibilities. Let the focus groups and the polling show us where they are and let the parties respond to that. The common sense of the American voters cannot go into play if they do not know what the issues are, if they do not know what the possibilities are. We have an option. We have a $50 billion plus option, a window of opportunity, and the public ought to know about it. A multibillion dollar deal is going to be made. Let this deal be done in the sunshine. Let us do a deal for the children of America.

Start acting real.
Right now do a democratic deal.
Do this magic surplus deal.
Upfront right away.
Chase infected cynics
Off the political highway.
Make humane rules.
Build safe schools.
Start acting real.
Right now do the deal.
Sunshine is now okay.
Act fast in the light of day.
Invest it the people's way.
Stop pushing the no touch lie.
In four pieces cut the pie.
Start acting real.
Right now do the deal.
Vote for children's justice fast.
Make up for the stupid past.
The budget is on keen keel.
Upfront right away.
Do this magic surplus deal.

Do the deal now. Let us not have a situation similar to the one we had in 1990 when they all went to the White House under George Bush and the leadership of the Congress and they made a deal that was not in the best interests of the American people. At that time I wrote a piece called the Budget Summit where I said:

In the great white D.C. mansion
There's a meeting of the mob.
And the question on the table is
Which beggars will they rob?
There's a meeting of the mob.
Now, I'll never get a job.
All the gents will make a deal.
And the poor have no appeal.
There's a meeting of the mob.

It is still relevant. I do not want the mob to meet at the White House or any appropriations room and decide behind the scenes how to use the surplus without the input of Members of Congress. We all get elected, the same number of constituents in the districts. We should all have input. The American people should have an input. The columnists and the analysts, everybody should have an input. They should not suddenly wake up and find the deal is done and is done badly, we have used the money in ways that are really not consistent with what voters think are the priorities. Education is an ongoing priority.

Within the education priority, there is no priority more important than construction. Safe schools, safe schools where students can study safely and in peace and with the necessary equipment and supplies. They should come first. In our national security, nothing is more important than education. We have a window of opportunity. We need the leadership in this House, we need the leadership in this city, in Washington, leadership that understands this. Nations rise and fall on the basis of their leadership.

As I said before, superpowers can fall, too. The Soviet Union died at age 75 because its leadership was just not responsive. Its leadership closed its circle. They would not listen to anybody from the outside. They would not even let the outsiders know what they were deciding.

Nothing is worse than going into the backroom and making a deal without the input of the American people. Nothing is more anti-democratic. Nothing is more destructive. We need leadership. We are a great Nation. We are called, as President Clinton said, the indispensable Nation. We have a pivotal set of decisionmakers in this pivotal Nation. This year is a pivotal time of decision-making. Let us make decisions that are in the interest of the children of America.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. RUSH (at the request of Mr. GEPHARDT) for today, on account of business in the district.

Mr. DEUTSCH (at the request of Mr. GEPHARDT) for today, on account of personal reasons.

Mr. FARR of California (at the request of Mr. GEPHARDT) for today and the balance of the week, on account of official business.

Mr. SAM JOHNSON of Texas (at the request of Mr. ARMEY) for today, on account of attending a funeral.

Mr. HOUGHTON (at the request of Mr. ARMEY) for today and until 6 p.m. on Wednesday, on account of family illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PALLONE!) TO REVISE AND EXTEND THEIR REMARKS AND INCLUDE EXTRANEOUS MATERIAL:)

Mr. CONYERS, for 5 minutes, today.

Mr. UNDERWOOD, for 5 minutes, today.

Mrs. CAPPS, for 5 minutes, today.

Mr. GOODE, for 5 minutes, today.

Mr. SHERMAN, for 5 minutes, today.

Ms. MILLENDER-MCDONALD, for 5 minutes, today.

Ms. JACKSON-LEE OF TEXAS, for 5 minutes, today.

Mrs. MALONEY OF NEW YORK, FOR 5 MINUTES, TODAY.

(The following Members (at the request of Mr. FOX of Pennsylvania) to revise and extend their remarks and include extraneous material:)

Mr. RIGGS, for 5 minutes, on June 10.

Mr. METCALF, for 5 minutes, today.

Mr. BURTON of Indiana, for 5 minutes, today.

Mrs. LINDA SMITH of Washington, for 5 minutes each day, on June 10 and 11.

Mr. SCARBOROUGH, for 5 minutes, today.

Mr. FOX of Pennsylvania, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Member (at her own request) and to include extraneous material notwithstanding the fact that it exceeds two pages and is estimated by the Public Printer to cost $1,172.00:)

Mrs. MALONEY of New York.

(The following Members (at the request of Mr. PALLONE) and to include extraneous matter:)

Mr. MCGOVERN.
Mr. KIND.
Mr. SKELTON.
Mr. SHERMAN.
Mr. HAMILTON.
Ms. NORTON.
Ms. ESHOO.
Mr. SCHUMER.
Mr. BROWN of California.
Mrs. MALONEY of New York.
Mr. BERMAN.
Ms. FURSE.
Mr. BARRETT of Wisconsin.
Mrs. MEEK of Florida.
Mr. VISCLOSKY.
Mr. LANTOS.
Mr. ABERCROMBIE.

(The following Members (at the request of Mr. FOX of Pennsylvania) and to include extraneous matter:)

Mr. GILMAN.
Mr. DELAY.
Mr. BURTON of Indiana.
Mr. RADANOVICH.
Mr. DUNCAN.
Mr. MCKEAN.
Mrs. MORELLA.
Mr. WALSH.
Mr. PACKARD.
Mr. GINGRICH.
Mr. THOMAS.
Mr. NETHERCUTT.
Mr. COLLINS.

(The following Members (at the request of Mr. OWENS) and to include extraneous matter:)

Mr. BALLENGER.
Mr. UPTON.
Mr. HASTINGS of Florida.
Mr. CLYBURN.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 1150. An act to ensure that federally funded agricultural research, extension, and education address high-priority concerns with national or multistate significance, to reform, extend, and eliminate certain agricultural research programs, and for other purposes.

S. 1244. An act to amend title 11, United States Code, to protect certain charitable contributions, and for other purposes.

ADJOURNMENT

Mr. OWENS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 55 minutes p.m.), under its previous order, the House adjourned until tomorrow, Wednesday, June 10, 1998, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

9529. A letter from the Manager, Federal Crop Insurance Corporation, Department of Agriculture, transmitting the Department's final rule—Peanut Crop Insurance Regulations; and Common Crop Insurance Regulations, Peanut Crop Insurance Provisions (RIN: 0563-AA85) received June 4, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9530. A communication from the President of the United States, transmitting his requests for FY 1999 budget amendments totaling $294 million for programs that are designed to strengthen our ability to deter and respond to terrorist incidents involving the use of biological or chemical weapons, pursuant to 31 U.S.C. 1107; (H. Doc. No. 105—270); to the Committee on Appropriations and ordered to be printed.

9531. A letter from the Deputy Secretary of Defense, transmitting a report entitled "Report to Congress on the Use of the DoD Laboratory Revitalization Demonstration Program," pursuant to Public Law 104-106; to the Committee on National Security.

9532. A letter from the Assistant to the Board, Board of Governors of the Federal Reserve System, transmitting the Board's final rule—Leverage Capital Standards: Tier 1 Leverage Ratio [Regulation Y; Docket No. R-0948] received June 2, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

9533. A letter from the Director, Regulations Policy and Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers [Docket No. 87F-0162] received June 1, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9534. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

9535. A letter from the Director of Congressional Affairs, Central Intelligence Agency, transmitting reports on uncontrolled treaty-limited equipment, pursuant to section 2,

paragraph 5(e) of the Resolution of Ratification of the CFE Flank Document; to the Committee on International Relations.

9536. A letter from the Secretary of Commerce, transmitting the semiannual report on the activities of the Inspector General for the period ending March 31, 1998, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

9537. A letter from the Secretary of Education, transmitting the semiannual report to Congress of the Inspector General of the Department of Education for the period October 1, 1997, through March 31, 1998, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

9538. A letter from the Secretary of Transportation, transmitting the semiannual report of the Inspector General for the period ending March 31, 1998, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

9539. A letter from the Interim District of Columbia Auditor, District of Columbia, transmitting a copy of a report entitled "Reveiw of the Financial and Administrative Activities of the Boxing And Wrestling Commission For Fiscal Years 1996 and 1997," pursuant to D.C. Code section 47—117(d); to the Committee on Government Reform and Oversight.

9540. A letter from the Chairman, District of Columbia Financial Responsibility and Managment Assistance Authority, transmitting the Financial Plan and Budget for the District of Columbia for Fiscal Year 1999, pursuant to D.C. Code section 1–732 and 1–734(a)(1)(A); to the Committee on Government Reform and Oversight.

9541. A letter from the Secretary of the Treasury, transmitting the Department's fiscal year 1997 financial report on the Treasury Forfeiture Fund, pursuant to Public Law 102–393, section 638(b)(1) (106 Stat. 1783); to the Committee on Government Reform and Oversight.

9542. A letter from the Acting Comptroller General, General Accounting Office, transmitting a monthly listing of new investigations, audits, and evaluations; to the Committee on Government Reform and Oversight.

9543. A letter from the Chairman, Consumer Product Safety Commission, transmitting the report from the Acting Inspector General covering the activities of his office for the period of October 1, 1997 through March 31, 1998, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

9544. A letter from the Chairman, Federal Trade Commission, transmitting the semiannual report of final actions of the Office of Inspector General for the period ending March 31, 1998, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

9545. A letter from the Chairman, National Credit Union Administration, transmitting the semiannual report on the activities of the Office of Inspector General for the period October 1, 1997 through March 31, 1998, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

9546. A letter from the Director, Office of Personnel Management, transmitting the Office's final rule—Reduction In Force Retreat Right (RIN: 3206–AG77) received June 4, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

9547. A letter from the Secretary of Labor, transmitting the semiannual reports of the Pension Benefit Guaranty Corporation and the Office of Inspector General for the period October 1, 1997 through March 31, 1998, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

9548. A letter from the Commissioner, Social Security Administration, transmitting the semiannual report on the activities of the Office of Inspector General for the period October 1, 1997 through March 31, 1998, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

9549. A letter from the Director, United States Information Agency, transmitting the semiannual report on activities of the Inspector General for the period October 1, 1997 through March 31, 1998, also the Management Report for the same period, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

9550. A letter from the Chairman, United States International Trade Commission, transmitting the semiannual report on the activities of the Office of Inspector General for the period October 1, 1997 through March 31, 1998, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

9551. A letter from the Assistant Secretary, Land and Minerals Management, Department of the Interior, transmitting the Department's final rule—Blowout Preventer (BOP) Testing Requirements for Drilling and Completion Operations (RIN: 1010–AC37) received June 4, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9552. A letter from the Assistant Secretary for Indian Affairs, Department of the Interior, transmitting a proposed plan related to the use and distribution of the judgement awarded to the Little River Band of Ottawa Indians in Docket Nos. 18–E, 58 and 364, before the Indian Claims Commission, pursuant to 25 U.S.C. 1403 (b); to the Committee on Resources.

9553. A letter from the Deputy Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Shrimp Fishery of the Gulf of Mexico; Data Collection [Docket No. 980513127–8127–01; I.D. 050598A] (RIN: 0648–AL15) received June 2, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9554. A letter from the Assistant Administrator, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Regional Nonindigenous Species Research and Outreach and Improved Methods for Ballast Water Treatment and Management: Request for Proposals for 1998 [Docket No. 980415097–8097–01] (RIN: 0648–ZA40) received June 4, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9555. A letter from the Deputy Assistant Administrator For Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Community Development Quota Program [Docket No. 970703166–8129–03; I.D. 060997A] (RIN: 0648–AH65) received June 4, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9556. A letter from the Assistant Secretary of Commerce and Commissioner of Patents and Trademarks, Department of Commerce, transmitting the Department's final rule—Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Disclosures [Docket No: 960828235–8109–02] (RIN: 0651–AA88) received May 26, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

9557. A letter from the Assistant Secretary and Commissioner of Patents and Trademarks, Department of Commerce, transmitting the Department's final rule—Revision of Patent Cooperation Treaty Application Procedure [Docket No.: 980511124–8124–01] received May 26, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

9558. A letter from the Acting Assistant Attorney General, Department of Justice, transmitting the Department's prison impact assessment (PIA) report for 1996 and 1997, pursuant to 18 U.S.C. 4047(c); to the Committee on the Judiciary.

9559. A letter from the Director, National Legislative Commission, The American Legion, transmitting a copy of the Legion's financial statements as of December 31, 1997, pursuant to 36 U.S.C. 1101(4) and 1103; to the Committee on the Judiciary.

9560. A letter from the Secretary of Health and Human Services, transmitting the Department's "Major" final rule—Medicare Program; Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 1998 Rates [HCFA–1878–F, formerly BPD–878] (RIN: 0938–AH55) received May 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9561. A letter from the Acting Deputy Secretary, Department of Housing And Urban Development, transmitting three new reports on the HUD 2020 Management Reform Plan; jointly to the Committees on Banking and Financial Services and Government Reform and Oversight.

9562. A letter from the Director, Corporate Audits and Standards, General Accounting Office, transmitting a report of their opinion on the financial statements of the Congressional Award Foundation for the fiscal years ended September 30, 1997 and 1996; jointly to the Committees on Government Reform and Oversight and Education and the Workforce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. YOUNG of Alaska: Committee on Resources. H.R. 3069. A bill to extend the Advisory Council on California Indian Policy to allow the Advisory Council to advise Congress on the implementation of the proposals and recommendations of the Advisory Council (Rept. 105–571). Referred to the Committee of the Whole House on the State of the Union.

Mr. HASTINGS of Washington: Committee on Rules. House Resolution 461. Resolution providing for consideration of the bill (H.R. 2888) to amend the Fair Labor Standards Act of 1938 to exempt from the minimum wage recordkeeping and overtime compensation requirements certain specialized employees (Rept. 105–572). Referred to the House Calendar.

Mr. LINDER: Committee on Rules. House Resolution 462. Resolution providing for consideration of the bill (H.R. 3150) to amend title 11 of the United States Code, and for other purposes (Rept. 105–573). Referred to the House Calendar.

Mr. SENSENBRENNER: Committee on Science. H.R. 3824. A bill amending the Fastener Quality Act to exempt from its coverage certain fasteners approved by the Federal Aviation Administration for use in aircraft: with an amendment (Rept. 105–574 Pt. 1). Referred to the Committee of the Whole House on the State of the Union.

DISCHARGE OF COMMITTEE

Pursuant to clause 5 of rule X the Committee on Commerce discharged from further consideration. H.R. 3824 referred to the Committee of the Whole House on the State of the Union.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

H.R. 3824. Referral to the Committee on Commerce extended for a period ending not later than June 9, 1998.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of Rule X and clause 4 of Rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. STUMP (for himself and Mr. EVANS):

H.R. 4016. A bill to amend title 38, United States Code, to make permanent the eligibility of former members of the Selected Reserve for veterans housing loans; to the Committee on Veterans' Affairs.

By Mr. DAN SCHAEFER of Colorado (for himself and Mr. HALL of Texas):

H.R. 4017. A bill to extend certain programs under the Energy Policy and Conservation Act and the Energy Conservation and Production Act, and for other purposes; to the Committee on Commerce.

By Mr. BLUMENAUER (for himself, Mr. NEAL of Massachusetts, Mr. BALDACCI, Mr. MCGOVERN, Mr. FATTAH, Mr. FALEOMAVAEGA, Mrs. MORELLA, Ms. FURSE, and Mr. DEFAZIO):

H.R. 4018. A bill to identify the current levels of savings and costs to telecommunications carriers as a result of the enactment of the Telecommunications Act of 1996, to require accurate billing by telecommunications carriers with respect to the costs and fees resulting from the enactment of the Telecommunications Act of 1996, and for other purposes; to the Committee on Commerce.

By Mr. CANADY of Florida (for himself and Mr. NADLER):

H.R. 4019. A bill to protect religious liberty; to the Committee on the Judiciary.

By Mr. GUTIERREZ (for himself, Mr. BECERRA, and Mr. MENENDEZ):

H.R. 4020. A bill to amend the Nicaraguan Adjustment and Central American Relief Act to eliminate the requirement that spouses and children of aliens eligible for adjustment of status under such Act be nationals of Nicaragua or Cuba; to the Committee on the Judiciary.

By Mr. HASTINGS of Washington:

H.R. 4021. A bill to provide for the exchange of certain land in the State of Washington; to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. NETHERCUTT (for himself, Mr. RYUN, Mr. LEACH, Mr. MORAN of Kansas, Mr. CRAPO, Mr. HASTINGS of Washington, Mr. BOEHNER, Mr. NUSSLE, Mr. STUMP, Mr. GUTKNECHT, Mr. SKEEN, Mr. BONILLA, Mr. CUNNINGHAM, Mr. WALSH, Mr. COMBEST, Mr. DICKEY, Mr. GRAHAM, Mr. LAHOOD, Mr. WAMP, Mr. CHAMBLISS, Mr. DEAL of Georgia, Mr. NORWOOD, Mr. POMEROY, Mr. HORN, Mr. KINGSTON, Mr. BARRETT of Nebraska, Mr. DOOLEY of California, Mr. HILL, Mr. HASTERT, Mr. SESSIONS, Mr. BEREUTER, Mr. LATHAM, Mrs. LINDA SMITH of Washington, and Mr. WHITE):

H.R. 4022. A bill to amend the Arms Export Control Act to provide that certain sanctions provisions relating to prohibitions on credit, credit guarantees, or other financial assistance not apply with respect to programs of the Department of Agriculture for the purchase or other provision of food or other agricultural commodities; to the Committee on International Relations.

By Mr. THOMAS:

H.R. 4023. A bill to provide for the conveyance of the Forest Service property in Kern County, California, in exchange for county lands suitable for inclusion in Sequoia National Forest; to the Committee on Resources, and in addition to the Committees on Commerce, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WHITFIELD:

H.R. 4024. A bill to amend the Federal Food, Drug, and Cosmetic Act relating to the distribution chain of prescription drugs; to the Committee on Commerce.

By Mr. BACHUS (for himself, Mr. LEACH, Mr. MCCOLLUM, Mr. BEREUTER, Mr. HINCHEY, Mr. SANDERS, Mrs. THURMAN, Mr. SOLOMON, Mr. CLEMENT, Mr. SHAW, Ms. KILPATRICK, Mr. JONES, Mr. OXLEY, Mr. KLUG, Mr. TAUZIN, Mr. BLUNT, Mr. TRAFICANT, Mr. DAN SCHAEFER of Colorado, Mr. NETHERCUTT, Mr. KUCINICH, Mr. WHITFIELD, Mrs. FOWLER, Mr. FORBES, and Mr. CASTLE):

H. Con. Res. 288. Concurrent resolution expressing the sense of the Congress that the United States should support the efforts of Federal law enforcement agents engaged in investigation and prosecution of money laundering associated with Mexican financial institutions; to the Committee on the Judiciary.

By Mr. PACKARD (for himself, Mr. BONILLA, Mr. HOYER, Mr. LINDER, Mr. NORWOOD, and Mr. PORTER):

H. Con. Res. 289. Concurrent resolution recognizing the 50th anniversary of the National Institute of Dental Research; to the Committee on Commerce.

By Mr. SOLOMON:

H. Res. 463. A resolution to establish the Select Committee on U.S. National Security and Military/Commercial Concerns With the People's Republic of China; to the Committee on Rules.

By Ms. NORTON:

H. Res. 464. A resolution amending the Rules of the House of Representatives to provide a vote in the Committee of the Whole to the Delegate to the House from the District of Columbia; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

334. The SPEAKER presented a memorial of the Senate of the State of Michigan, relative to Senate Resolution No. 171 memorializing the Congress of the United States to enact legislation to abolish the Internal Revenue Code by December 31, 2001, and replace it with a new method of taxation; to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 40: Mr. CUMMINGS.
H.R. 96: Mr. PICKERING.
H.R. 192: Mrs. BONO.
H.R. 303: Mr. HAYWORTH.
H.R. 306: Mrs. CAPPS.
H.R. 616: Mr. MATSUI.
H.R. 766: Ms. PELOSI.
H.R. 814: Mrs. CAPPS.
H.R. 864: Mrs. THURMAN, Mr. CRAMER, Mr. BRADY of Pennsylvania, Mr. GREENWOOD, and Mr. BONIOR.
H.R. 880: Mr. HILLEARY.
H.R. 979: Mr. PALLONE, Mr. LAMPSON, Mr. HAMILTON, Mr. SKEEN, and Mr. ROTHMAN.
H.R. 1009: Mr. RYUN.
H.R. 1061: Mr. QUINN.
H.R. 1126: Ms. ROS-LEHTINEN, Mr. MICA, Mr. MCKEON, Mr. MCCRERY, Mr. LEACH, and Mrs. ROUKEMA.
H.R. 1165: Mrs. MORELLA.
H.R. 1166: Mr. LAFALCE.
H.R. 1290: Mr. BURR of North Carolina.
H.R. 1301: Mr. DELAHUNT and Mr. DIXON.
H.R. 1354: Mr. PICKERING.
H.R. 1378: Mr. BEREUTER and Mr. SMITH of Oregon.
H.R. 1452: Ms. MILLENDER-MCDONALD.
H.R. 1715: Mr. LEACH and Mr. SHAYS.
H.R. 1766: Mrs. BONO, Mr. BRYANT, Mr. EDWARDS, Mr. INGLIS of South Carolina, Mr. MCGOVERN, and Mr. PRICE of North Carolina.
H.R. 1863: Mr. PICKERING.
H.R. 1995: Mr. HUTCHINSON, Mr. KINGSTON, Mrs. CUBIN, Mr. HOUGHTON, Mr. SISISKY, Mr. OBERSTAR, Mr. SKAGGS, and Mr. GORDON.
H.R. 2023: Ms. JACKSON-LEE.
H.R. 2094: Mr. ABERCROMBIE.
H.R. 2409: Mr. ANDREWS.
H.R. 2504: Mr. KENNEDY of Rhode Island.
H.R. 2524: Mr. MATSUI and Mr. MORAN of Virginia.
H.R. 2541: Mr. WOLF.
H.R. 2568: Mr. JENKINS.
H.R. 2613: Mr. HINOJOSA, Mr. BAKER, Mr. SANDERS, Mr. STRICKLAND, Ms. HOOLEY of Oregon, Mr. HASTINGS of Florida, Mr. DELAHUNT, Mr. BOUCHER, Mr. DEFAZIO, Mr. SKEEN, and Mr. STUPAK.
H.R. 2701: Mr. LAFALCE.
H.R. 2804: Mr. BONIOR and Mr. DELAHUNT.
H.R. 2828: Mr. JACKSON.
H.R. 2923: Mr. ROTHMAN and Ms. ESHOO.
H.R. 2931: Ms. PELOSI.
H.R. 2938: Mr. SNOWBARGER.
H.R. 2995: Mr. BALDACCI, Mr. DOOLEY of California, and Mr. CLEMENT.
H.R. 2998: Mr. DAVIS of Illinois.
H.R. 3081: Ms. FURSE and Mr. TOWNS.
H.R. 3107: Mr. NORWOOD.

H.R. 3110: Mr. KOLBE, Mr. HALL of Ohio, Mr. BLAGOJEVICH, and Mr. MASCARA.

H.R. 3125: Mrs. LOWEY.

H.R. 3139: Mr. LUTHER.

H.R. 3181: Mr. LAMPSON and Mr. DAVIS of Illinois.

H.R. 3205: Mr. CLEMENT, Ms. ROYBAL-ALLARD, and Mrs. CAPPS.

H.R. 3240: Mr. TORRES, Mr. UNDERWOOD, and Mr. ROMERO-BARCELO.

H.R. 3248: Mr. BARR of Georgia.

H.R. 3267: Mr. MARTINEZ.

H.R. 3293: Mr. THOMPSON.

H.R. 3304: Mr. HERGER and Mr. RAMSTAD.

H.R. 3320: Mr. POMEROY, Mr. COSTELLO, Mr. WYNN, Mr. LAFALCE, Mr. BROWN of Ohio, Ms. MCCARTHY of Missouri, Mrs. MCCARTHY of New York, and Mr. KILDEE.

H.R. 3396: Mr. CRAPO, Mr. KILDEE, and Ms. RIVERS.

H.R. 3459: Mr. BONIOR.

H.R. 3466: Mr. MORAN of Virginia, Mr. PALLONE, and Mr. DAVIS of Illinois.

H.R. 3514: Mr. FOX of Pennsylvania.

H.R. 3531: Mr. BALDACCI.

H.R. 3553: Mr. TOWNS, Mr. ENGEL, Mr. PASCRELL, Mr. CLAY, Mr. LAFALCE, Mr. MCGOVERN, and Mr. BERMAN.

H.R. 3572: Mr. MCNULTY, Mr. OXLEY, and Mrs. KELLY.

H.R. 3583: Mr. BRYANT.

H.R. 3598: Mr. STUMP, Mr. BRADY of Texas, Mr. DELAY, Mr. GREEN, Mr. GILLMOR, Mr. BENTSEN, Mr. FROST, Mr. ROMERO-BARCELO, Mr. TORRES, Mr. TURNER, Mr. SESSIONS, Mr. ARCHER, Ms. GRANGER, Mr. RODRIGUEZ, Mr. SMITH of Texas, Mr. THORNBERRY, Mr. ORTIZ, Mr. HINOJOSA, Mr. HALL of Texas, Ms. SÁNCHEZ, Mr. BONILLA, Mr. GONZALEZ, Mr. LAMPSON, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. DUNCAN, Mr. SKELTON, Mr. SPENCE, Mr. STENHOLM, Mr. SANDLIN, Mr. CLAY, Mr. PASTOR, Mr. SERRANO, Mrs. MINK of Hawaii, Mr. GUTIERREZ, and Mr. UNDERWOOD.

H.R. 3602: Mr. ENGLISH of Pennsylvania, Mr. MATSUI, and Mr. OXLEY.

H.R. 3610: Mr. NETHERCUTT, Mrs. JOHNSON of Connecticut, Mr. SISISKY, Mr. MEEHAN, Mr. RANGEL, Mr. KLUG, Mr. BALLENGER, Mr. DOYLE, Mr. SCHUMER, Ms. CARSON, Mr. CAMP, Mr. LAZIO of New York, Mr. ROTHMAN, and Mr. GOODLATTE.

H.R. 3636: Mr. WALSH, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. WEXLER, and Mr. BROWN of Ohio.

H.R. 3644: Mr. MCDERMOTT.

H.R. 3648: Mr. FOX of Pennsylvania.

H.R. 3652: Mr. MARTINEZ, Mr. FILNER, Mr. ORTIZ, Mr. SKAGGS, Mr. YATES, and Ms. BROWN of Florida.

H.R. 3662: Mr. CASTLE, Mr. EHRLICH, Mr. MCCOLLUM, Mrs. KELLY, Mr. COOK, Mr. METCALF, Mrs. ROUKEMA, Mr. SNOWBARGER, Mr. SESSIONS, Mr. FOLEY, Mr. CAMPBELL, Mrs. MALONEY of New York, Mr. SANDERS, Mr. REDMOND, Mr. HINCHEY, Mr. ACKERMAN, Mr. BENTSEN, Mr. BACHUS, Mr. MEEKS of New York, Mr. WEYGAND, Mr. KING of New York, Mr. ADAM SMITH of Washington, and Mr. LAFALCE.

H.R. 3725: Mr. TALENT.

H.R. 3747: Mr. CAMP and Mr. CASTLE.

H.R. 3751: Mr. GOODLATTE.

H.R. 3775: Mr. MORAN of Virginia.

H.R. 3779: Mr. DEFAZIO, Ms. DEGETTE, Mr. GEJDENSON, Ms. DELAURO, Mr. DOOLEY of California, Mr. HINCHEY, Mr. EVANS, Mr. JACKSON, Mr. BISHOP, Ms. FURSE, Mrs. MORELLA, Mr. BROWN of Ohio, Mr. LEACH, Mr. FRANK of Massachusetts, Mr. FROST, Mr. DAVIS of Virginia, Ms. LOFGREN, Mr. MCNULTY, Mr. COYNE, Mrs. TAUSCHER, Mr. MENENDEZ, Mr. LAMPSON, Mr. CLEMENT, Mr. GREEN, Mr. HORN, Mr. ENGEL, Mr. MCINTYRE, Mr. MALONEY of Connecticut, Mr. ACKERMAN, Mr. BAKER, Mr. SUNUNU, and Mr. BENTSEN.

H.R. 3792: Mr. BATEMAN and Mr. BARTLETT of Maryland.

H.R. 3795: Mrs. EMERSON.

H.R. 3855: Mr. NEY and Mr. GEJDENSON.

H.R. 3858: Mr. ENGLISH of Pennsylvania and Mr. NETHERCUTT.

H.R. 3862: Mr. FILNER, Mr. COSTELLO, Mr. SANDLIN, Mr. PAYNE, and Mr. OLVER.

H.R. 3875: Ms. ESHOO.

H.R. 3879: Mr. MANZULLO, Mr. PAUL, Mr. ROHRABACHER, and Mr. POMBO.

H.R. 3897: Mr. KENNEDY of Rhode Island.

H.R. 3938: Mr. ENGLISH of Pennsylvania and Mrs. NORTHUP.

H.R. 3948: Mr. MCINTYRE.

H.R. 3949: Ms. DANNER, Mr. LEWIS of Kentucky, Mr. TIAHRT, Mr. HAYWORTH, Mr. BALLENGER, Mrs. EMERSON, Mr. PETERSON of Pennsylvania, and Mr. SESSIONS.

H.R. 3968: Mr. DAVIS of Virginia.

H.R. 4007: Mr. LOBIONDO, Mr. LANTOS, Mr. SHERMAN, and Mr. DOYLE.

H. Con. Res. 125: Mr. SHERMAN.

H. Con. Res. 229: Mr. CRAMER and Mr. FRELINGHUYSEN.

H. Con. Res. 249: Mr. ROTHMAN, Mrs. EMERSON, and Mr. MCDERMOTT.

H. Con. Res. 267: Mr. CALVERT.

H. Res. 218: Mr. ADAM SMITH of Washington, Mr. PASCRELL, Mr. HOYER, Mrs. TAUSCHER, and Mr. ROTHMAN.

H. Res. 313: Ms. SLAUGHTER and Mrs. MALONEY of New York.

H. Res. 417: Mr. ADERHOLT.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

[Submitted June 5, 1998]

H.R. 1766: Mr. DOGGETT.

H. Con. Res. 240: Mr. DOGGETT.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2183

OFFERED BY: MR. GEKAS

AMENDMENT NO. 60: Insert after title III the following new title (and redesignate the succeeding provisions accordingly):

TITLE IV—TREATMENT OF REFUNDED DONATIONS

SEC. 401. DEPOSIT OF CERTAIN CONTRIBUTIONS AND DONATIONS IN TREASURY ACCOUNT.

(a) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by section 101, is further amended by adding at the end the following new section:

"TREATMENT OF CERTAIN CONTRIBUTIONS AND DONATIONS TO BE RETURNED TO DONORS

"SEC. 324. (a) TRANSFER TO COMMISSION.—

"(1) IN GENERAL.—Notwithstanding any other provision of this Act, if a political committee intends to return any contribution or donation given to the political committee, the committee shall transfer the contribution or donation to the Commission if—

"(A) the contribution or donation is in an amount equal to or greater than $500 (other than a contribution or donation returned within 60 days of receipt by the committee); or

"(B) the contribution or donation was made in violation of section 315, 316, 317, 319, or 320 (other than a contribution or donation returned within 30 days of receipt by the committee).

"(2) INFORMATION INCLUDED WITH TRANSFERRED CONTRIBUTION OR DONATION.—A political committee shall include with any contribution or donation transferred under paragraph (1)—

"(A) a request that the Commission return the contribution or donation to the person making the contribution or donation; and

"(B) information regarding the circumstances surrounding the making of the contribution or donation and any opinion of the political committee concerning whether the contribution or donation may have been made in violation of this Act.

"(3) ESTABLISHMENT OF ESCROW ACCOUNT.—

"(A) IN GENERAL.—The Commission shall establish a single interest-bearing escrow account for deposit of amounts transferred under paragraph (1).

"(B) DISPOSITION OF AMOUNTS RECEIVED.—On receiving an amount from a political committee under paragraph (1), the Commission shall—

"(i) deposit the amount in the escrow account established under subparagraph (A); and

"(ii) notify the Attorney General and the Commissioner of the Internal Revenue Service of the receipt of the amount from the political committee.

"(C) USE OF INTEREST TO COVER ADMINISTRATIVE COSTS.—Any interest earned on amounts in the escrow account established under subparagraph (A) shall be applied toward the administrative costs incurred by the Commission in establishing and administering the account, and any remaining interest shall be deposited in the general fund of the Treasury.

"(4) TREATMENT OF RETURNED CONTRIBUTION OR DONATION AS A COMPLAINT.—The transfer of any contribution or donation to the Commission under this section shall be treated as the filing of a complaint under section 309(a).

"(b) USE OF AMOUNTS PLACED IN ESCROW TO COVER FINES AND PENALTIES.—The Commission or the Attorney General may require any amount deposited in the escrow account under subsection (a)(3) to be applied toward the payment of any fine or penalty imposed under this Act or title 18, United States Code against the person making the contribution or donation.

"(c) RETURN OF CONTRIBUTION OR DONATION AFTER DEPOSIT IN ESCROW.—

"(1) IN GENERAL.—The Commission shall return a contribution or donation deposited in the escrow account under subsection (a)(3) to the person making the contribution or donation if—

"(A) within 180 days after the date the contribution or donation is transferred, the Commission has not made a determination under section 309(a)(2) that the Commission has reason to believe that the making of the contribution or donation was made in violation of this Act; or

"(B)(i) the contribution or donation will not be used to cover fines, penalties, or costs pursuant to subsection (b); or

"(ii) if the contribution or donation will be used for those purposes, that the amounts required for those purposes have been withdrawn from the escrow account and subtracted from the returnable contribution or donation.

"(2) NO EFFECT ON STATUS OF INVESTIGATION.—The return of a contribution or donation by the Commission under this subsection shall not be construed as having an effect on the status of an investigation by the Commission or the Attorney General of the contribution or donation or the circumstances surrounding the contribution or donation, or on the ability of the Commission or the Attorney General to take future actions with respect to the contribution or donation.".

(b) AMOUNTS USED TO DETERMINE AMOUNT OF PENALTY FOR VIOLATION.—Section 309(a) of such Act (2 U.S.C. 437g(a)) is amended by inserting after paragraph (9) the following new paragraph:

"(10) For purposes of determining the amount of a civil penalty imposed under this subsection for violations of section 324, the amount of the donation involved shall be treated as the amount of the contribution involved.".

(c) DONATION DEFINED.—Section 301 of such Act (2 U.S.C. 431) is amended by adding at the end the following:

"(20) The term 'donation' means a gift, subscription, loan, advance, or deposit of money or anything else of value made by any person to a national committee of a political party or a Senatorial or Congressional Campaign Committee of a national political party for any purpose, but does not include a contribution (as defined in paragraph (8)).".

(d) DISGORGEMENT AUTHORITY.—Section 309 of such Act (2 U.S.C. 437g) is amended by adding at the end the following new subsection:

"(e) Any conciliation agreement, civil action, or criminal action entered into or instituted under this section may require a person to forfeit to the Treasury any contribution, donation, or expenditure that is the subject of the agreement or action for transfer to the Commission for deposit in accordance with section 324.".

(e) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply to contributions or donations refunded on or after the date of the enactment of this Act, without regard to whether the Federal Election Commission or Attorney General has issued regulations to carry out section 324 of the Federal Election Campaign Act of 1971 (as added by subsection (a)) by such date.

H.R. 2183

OFFERED BY: MR. GEKAS

(To the Amendment Offered By: Mr. Campbell)

AMENDMENT NO. 61: Insert after title III the following new title (and redesignate the succeeding provisions accordingly):

TITLE IV—TREATMENT OF REFUNDED DONATIONS

SEC. 401. DEPOSIT OF CERTAIN CONTRIBUTIONS AND DONATIONS IN TREASURY ACCOUNT.

(a) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by section 301, is further amended by adding at the end the following new section:

"TREATMENT OF CERTAIN CONTRIBUTIONS AND DONATIONS TO BE RETURNED TO DONORS

"SEC. 324. (a) TRANSFER TO COMMISSION.—

"(1) IN GENERAL.—Notwithstanding any other provision of this Act, if a political committee intends to return any contribution or donation given to the political committee, the committee shall transfer the contribution or donation to the Commission if—

"(A) the contribution or donation is in an amount equal to or greater than $500 (other than a contribution or donation returned within 60 days of receipt by the committee); or

"(B) the contribution or donation was made in violation of section 315, 316, 317, 319, or 320 (other than a contribution or donation returned within 30 days of receipt by the committee).

"(2) INFORMATION INCLUDED WITH TRANSFERRED CONTRIBUTION OR DONATION.—A political committee shall include with any contribution or donation transferred under paragraph (1)—

"(A) a request that the Commission return the contribution or donation to the person making the contribution or donation; and

"(B) information regarding the circumstances surrounding the making of the contribution or donation and any opinion of the political committee concerning whether the contribution or donation may have been made in violation of this Act.

"(3) ESTABLISHMENT OF ESCROW ACCOUNT.—

"(A) IN GENERAL.—The Commission shall establish a single interest-bearing escrow account for deposit of amounts transferred under paragraph (1).

"(B) DISPOSITION OF AMOUNTS RECEIVED.—On receiving an amount from a political committee under paragraph (1), the Commission shall—

"(i) deposit the amount in the escrow account established under subparagraph (A); and

"(ii) notify the Attorney General and the Commissioner of the Internal Revenue Service of the receipt of the amount from the political committee.

"(C) USE OF INTEREST TO COVER ADMINISTRATIVE COSTS.—Any interest earned on amounts in the escrow account established under subparagraph (A) shall be applied toward the administrative costs incurred by the Commission in establishing and administering the account, and any remaining interest shall be deposited in the general fund of the Treasury.

"(4) TREATMENT OF RETURNED CONTRIBUTION OR DONATION AS A COMPLAINT.—The transfer of any contribution or donation to the Commission under this section shall be treated as the filing of a complaint under section 309(a).

"(b) USE OF AMOUNTS PLACED IN ESCROW TO COVER FINES AND PENALTIES.—The Commission or the Attorney General may require any amount deposited in the escrow account under subsection (a)(3) to be applied toward the payment of any fine or penalty imposed under this Act or title 18, United States Code against the person making the contribution or donation.

"(c) RETURN OF CONTRIBUTION OR DONATION AFTER DEPOSIT IN ESCROW.—

"(1) IN GENERAL.—The Commission shall return a contribution or donation deposited in the escrow account under subsection (a)(3) to the person making the contribution or donation if—

"(A) within 180 days after the date the contribution or donation is transferred, the Commission has not made a determination under section 309(a)(2) that the Commission has reason to believe that the making of the contribution or donation was made in violation of this Act; or

"(B)(i) the contribution or donation will not be used to cover fines, penalties, or costs pursuant to subsection (b); or

"(ii) if the contribution or donation will be used for those purposes, that the amounts required for those purposes have been withdrawn from the escrow account and subtracted from the returnable contribution or donation.

"(2) NO EFFECT ON STATUS OF INVESTIGATION.—The return of a contribution or donation by the Commission under this subsection shall not be construed as having an effect on the status of an investigation by the Commission or the Attorney General of the contribution or donation or the circumstances surrounding the contribution or donation, or on the ability of the Commission or the Attorney General to take future actions with respect to the contribution or donation.".

(b) AMOUNTS USED TO DETERMINE AMOUNT OF PENALTY FOR VIOLATION.—Section 309(a) of such Act (2 U.S.C. 437g(a)) is amended by inserting after paragraph (9) the following new paragraph:

"(10) For purposes of determining the amount of a civil penalty imposed under this subsection for violations of section 324, the amount of the donation involved shall be treated as the amount of the contribution involved.".

(c) DONATION DEFINED.—Section 301 of such Act (2 U.S.C. 431) is amended by adding at the end the following:

"(20) The term 'donation' means a gift, subscription, loan, advance, or deposit of money or anything else of value made by any person to a national committee of a political party or a Senatorial or Congressional Campaign Committee of a national political party for any purpose, but does not include a contribution (as defined in paragraph (8)).".

(d) DISGORGEMENT AUTHORITY.—Section 309 of such Act (2 U.S.C. 437g) is amended by adding at the end the following new subsection:

"(e) Any conciliation agreement, civil action, or criminal action entered into or instituted under this section may require a person to forfeit to the Treasury any contribution, donation, or expenditure that is the subject of the agreement or action for transfer to the Commission for deposit in accordance with section 324.".

(e) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply to contributions or donations refunded on or after the date of the enactment of this Act, without regard to whether the Federal Election Commission or Attorney General has issued regulations to carry out section 324 of the Federal Election Campaign Act of 1971 (as added by subsection (a)) by such date.

H.R. 2183

OFFERED BY: MR. GEKAS

(To the Amendment Offered By: Mr. Hutchinson or Mr. Allen)

AMENDMENT NO. 62: Insert after title III the following new title (and redesignate the succeeding provisions accordingly):

TITLE IV—TREATMENT OF REFUNDED DONATIONS

SEC. 401. DEPOSIT OF CERTAIN CONTRIBUTIONS AND DONATIONS IN TREASURY ACCOUNT.

(a) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by section 101, is further amended by adding at the end the following new section:

"TREATMENT OF CERTAIN CONTRIBUTIONS AND DONATIONS TO BE RETURNED TO DONORS

"SEC. 324. (a) TRANSFER TO COMMISSION.—

"(1) IN GENERAL.—Notwithstanding any other provision of this Act, if a political committee intends to return any contribution or donation given to the political committee, the committee shall transfer the contribution or donation to the Commission if—

"(A) the contribution or donation is in an amount equal to or greater than $500 (other than a contribution or donation returned within 60 days of receipt by the committee); or

"(B) the contribution or donation was made in violation of section 315, 316, 317, 319, or 320 (other than a contribution or donation returned within 30 days of receipt by the committee).

"(2) INFORMATION INCLUDED WITH TRANSFERRED CONTRIBUTION OR DONATION.—A political committee shall include with any contribution or donation transferred under paragraph (1)—

"(A) a request that the Commission return the contribution or donation to the person making the contribution or donation; and

"(B) information regarding the circumstances surrounding the making of the contribution or donation and any opinion of the political committee concerning whether the contribution or donation may have been made in violation of this Act.

"(3) ESTABLISHMENT OF ESCROW ACCOUNT.—

"(A) IN GENERAL.—The Commission shall establish a single interest-bearing escrow account for deposit of amounts transferred under paragraph (1).

"(B) DISPOSITION OF AMOUNTS RECEIVED.—On receiving an amount from a political committee under paragraph (1), the Commission shall—

"(i) deposit the amount in the escrow account established under subparagraph (A); and

"(ii) notify the Attorney General and the Commissioner of the Internal Revenue Service of the receipt of the amount from the political committee.

"(C) USE OF INTEREST TO COVER ADMINISTRATIVE COSTS.—Any interest earned on amounts in the escrow account established under subparagraph (A) shall be applied toward the administrative costs incurred by the Commission in establishing and administering the account, and any remaining interest shall be deposited in the general fund of the Treasury.

"(4) TREATMENT OF RETURNED CONTRIBUTION OR DONATION AS A COMPLAINT.—The transfer of any contribution or donation to the Commission under this section shall be treated as the filing of a complaint under section 309(a).

"(b) USE OF AMOUNTS PLACED IN ESCROW TO COVER FINES AND PENALTIES.—The Commission or the Attorney General may require any amount deposited in the escrow account under subsection (a)(3) to be applied toward the payment of any fine or penalty imposed under this Act or title 18, United States Code against the person making the contribution or donation.

"(c) RETURN OF CONTRIBUTION OR DONATION AFTER DEPOSIT IN ESCROW.—

"(1) IN GENERAL.—The Commission shall return a contribution or donation deposited in the escrow account under subsection (a)(3) to the person making the contribution or donation if—

"(A) within 180 days after the date the contribution or donation is transferred, the Commission has not made a determination under section 309(a)(2) that the Commission has reason to believe that the making of the contribution or donation was made in violation of this Act; or

"(B)(i) the contribution or donation will not be used to cover fines, penalties, or costs pursuant to subsection (b); or

"(ii) if the contribution or donation will be used for those purposes, that the amounts required for those purposes have been withdrawn from the escrow account and subtracted from the returnable contribution or donation.

"(2) NO EFFECT ON STATUS OF INVESTIGATION.—The return of a contribution or donation by the Commission under this subsection shall not be construed as having an effect on the status of an investigation by the Commission or the Attorney General of the contribution or donation or the circumstances surrounding the contribution or donation, or on the ability of the Commission or the Attorney General to take future actions with respect to the contribution or donation.".

(b) AMOUNTS USED TO DETERMINE AMOUNT OF PENALTY FOR VIOLATION.—Section 309(a) of such Act (2 U.S.C. 437g(a)) is amended by inserting after paragraph (9) the following new paragraph:

"(10) For purposes of determining the amount of a civil penalty imposed under this subsection for violations of section 324, the amount of the donation involved shall be treated as the amount of the contribution involved.".

(c) DONATION DEFINED.—Section 301 of such Act (2 U.S.C. 431) is amended by adding at the end the following:

"(20) The term 'donation' means a gift, subscription, loan, advance, or deposit of money or anything else of value made by any person to a national committee of a political party or a Senatorial or Congressional Campaign Committee of a national political party for any purpose, but does not include a contribution (as defined in paragraph (8)).".

(d) DISGORGEMENT AUTHORITY.—Section 309 of such Act (2 U.S.C. 437g) is amended by adding at the end the following new subsection:

"(e) Any conciliation agreement, civil action, or criminal action entered into or instituted under this section may require a person to forfeit to the Treasury any contribution, donation, or expenditure that is the subject of the agreement or action for transfer to the Commission for deposit in accordance with section 324.".

(e) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply to contributions or donations refunded on or after the date of the enactment of this Act, without regard to whether the Federal Election Commission or Attorney General has issued regulations to carry out section 324 of the Federal Election Campaign Act of 1971 (as added by subsection (a)) by such date.

H.R. 2183

OFFERED BY: MR. GEKAS

(To the Amendment Offered By: Mr. Bass)

AMENDMENT NO. 63: Add at the end of title V the following new section (and conform the table of contents accordingly):

SEC. 510. DEPOSIT OF CERTAIN CONTRIBUTIONS AND DONATIONS IN TREASURY ACCOUNT.

(a) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by sections 101, 401, and 507, is further amended by adding at the end the following new section:

"TREATMENT OF CERTAIN CONTRIBUTIONS AND DONATIONS TO BE RETURNED TO DONORS

"SEC. 326. (a) TRANSFER TO COMMISSION.—

"(1) IN GENERAL.—Notwithstanding any other provision of this Act, if a political committee intends to return any contribution or donation given to the political committee, the committee shall transfer the contribution or donation to the Commission if—

"(A) the contribution or donation is in an amount equal to or greater than $500 (other than a contribution or donation returned within 60 days of receipt by the committee); or

"(B) the contribution or donation was made in violation of section 315, 316, 317, 319, or 320 (other than a contribution or donation returned within 30 days of receipt by the committee).

"(2) INFORMATION INCLUDED WITH TRANSFERRED CONTRIBUTION OR DONATION.—A political committee shall include with any contribution or donation transferred under paragraph (1)—

"(A) a request that the Commission return the contribution or donation to the person making the contribution or donation; and

"(B) information regarding the circumstances surrounding the making of the contribution or donation and any opinion of the political committee concerning whether the contribution or donation may have been made in violation of this Act.

"(3) ESTABLISHMENT OF ESCROW ACCOUNT.—

"(A) IN GENERAL.—The Commission shall establish a single interest-bearing escrow account for deposit of amounts transferred under paragraph (1).

"(B) DISPOSITION OF AMOUNTS RECEIVED.—On receiving an amount from a political committee under paragraph (1), the Commission shall—

"(i) deposit the amount in the escrow account established under subparagraph (A); and

"(ii) notify the Attorney General and the Commissioner of the Internal Revenue Service of the receipt of the amount from the political committee.

"(C) USE OF INTEREST TO COVER ADMINISTRATIVE COSTS.—Any interest earned on amounts in the escrow account established under subparagraph (A) shall be applied toward the administrative costs incurred by the Commission in establishing and administering the account, and any remaining interest shall be deposited in the general fund of the Treasury.

"(4) TREATMENT OF RETURNED CONTRIBUTION OR DONATION AS A COMPLAINT.—The transfer of any contribution or donation to the Commission under this section shall be treated as the filing of a complaint under section 309(a).

"(b) USE OF AMOUNTS PLACED IN ESCROW TO COVER FINES AND PENALTIES.—The Commission or the Attorney General may require any amount deposited in the escrow account under subsection (a)(3) to be applied toward the payment of any fine or penalty imposed under this Act or title 18, United States Code against the person making the contribution or donation.

"(c) RETURN OF CONTRIBUTION OR DONATION AFTER DEPOSIT IN ESCROW.—

"(1) IN GENERAL.—The Commission shall return a contribution or donation deposited in the escrow account under subsection (a)(3) to the person making the contribution or donation if—

"(A) within 180 days after the date the contribution or donation is transferred, the Commission has not made a determination under section 309(a)(2) that the Commission has reason to believe that the making of the contribution or donation was made in violation of this Act; or

"(B)(i) the contribution or donation will not be used to cover fines, penalties, or costs pursuant to subsection (b); or

"(ii) if the contribution or donation will be used for those purposes, that the amounts required for those purposes have been withdrawn from the escrow account and subtracted from the returnable contribution or donation.

"(2) NO EFFECT ON STATUS OF INVESTIGATION.—The return of a contribution or donation by the Commission under this subsection shall not be construed as having an effect on the status of an investigation by the Commission or the Attorney General of the contribution or donation or the circumstances surrounding the contribution or donation, or on the ability of the Commission or the Attorney General to take future actions with respect to the contribution or donation.".

(b) AMOUNTS USED TO DETERMINE AMOUNT OF PENALTY FOR VIOLATION.—Section 309(a) of such Act (2 U.S.C. 437g(a)) is amended by inserting after paragraph (9) the following new paragraph:

"(10) For purposes of determining the amount of a civil penalty imposed under this subsection for violations of section 326, the amount of the donation involved shall be treated as the amount of the contribution involved.".

(c) DONATION DEFINED.—Section 301 of such Act (2 U.S.C. 431), as amended by sections 201(b) and 307(b), is further amended by adding at the end the following:

"(22) DONATION.—The term 'donation' means a gift, subscription, loan, advance, or deposit of money or anything else of value made by any person to a national committee of a political party or a Senatorial or Congressional Campaign Committee of a national political party for any purpose, but does not include a contribution (as defined in paragraph (8)).".

(d) DISGORGEMENT AUTHORITY.—Section 309 of such Act (2 U.S.C. 437g) is amended by adding at the end the following new subsection:

"(e) Any conciliation agreement, civil action, or criminal action entered into or instituted under this section may require a person to forfeit to the Treasury any contribution, donation, or expenditure that is the subject of the agreement or action for transfer to the Commission for deposit in accordance with section 326.".

(e) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply to contributions or donations refunded on or after the date of the enactment of this Act, without regard to whether the Federal Election Commission or Attorney General has issued regulations to carry out section 326 of the Federal Election Campaign Act of 1971 (as added by subsection (a)) by such date.

H.R. 2183

OFFERED BY: MR. GEKAS

(To the Amendment Offered By: Mr. Obey)

AMENDMENT NO. 64: Insert after title V the following new title (and redesignate the succeeding provisions accordingly):

TITLE VI—TREATMENT OF REFUNDED DONATIONS

SEC. 601. DEPOSIT OF CERTAIN CONTRIBUTIONS AND DONATIONS IN TREASURY ACCOUNT.

(a) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by sections 301 and 402, is amended by adding at the end the following new section:

"TREATMENT OF CERTAIN CONTRIBUTIONS AND DONATIONS TO BE RETURNED TO DONORS

"SEC. 325. (a) TRANSFER TO COMMISSION.—

"(1) IN GENERAL.—Notwithstanding any other provision of this Act, if a political committee intends to return any contribution or donation given to the political committee, the committee shall transfer the contribution or donation to the Commission if—

"(A) the contribution or donation is in an amount equal to or greater than $500 (other than a contribution or donation returned within 60 days of receipt by the committee); or

"(B) the contribution or donation was made in violation of section 315, 316, 317, 319, or 320 (other than a contribution or donation returned within 30 days of receipt by the committee).

"(2) INFORMATION INCLUDED WITH TRANSFERRED CONTRIBUTION OR DONATION.—A political committee shall include with any contribution or donation transferred under paragraph (1)—

"(A) a request that the Commission return the contribution or donation to the person making the contribution or donation; and

"(B) information regarding the circumstances surrounding the making of the contribution or donation and any opinion of the political committee concerning whether the contribution or donation may have been made in violation of this Act.

"(3) ESTABLISHMENT OF ESCROW ACCOUNT.—

"(A) IN GENERAL.—The Commission shall establish a single interest-bearing escrow account for deposit of amounts transferred under paragraph (1).

"(B) DISPOSITION OF AMOUNTS RECEIVED.—On receiving an amount from a political committee under paragraph (1), the Commission shall—

"(i) deposit the amount in the escrow account established under subparagraph (A); and

"(ii) notify the Attorney General and the Commissioner of the Internal Revenue Service of the receipt of the amount from the political committee.

"(C) USE OF INTEREST TO COVER ADMINISTRATIVE COSTS.—Any interest earned on amounts in the escrow account established under subparagraph (A) shall be applied toward the administrative costs incurred by the Commission in establishing and administering the account, and any remaining interest shall be deposited in the general fund of the Treasury.

"(4) TREATMENT OF RETURNED CONTRIBUTION OR DONATION AS A COMPLAINT.—The transfer of any contribution or donation to the Commission under this section shall be treated as the filing of a complaint under section 309(a).

"(b) USE OF AMOUNTS PLACED IN ESCROW TO COVER FINES AND PENALTIES.—The Commission or the Attorney General may require any amount deposited in the escrow account under subsection (a)(3) to be applied toward the payment of any fine or penalty imposed under this Act or title 18, United States Code against the person making the contribution or donation.

"(c) RETURN OF CONTRIBUTION OR DONATION AFTER DEPOSIT IN ESCROW.—

"(1) IN GENERAL.—The Commission shall return a contribution or donation deposited in the escrow account under subsection (a)(3) to the person making the contribution or donation if—

"(A) within 180 days after the date the contribution or donation is transferred, the Commission has not made a determination under section 309(a)(2) that the Commission has reason to believe that the making of the contribution or donation was made in violation of this Act; or

"(B)(i) the contribution or donation will not be used to cover fines, penalties, or costs pursuant to subsection (b); or

"(ii) if the contribution or donation will be used for those purposes, that the amounts required for those purposes have been withdrawn from the escrow account and subtracted from the returnable contribution or donation.

"(2) NO EFFECT ON STATUS OF INVESTIGATION.—The return of a contribution or donation by the Commission under this subsection shall not be construed as having an effect on the status of an investigation by the Commission or the Attorney General of the contribution or donation or the circumstances surrounding the contribution or donation, or on the ability of the Commission or the Attorney General to take future actions with respect to the contribution or donation.".

(b) AMOUNTS USED TO DETERMINE AMOUNT OF PENALTY FOR VIOLATION.—Section 309(a) of such Act (2 U.S.C. 437g(a)) is amended by inserting after paragraph (9) the following new paragraph:

"(10) For purposes of determining the amount of a civil penalty imposed under this subsection for violations of section 325, the amount of the donation involved shall be treated as the amount of the contribution involved.".

(c) DONATION DEFINED.—Section 301 of such Act (2 U.S.C. 431) is amended by adding at the end the following:

"(20) The term 'donation' means a gift, subscription, loan, advance, or deposit of money or anything else of value made by any person to a national committee of a political party or a Senatorial or Congressional Campaign Committee of a national political party for any purpose, but does not include a contribution (as defined in paragraph (8)).".

(d) DISGORGEMENT AUTHORITY.—Section 309 of such Act (2 U.S.C. 437g) is amended by adding at the end the following new subsection:

"(e) Any conciliation agreement, civil action, or criminal action entered into or instituted under this section may require a person to forfeit to the Treasury any contribution, donation, or expenditure that is the subject of the agreement or action for transfer to the Commission for deposit in accordance with section 325.".

(e) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply to contributions or donations refunded on or after the date of the enactment of this Act, without regard to whether the Federal Election Commission or Attorney General has issued regulations to carry out section 325 of the Federal Election Campaign Act of 1971 (as added by subsection (a)) by such date.

H.R. 2183

OFFERED BY: MR. GEKAS

(To the Amendment Offered By: Mr. Shays or Mr. Meehan)

AMENDMENT NO. 65: Add at the end of title V the following new section (and conform the table of contents accordingly):

SEC. 510. DEPOSIT OF CERTAIN CONTRIBUTIONS AND DONATIONS IN TREASURY ACCOUNT.

(a) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by sections 101, 401, and 507, is further amended by adding at the end the following new section:

"TREATMENT OF CERTAIN CONTRIBUTIONS AND DONATIONS TO BE RETURNED TO DONORS

"SEC. 326. (a) TRANSFER TO COMMISSION.—

"(1) IN GENERAL.—Notwithstanding any other provision of this Act, if a political committee intends to return any contribution or donation given to the political committee, the committee shall transfer the contribution or donation to the Commission if—

"(A) the contribution or donation is in an amount equal to or greater than $500 (other than a contribution or donation returned within 60 days of receipt by the committee); or

"(B) the contribution or donation was made in violation of section 315, 316, 317, 319, or 320 (other than a contribution or donation returned within 30 days of receipt by the committee).

"(2) INFORMATION INCLUDED WITH TRANSFERRED CONTRIBUTION OR DONATION.—A political committee shall include with any contribution or donation transferred under paragraph (1)—

"(A) a request that the Commission return the contribution or donation to the person making the contribution or donation; and

"(B) information regarding the circumstances surrounding the making of the contribution or donation and any opinion of the political committee concerning whether the contribution or donation may have been made in violation of this Act.

"(3) ESTABLISHMENT OF ESCROW ACCOUNT.—

"(A) IN GENERAL.—The Commission shall establish a single interest-bearing escrow account for deposit of amounts transferred under paragraph (1).

"(B) DISPOSITION OF AMOUNTS RECEIVED.—On receiving an amount from a political committee under paragraph (1), the Commission shall—

"(i) deposit the amount in the escrow account established under subparagraph (A); and

"(ii) notify the Attorney General and the Commissioner of the Internal Revenue Service of the receipt of the amount from the political committee.

"(C) USE OF INTEREST TO COVER ADMINISTRATIVE COSTS.—Any interest earned on amounts in the escrow account established under subparagraph (A) shall be applied toward the administrative costs incurred by the Commission in establishing and administering the account, and any remaining interest shall be deposited in the general fund of the Treasury.

"(4) TREATMENT OF RETURNED CONTRIBUTION OR DONATION AS A COMPLAINT.—The transfer of any contribution or donation to the Commission under this section shall be treated as the filing of a complaint under section 309(a).

"(b) USE OF AMOUNTS PLACED IN ESCROW TO COVER FINES AND PENALTIES.—The Commission or the Attorney General may require any amount deposited in the escrow account under subsection (a)(3) to be applied toward the payment of any fine or penalty imposed under this Act or title 18, United States Code against the person making the contribution or donation.

"(c) RETURN OF CONTRIBUTION OR DONATION AFTER DEPOSIT IN ESCROW.—

"(1) IN GENERAL.—The Commission shall return a contribution or donation deposited in the escrow account under subsection (a)(3) to the person making the contribution or donation if—

"(A) within 180 days after the date the contribution or donation is transferred, the Commission has not made a determination under section 309(a)(2) that the Commission has reason to believe that the making of the contribution or donation was made in violation of this Act; or

"(B)(i) the contribution or donation will not be used to cover fines, penalties, or costs pursuant to subsection (b); or

"(ii) if the contribution or donation will be used for those purposes, that the amounts required for those purposes have been withdrawn from the escrow account and subtracted from the returnable contribution or donation.

"(2) NO EFFECT ON STATUS OF INVESTIGATION.—The return of a contribution or donation by the Commission under this subsection shall not be construed as having an effect on the status of an investigation by the Commission or the Attorney General of the contribution or donation or the circumstances surrounding the contribution or donation, or on the ability of the Commission or the Attorney General to take future actions with respect to the contribution or donation.".

(b) AMOUNTS USED TO DETERMINE AMOUNT OF PENALTY FOR VIOLATION.—Section 309(a) of such Act (2 U.S.C. 437g(a)) is amended by inserting after paragraph (9) the following new paragraph:

"(10) For purposes of determining the amount of a civil penalty imposed under this subsection for violations of section 326, the amount of the donation involved shall be treated as the amount of the contribution involved.".

(c) DONATION DEFINED.—Section 301 of such Act (2 U.S.C. 431), as amended by sections 201(b) and 307(b), is further amended by adding at the end the following:

"(22) DONATION.—The term 'donation' means a gift, subscription, loan, advance, or deposit of money or anything else of value made by any person to a national committee of a political party or a Senatorial or Congressional Campaign Committee of a national political party for any purpose, but does not include a contribution (as defined in paragraph (8)).".

(d) DISGORGEMENT AUTHORITY.—Section 309 of such Act (2 U.S.C. 437g) is amended by adding at the end the following new subsection:

"(e) Any conciliation agreement, civil action, or criminal action entered into or instituted under this section may require a person to forfeit to the Treasury any contribution, donation, or expenditure that is the subject of the agreement or action for transfer to the Commission for deposit in accordance with section 326.".

(e) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply to contributions or donations refunded on or after the date of the enactment of this Act, without regard to whether the Federal Election Commission or Attorney General has issued regulations to carry out section 326 of the Federal Election Campaign Act of 1971 (as added by subsection (a)) by such date.

H.R. 2183

OFFERED BY: MR. GEKAS

(To the Amendment Offered By: Mr. Tierney)

AMENDMENT NO. 66: Insert after title V the following new title (and redesignate the succeeding provisions and conform the table of contents accordingly):

TITLE VI—TREATMENT OF REFUNDED DONATIONS

SEC. 601. DEPOSIT OF CERTAIN CONTRIBUTIONS AND DONATIONS IN TREASURY ACCOUNT.

(a) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by sections 401 and 402(d), is further amended by adding at the end the following new section:

"TREATMENT OF CERTAIN CONTRIBUTIONS AND DONATIONS TO BE RETURNED TO DONORS

"SEC. 326. (a) TRANSFER TO COMMISSION.—

"(1) IN GENERAL.—Notwithstanding any other provision of this Act, if a political committee intends to return any contribution or donation given to the political committee, the committee shall transfer the contribution or donation to the Commission if—

"(A) the contribution or donation is in an amount equal to or greater than $500 (other than a contribution or donation returned within 60 days of receipt by the committee); or

"(B) the contribution or donation was made in violation of section 315, 316, 317, 319, or 320 (other than a contribution or donation returned within 30 days of receipt by the committee).

"(2) INFORMATION INCLUDED WITH TRANSFERRED CONTRIBUTION OR DONATION.—A political committee shall include with any contribution or donation transferred under paragraph (1)—

"(A) a request that the Commission return the contribution or donation to the person making the contribution or donation; and

"(B) information regarding the circumstances surrounding the making of the contribution or donation and any opinion of the political committee concerning whether the contribution or donation may have been made in violation of this Act.

"(3) ESTABLISHMENT OF ESCROW ACCOUNT.—

"(A) IN GENERAL.—The Commission shall establish a single interest-bearing escrow account for deposit of amounts transferred under paragraph (1).

"(B) DISPOSITION OF AMOUNTS RECEIVED.—On receiving an amount from a political committee under paragraph (1), the Commission shall—

"(i) deposit the amount in the escrow account established under subparagraph (A); and

"(ii) notify the Attorney General and the Commissioner of the Internal Revenue Service of the receipt of the amount from the political committee.

"(C) USE OF INTEREST TO COVER ADMINISTRATIVE COSTS.—Any interest earned on amounts in the escrow account established under subparagraph (A) shall be applied toward the administrative costs incurred by the Commission in establishing and administering the account, and any remaining interest shall be deposited in the general fund of the Treasury.

"(4) TREATMENT OF RETURNED CONTRIBUTION OR DONATION AS A COMPLAINT.—The transfer of any contribution or donation to the Commission under this section shall be treated as the filing of a complaint under section 309(a).

"(b) USE OF AMOUNTS PLACED IN ESCROW TO COVER FINES AND PENALTIES.—The Commission or the Attorney General may require any amount deposited in the escrow account under subsection (a)(3) to be applied toward the payment of any fine or penalty imposed under this Act or title 18, United States Code against the person making the contribution or donation.

"(c) RETURN OF CONTRIBUTION OR DONATION AFTER DEPOSIT IN ESCROW.—

"(1) IN GENERAL.—The Commission shall return a contribution or donation deposited in the escrow account under subsection (a)(3) to the person making the contribution or donation if—

"(A) within 180 days after the date the contribution or donation is transferred, the Commission has not made a determination under section 309(a)(2) that the Commission has reason to believe that the making of the contribution or donation was made in violation of this Act; or

"(B)(i) the contribution or donation will not be used to cover fines, penalties, or costs pursuant to subsection (b); or

"(ii) if the contribution or donation will be used for those purposes, that the amounts required for those purposes have been withdrawn from the escrow account and subtracted from the returnable contribution or donation.

"(2) NO EFFECT ON STATUS OF INVESTIGATION.—The return of a contribution or donation by the Commission under this subsection shall not be construed as having an effect on the status of an investigation by the Commission or the Attorney General of the contribution or donation or the circumstances surrounding the contribution or donation, or on the ability of the Commission or the Attorney General to take future actions with respect to the contribution or donation.".

(b) AMOUNTS USED TO DETERMINE AMOUNT OF PENALTY FOR VIOLATION.—Section 309(a) of such Act (2 U.S.C. 437g(a)) is amended by inserting after paragraph (9) the following new paragraph:

"(10) For purposes of determining the amount of a civil penalty imposed under this subsection for violations of section 326, the amount of the donation involved shall be treated as the amount of the contribution involved.".

(c) DONATION DEFINED.—Section 301 of such Act (2 U.S.C. 431), as amended by section 402(c), is further amended by adding at the end the following:

"(22) The term 'donation' means a gift, subscription, loan, advance, or deposit of money or anything else of value made by any person to a national committee of a political party or a Senatorial or Congressional Campaign Committee of a national political party for any purpose, but does not include a contribution (as defined in paragraph (8)).".

(d) DISGORGEMENT AUTHORITY.—Section 309 of such Act (2 U.S.C. 437g) is amended by adding at the end the following new subsection:

"(e) Any conciliation agreement, civil action, or criminal action entered into or instituted under this section may require a person to forfeit to the Treasury any contribution, donation, or expenditure that is the subject of the agreement or action for transfer to the Commission for deposit in accordance with section 326.".

(e) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply to contributions or donations refunded on or after the date of the enactment of this Act, without regard to whether the Federal Election Commission or Attorney General has issued regulations to carry out section 326 of the Federal Election Campaign Act of 1971 (as added by subsection (a)) by such date.

H.R. 2183

OFFERED BY: MR. GEKAS

(To the Amendment Offered By: Mr. Farr)

AMENDMENT NO. 67: Add at the end of title VII the following new section (and conform the table of contents accordingly):

SEC. 704. DEPOSIT OF CERTAIN CONTRIBUTIONS AND DONATIONS IN TREASURY ACCOUNT.

(a) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by section 305(a), is amended by adding at the end the following new section:

"TREATMENT OF CERTAIN CONTRIBUTIONS AND DONATIONS TO BE RETURNED TO DONORS

"SEC. 325. (a) TRANSFER TO COMMISSION.—

"(1) IN GENERAL.—Notwithstanding any other provision of this Act, if a political committee intends to return any contribution or donation given to the political committee, the committee shall transfer the contribution or donation to the Commission if—

"(A) the contribution or donation is in an amount equal to or greater than $500 (other than a contribution or donation returned within 60 days of receipt by the committee); or

"(B) the contribution or donation was made in violation of section 315, 316, 317, 319, or 320 (other than a contribution or donation returned within 30 days of receipt by the committee).

"(2) INFORMATION INCLUDED WITH TRANSFERRED CONTRIBUTION OR DONATION.—A political committee shall include with any contribution or donation transferred under paragraph (1)—

"(A) a request that the Commission return the contribution or donation to the person making the contribution or donation; and

"(B) information regarding the circumstances surrounding the making of the contribution or donation and any opinion of the political committee concerning whether the contribution or donation may have been made in violation of this Act.

"(3) ESTABLISHMENT OF ESCROW ACCOUNT.—

"(A) IN GENERAL.—The Commission shall establish a single interest-bearing escrow account for deposit of amounts transferred under paragraph (1).

"(B) DISPOSITION OF AMOUNTS RECEIVED.—On receiving an amount from a political committee under paragraph (1), the Commission shall—

"(i) deposit the amount in the escrow account established under subparagraph (A); and

"(ii) notify the Attorney General and the Commissioner of the Internal Revenue Service of the receipt of the amount from the political committee.

"(C) USE OF INTEREST TO COVER ADMINISTRATIVE COSTS.—Any interest earned on amounts in the escrow account established under subparagraph (A) shall be applied toward the administrative costs incurred by the Commission in establishing and administering the account, and any remaining interest shall be deposited in the general fund of the Treasury.

"(4) TREATMENT OF RETURNED CONTRIBUTION OR DONATION AS A COMPLAINT.—The transfer of any contribution or donation to the Commission under this section shall be treated as the filing of a complaint under section 309(a).

"(b) USE OF AMOUNTS PLACED IN ESCROW TO COVER FINES AND PENALTIES.—The Commission or the Attorney General may require any amount deposited in the escrow account under subsection (a)(3) to be applied toward the payment of any fine or penalty imposed under this Act or title 18, United States Code against the person making the contribution or donation.

"(c) RETURN OF CONTRIBUTION OR DONATION AFTER DEPOSIT IN ESCROW.—

"(1) IN GENERAL.—The Commission shall return a contribution or donation deposited in the escrow account under subsection (a)(3) to the person making the contribution or donation if—

"(A) within 180 days after the date the contribution or donation is transferred, the Commission has not made a determination under section 309(a)(2) that the Commission has reason to believe that the making of the contribution or donation was made in violation of this Act; or

"(B)(i) the contribution or donation will not be used to cover fines, penalties, or costs pursuant to subsection (b); or

"(ii) if the contribution or donation will be used for those purposes, that the amounts required for those purposes have been withdrawn from the escrow account and subtracted from the returnable contribution or donation.

"(2) NO EFFECT ON STATUS OF INVESTIGATION.—The return of a contribution or donation by the Commission under this subsection shall not be construed as having an effect on the status of an investigation by the Commission or the Attorney General of the contribution or donation or the circumstances surrounding the contribution or donation, or on the ability of the Commission or the Attorney General to take future actions with respect to the contribution or donation.".

(b) AMOUNTS USED TO DETERMINE AMOUNT OF PENALTY FOR VIOLATION.—Section 309(a) of such Act (2 U.S.C. 437g(a)) is amended by inserting after paragraph (9) the following new paragraph:

"(10) For purposes of determining the amount of a civil penalty imposed under this subsection for violations of section 325, the amount of the donation involved shall be treated as the amount of the contribution involved.".

(c) DONATION DEFINED.—Section 301 of such Act (2 U.S.C. 431), as amended by sections 133 and 301(b), is further amended by adding at the end the following:

"(32) The term 'donation' means a gift, subscription, loan, advance, or deposit of money or anything else of value made by any person to a national committee of a political party or a Senatorial or Congressional Campaign Committee of a national political party for any purpose, but does not include a contribution (as defined in paragraph (8)).".

(d) DISGORGEMENT AUTHORITY.—Section 309 of such Act (2 U.S.C. 437g) is amended by adding at the end the following new subsection:

"(e) Any conciliation agreement, civil action, or criminal action entered into or instituted under this section may require a person to forfeit to the Treasury any contribution, donation, or expenditure that is the subject of the agreement or action for transfer to the Commission for deposit in accordance with section 325.".

(e) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply to contributions or donations refunded on or after the date of the enactment of this Act, without regard to whether the Federal Election Commission or Attorney General has issued regulations to carry out section 325 of the Federal Election Campaign Act of 1971 (as added by subsection (a)) by such date.

H.R. 2183

OFFERED BY: MR. GEKAS

(To the Amendment Offered By: Mr. Doolittle)

AMENDMENT NO. 68: Add at the end the following new section:

SEC. 7. DEPOSIT OF CERTAIN CONTRIBUTIONS AND DONATIONS IN TREASURY ACCOUNT.

(a) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following new section:

"TREATMENT OF CERTAIN CONTRIBUTIONS AND DONATIONS TO BE RETURNED TO DONORS

"SEC. 323. (a) TRANSFER TO COMMISSION.—

"(1) IN GENERAL.—Notwithstanding any other provision of this Act, if a political committee intends to return any contribution or donation given to the political committee, the committee shall transfer the

contribution or donation to the Commission if—

"(A) the contribution or donation is in an amount equal to or greater than $500 (other than a contribution or donation returned within 60 days of receipt by the committee); or

"(B) the contribution or donation was made in violation of section 315, 316, 317, 319, or 320 (other than a contribution or donation returned within 30 days of receipt by the committee).

"(2) INFORMATION INCLUDED WITH TRANSFERRED CONTRIBUTION OR DONATION.—A political committee shall include with any contribution or donation transferred under paragraph (1)—

"(A) a request that the Commission return the contribution or donation to the person making the contribution or donation; and

"(B) information regarding the circumstances surrounding the making of the contribution or donation and any opinion of the political committee concerning whether the contribution or donation may have been made in violation of this Act.

"(3) ESTABLISHMENT OF ESCROW ACCOUNT.—

"(A) IN GENERAL.—The Commission shall establish a single interest-bearing escrow account for deposit of amounts transferred under paragraph (1).

"(B) DISPOSITION OF AMOUNTS RECEIVED.—On receiving an amount from a political committee under paragraph (1), the Commission shall—

"(i) deposit the amount in the escrow account established under subparagraph (A); and

"(ii) notify the Attorney General and the Commissioner of the Internal Revenue Service of the receipt of the amount from the political committee.

"(C) USE OF INTEREST TO COVER ADMINISTRATIVE COSTS.—Any interest earned on amounts in the escrow account established under subparagraph (A) shall be applied toward the administrative costs incurred by the Commission in establishing and administering the account, and any remaining interest shall be deposited in the general fund of the Treasury.

"(4) TREATMENT OF RETURNED CONTRIBUTION OR DONATION AS A COMPLAINT.—The transfer of any contribution or donation to the Commission under this section shall be treated as the filing of a complaint under section 309(a).

"(b) USE OF AMOUNTS PLACED IN ESCROW TO COVER FINES AND PENALTIES.—The Commission or the Attorney General may require any amount deposited in the escrow account under subsection (a)(3) to be applied toward the payment of any fine or penalty imposed under this Act or title 18, United States Code against the person making the contribution or donation.

"(c) RETURN OF CONTRIBUTION OR DONATION AFTER DEPOSIT IN ESCROW.—

"(1) IN GENERAL.—The Commission shall return a contribution or donation deposited in the escrow account under subsection (a)(3) to the person making the contribution or donation if—

"(A) within 180 days after the date the contribution or donation is transferred, the Commission has not made a determination under section 309(a)(2) that the Commission has reason to believe that the making of the contribution or donation was made in violation of this Act; or

"(B)(i) the contribution or donation will not be used to cover fines, penalties, or costs pursuant to subsection (b); or

"(ii) if the contribution or donation will be used for those purposes, that the amounts required for those purposes have been withdrawn from the escrow account and subtracted from the returnable contribution or donation.

"(2) NO EFFECT ON STATUS OF INVESTIGATION.—The return of a contribution or donation by the Commission under this subsection shall not be construed as having an effect on the status of an investigation by the Commission or the Attorney General of the contribution or donation or the circumstances surrounding the contribution or donation, or on the ability of the Commission or the Attorney General to take future actions with respect to the contribution or donation.".

(b) AMOUNTS USED TO DETERMINE AMOUNT OF PENALTY FOR VIOLATION.—Section 309(a) of such Act (2 U.S.C. 437g(a)) is amended by inserting after paragraph (9) the following new paragraph:

"(10) For purposes of determining the amount of a civil penalty imposed under this subsection for violations of section 323, the amount of the donation involved shall be treated as the amount of the contribution involved.".

(c) DONATION DEFINED.—Section 301 of such Act (2 U.S.C. 431) is amended by adding at the end the following:

"(20) The term 'donation' means a gift, subscription, loan, advance, or deposit of money or anything else of value made by any person to a national committee of a political party or a Senatorial or Congressional Campaign Committee of a national political party for any purpose, but does not include a contribution (as defined in paragraph (8)).".

(d) DISGORGEMENT AUTHORITY.—Section 309 of such Act (2 U.S.C. 437g) is amended by adding at the end the following new subsection:

"(e) Any conciliation agreement, civil action, or criminal action entered into or instituted under this section may require a person to forfeit to the Treasury any contribution, donation, or expenditure that is the subject of the agreement or action for transfer to the Commission for deposit in accordance with section 323.".

(e) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply to contributions or donations refunded on or after the date of the enactment of this Act, without regard to whether the Federal Election Commission or Attorney General has issued regulations to carry out section 323 of the Federal Election Campaign Act of 1971 (as added by subsection (a)) by such date.

H.R. 2183

OFFERED BY: MR. GEKAS

(To the Amendment Offered By: Mr. Snowbarger)

AMENDMENT NO. 69: Add at the end the following new section:

SEC. 9. DEPOSIT OF CERTAIN CONTRIBUTIONS AND DONATIONS IN TREASURY ACCOUNT.

(a) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by section 6, is amended by adding at the end the following new section:

"TREATMENT OF CERTAIN CONTRIBUTIONS AND DONATIONS TO BE RETURNED TO DONORS

"SEC. 324. (a) TRANSFER TO COMMISSION.—

"(1) IN GENERAL.—Notwithstanding any other provision of this Act, if a political committee intends to return any contribution or donation given to the political committee, the committee shall transfer the contribution or donation to the Commission if—

"(A) the contribution or donation is in an amount equal to or greater than $500 (other than a contribution or donation returned within 60 days of receipt by the committee); or

"(B) the contribution or donation was made in violation of section 315, 316, 317, 319, or 320 (other than a contribution or donation returned within 30 days of receipt by the committee).

"(2) INFORMATION INCLUDED WITH TRANSFERRED CONTRIBUTION OR DONATION.—A political committee shall include with any contribution or donation transferred under paragraph (1)—

"(A) a request that the Commission return the contribution or donation to the person making the contribution or donation; and

"(B) information regarding the circumstances surrounding the making of the contribution or donation and any opinion of the political committee concerning whether the contribution or donation may have been made in violation of this Act.

"(3) ESTABLISHMENT OF ESCROW ACCOUNT.—

"(A) IN GENERAL.—The Commission shall establish a single interest-bearing escrow account for deposit of amounts transferred under paragraph (1).

"(B) DISPOSITION OF AMOUNTS RECEIVED.—On receiving an amount from a political committee under paragraph (1), the Commission shall—

"(i) deposit the amount in the escrow account established under subparagraph (A); and

"(ii) notify the Attorney General and the Commissioner of the Internal Revenue Service of the receipt of the amount from the political committee.

"(C) USE OF INTEREST TO COVER ADMINISTRATIVE COSTS.—Any interest earned on amounts in the escrow account established under subparagraph (A) shall be applied toward the administrative costs incurred by the Commission in establishing and administering the account, and any remaining interest shall be deposited in the general fund of the Treasury.

"(4) TREATMENT OF RETURNED CONTRIBUTION OR DONATION AS A COMPLAINT.—The transfer of any contribution or donation to the Commission under this section shall be treated as the filing of a complaint under section 309(a).

"(b) USE OF AMOUNTS PLACED IN ESCROW TO COVER FINES AND PENALTIES.—The Commission or the Attorney General may require any amount deposited in the escrow account under subsection (a)(3) to be applied toward the payment of any fine or penalty imposed under this Act or title 18, United States Code against the person making the contribution or donation.

"(c) RETURN OF CONTRIBUTION OR DONATION AFTER DEPOSIT IN ESCROW.—

"(1) IN GENERAL.—The Commission shall return a contribution or donation deposited in the escrow account under subsection (a)(3) to the person making the contribution or donation if—

"(A) within 180 days after the date the contribution or donation is transferred, the Commission has not made a determination under section 309(a)(2) that the Commission has reason to believe that the making of the contribution or donation was made in violation of this Act; or

"(B)(i) the contribution or donation will not be used to cover fines, penalties, or costs pursuant to subsection (b); or

"(ii) if the contribution or donation will be used for those purposes, that the amounts required for those purposes have been withdrawn from the escrow account and subtracted from the returnable contribution or donation.

"(2) NO EFFECT ON STATUS OF INVESTIGATION.—The return of a contribution or donation by the Commission under this subsection shall not be construed as having an effect on the status of an investigation by the Commission or the Attorney General of the contribution or donation or the circumstances surrounding the contribution or donation, or on the ability of the Commission or the Attorney General to take future actions with respect to the contribution or donation.".

(b) AMOUNTS USED TO DETERMINE AMOUNT OF PENALTY FOR VIOLATION.—Section 309(a) of such Act (2 U.S.C. 437g(a)) is amended by inserting after paragraph (9) the following new paragraph:

"(10) For purposes of determining the amount of a civil penalty imposed under this subsection for violations of section 324, the amount of the donation involved shall be treated as the amount of the contribution involved.".

(c) DONATION DEFINED.—Section 301 of such Act (2 U.S.C. 431) is amended by adding at the end the following:

"(20) The term 'donation' means a gift, subscription, loan, advance, or deposit of money or anything else of value made by any person to a national committee of a political party or a Senatorial or Congressional Campaign Committee of a national political party for any purpose, but does not include a contribution (as defined in paragraph (8)).".

(d) DISGORGEMENT AUTHORITY.—Section 309 of such Act (2 U.S.C. 437g) is amended by adding at the end the following new subsection:

"(e) Any conciliation agreement, civil action, or criminal action entered into or instituted under this section may require a person to forfeit to the Treasury any contribution, donation, or expenditure that is the subject of the agreement or action for transfer to the Commission for deposit in accordance with section 324.".

(e) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply to contributions or donations refunded on or after the date of the enactment of this Act, without regard to whether the Federal Election Commission or Attorney General has issued regulations to carry out section 324 of the Federal Election Campaign Act of 1971 (as added by subsection (a)) by such date.

H.R. 2888

OFFERED BY: MR. FAWELL

AMENDMENT NO. 1: Page 4, strike lines 8 through 13 and insert the following:

"(B) the employee's—

"(i) sales are predominantly to persons or entities to whom the employee's position has made previous sales; or

"(ii) the position does not involve initiating sales contacts;

H.R. 2888

OFFERED BY: MR. OWENS

AMENDMENT NO. 2: Page 6, line 9, strike the period, quotation marks, and the period following and insert a semicolon and insert after line 9 the following:

except that an employer may not require an employee who is exempt from overtime payment under this paragraph to work any hours in excess of 40 in any workweek or 8 in any day unless the employee gives the employee's consent, voluntarily and not as a condition of employment, to perform such work.".

H.R. 3494

OFFERED BY: MRS. KELLY

AMENDMENT NO. 1: Add at the end the following new title:

TITLE V—CHILD HOSTAGE-TAKING TO EVADE ARREST OR OBSTRUCT JUSTICE

SEC. 501. CHILD HOSTAGE-TAKING TO EVADE ARREST OR OBSTRUCT JUSTICE.

(a) IN GENERAL.—Chapter 55 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1205. Child hostage-taking to evade arrest or obstruct justice

"(a) IN GENERAL.—Whoever uses force or threatens to use force against any officer or agency of the Federal Government, and seizes or detains, or continues to detain, a child in order to—

"(1) obstruct, resist, or oppose any officer of the United States, or other person duly authorized, in serving, or attempting to serve or execute, any legal or judicial writ, process, or warrant of any court of the United States; or

"(2) compel any department or agency of the Federal Government to do or to abstain from doing any act;

or attempts to do so, shall be punished in accordance with subsection (b).

"(b) SENTENCING.—Any person who violates subsection (a)—

"(1) shall be imprisoned not less than 10 years and not more than 25 years;

"(2) if injury results to the child as a result of the violation, shall be imprisoned not less than 20 years and not more than 35 years; and

"(3) if death results to the child as a result of the violation, shall be subject to the penalty of death or be imprisoned for life.

"(c) DEFINITION.—For purposes of this section, the term 'child' means an individual who has not attained the age of 18 years.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 55 of title 18, United States Code, is amended by adding at the end the following new item:

"1205. Child hostage-taking to evade arrest or obstruct justice.".

EXTENSIONS OF REMARKS

GENERAL SCOWCROFT ON CHINESE SATELLITE LAUNCHES

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. HAMILTON. Mr. Speaker, Gen. Brent Scowcroft, the former National Security Advisor, and Mr. Arnold Kanter, the former Under Secretary of State for Political Affairs, wrote an excellent article in the Washington Times on June 5, 1998 on the topic of Chinese satellite launches: "What Technology Went Where and Why."

Their article treats this issue fairly and dispassionately, and goes a long way toward dispelling much of the misinformation in current public discussion.

I commend this article to the attention of my colleagues.

[From the Washington Times, June 5, 1998]

WHAT TECHNOLOGY WENT WHERE AND WHY

(By Brent Scowcroft and Arnold Kanter)

The last few weeks have seen an avalanche of melodramatic charges about American "technology transfers" to China and claims that these actions have enhanced the capabilities of nuclear missiles aimed at the United States. In combination with confusing—and confused—media reporting and inept responses by the Clinton administration, these accusations threaten both to do needless damage to important U.S. national security interests and to impede the investigation of serious allegations of wrongdoing.

A great deal hangs in the balance. The consequences, if these allegations are proven, would be substantial. But the costs of accusations which turn out to be ill-founded—if not reckless—also can be great. Nowhere is this more clear than in the case of our relations with China. Not only is the character of our strategic relationship with China of fundamental importance to U.S. national security, but that relationship also is at an unusually critical and formative state both bilaterally and with respect to larger issues ranging from North Korea to South Asia.

The investigative congressional committees that are being established will have the responsibility for sorting out this complicated affair. Meanwhile, however, the protagonists in this controversy need to cool the rhetoric, get some basic facts straight and identify the real issues before more harm is done to U.S. security, political and economic interests.

Much of the confusion arises from the fact that four different issues are being lumped together:

U.S. government waivers to permit American commercial satellites to be launched on Chinese space boosters.

The unauthorized transfer to China of technical information by two U.S. satellite manufacturers, Loral and Hughes.

Large campaign contributions to the Democratic Party by Loral's chairman, Bernard Schwartz.

Alleged contributions to the Democratic Party by Chinese citizens with ties both to the Chinese military and the Chinese company that launches American commercial satellites.

SATELLITE WAIVERS

The current controversy has its roots in the 1986 Challenger disaster. There was serious concern that the loss of U.S. launch capability that resulted from the ensuing moratorium on shuttle flights would jeopardize America's pre-eminence in space. The Reagan administration responded by adopting a policy that opened the way for U.S. commercial satellites to be launched on Chinese space boosters on a case-by-case basis. The sanctions imposed by the Bush administration following the Tiananmen Square massacre in June 1989 blocked satellite launches by the Chinese but included a provision for case-by-case presidential waivers.

Last February, the State and Defense Departments recommended, and President Clinton approved, such a waiver to allow a commercial communications satellite built by Loral to be launched into orbit by a Chinese booster. This was the eighth waiver—covering eleven launches—approved by the Clinton administration. Previously, the Bush administration approved three waivers covering the launch of nine satellites.

The satellites in question are civilian, not military. More important, no "technology transfer" is permitted in connection with these satellite launches, which are the space-age equivalent of having Federal Express deliver a package across the country. On the contrary, there are strict safeguards designed to confine Chinese access to the most basic information about the U.S. payload these rockets carry—for example, size, weight and other mating data needed to ensure that the satellite will fit on top of the rocket and can be boosted into the correct orbit. (The waivers in question relate to the application of Tiananmen sanctions—which are designed to punish the Chinese for human rights abuses—not the safeguards against technology transfer.)

In principle, these safeguards mean that the Chinese learn no more about the "package" they are launching than FedEx knows about the package it is shipping, and that no information is provided which would improve the capabilities of their civilian space boosters, much less their nuclear-armed missiles. The March 1996 transfer of responsibility for licensing commercial satellite exports from the State Department to the Commerce Department likewise should not have had any effect on the strictness or application of the safeguards because a separate State Department license typically is still required to permit the Chinese to launch U.S. satellites, and the Defense Department continues to review all proposed waivers to ensure they are in the national security interest of the U.S.

ASSISTANCE TO THE CHINESE ROCKET PROGRAM.

The Justice Department is investigating the unauthorized transfer of information to China by Loral and Hughes in connection with a 1996 review of the explosion of a Long March rocket launching a U.S. satellite. Because of the virtual identity between these Chinese "space boosters" and military missiles, assistance to the former could lead to improvements in the latter.

Experts from Loral, Hughes and other companies became involved in this review at the insistence of the international insurance industry, which refused to insure more Long March launches until an "outside" team reviewed the Chinese analysis of, and remedies for, the malfunctions their rockets had been experiencing. Ironically, the Chinese initially resisted this proposal, and allowed the international team of experts to conduct their review only when they became convinced that these insurance problems would jeopardize their commercial space launch business.

According to news reports, a Pentagon agency has determined that the information which Loral and Hughes transferred to the Chinese caused "harm" to U.S. national security, but the nature and extent of whatever harm was done is not yet clear. The congressional investigating committees will try to get the answers to that question. What does seem clear at this point is that the Chinese government never requested information or other assistance from our government to improve the space boosters they use to launch satellites. What is even more clear is that in 1996 the U.S. government did not provide, or approve Loral and Hughes providing, information which would improve Chinese space launch or missile capabilities.

Indeed, Loral and Hughes are under investigation for unauthorized transfer of information. The Justice Department's reservations about the February 1998 satellite waiver stemmed not from the waiver itself, but from a concern about how it might affect a jury's psychology should Justice decide to prosecute these two satellite manufacturers for what they may have done in connection with their review of the 1996 Long March rocket failure.

LORAL CAMPAIGN CONTRIBUTIONS

According to news reports, Mr. Schwartz—Loral's chairman and CEO—is the largest single contributor to the Democratic Party. Loral also was the beneficiary of the waiver which President Clinton approved in February. In addition, Loral successfully sought (along with other U.S. satellite manufacturers), presidential approval for the transfer of authority over the licensing process from the State Department to the Commerce Department. Many have suggested a relationship between the Schwartz campaign contributions and these Clinton decisions.

The question not only is legitimate, but goes to the heart of the larger issue of the impact of campaign fundraising and contributions on the American political process. But even if suspicions prove correct, the fact remains that no "technology transfer" is authorized when Loral (or any other American) satellites are launched by Chinese rockets. Moreover, there is no current indication that any of the laws, policies and other safeguards against such technology transfers were relaxed as a result of campaign contributions. The issue of whether campaign contributions influenced presidential decisions in this case is of profound seriousness

and should be pursued by the congressional investigative committees, but appears at this point to be essentially unrelated to the issue of technology transfer to China.

CHINESE CAMPAIGN CONTRIBUTIONS

Democratic fundraiser Johnny Chung reportedly has told investigators that he served as a conduit for political contributions from the Chinese government. Specifically, he claims that Liu Chaoying, who is an officer in the Chinese army and an executive in the Chinese company which (among its many business enterprises) launches satellites, gave him money with instructions to donate a portion of those funds to the Democratic Party.

If substantiated, these assertions could have serious implications. That said, it also should be noted that, provided the safeguards described above do their job, even if a quid pro quo were sought and given, a satellite waiver might work to the commercial advantage of Liu's company, but would not have contributed to China's military capabilities.

In sum, several of the issues being raised in the current controversy are real and serious. Others, particularly those related to charges that satellite launch waivers somehow enhanced Chinese missile capabilities, may be based on fundamentally mistaken premises. Key to making that determination is an assessment of the practical effectiveness of the safeguards policies and practices that apply to these satellite launches.

If careful analysis determines that these safeguards have substantially achieved their objectives, then the imposition of blanket prohibitions on satellite launches by China would largely miss the point. On the one hand, it would not deal with concerns about how campaign contributions—from Americans, to say nothing of Chinese—might influence government decisions in ways which produce commercial advantage. on the other hand, it could prove to be worse than redundant with the safeguards already in place, because it would both place American industry at a competitive disadvantage and do needless damage to our critically important relationship with China.

One fact, however, already is abundantly clear: A great deal is at stake in the answers to the questions being raised in the current controversy. It therefore is essential that we get it right—that all of the charges be thoroughly investigated, that penalties be levied where appropriate, and that remedial actions be taken where required. But we should let the congressional committees do their jobs before a rush to judgment that may harm rather than advance our interests.

HOW TO BUILD A BETTER SCHOOL SYSTEM

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. GINGRICH. Mr. Speaker, the attached editorial from the Washington Times illustrates why we should help parents send their children to schools of their choice. Mayor Stephen Goldsmith of Indianapolis uses the situation in that city to demonstrate why Catholic schools have been able to perform better than the public schools. I submit the editorial to the CONGRESSIONAL RECORD.

HOW TO BUILD A BETTER SCHOOL SYSTEM

(By Stephen Goldsmith)

President Clinton found ardent supporters of his proposal to invest in public school buildings at a recent meeting with members of the U.S. Conference of Mayors. More money for schools—without having to raise local taxes—is a no-brainer for many mayors seeking an answer to failing urban schools.

Yet there are a handful of mayors from both parties who believe that more than federal dollars are needed to address the real problems facing urban schools. As cities have experienced the downward spiral of rising taxes, declining enrollment and abysmal students performance, increasingly city leaders are recognizing that lack of money is not what ails our public school systems.

The Indianapolis Public School system is the largest of eleven in this city, responsible for approximately 43,000 students from the central part of the city. During the 1990s the district raised its taxes more than a third, even as enrollment dropped by 10 percent. Not including teacher pensions, IPS spends more than $9,000 per child—as much if not more than the city's most expensive private schools. If money were the key ingredient for quality schools, students at IPS would rank among the best in the world. Instead, student test scores are among the worst in Indiana—a state that consistently ranks in the bottom 10 percent in the nation.

As the district's declining enrollment makes clear, dissatisfied parents are seeking out alternatives to public schools. While middle and upper class families often either move to the suburbs or pay private school tuition, many less affluent parents have turned to a less expensive choice: Catholic schools.

Like IPS, inner city parochial schools in Indianapolis are racially diverse and serve primarily low income, non-Catholic kids. At St. Philip Neri, a Catholic school on the city's near east side, nearly three quarters of all students qualify for the federal school lunch program, and a similar proportion are not Catholic.

Unlike IPS, tuition at these schools averages a mere $2700 per child. Yet each year parochial students demonstrate a better grasp of learning fundamentals than students in the public school system. Perhaps even more telling, student performance improves for each year spend in Catholic schools, while scores at IPS decline. In a recent evaluation of standardized test scores, Catholic school third graders held relatively small advantages over IPS students in math and English. By the eighth grade, however, Catholic school students scored nearly twice as high as students in the public system.

There are two important reasons why Catholic schools outperform their public counterparts.

First, they are allowed to succeed. Catholic schools are free from the bloated education bureaucracies that divert tax dollars away from public classrooms. The Friedman Foundation estimates that as little as 30 cents out of every dollar spent on education in Indianapolis actually make their way to the places where children learn. The rest is lost on the layers of bureaucracy between Indiana's Department of Education and teachers. For example, over the next three years the IPS Service Center, which houses support services such as vehicle maintenance, media services, and a print shop, will undertake a nearly $7.5 million capital improvement project. The task: constructing a new kitchen.

In addition to siphoning off dollars, the school bureaucracy undermines public education by dictating in great detail how principals can run their schools and teachers can teach their students. The morass of regulations governing public education prevents teachers from tailoring their teaching to the diverse needs of students and taking innovative approaches to educating. Not coincidentally, some of the best IPS schools are those at which teachers routinely disregard many of these rules, using their own choice of textbooks, curricula, and teaching methods to ensure that kids learn.

The other reason that Catholic schools succeed is equally simple: they have to. If St. Philip Neri fails to satisfy its customers, parents will take their tuition dollars elsewhere. In contrast, customer satisfaction is irrelevant to public schools, especially those serving low income families. Government simply tells these parents which school their children must attend, and parents who cannot afford a private alternative have no choice but to send their children there, regardless of how poorly that school performs.

If we are committed to giving all our children an opportunity, we must apply to the public school system the same simple principles that enable private and parochial schools to succeed.

In Indianapolis, our experience with allowing public employees and private companies to compete for contracts to provide city services has consistently demonstrated that competition improves government-run enterprises. For each of the 75 services subjected to competition, marketplace pressure has exploded bureaucracies, reducing layers of management, empowering workers, and refocusing these agencies on satisfying their customers. In order to win business, public employees have cut their own budgets while improving service quality, dramatically outperforming their previous, better-funded monopoly.

The same competitive forces can empower public schools to succeed. Committed reformers have offered numerous proposals to break up the government school monopoly and empower public schools to educate more effectively, including vouchers, charter schools, and the education savings accounts currently before Congress. Unfortunately, the president's threatened veto of the education savings proposal demonstrates that this administration continues to believe that any problem can be cured with more federal dollars.

Forcing lower income parents to send their children to poorly performing schools (even in nice buildings) will not improve the prospects of urban youths. What our cities' mayors should be advocating for in Washington is not simply more money to support a failing school bureaucracy, but more help for parents to send their children to the schools of their choice.

MOTION TO INSTRUCT CONFEREES ON H.R. 2400, BUILDING EFFICIENT SURFACE TRANSPORTATION AND EQUITY ACT OF 1998

SPEECH OF

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22 1998

Mr. BROWN of California. Mr. Speaker, the Committee on Science whose jurisdictional area of expertise includes transportation research and development once again is

pleased to have worked closely with the Committee on Transportation and Infrastructure in efforts to strengthen the research program of the Department of Transportation by first developing a comprehensive research title for the House version of this legislation and later by serving as conferees on the research title.

I would like to thank Chairmen SHUSTER and PETRI as well as Ranking Democratic Members OBERSTAR and RAHALL for their cooperation in bringing a research title to the floor which incorporated most of the significant provisions reported by the Committee on Science and for working with us to ensure that the House comprehensive research program prevailed in conference to the extent possible. I believe our cooperative efforts in 1992 contributed significantly to the strengthening of Department of Transportation surface transportation research in the ensuing years; I am equally convinced that our efforts during 1997 and 1998 will take these research programs to a higher level. While I am deeply disappointed with how a handful of provisions turned out, overall I feel this legislation is an improvement over existing law.

Unfortunately, the Statement of Managers for the bill before us omitted the explanation of all of the research title except for the Intelligent Transportation System. While many of these provisions are clear on their face, I feel in other instances, an explanation of Congressional intent should be included in the legislative history. Therefore, at this point, I would like to discuss a number of these provisions for which the Science Committee leadership served as conferees and where Science Committee members had concerns.

Section 5108, entitled Surface Transportation Research Strategic Planning, makes it clear that the Secretary is to oversee an integrated planning process in consultation with all other Federal agencies involved in surface transportation research, State and Local governments, and private sector organizations involved in surface transportation research to make sure that the Department's efforts have a strategic focus, clear goals, and measurable results. This section builds on the work the Department has begun under the guidance of the Deputy Secretary. The language retains other important features from our Committee's work product including tie-ins to the Government Performance and Results Act, outside review of Department plans, emphasis on merit review, and tying in the plans, research and results of each Departmental research program to this planning effort.

Section 5102, Surface Transportation Research, ended up containing programs which originated in Committee-passed sections dealing with research, technology development, and technology transfer. Among the items of importance to the Committee on Science are the new 23 USC 502(c)(2) and (f) which provide for research, development, and technology transfer related to surface transportation infrastructure such as enhancing emphasis on seismic research and on demonstrating innovative recycled materials, especially the use of paper and plastics to replace metal mesh in reinforced highway concrete. The Committee also placed strong emphasis on increasing the knowledge base necessary for state and local governments to do contracting based on life cycle cost analysis including the development of standardized estimates for the useful life of advanced highway and infrastructure materials. The Committee is well aware that if the useful life of the average highway could be extended by just one year, that the entire surface transportation research program of the Federal government could be paid for many times over and is interested in stopping the phenomenon of the products of advanced research sitting on the shelf because local contracting officers are either unfamiliar with them or do not know how to evaluate their usefulness.

Section 5104, Training and Education, continues a variety of training and scholarship programs of the Department. The Committee through language now included at 23 USC 504(b)(2)(A)(i) had interest in strengthening undergraduate training and technical assistance to local transportation agencies through programs such as the Middle Tennessee Graduate 2000 program which was designed in conjunction with the concrete industry and state officials to assure an adequate supply of bachelor level professionals who are knowledgeable about the concrete industry and capable of making decisions related to the adoption of new technologies. We feel this is a necessary complement to our changes in Section 5102. Even if we are successful in getting the Department to fund research on life cycle costing and to develop standardized estimates of useful lives for new technologies, these are unlikely to be utilized in the absence of a technologically educated workforce.

Section 5107, the Surface Transportation-Environment Cooperative Research Program, is an idea promoted both by the Senate and by the Committee on Science. Its goal is to promote an increased awareness of the environmental and social impacts of transportation decisions through research to better understand factors related to transportation demand, by developing indicators of economic, social, and environmental performance of transportation systems, and by establishing an Advisory Board to recommend environmental and energy conservation research, technology and technology transfer activities related to surface transportation.

Section 5110, is one section with a disappointing final form. While we appreciate the Conference Committee's retention of our emphasis on merit selection of University Transportation Research Centers, we feel it is a mistake to list 21 recipients of earmarks and to mandate those earmarks in specific amounts for six years. This defeats both the principle of awarding contracts to the most qualified institutions and of continuing funding only for those institutions which perform satisfactorily under the grants. The House version of this legislation listed a number of other locations which Members of Congress considered to have meritorious programs and required the Secretary to consider applications for these institutions while not requiring actual rewards. For instance, under the House provision, which we considered to be preferable, the Secretary would have considered applications from schools like Middle Tennessee State University, Tennessee Technological University, and the University of Maryland which our membership considers to have sophisticated transportation programs, but the Secretary would only have awarded and renewed grants to these institutions if the applications from the school was meritorious and its performance under existing grants was satisfactory.

We are in agreement with the Statement of Managers language on the Intelligent Transportation System Subtitle and were pleased to be able to make a contribution to it. Our Committee's main emphases were expedited standards development for the intelligent transportation systems (ITS) program to decrease the chance of deployment of incompatible systems, increased data collection and information sharing responsibilities for recipients of grants for ITS operational tests or deployment, making sure that adequate attention is paid to the basic and human factors research related to ITS, and making sure that the special needs of ITS in cold climates were addressed.

I would like to close by commenting on the bill's removal of the deadline for conversion of highway construction to the metric system of measurement and its deferring to the states in this matter. This modification does not change the basic underlying facts that metric is still by law the preferred system of measurement in the United States, that U.S. government procurement and business related activities are to be conducted in metric, and that the rest of the world is moving to metric at a very rapid clip. Metric is the official system of measurement throughout Asia; all regulations in the European Union are being written in metric. Metric measurement is the standard throughout the Americas including Mexico and Canada. Metric measurement is rapidly becoming predominant in U.S. highway construction. Fortunately, this provision is not expected to bring much change. A quick survey of the states has shown that 90 percent of them do not plan to exercise this option and revert to the English system of measurement.

HONORING LORI PARCEL

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. BURTON of Indiana. Mr. Speaker, Ms. Lori Parcel of Greenwood, Indiana in my District is the winner of the 1998 Voice of Democracy broadcast scriptwriting contest for Indiana. I am pleased to present her winning script for the RECORD.

Who hasn't solved a jigsaw puzzle? We all have been faced with the task at one time or another. I remember the last time I tried to solve one. After hours of work, the puzzle was nearly complete . . . and then I realized that some of the pieces were missing. I scoured the area in search of the missing pieces, but I was unable to find them. The puzzle remained incomplete. In many ways, our democracy is a puzzle that consists of over 250 million pieces. Over 250 million voices which are inextricably bound. And interlocked within this tapestry, the tapestry of democracy, is my voice.

I realize that all of the pieces of the puzzle must be present for our government to be fully effective. However, looking around, I

can't help but notice gaps in democracy's tapestry. Gaps which surely weaken the entire structure. I raise my voice to cry out to the missing pieces, to tell them to join the majority of Americans, to exchange ideas and strengthen our government, but my cry does not reach some. They do not understand that by discounting their own voices, and by ignoring my plea, they are hurting both themselves and our government. They do not realize that a democracy such as ours cannot effectively operate without their input. I use my voice to tell them about the time I was paging in the state legislature. I tell of a man who came into the statehouse and observed me tallying opinion surveys. The man, presumably a stray piece, was surprised that the surveys were tallied. He expressed his astonishment by saying, "That's where those surveys go. You actually read these. I did not think anyone listened, or that it was worth spending money for a stamp." The man did not understand that the absence a single voice, a solitary note in the symphony of our government, can throw harmony into discord.

I plea to the stray pieces once again. I tell them that, during my experience paging, I learned that legislators are people. They have pictures of their families on their desks, and they even drink coffee. They are no different from the rest of us except they have decided to make a career out of using their voices to build our democracy, to add more pieces to the puzzle in hope of solving our nation's problems.

But certainly one does not have to hold public office to have a voice in our government. Rosa Parks provided the impetus for the Civil Rights movement by simply refusing to give up her seat on the bus. She did not even have to open her mouth to have her voice heard throughout the nation.

My voice will not be the missing piece of the puzzle or the chord absent in the symphony. I may speak loudly and run for public office. Or I may speak softly by writing to my representative to tell him my opinions on an issue. But regardless of how I speak, my voice will always be audible. It must be, in order for me to be a fully participating member of our democracy. It is my duty to those who have sacrificed and those who continue to work for freedom throughout the world to exercise my right to participate in our government.

I realize that using my voice is critical to the continuation of democracy. Our government consists of millions of voices. Those of politicians and those of voters, but all of which are American voices. Exercising our voices through voting is our privilege, right, and duty as American citizens. In order to truly have a government of, by, and for the people, we must all work to build it. We must all contribute our piece of the puzzle, our voice, to our democracy. When I cast my vote a year from now, I will be doing far more than choosing one candidate from the ballot. I will be contributing my voice to the extensive puzzle which depicts the tapestry of our government. And I will be raising my voice, in harmony, to contribute to that symphony we call democracy.

A TRIBUTE TO ANTHONY BELSKI

HON. FRED UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. UPTON. Mr. Speaker, I rise today to pay tribute to a dedicated and devoted friend of Southwest Michigan, Mr. Anthony Belski. This month he is retiring after thirty-six years of service to St. Joseph Public Schools. For twenty-nine of those years, Mr. Belski presided over Lincoln Elementary School as its principal.

During his tenure, Mr. Belski has seen a lot of change but through it all, one thing remains the same—his enduring dedication to the kids. Principals are in a unique position to touch so many lives and to help mold so many futures. As an educator, Mr. Belski is in a unique position to have his hard work live on in each of his students—clearly southwest Michigan is a better place thanks to his efforts.

Mr. Speaker, please join me in thanking Mr. Anthony Belski for all of his work and wishing him a long, productive, and happy retirement.

TRIBUTE TO FRAN PAVLEY

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. SHERMAN. Mr. Speaker, I rise today to pay tribute to Fran Pavley, for her leadership and efforts to improve the quality of life in our community. Fran is a determined, hard working individual who is a shining example of a model citizen, and has been rightly named as the recipient of the Citizen of the Year Award by the Las Virgenes Homeowners Association.

Fran's unwavering dedication to the Agoura Hills community spans back to the incorporation of the city in 1982. Serving as one of the first members of a budding, tightly-knit community, Fran has served continuously on the Agoura Hills City Council since it was created, the same year as the incorporation of the city. In addition, she was elected and served as the City's first mayor. Currently, in her fourth term as mayor, Fran continues to consider legislative, environmental and planning issues as top priorities.

One past achievement that has highlighted a bright career was Fran's authoring the "Transit Needs Study," which led to the creation of such programs as regional Dial-A-Ride and the Beach Bus. Currently, Fran is involved in planning and constructing a community center to serve the citizens of Agoura Hills and Calabasas. In recognition of these and other projects, she recently received the "Distinguished Leadership Award" by the American Planning Association.

In addition to Fran's participation in politics at a local level, she currently serves on the California Coast Commission, which plays a critical part in regulating land-use issues along California's 1100 miles of coastline. In 1996, the council member served as President of the Los Angeles County Division of the League of California Cities. Currently, she represents eighty-seven cities in the Los Angeles County of Statewide Board of Directors for the League of California Cities. Fran has also served on the Santa Monica Mountains Conservancy Advisory Committee, representing Agoura Hills and Westlake.

Growing up in Southern California and completing a Master's Degree in Environmental Planning, Fran has voluntarily offered her personal abilities to enhance and augment our community.

Mr. Speaker, distinguished colleagues, please join me in paying tribute to Fran Pavley. She has shown an unwavering commitment to the community and deserves our recognition and praise.

PERSONAL EXPLANATION

HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. BALLENGER. Mr. Speaker, had I been present for rollcall vote 208 (the Neumann amendment in the nature of a substitute or the so-called Conservative Action Team "CATs" budget) and rollcall vote 210 (the Republican budget resolution or the Kasich budget) last week, I would have voted in favor of these measures. On the Spratt substitute, rollcall vote 209, I would have voted "no." I regret that I was unable to be in Washington, D.C., when the House cast these important budget votes.

CONGRATULATIONS TO JAMES L. DANDURAND

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. VISCLOSKY. Mr. Speaker, it is with the greatest pleasure that I pay tribute to an exceptionally dedicated and benevolent member of Indiana's First Congressional District, Mr. James L. Dandurand, of Schererville, Indiana. After thirty-nine years of continuous service with the institution, Jim retired on March 3, 1998 as Chairman of the Board and President of the Merrillville Market of Bank One.

Jim graduated from the University of Illinois with a Bachelor of Arts degree. After graduating, he served his country as a First Lieutenant of Infantry in the United States Army. Beginning his employment with the bank in February of 1959 as a Management Trainee, Jim started his extraordinary rise through his office's employment ranks. Jim was quickly promoted to President on July 18, 1969 and Chairman of the Board on March 14, 1985. Though employed and serving the community through various civic organizations, Jim continued his education through enrollment and completion of American Institute of Banking courses in Chicago, the Harvard Business School's Senior Bank Officers Seminar, Indiana University's Management Course. In addition, he graduated from the University of Wisconsin's Graduate School of Banking.

Jim's remarkable climb up the corporate ladder was accompanied by an ever-increasing group of civic, religious, and philanthropic organizations in which he participated. Jim served in a leadership role as Director of the Lake Area United Way, Director of the Boys and Girls Clubs of Northwest Indiana, Honorary Director of the American Red Cross, Lake County, Indiana Chapter, Director and

Chairman of the Northwest Indiana Forum, Director of the Northwest Indiana Local Initiatives Support Corporation, Director of the Hospice of the Calumet Area, Inc., and Director of the Gary Educational Development Foundation, Inc. He also gave his time to the Lay Advisory Board for Catholic Charities, Diocese of Gary, Indiana University Northwest Chancellor's Associate, Purdue University Calumet Chancellor's Associate, Robert Morris and Associates, and the University Club.

While serving the community has always been an extremely important part of Jim's life, there can be no comparison to the dedication Jim has for his family. Jim and his loving wife, Prudy, have four wonderful, grown children, Lisa, Jeff, Jill, and John. Their seven grandchildren are an eternal source of joy and love for Jim and Prudy. Now that he is retired, Jim plans to visit and spend much of his time with his family. Jim's future plans include extensive traveling with his wife, many rounds of golf, and visiting his children and grandchildren.

Mr. Speaker, I ask you and my other distinguished colleagues to join me in commending Jim Dandurand for his lifetime of service, success, and dedication to Indiana's First Congressional District. Jim serves as an excellent example of a true American. His unending service to his country, community, and family has rewarded the people of Indiana's First Congressional District with one of the real heroes of our time.

RECOGNIZING THE 75TH ANNIVERSARY OF THE NAVAL RESEARCH LABORATORY

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. SKELTON. Mr. Speaker, it is an honor for me to bring to the attention of the House of Representatives and the American public the distinguished contributions of the Naval Research Laboratory on the occasion of its seventy-fifth anniversary.

The Naval Research Laboratory was officially founded in Washington, District of Columbia on July 2, 1923 after Thomas Alva Edison recommended that a modern research facility for the Navy be established. In the following seven decades, research efforts have expanded from the 2 original areas of scientific endeavor—radio and underwater sound—to 19 broad areas that encompass many diverse fields.

The Naval Research Laboratory's early research achievements include the discovery and explanation of radio skip distance, the development of the fathometer and early sonar, and the development of the first operational American radar.

During World War II, the Naval Research Laboratory's scientific activities focused on applied research in direct support of combat forces. The Laboratory devised ship electronic countermeasure systems, developed the first application of cryptography in radar identification, and invented the first Identification Friend or Foe (IFF) radio system in the United States.

After World War II, the Naval Research Laboratory greatly expanded its pre-war research program in radio, radar, underwater sound, chemistry, metallurgy, optics, nuclear science, and cosmic rays.

The Naval Research Laboratory pioneered naval research into space launching atmospheric probes with V–2 rockets through the direction of the *Vanguard* project—America's first satellite program. The laboratory also produced the first satellite communication system by using the Moon as a reflector and receiving the returned signals on the Earth's largest parabolic antenna. More recently, the laboratory developed the Navy's Global Positioning System and built the Clementine satellite that conducted the most comprehensive lunar mapping to date. Since the late 1950's, the Naval Research Laboratory's scientists and engineers have designed, built, and launched more than 80 satellites that have expanded our understanding of the vast frontier of space.

The Naval Research Laboratory's facility for the structure of matter has become internationally famous for its groundbreaking work in using electron and x ray diffraction methods for understanding the structure of complicated organic molecules. For his work in this field, the laboratory's Dr. Jerome Karle received the 1985 Nobel Prize in Chemistry.

The Naval Research Laboratory's current research program spans the scientific spectrum—including studies in areas such as advanced materials technology, electronic warfare, infrared countermeasures, fire suppression, information technology, radar technology, monitoring the solar corona and its impact on the Earth's atmosphere, biomolecular engineering, artificial intelligence, remote sensing, meteorology, and oceanography.

Today, the Naval Research Laboratory is well-positioned to enter the 21st century with a strong technical program and all the tools necessary to continue its mission as the United States Navy's corporate laboratory.

Mr. Speaker, I am proud to recognize the Naval Research Laboratory, and I am certain that the Members of the House will join me in congratulating this distinguished research institution on the celebration of 75 years of scientific achievement.

A TRIBUTE TO SANTA CLARITA, CALIFORNIA'S HERO OF THE WEEK PROGRAM

HON. HOWARD P. "BUCK" McKEON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. McKEON. Mr. Speaker, today I rise to proudly recognize a wonderful program that exists in the city of Santa Clarita called the "Hero of the Week" and those individuals honored under this program.

Started by Maria Fulkerson and Lorraine Grimalde of Santa Clarita Anti-Gang Task Force, the Hero of the Week program focuses on more of the positive actions of our youth rather than the negative that most of the media covers. The program honors students for their positive actions and choices they have demonstrated. The students from the Santa Clarita Valley Junior and Senior High Schools are recommended by teachers and principals based on their observations of the student exhibiting positive behavior.

The students that are selected exhibit the qualities that we are looking for in future leaders of our nation. These students, many of whom have had previous problems of one sort or another, have made remarkable improvements in many different areas. I am proud to honor these students today here on the House floor.

On June 3, 1998, the Hero of the Week program honored 29 members of my community for their outstanding activities that truly made them heros in our neighborhood. These children have faced serious obstacles and in many cases faltered in the face of adversity. However, none of these students gave up. Their hard work and determination have truly earned them the title "Hero of our Community."

Mr. Speaker, I would like to conclude these remarks by listing the 29 students honored by the city last week. I congratulate them and the city for such a wonderful program helping our students in promoting positive activities.

HERO OF THE WEEK HONOREES

José Acosta—Canyon High School
Gilbert Avalos—Arroyo Seco Jr. High School
Andrew Brown—Canyon High School
Tom Chaney—Sierra Vista Jr. High School
Dionna Curtis—Sierra Vista Jr. High School
Mario de la Torre—Canyon High School
Colleen Dillingham—Saugus High School
Rusmir Dzidic—Hart High School
Jenny Embelton—Placerita Jr. High School
Rigoberto Garcia—Placerita Jr. High School
Kimberly Goff—La Mesa Jr. High School
Chrissy Hambel—Saugus High School
Michael Hardash—La Mesa Jr. High School
Brandi Huff—Canyon High School
Jin Kim—Sierra Vista Jr. High School
Karla Martinez—Bowman High School
Martina Mendez—Hart High School
Eva-Maria Onesto—Saugus High School
Rafael Orellana—Placerita Jr. High School
Ashley Palmer—La Mesa Jr. High School
Angel Rodriguez—Saugus High School
Olivia Sanchez—Bowman High School
Steven Santana—Arroyo Seco Jr. High School
Erik Sayer—Arroyo Seco Jr. High School
Diana Dimone—Valencia High School
Jennifer Sorge—Valencia High School
Joseph Taylor—Saugus High School
Federico Valle—Hart High School
Leopoldo Yepez—Sierra Vista Jr. High School

IN MEMORY OF JUDGE DAVID W. DYER

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. HASTINGS of Florida. Mr. Speaker, it is with a great sense of sadness and bereavement that I rise today in order to mark the passing of Judge David W. Dyer.

Judge Dyer began his Federal judicial career when he was appointed by President Kennedy to the bench of Florida's Southern District Court in 1961. The following year he was named its chief judge. In 1966 he was appointed to the circuit court of appeals,

where he served until his retirement in December of 1997.

Community leaders across south Florida are at a loss today because they have lost their leader, mentor, and role model. For many, Judge Dyer is nothing short of a hero. During a time of great national struggle, he consistently advocated and maintained that the Constitution guaranteed equality for all Americans—no matter what their race. To put it simply, he was Florida's most respected jurist.

I would like to take a moment, Mr. Speaker, to share with my colleagues two of Judge Dyer's most important achievements. The first was his landmark decision to desegregate the restaurants which serve travelers on Florida's turnpike. The second was his decision, while sitting on a three judge panel, to reapportion Florida's voting districts on the basis of "one man, one vote." In both instances, he demonstrated his ability to do not only the right thing, but also the just thing.

In April of last year, I had the high honor of introducing H.R. 1479 to this body. Senator BOB GRAHAM introduced companion legislation in the Senate. That legislation, which went on to become public law, renamed Miami's Federal Building and Courthouse in honor of Judge Dyer.

Of course, Mr. Speaker I also rise today to mark the passing of a very dear and close friend. I do not think that it is very often in our lives that any of us are able to say that we had the privilege of knowing a 'great man'. But, in this case I think that I am uniquely blessed. During the time that we spent together, he demonstrated what it meant to defy racial stereotypes.

His loss is not only a personal one, but one to the entire U.S. Judiciary. How long will it be until someone else with his compassion and understanding will grace our presence again? Mr. Speaker and my fellow colleagues, I ask you to join me in hoping that that day will be very, very soon.

SYRACUSE CHILDREN'S CHORUS REPRESENTS U.S. AT INTERNATIONAL FESTIVAL IN CHINA

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. WALSH. Mr. Speaker, I rise today to ask my colleagues to join me in praising the Syracuse Children's Chorus, a group of young singers who will represent not only my home district of Central New York, but in fact, our entire nation when they travel to the International Children's Choir Festival and World Conference in China July 31 through August 14.

The group, directed by Dr. Barbara Marble Tagg, is one of three such groups invited by the Government of the Peoples Republic of China, and the only one from the United States.

They will perform in Hong Kong and three mainland cities—Shenzen, Guilin, and Guangzhou. This is a unique honor and a wonderful opportunity. I've known about the Syracuse Children's Chorus since our own children participated and their reputation is outstanding. I know they will represent central New York and the U.S. very well. I am proud and excited for them and their families.

Since its founding in 1981 by Dr. Tagg, the Syracuse Children's Chorus has become an international model for music education. The SCC has been the recipient of grants from the National Endowment for the Arts and has been heard on National Public Radio. They performed at the 1996 International Society for Music Education World Conference in Amsterdam, following a concert tour of Belgium and Holland that year.

They were also featured at the Walt Disney World Children's Holiday Choral Festival as well as Carnegie Hall in 1991.

The Syracuse Children's Chorus has commissioned more than 50 works for children's choruses by composers from the U.S., Canada and China.

Dr. Tagg is artistic director and founder. She is an Affiliate Artist at Syracuse University where she is a member of the choral music education faculty. She is a remarkable person who has done much for our community.

I ask my colleagues to join me in wishing them well in their performance and their experience.

The chorus members are: Jessica P. Ashooh, Rachel O. Bass, Elena de la Garza-Bassett, Andrea L. Bess, Erin L. Canavan, Shawna L. Carrigan, Heather N. Charlton, Courtney J. Chiavara, Stacey L. Condolora, Jeffrey B. Corbishley, Elizabeth M. Corcoran, Andrea E. Dunuwila, Brendan E. Dunuwila, Kristen W. El-Hindi, Sarah T. Esgro, Jill R. Evans, Abigail M. Freeman, Rebecca L. Fullan, Christina Hollenback, Jessica L. Keating, M. Amaris Kinne, Caroline T. Manolakos, Michelle M. Michalenko, Erin M. Molnar, Sidra S. Monreal, Amber L. Moriarty, Marissa H. Mulder, Michelle M. Ostrowski, Kathryn L. Palange, Johanna C. Pingel, Kathryn M. Pratt, Amanda J. Schofield, Katharine J. Suddaby, Elana S. Sukert, Sarah A. Tiedemann, Richard D. Udicious and Carolyn D. Woiler.

The chorus staff are: Stephen Paparo, conducting intern; Jackie Pickard, chorus manager; Teresa Hudson, chorus administrator; and Michael Weslowski, director of PR/marketing. Accompanist is Glenn Kime.

CBO'S FRACTURED CRYSTAL BALL

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. GINGRICH. Mr. Speaker, the attached editorial from the Washington Times puts the problems with the Congressional Budget Office in the proper perspective. Stephen Moore's suggested remedies merit serious consideration. I submit the editorial to the CONGRESSIONAL RECORD.

CBO'S FRACTURED CRYSTAL BALL

(By Stephen Moore)

Speaker Newt Gingrich announced last week that Congress should begin to "review the accuracy [sic]" of the economic and budget forecasting of its internal think tank: the Congressional Budget Office. It's about time.

Mr. Gingrich and his GOP colleagues are finally catching on to a problem that many supply side economists have recognized for years. Since at least 1995 the CBO has been dramatically low-balling its economic estimates, and thus overstating the budget deficit. On average CBO has understated GDP growth by 1 percentage point per year—which is a large forecasting error.

One implication of this underestimate of GDP growth has been that the government's official budgeting agency has missed the biggest fiscal story of the last quarter century: a balanced budget with very rapidly rising budget surpluses.

Consider the legacy of error detailed in the attached table. Two years ago, in May 1996 the CBO forecast a 1998 deficit of $174 billion. Instead, now we are told that we will have a surplus of $35 billion. This means the CBO's 1996 deficit forecast for 1998 was off by more than $200 billion. The five year (1998–02) estimated deficit was $1,167 billion. The latest CBO forecast now sees a surplus over that period of at least $200 billion. In two years, CBO has revised upward its budget estimate by almost $1.4 trillion. Incredible.

But the CBO's crystal ball may still be cracked. The latest CBO report that came out in early May 1998 continues to underestimate surpluses. Larry Kudlow of American Skandia and I have estimated that the surplus for this year will be closer to $70 billion and that future surpluses will be at least twice as high as CBO says.

The CBO has long been bearish on the American economy even as employment, stock values, and business profits soar, inflation approaches zero, and interest rates dip to 20-year lows. The long-term CBO estimate for real GDP growth is a turtle-paced 2.1 percent growth rate for as far as the eye can see. Yet the average GDP growth over the past 16 years has been 3.0 percent. In fairness to CBO, the Clinton Treasury Department is predicting an equally anemic rate of future growth.

Economic forecasting is at best an inexact science. Some might even call it voo doo. The best—and perhaps the only—semi-reliable forecast of the future is the past. CBO continues to assume that the economy will grow at substantially below its historical trend.

The logical question is: Who cares if CBO is wrong? The answer is that bad forecasts make for bad policies. Republicans in Congress continue to budget as if we are in a deficit environment. In fact, revenues are going to be at least $500 billion higher from 1998–2002 than they thought last year. This explains why Congress is now pondering a niggardly tax cut of less than $100 billion when in fact a better economic forecast would demand tax cuts 3–5 times higher than that. Yes, bad numbers lead to bad policies.

Faulty number crunching is also a big problem at CBO's sister agency, the Joint Tax Committee. Last year when the Republican Congress cut the capital gains tax rate from 28 percent to 20 percent the JTC scored this as a five and ten year revenue loser for the government. This ignored all historical evidence to the contrary. For nearly 40 years every capital gains tax cut has yielded more revenues. Every capital gains tax increase, including most notably the 1986 increase, has lowered federal tax receipts. Preliminary tax return data indicate that in the first 10 months since last year's cap gains cut, capital gains receipts are surging. Has JTC learned its lesson? Hardly. The JTC is now

scoring a proposal to cut the cap gains tax to a uniform rate of 15 percent. Rather than admitting its error, JTC chooses to stick with it's discredited story.

The GOP has no one to blame but itself for these faulty forecasts. The GOP runs Congress nowadays and hence it hires and fires the number-crunchers. But JTC and CBO appear to be using the same Keyensian models the Democrats invented 40 years ago.

It is time for the GOP to launch an assault against the CBO and the JTC. The assault should be based on the fact that CBO's models are broken. The goal is not ideology, but simple accuracy. Newt Gingrich and the Budget Committees should ask these agencies to:

(1) Raise GDP forecasts through 2008 from 2.1 percent to a more realistic 3.0 percent.

(2) Raise revenue growth estimates. CBO (and Treasury) predict 4 percent revenue growth. We've been averaging 7 percent revenue growth since 1982. This year revenues are up an enormous 11 percent. A reasonable revenue growth estimate is 10 percent for 1998 and 7 percent thereafter.

(3) Revise the surplus estimates. Because revenues will be much higher, so will surpluses. With 7 percent revenue growth, the surplus by the year 2002 reaches roughly $300 billion.

(4) Make dynamic economic estimates of capital gains tax changes. A 15 percent capital gains rate will be extremely bullish for the economy and increase wealth and tax collections.

Most important of all, once armed with these new forecasts, the GOP must abandon its austerity budget strategy and enact a very, very large tax cut. It is time to harness the surpluses in a way that creates more prosperity, not bigger government. American workers and businesses, not politicians, created this prosperity and the expected tide of budget surpluses. Now we deserve a substantial tax cut dividend.

TRIBUTE TO INLAND EMPIRE HIGH SCHOOL VALEDICTORIANS, SALUTATORIANS AND STUDENT SPEAKERS

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. BROWN of California. Mr. Speaker, I rise today to recognize the achievements of an outstanding group of young men and women from my district in Southern California. The 68 students I have listed below have the distinguished honor of being selected as the valedictorians, salutatorians and student speakers of their graduating classes and deserve to be recognized for this laudable achievement.

Representing some of the best and brightest of the Inland Empire's future generation, these students have already accomplished a great deal and stand to reap even more success as the years go by. Education is the most important foundation we can have for life, and these students have realized that potential.

I would especially like to acknowledge those students who have risen above adversity and overcome disadvantages and obstacles that may have threatened to hinder their path to success. I offer my congratulations to each of the graduating seniors and my best wishes for the future. I am very proud to represent such a fine group of young men and women.

Cum Laude Speakers

Alta Loma: Michael Hubbard; Rancho Cucamonga: Cecilia Mo.

Senior Class Speakers

Alta Loma: Kim Anderson; Rancho Cucamonga: Brian Church.

Valedictorians

Etiwanda: Shin' Ning Duh; Ontario: David Lazzara, Daniel Quesada, Mujtaba Saifuddin; Bloomington: Keyla Lee; Fontana: Sambath Oum; A.B. Miller: Doan Nguyen; Eisenhower: Lisa Briones; Rialto: Lee Aleksich, Cristin Manary; Cajon: Shana Baumgartnar, Leah Donahue, Khoa Nguyen; San Bernardino: Cristina Rose Brower; San Gorgonio: Karl Robert Haley, Denney Huynh, Jason Thomas; Pacific: Lien Dang; Chaffey: Tin Diep; Bloomington Christian: Racquel Jefferson; Ambassador Christian: Johnny Stegall; Aquinas: Frank Kreikebaum; New Life Academy: Arlene Romero.

Salutatorians

Etiwanda: Mitesh Popat; Ontario: Heather Davies; Bloomington: Eric Aguirre; Fontana: Thomas Voden, Eric Arthurton; A.B. Miller: Nawal Badran; Eisenhower: Jeannie Huh; Rialto: Sirine Adlouni; Cajon: Alia Little, Andrew England; San Bernardino: Celeste Ruby L. Lim, Sean R. Corley; San Gorgonio: Minh Ly Luu; Pacific: Chad Milan Timko, Taryn Michelle Harp, Jacqueline Ann Servin; Chaffey: Jung Min Yang, Jessie Stevens; Bloomington Christian: Nicole Miller; Ambassador Christian: Tina Willis, Rochelle Williams; Aquinas: David Colella; New Life Academy: Arlene Romero.

Student Speakers

Valley View: Melissa Ramirez, Hector Morales; Washington: Gilbert Granado, Linda Young; Eric Birch: Carina Higareda; Citrus: John Felila, Berenice Medina, Gregory Smith, Corey Value; Milor: Angel Venegas, Clarice Lopez, Danielle Patterson; Zupanic: Therese Johnson; Sierra: Jamelle Jones, Azucena Molina, Erik Valadez; San Andreas: Anna Valdez, Mandy McPherson.

LAWRENCE CENTRAL HIGH SCHOOL IS CENTRAL STATES WINNER IN WE THE PEOPLE . . . THE CITIZEN AND THE CONSTITUTION NATIONAL FINALS 1998

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. BURTON of Indiana. Mr. Speaker, Lawrence Central High School of Indianapolis competed in the 1998 National Finals of "We the People . . . The Citizen and the Constitution" contest in Washington, DC after winning the Indiana competition.

Lawrence Central students competed with more than 1250 students representing 49 states and was the Central States winner. Their teacher was Drew Horvath and the list of students is as follows:

Kari Amos, Robert Baker, Kari Buis, Julie Burton, Sheila Cardinal, Haley Carney, Mark Davis, Justin Gray, Amber Gross, Shawn Haislip, Kristen Halligan, Seth Higgins, Megan Iott, Les Jahnke, Kelly Khoury, Ted Kieffer, Justin Lane, Jolene McClusky, Joyce McCoy, Courtney Mills, Aaron Moberly, Galan Moore, Jon Owens, Chris Recktenwall, Eric Reissner, Kelly Richardson, Lisa Schubert, Tara Sheets, Jennifer Staresnick, and Shane White.

Congratulations to Mr. Horvath, who has sent previous Indiana winners to this competition, and to all of these outstanding students.

A TRIBUTE TO DR. CHARLOTTE WENHAM

HON. FRED UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. UPTON. Mr. Speaker, I rise today to recognize the contributions of a great educator, community leader, and good friend to all of Southwest Michigan, Dr. Charlotte Wenham. After thirty years of dedicated service to the students and community of St. Joseph, Michigan, Char is stepping down from her position as Assistant Superintendent of St. Joseph Public Schools.

Since 1968, Dr. Wenham has helped to shape young minds in the St. Joseph Public Schools. First at the head of the class as teacher, then at the head of a school as principal, finally spending the last few years heading an effort to develop innovative and creative programs, curriculum, and policies for the district.

While her talents will be missed, I am happy to report that she will be pursuing other interests in our community and will continue to lend her vast knowledge. While she may be changing roles, her dedication to students, to learning, and to creating a brighter tomorrow won't change.

Mr. Speaker, I know that all of my colleagues join me in wishing her many more happy and healthy years. On behalf of southwest Michigan, I would like to thank her for all of her service, dedication and commitment to St. Joseph.

HONORING CAROLE S. POWERS ON HER RETIREMENT FROM TEACHING

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mrs. MORELLA. Mr. Speaker, it is my great pleasure to congratulate my constituent Carole S. Powers on her retirement from the Charles E. Smith Jewish Day School, and from teaching, after more than twenty years of service. Her dedication and commitment to JDS students is not only testimony to her strong commitment to the school and the community, but also to the profession of teaching. Her work

has contributed to the high regard in which the Jewish Day School is held by the community.

Over the years, Carole Powers has touched numerous lives and helped shape a multitude of futures. She is one of those teachers to whom former students return years after their graduation to share their successes, and whose influence and impact students remember long after they have left high school. One of those former students reflected on her importance in his education in a letter to the school paper, and I'd like to share just a part of that letter:

"Next week, as I graduate from law school and don the old cap and gown for the last time, I'll have an opportunity to reflect on my 20 years of formal education.

"By my own rough count, I've had well over 100 teachers—from nursery school to JDS, from college to law school. None was as effective as Carole Powers. None came to class every day with as much commitment to her students, and none stretched her student's minds the way she did.

"All of her students were enriched by her career, and we hope to be able to continue to learn from her and draw inspiration from her for many years to come."

Carole Powers has touched numerous lives and helped shape a multitude of futures. I know her colleagues join me in recognizing her many years of service and in wishing her health, happiness and personal fulfillment in her future endeavors.

A SALUTE TO ERWIN J. HEINZELMANN

HON. THOMAS M. BARRETT

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. BARRETT of Wisconsin. Mr. Speaker, I am pleased to recognize one of the hardest working and effective social reformers in Wisconsin. As friends and colleagues gather to honor Erwin J. Heinzelmann on the occasion of his retirement from Wisconsin Correctional Service (WCS), after thirty-five years, I would like to take a moment to reflect on his years of service to my home town.

After a stint as a brewery worker, Erv began his public service career as a police aide. Feeling the call to create nonviolent options for offenders, he took a job as a probation officer in Children's Court. During his tenure at Children's Court, Erv correctly observed, before it was commonly acknowledged, that criminal behavior could be generational; that many of his youthful clients came from homes where parents were also involved in the correctional system. Erv joined WCS as a caseworker where he focused on breaking that cycle of violence through the development of innovative rehabilitation programming for offenders.

After just two years on the job, Erv became Executive Director of WCS. He worked tirelessly to secure both private and public resources to fund projects designed to help offenders become responsible citizens. Under his leadership, the staff of WCS grew from five to two hundred and fifty employees. Motivated by his belief that people can change, given professional assistance, Erv and his staff developed an array of creative, justice oriented programming for offenders of all ages, including the first narcotics treatment program in Milwaukee, the oldest correctional halfway house, and even the first private prison in the State of Wisconsin.

Throughout the years, Erv and WCS have received scores of honors and awards, including recognition from the Federal Office of Juvenile Justice, the Juvenile Justice Delinquency Prevention Advisory Committee, and the National Institute of Justice. Now Erv is prepared to pass the torch to a new administrator. We can only hope that he will also pass on his well known enthusiasm, as well as his profound commitment to respect for the law, the reparation of harm, and dignity for all.

I ask my colleagues in the House of Representatives to join me in extending my appreciation to Erwin J. Heinzelmann for over three decades of service to the people of Wisconsin. Congratulations, Erv, and best wishes for future successes.

"HATE ON THE INTERNET"—REMARKS OF JERRY TURK

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. LANTOS. Mr. Speaker, while the Internet is a wonderful technological tool providing information on a host of subjects and permitting the rapid dissemination of great deal of information on an incredible variety of topics, the Internet is also being used by hate mongers and bigots to peddle their nefarious lies.

A few days ago, my dear friend Mr. Jerry Turk, the President of the Las Vegas Office of the Anti-Defamation League (ADL), delivered an excellent speech at the ADL's Distinguished Community Service Award Dinner in Las Vegas. His remarks "Hate on the Internet" are an excellent introduction to the problem of the abuse of the Internet by racist fanatics and a discussion of the difficulties that we face in attempting to deal with this serious issue.

Mr. Speaker, I submit Jerry Turk's remarks to be placed in the THE RECORD, and I urge my colleagues to give them thoughtful consideration. This is a matter of considerable importance, and we in the Congress need to be aware of it.

"HATE ON THE INTERNET," REMARKS BY JERRY TURK, PRESIDENT OF THE LAS VEGAS OFFICE OF THE ANTI-DEFAMATION LEAGUE (ADL)

Just for the moment this evening, I would like to ask each one of you for a favor. Please imagine yourself sitting at your computer, accessing the Internet—whether through America On Line, Netscape, Microsoft's Explorer, or whatever—and being told you have E-mail. Then, upon checking your mail, you read the following message:

Subject: "Idiotic Jews who waste their lives away.

Message: All you worthless Jews should go to hell, together with your lame-ass skull caps.

Die, you worthless, good for nothing, Christ-killers."

This is a portion of an actual E-mail that was sent to thousands of people, which was turned over to the Anti-Defamation League by a recipient that was a subscriber to a Jewish issues publication.

The ADL, which was founded 85 years ago, is in the forefront of the struggle for civil rights in America. ADL, through its many offices, combats all forms of prejudice, bigotry, anti-semitism, discrimination and hate.

Our Las Vegas offices has existed for about two years, and because of the help of many of you who are here this evening, it has made great progress in carrying out its mission. However, in spite of all of our accomplishments, Hate on the Internet is posing a new, very formidable challenge. ADL is working towards meeting this challenge. However, this task is not easy, as "High-Tech Hate" is not only growing, but is becoming more diverse. Let me give you some examples:

On one of a number of Ku Klux Klan web sites, one can play the Klan's version of hangman. The user gets to hang a character called, and I quote, "Leroy", an African-American male. Once you have completed the lynching, the computer screams, "you win"; or

Perhaps you are aware that the holocaust was a fraud and it never happened. Allow me to quote from a notorious holocaust denier's web site: "For fifty years the press, Hollywood, radio, television, and public schools have saturated us with the story that the National Socialist government of Germany carried out an extermination program against the Jews. This is the famous Jewish Holocaust, in which Jews claim six million of their kind were gassed, burned, and made into soap and lamp shades by the Germans. European and American historians and researchers, mostly non-Germans, have shown conclusively that the Holocaust story is a complete fraud.

"Why would such a monstrous fraud be attempted in the first place? The answer is billions of dollars in extortion money, political power, and Jewish racial/cultural solidarity. The Holocaust is used to extort hundreds of billions of dollars from American and German taxpayers"; or

The following passage from the same site, which site by the way, runs in excess of 10 pages:

"The Diary of Anne Frank was shown in 1980 to be another crude example of hate propaganda. In a series of court cases the entire diary was definitively shown to have been written by the same person, but that person often used ball-point pen ink which was not manufactured until 1951, years after Anne Frank's death from disease! The fact that many people still believe this hoax shows the effectiveness of Jewish control in our media and schools, where children in America, Germany and elsewhere are still forced to read this Jewish hate propaganda.

Finally, from David Duke on Tiger Woods from his extensive web site:

"A number of White men will be suckered in by a wave of admiration and emotion for one Black golf player into believing that the Black race can fit in and do well among the White race. That is simply untrue. Some individual Blacks obviously can. But, as a whole, the race cannot. For the mental abilities that go into the making and maintaining of a civilization are not the same as the requirements for a great golf player. The qualities that account for the advancing and maintaining of a scientific and civilized society are simply not the same as the qualities to run a 100 meters under 10 seconds or dunk

a basketball, or for that matter, break the Masters record as a rookie.

With the avalanche of equality propaganda, millions who admire Woods might pleasantly imagine that an unknown Black young man who wants to move into the apartment next door will be like a Tiger Woods. The truth is that he is exponentially more likely to be like a Willie Horton or a Rodney King."

As you can see, the World Wide Web is fertile ground for hate-mongers with hate ideas. Our children are especially vulnerable to these materials, because they are most likely to accept them as fact. At the end of 1997, there were an estimated 56 million people in the United States using the Internet. It is estimated that by the end of 1998 this number will grow to 75 million.

Anyone can legally start a site on the Internet, and once started they can published anything they please. There is no requirement that the author of a web site accurately identify him or herself. The same is true of a user of a web site. Hate messages on the Internet have been likened to anonymous phone calls or letters, except these messages can be sent simultaneously to hundreds of thousands of people. These bigots can spew their hatred without ever running the risk of being identified. Unlike traditional media, where publishers, editors and reviewers are able to separate out lies and distortions, the Internet makes all kinds of information available.

As these individuals and organizations spread their venom across the World Wide Web, what can we do—what can the ADL do? I can tell you the ADL is struggling on how to combat this hate in whatever form it takes. The dilemma here, however, is how to expose this filth and help protect people from it, without violating our first amendment rights.

One approach ADL is taking is working with America On Line to design software that will filter out all sites it considers to be engaged in the spread of hate. However, all ADL can do is make a recommendation to the user, because in the final analysis, each individual user will have to make their own choice.

ADL, nationally, as well as here is Las Vegas, is working diligently to address these and other equally important issues. But it cannot do so without your help. We need your help now to build our Las Vegas ADL office into the leader it has to be for our community.

If you truly care about the Las Vegas Valley; if you truly care about the intellectual environment our children are exposed to; if you truly care about the future of our community, you will support the Anti-Defamation League. I need you, ADL's board needs you, the community needs you, but most importantly, your family needs you—to help. Please help. Please be there. Remember, if not you—then who?

TRIBUTE TO JOHN BELFORTE

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Ms. ESHOO. Mr. Speaker, I rise to honor John Belforte, upon his retirement as an extraordinary educator for forty-three years.

John Belforte served for three years during the Korean War before choosing to pursue a career in education. He earned his Bachelor of Arts and Master of Arts degrees from San Francisco State University and embarked upon a life dedicated to education. He was an elementary school teacher for five years, and an elementary, intermediate and middle school administrator for a combined thirty-eight years.

Under John Belforte's guidance, numerous projects were undertaken and accomplished at Bowditch Middle School, including a TV/Radio Broadcast Studio, three computer labs, a planetarium, tennis courts, technology work stations in each classroom, an enlarged intramural sports program, a conflict resolution program, student selected scheduling and programing, and the highly successful Bowditch Means Business, an innovative business and school partnership.

During his tenure as Principal of Bowditch Middle School and as a result of John Belforte's efforts, the school was designated by the U.S. Department of Education as a Blue Ribbon School and a California State Department of Education Recognized School of Excellence.

John Belforte served as President of the Jefferson Elementary School District Teachers Association, president of the San Mateo County Teachers Association, Regional President of the Association of California School Administrators, a member of Phi Delta Kappa and the College of Notre Dame Faculty Advisory Committee.

John Belforte has given generously of his time and talents to our community, serving as a Commissioner on the San Mateo County Juvenile Justice and Delinquency Prevention Commission, and as a Board Member of the Human Investment Project and Beresford-Hillsdale Homeowners Association. He's been recognized by the Foster City Rotary and Toastmasters International for his outstanding achievements and contributions, and San Francisco State University for his distinguished service as a member of the Advisory Committee to the Department of Education. His extensive involvement was recognized by the City of Foster City which issued a Proclamation naming May 31, 1990 as John Belforte Day.

Throughout his distinguished career, John Belforte has earned the respect and admiration of his colleagues and peers for his dedication and his effectiveness in improving our educational system. He has touched the lives of countless students and served as an inspiration to many. I ask my colleagues to join me in congratulating John Belforte on his retirement, thanking him for his tireless efforts and dedication, and wishing him all the best in the years ahead.

CONGRATULATIONS TO MICKEY COX ELEMENTARY SCHOOL

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. RADANOVICH. Mr. Speaker, I rise today to congratulate Clovis Unified School District's Mickey Cox Elementary School for being recognized as a "California Distinguished School." Mickey Cox Elementary has educated students with great success over the years and has served as a tremendous catalyst to the community. The faculty and students of Mickey Cox Elementary exemplify excellence in student achievement and are very deserving of this recognition.

At its inception, in 1980, Mickey Cox was built by the Clovis Unified School District in an outlying rural area in the northern section of Clovis. From the outset, Mickey Cox came together as a school community with a definite vision rooted in a district philosophy and goals.

The foundation of Mickey Cox lies within the concept of being a community-centered school. The strength of their community lies within its diversity—socially, economically and ethnically. Mickey Cox enjoys an unusually high degree of volunteer support from the community. Parents are encouraged and feel comfortable in participating as classroom helpers and participants in a variety of school activities. The community helps to provide the financial support to sustain the curricular activities offered by the school. Community expectations for high academic standards, co-curricular participation and traditional values have been framed within the context of a caring community. All members of the school community work toward developing sustained achievement and social development in their students.

Mickey Cox prepares all students for the challenges of the 21st century by developing confidence and skills in critical thinking through participation in a wide range of goal-oriented experiences. The concept of nurturing the whole child is emphasized through monthly award assemblies of selected students who demonstrate strength in mind, body and spirit. They believe student recongition is essential in helping students strive toward mastery of academic, physical, and social-emotional development. The school motto is: "If it's to be, it's up to me." Mickey Cox maintains a rich tradition of recognizing student achievement and school involvement deemed important by the entire community.

Mr. Speaker, it is with great honor that I congratulate Clovis Unified School District's Mickey Cox Elementary School for being recognized as a "California Distinguished School." I applaud both the school and the community for their commitment to our children's lives. I ask my colleagues to join me in wishing Mickey Cox Elementary many more years of success.

THE RETIREMENT OF JOHN WARD, "THE VOICE OF THE VOLS"

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. DUNCAN. Mr. Speaker, as many people here in Washington know, I am a tremendous fan of the University of Tennessee Athletic Teams.

For more than thirty years, John Ward has been known throughout the Nation as the "Voice of the Vols." During that time Mr. Ward

has made millions of fans feel like they were sitting in the stands even though they were only able to listen over the radio.

He has been acclaimed with a reputation as one of the finest sports announcers in the history of this Nation.

Even more importantly, he has become one of the most respected and admired men in East Tennessee and has been a true friend to many many people throughout our part of the Country.

John Ward has now announced his retirement as the football and basketball broadcaster for the Tennessee Volunteers after one more season. When he leaves he will certainly be missed by countless numbers of Tennessee sports fans and will be almost impossible to replace.

I would like to offer my congratulations to John Ward on a job well done and wish him the best for the future.

I would like to call to the attention of all my colleagues and other readers of the CONGRESSIONAL RECORD several articles and editorials from the Knoxville News Sentinel.

A LEGEND STEPS DOWN

JOHN WARD, BILL ANDERSON WILL END LONG BROADCASTING STINT NEXT YEAR

At the University of Tennessee, student-athletes come and go with regularity. Less frequently, the school changes presidents, vice presidents, deans, coaches and even athletic directors. And life goes on.

What has not changed in the past 30-plus years at UT is the person broadcasting football and basketball games, John Ward.

When Ward steps down as the "Voice of the Vols" after the 1998 football season and the '98–99 basketball season, life will go on but will be very different. Bill Anderson, the former UT football player who has been the color commentator and sidekick to Ward's play-by-play announcing, also will bow out next year. They are the longest-running broadcast pair in Division 1–A college football.

Ward, who has broadcast UT football games for 30 years and Vols basketball games for 34 years, called a press conference last Wednesday to announce that he will retire following one more season behind the microphone. Succinctly he said, "It's time."

Edwin Huster, Vol Network general manager, promises a national search by the university, the athletic department and the network for Ward's replacement. The new broadcast team likely will be named by May of next year.

But how does UT or the network replace an institution? University President Joe Johnson said he would prefer the headache of picking head coaches, athletic directors or chancellors to finding a successor to Ward.

As much as Ward's longevity and steady voice at the mike, he will be remembered for the detail, the fairness and, most of all, the colorful way he announced UT's games.

Ah, yes, the color. How does one improve on, "Give him six"? Or dragging out the last five yards of a long touchdown romp as though the runner suddenly lapsed into slow motion: "He's at the five, the four, the three, the two, the one . . ."? Or, with field goals, expanding the word "good" to about 10 syllables?

In basketball, Ward might not have patented the term "bottom," but can anyone deliver it any better? And who can forget the basketball glory days of "Ernie G. of Tennessee" or "Bernard KING of the Volunteers" from the mid-1970s?

Such are the things of legend, and, in the world of college football and basketball broadcasting, Ward's legendary status is assured. We wish him and Anderson the best in retirement.

Meanwhile, thanks for giving us one more year.

JOHN WARD, VOICE OF THE VOLS, TO RETIRE

(By Mike Strange)

John Ward revealed his scenario Wednesday, envisioning the aftermath of his retirement as the voice of University of Tennessee athletics.

"Game one," Ward said, "people listening will say, 'That sure doesn't sound like John Ward.'

"Game three, people will say, 'I wonder what John Ward's doing today?'

"Game five, people will say, 'What was the name of that guy who used to broadcast Tennessee games?'"

That's one call Ward will blow.

The man revered as "The Voice of the Vols" announced he will retire following one more football and basketball season behind the microphone. However, it's not likely he will be forgotten by UT fans until well into the 21st century, if then.

After 30 seasons of broadcasting Tennessee football and 34 describing basketball, Ward called a press conference that ended several years of speculation as to when he would step down.

"It's time," he said.

Because of his commitment to sponsors who already had signed on for the coming year and to allow for a more deliberate search for his replacement, Ward agreed to one more season.

Bill Anderson, his color commentary sidekick for all 30 football seasons, also will bow out with Ward. They are the longest-running broadcast tandem in Division I–A college football.

"He's seen head coaches come and go, and he's seen athletic directors come and go," said UT head football Coach Phillip Fulmer. "And John has remained the rock that has always been there."

"That won't change for a number of years. He may retire from being there every day, but he won't leave the minds of Tennessee people."

Ward, who has always been secretive about his age, is believed to be 68. He said he had considered retirement "for three or four years" before arriving at what finally seemed to be the right time.

"I didn't make this decision all by myself," Ward said. "My wife was involved, the university, some of the sponsors we visited with."

He added, "I know the decision now is correct, and the time is correct."

Why? Ward said he had jotted down a list of 22 factors, ranging from health to commitment to the travel to the hours of preparation to the quality of the product.

"It's not a matter of where I think I've slipped very much," he said. "I did a great job this year, compared to other years."

UT President Joe Johnson said he preferred the dilemma of hiring head coaches, athletic directors or chancellors to the daunting prospect of replacing an institution of Ward's stature.

Doug Dickey, men's athletics director since 1985, was the Vols' head football coach when Ward slid behind the microphone in 1968.

"When 107,000 show up for football games or 24,000 come for basketball games, part of that legacy and building that goes to John Ward and Bill Anderson," Dickey said.

Dickey said before the search process for Ward's replacement begins, UT must renegotiate its broadcast rights. The current contract with Host Communications expires in July 1999.

Edwin Huster, Vol Network general manager, said a national search will be conducted by the university, the athletic department and the network. A new broadcast team will be named by May 1999.

"This is the day I and all Tennessee fans hoped would never come," Huster said. "Where do we go next? Good question."

Ward prefers to sit out that process.

"I think it would be better to have a detached, methodical search," Ward said.

The two most often-mentioned candidates among UT fans are WBIR–TV's Bob Kesling and Mike Keith, who recently left WNOX/WIVK radio to become broadcast director for the NFL Tennessee Oilers.

Both are UT graduates and Vol Network veterans who got their respective starts under the Ward regime.

"John set such a high standard," Kesling said. "And he gives the Tennessee fans exactly what they want, so the next guy who follows him is going to have it pretty tough."

Keith said he was "shocked" by Ward's announcement, adding, "It's neat that he set himself up to go out on top of his game. The last year, when basketball was good again, you got to hear what really made him special."

Kesling was recently named top play-by-play man for the Jefferson Pilot SEC weekly football telecasts for 1998. He has made no secret of the fact that he considers the UT job a desirable career move.

Keith said he would "certainly pick up the phone and listen" if UT called, but added, "I'm very happy where I am."

WARD HAS TAKEN UT FANS ON A GREAT RIDE

Ed Balloff lost his job Wednesday.

Don't worry, he has another one, and he doesn't need the money. He is a retired LaFollette, businessman who eight years ago began a second career as a hotshot 72-year-old public defender.

You might know him as a credit line at the end of John Ward's University of Tennessee basketball broadcasts: "Transportation provided by Ed Balloff."

Balloff, 80, was in court Wednesday morning. Otherwise, he would have been at Ward's press conference.

Ward called Balloff on Tuesday to tell his longtime friend that this would be his last year as the voice of UT football and basketball. "It's time," said Ward, announcing succinctly, dramatically that the next season would end 35 years of basketball and 31 of football.

And thousands of miles on the road with Ed Balloff.

Balloff and Ward became friends in the mid-'70s. In the more than 20 years that followed, they realized they shared more than a passion for Tennessee basketball.

"I couldn't have a better friend than John Ward," Balloff said.

They aren't just friends. They are as much a team as Ward and Bill Anderson, Ward's radio sidekick on UT football broadcasts for the last 30 years. Their booth is Balloff's car.

Balloff, who doesn't fly, began driving Ward to SEC basketball games during the glory days of Ernie Grunfeld and Bernard King (1974–77). They once drove all the way to New York for a National Invitation Tournament game. They have driven home from

games in Baton Rouge, La., and Oxford, Miss., when they didn't make it back to Knoxville before dawn's first light.

But their landmark trip was to Lexington, Ky., in January of 1976. After that, their return-trip conversations were never the same.

As Balloff watched the game from the UT bench, he became more and more nervous. When the game went into overtime, he couldn't take it.

He went into a men's room, turned on all the faucets and began flushing the toilets—anything to muffle the roar of the crowd that only could mean bad news for UT. Finally, when he detected a silence beyond the men's room, he ventured outside to see all the sad Kentucky faces. The Vols had won in overtime, 90–88.

The games didn't get any easier for Balloff after that. Watching made him too nervous, so he either paced the corridors of the arena or dropped Ward off at the game, returned to the hotel and picked him up afterward. Ward told him what happened on the way home.

So, in effect, Ward did for Balloff what he did for Vols fans everywhere. He gave him a front-row seat at a UT basketball game.

"He's great at painting a picture of a game," Balloff said. Former Knoxville Journal sports editor Ben Byrd said the same thing.

Byrd remembers the first time he heard Ward broadcast a high school game. "From the first day; you knew then he would be good," Byrd said, "because he could keep up with the action of a basketball game."

In football, Ward has made a point of trailing the play, of prolonging the call emphatically past the TD run: "5 . . . 4 . . . 3 . . ." That countdown is as much a part of Ward's distinctive repertoire as "Give him six" and "It's footballtime in Tennessee."

Bob Pob Prince was one of my favorite broadcasters. Never mind that his station was in Pittsburgh, and my radio was in Clinton, La. Sandwiched between a rock'n roll station in Meridian, Miss., and a Spanish-speaking station from who knows where, KDKA still could be heard on most nights in the early and mid-'60s. Even now, I think I could pick out that longago voice of the Pirates amidst static and song.

In Prince's vernacular, a flyball to Roberto Clemente was a "can of corn," a Pirate on the basepaths was a "bug on the rug." Those lines, that voice, assured me that all was right with the world.

For more than three decades, Ward has done as much for Tennessee football and basketball. There's no mistaking his voice or call. The voice has bridged generation gaps and taken its listeners from high school to the high point of their careers.

"I listened to him as a high school athlete," UT football coach Philip Fulmer said. "We used to have to drive to the top of a hill late on Saturday night to get the signal.

"I remember a particular (broadcast), the UCLA game when Kenny DeLong made a big catch. The energy and enthusiasm (of Ward) affected me because he was in the process of deciding where I wanted to go to school."

It was Ward's time to make a decision Wednesday, and UT fans shouldn't be saddened by it. Like Peyton Manning, he gave them one more year.

Balloff gladly will provide the transportation.

POSTHUMOUS TRIBUTE TO MR. STEVEN J. CRANMAN

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mrs. MEEK of Florida. Mr. Speaker, I want to take this opportunity to pay tribute to one of Miami-Dade's indefatigable leaders, Mr. Steven J. Cranman. His untimely demise last Wednesday, June 3, 1998 leaves a deep void in our community.

Mr. Cranman was attending the Annual Conference of the American Economic Development Council in Nashville, Tennessee when he was felled by a massive stroke. He was barely 42 years old.

A rare South Florida native, Steven was born in Miami Beach. He virtually consecrated his life to public service, and represented the best and the noblest of our community's leadership. He was one selfless hero who dedicated everything he got to the residents of South Dade, who were rendered homeless and almost hopeless by the 1992 devastation of Hurricane Andrew, the deadliest disaster ever to wreck havoc on any community in the United States. Known as a man of limitless passion for the well-being of his fellowmen, he was the leader par excellence who went out of his way to create a convergence of community leaders and common folks alike to focus in on the socio-economic recovery of countless families through the infusion of employment opportunities.

The Perrine-Cutler Ridge community deeply feels the loss of a truly decent and caring man who made it his personal business to reach out to the needs of his neighbors. His relentless efforts in helping South Dade rise from Hurricane Andrew's ashes through economic development and job creation garnered him a prestigious award from the International Association of Personnel in Employment Security. He was also recognized as the 1997 Florida Economic Development Council's District 9 Professional of the Year for his dogged determination in recruiting companies, which subsequently led to the creation of new employment opportunities for the people of South Dade.

The numerous accolades with which various organizations and agencies have honored him through the years symbolize the unequivocal testimony of the utmost respect and admiration he enjoyed from a grateful community. He truly epitomized the resilience and compassion of a community leader whose life served as an example of how much difference each of us can make in behalf of our community's well-being.

This is the legacy Steven Cranman bequeathed to us. I am greatly privileged indeed to have known him as my good friend.

IN HONOR OF MARSHALL W. "MAJOR" TAYLOR

HON. JAMES P. McGOVERN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. McGOVERN. Mr. Speaker, today I rise to honor Marshall W. "Major" Taylor, a champion cyclist during the late 1800s and early 1900s, for his unyielding perseverance and strength in the face of discrimination.

In recognition of his excellence in the sport of racing and his personal struggle for justice and equality, the Seven Hills Wheelman bicycle club of Worcester renamed its annual 100-mile ride the Major Taylor Century. I stand before you today to pay tribute to an outstanding athlete and admirable citizen.

In spite of widespread racism, the "Worcester Whirlwind," as he was nicknamed by his fans, valiantly pursued his passion for cycling. Taylor endured threats and physical assaults, yet rose to excellence in defiance of Jim Crow segregation laws that permeated the country as well as the sport of cycling.

In 1900, Taylor won the American sprint championship race, ultimately proving that hard work and perseverance can have glorious rewards.

Mr. Speaker, I ask my colleagues to take a moment to join me in honoring Major Taylor for his athletic ability and his sportsmanship in the face of intolerance.

IN HONOR OF ARTHUR BROWN

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mrs. MALONEY of New York. Mr. Speaker, I rise today to honor Arthur B. Brown who celebrates his 90th birthday this week.

Mr. Brown was born on the Upper East Side of Manhattan in 1908 to Hungarian immigrants. After the death of his father when he was only 17 years old, Mr. Brown was forced to quit high school and work to support his family. At 20, he became the youngest person to become a licensed plumber in the city of New York.

Mr. Brown's successful business and his genuine understanding of the plumbing profession lead to his invention of the Holby Tempering Valve, an instrument which is now used around the world.

The success of Mr. Brown's business has enabled him to acquire considerable real estate on the Upper East Side, as well as an off-Broadway theater called Theater East which he has owned since 1954.

Beyond his professional life, his commitment to his community is remarkable. Mr. Brown is one of the longest members of Community Board #8 in Manhattan, a board he has been a part of since 1967; he is also a member of the East Manhattan Chamber of Commerce; the 19th Precinct Community Council; the 17th Precinct Community Council; the Central Park Community Council.

Mr. Brown has long been an advocate for the elderly in New York City, most notably as vice president of the New York Foundation of Senior Citizens. In light of these impressive credentials, it is only fitting that the senior citizen housing located at 225 East 93rd Street was named the Arthur and William Brown Gardens after himself and his brother.

Mr. Speaker, I ask that my colleagues rise with me in this tribute to Mr. Arthur Brown. He

has faithfully served his family and his community for decades and his work for Manhattan is without question worth recognizing. I am proud to have Arthur Brown as a constituent.

STATEMENT ON THE 50TH ANNIVERSARY OF THE NATIONAL INSTITUTE OF DENTAL RESEARCH

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. PACKARD. Mr. Speaker, I rise today to commemorate the 50th anniversary of the National Institute of Dental Research. The National Institute of Dental Research (NIDR) was established on June 24, 1948 by the National Dental Research Act. I am pleased to have this opportunity to recognize all NIDR researchers and scientists for 50 years of hard work and dedication.

The NIDR has had a leadership role in improving and promoting dental health. As a former dentist myself, I know first-hand how important this research is for every American. The NIDR supports biomedical and behavioral research in its own laboratories and in public, private, and academic research centers across the nation. It also promotes oral health worldwide through its sponsorship of international meetings and information changes.

The NIDR has dedicated 50 years to researching tooth loss and other related diseases and disorders, including AIDS, osteoporosis, oral cancer, arthritis, and diabetes. Through its research on preventive and diagnostic strategies, the NIDR has contributed to a dramatic improvement in the oral health of the American people. This research saves Americans over four billion dollars in dental expenses every year!

Mr. Speaker, the National Institute of Dental Research has been instrumental in the nationwide decline of oral and dental disease. I wholeheartedly support the NIDR and appreciate its many contributions to dental health over the past 50 years.

IN HONOR OF GRAND CHANCELLOR SIR WILLIAM D. RUBIN

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. SCHUMER. Mr. Speaker, I ask my colleagues to join me today as we commend our dear friend and leader, one of the pillars of our community, Grand Chancellor William Rubin.

Born and raised in Brooklyn, Grand Chancellor Rubin was educated in the New York Public School System, graduating from New Utrecht High School, and completing Hunter College. Upon his graduation he began what would become an eighteen year career at a prestigious major building and real estate organization, moving up to the position of supervisor of construction.

Sir William, a self-motivated individual, was also employed for many years as President of Sabil Management and Bilken Construction Corporation, companies specializing in many different areas, such as real estate investment and general contracting. His expertise in these fields led him to become President of various corporations, including Seabreeze Associations. In 1958, Bill married Zelda Schwartz, also a loyal Pythian, and they now have three beautiful children, all of whom have completed prestigious universities and are flourishing professionals.

Through the years, Mr. Rubin has also been an active participant in community affairs. He has served in many leadership positions for various organizations such as the United Democratic Organization, the NYS Senate Staff, and the Hadassah and Deborah Hospitals. He has also been an extremely active member of the Genesis Lodge. These time and effort consuming activities were all in addition to his involvement in the Pythian Organization as Grand Chancellor and member of the Grand Lodge Committees.

Grand Chancellor Rubin's determined and altruistic personality makes him a natural leader in community affairs. His various involvements have not gone unnoticed; he has been rewarded with various distinguished awards and honors, including the Man of the Year Award, the Distinguished Service Award, Humanitarian Award, Life Membership Memorial Award, and the most coveted of all honors, the Degree of the Golden Spur.

We are proud and honored to welcome home the Grand Chancellor of the Pythian Knights, William Rubin. His leadership abilities and qualities, as well as his concern for the community make him a true role model and friend.

DEMOCRACY TRANSITION PACKAGE

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Ms. NORTON. Mr. Speaker, today, I introduce the third bill in my Democracy Transition Package, a resolution that would return the District's limited right to vote on the House floor in the Committee of the Whole to the rules package for the 106th Congress. I ask Congress to return the delegate vote that I won in the 103rd Congress out of respect for the more than half million taxpaying residents whom I represent. This vote was withdrawn from all five delegates in the 104th Congress, but, as I will indicate, I do not believe the withdrawal was an act focused on the District and its unique circumstances as the home of the only taxpaying residents without full congressional representation. The repeal was wrapped in a package of rules, and the District was never considered individually. On behalf of my constituents, to whom the vote is deeply meaningful, I ask my colleagues to support this important measure.

Without disparaging the rights of the other delegates to seek the return of their votes, I base my request on the unique responsibilities and equities particular to the District of Columbia. I supported the rationale of the decision that gave all the delegates the vote in the Committee of the Whole, namely that, historically, delegates have been accorded the same treatment. At the same time, there are important differences between the District and the territories, most notably, that the District is subject to federal income taxes.

The unique circumstances and equities that argue for a vote for the District can be embodied in four principles.

Principle No. 1—I represent the only Americans who pay federal income taxes but have no vote on the House floor; my constituents pay $1.7 billion annually in federal income taxes, making them third per capita among the 50 states and the District of Columbia. The District is the only territory under the jurisdiction of the United States whose citizens are subject to every obligation of citizenship, notably federal taxation, but remain barred from sending a voting representative to the House and Senate. Unlike the delegate from the District, the delegates from American Samoa, Guam, Puerto Rico, and the Virgin Islands do not represent citizens who pay federal income taxes. Yet, fortunately, they enjoy full self-government and the District does not, and they are afforded the same representation in Congress as the District.

Principle No. 2—I represent the only Americans whose budget governing the expenditure of their own locally raised tax dollars must be enacted by the Congress. The passage of the President's Revitalization package ensures that nearly all of the District's local budget will now be D.C. taxpayer-raised revenues. As the first measure in my Democracy Transition package and with the support of the President, I introduced a bill that would eliminate the D.C. Appropriations subcommittees in the Congress to reflect this important change.

Principle No. 3—I represent the only Americans who do not enjoy full democratic self-government. The four territories, like the states and localities, are self governing under accepted principles of democracy without interference from the Congress. Under the Home Rule Act of 1973, the Congress reserves and exercises the right to revoke and change the laws and budget of the District consisting of locally raised revenues. As the second measure in my Democracy Transition package, I introduced a bill that would allow the District to enact its own laws free of Congressional approval.

Principle No. 4—I represent more than a half million residents, a population more than some Congressional districts.

The District Court of the District of Columbia and the Court of Appeals for this circuit have ruled that there is no constitutional impediment to extending voting rights to delegates in the House to the Committee of the Whole. Article I, Section 5, Clause 2 which states that, "Each House may determine the Rules of its Proceedings" is the constitutional basis for this ruling. Had the case gone against the House, an extraordinary precedent for intrusion by the courts into the Rules and proceedings of this body that no one in the House desires would have resulted.

The House granted a limited right to delegates to vote in the Committee of the Whole on the basis of a legal memorandum that I prepared that was factually grounded in the

District's taxpaying status. The other territories were granted the vote at the same time to avoid differential treatment, although, of course, taxpaying status legitimately sets the District apart from the residents of the territories, who do not pay federal income taxes to the federal treasury. Subsequently, the courts approved delegate voting as granted by the Rules of the House, removing any legal or constitutional question.

My vote in the Committee of the Whole still left taxpaying District citizens without a vote in the formal House and without any vote in the Senate. To avoid any constitutional question, a re-vote requirement provided that a delegate's vote would never decide an issue before the Committee of the Whole if the delegate's vote provided the deciding margin.

The work of the Committee of the Whole is no more final than that of standing committees, such as Transportation and Infrastructure and Judiciary, where Delegates have long had the vote. Therefore, nothing done in the Committee of the Whole is final until the full House acts. My constituents do not assert that they yet meet the constitutional requirements for full voting membership in the House, inasmuch as the District is not a state. What my constituents do meet each and every day is each and every obligation of citizenship, including paying every federal tax paid by other American citizens, serving in the armed forces, and being subject to all obligations required by the nation's laws. District residents have fought and died in every war since the American Revolution and sent more citizens to fight the nation's most recent war, Operation Desert Storm, than did 47 states.

Most Americans today would almost surely agree that citizens who are third per capita in federal income taxes should have the right to vote in the Committee of the Whole if that is constitutionally permissible. Denying me my vote in the Committee of the Whole punishes hard working taxpaying Americans. The House gains by adherence to its often expressed democratic principles while losing nothing if my vote is returned. It would mean a great deal to the people I represent at this critical time in the life of the nation's capital. Disempowering me cannot help in my work to help dispel the District's current problems.

A vote in the Committee of the Whole would give District residents a vote on most matters—several steps up from being a representative confined to debating while other Members vote on her local laws and her local taxpayer raised budget and revenues. In a body that justifiably gives great deference to taxpaying Americans, allowing a vote to a jurisdiction that ranks higher in federal income taxes than almost all others is a matter of simple justice.

The unique taxpaying status of my constituents, the unique privilege this body assumes of appropriating locally raised taxpayer revenue, the unique requirement to bring each and every action taken to the local city council to a body in which residents have no voting representation, and the significant population of the District makes the District's case unique. The vote in the Committee of the Whole should be granted to the District, considering the principle that produced the nation itself: no taxation without representation. Under these circumstances, the House should do all that is constitutionally permissible. I ask my colleagues to restore my limited voting rights in the House and afford the respect that the residents of the nation's capital are due.

TRIBUTE TO PAUL HEFNER

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. BERMAN. Mr. Speaker, I rise today to pay tribute to my good friend Paul Hefner, who has just completed a remarkably successful tenure as President of the Greater San Fernando Chamber of Commerce. In 1997, Paul began his one-year term as Chairman of the San Fernando Chamber of Commerce. Under Paul's able leadership, the Chamber has grown and engaged in a series of successful outreach efforts, which led to changing the name to the "Greater" San Fernando Chamber. Paul's affable personality and business experience proved to be of tremendous value in this effort.

For 25 years, Paul worked with First Interstate Bank of California. He began as a branch operations officer, and rose through the ranks to hold a number of senior positions, including Senior Vice President and Chief of Staff, Los Angeles Metro Division. He played a major role in creating the first multi-state First Interstate image and several automation projects, including Cirrus, the national automated teller machine network.

In 1989, Paul left First Interstate and formed his own business, Words in Motion, which he established in his hometown of San Fernando. Words in Motion is a unique business, one that reflects the strong spirituality of its founder. Paul's company specializes in the resolution of Christian church disputes, offering assistance to those seeking to resolve disputes in a biblically faithful manner.

I don't know whether Paul put this training to work as President of the San Fernando Chamber. What I do know is that by common consensus 1997–98 was one of the most productive years in Chamber history. In August, a few weeks after Paul assumed the chairmanship, The Chamber entered into a consulting services agreement with the City of San Fernando to conduct four key economic development programs for the business community. And under Paul's leadership the Chamber has changed from a primarily volunteer-based organization to one with a full-time, professional staff.

I ask my colleagues to join me in saluting Paul Hefner, a great Chamber Chairman, an exceptional businessman and an extremely nice guy. I salute him for his extraordinary efforts on behalf of the business community of San Fernando and the Northeast San Fernando Valley.

HONORING DANIEL CARTER BEARD

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. GILMAN. Mr. Speaker, today I rise to recognize Daniel Carter Beard, the founder of the Boy Scouts of America, for his contributions to the young people of our country. I wish to call to the attention of our colleagues the outstanding achievements of Daniel Carter Beard, who made his home in my Congressional District in Suffern, which is located in Rockland County, New York. This year Rockland County, as part of its celebrations of its bicentennial, is honoring this distinguished former resident of our county.

On June 14th, the Hudson Valley Boy Scout Council/Rockland District of the Boy Scouts of America will be honoring Daniel Carter Beard with the dedication of a new bronze plaque. This dedication coincides with the Rockland County Bicentennial Celebration.

Born in Cincinnati, Ohio in 1850, Daniel Carter Beard enjoyed camping and exploring the wilderness as a child. This early interest sowed the seeds of a later passion for the outdoors and a career as an illustrator. Beard studied engineering at Covington, Kentucky and art at the Art Students League in New York City. By 1900, Beard had received national recognition for his illustrations in many wildlife and outdoor magazines.

In 1905, Beard became the editor of Recreation, a sportsmen magazine, which under his direction became a voice in wildlife conservation. Daniel Carter Beard also founded the Sons of Daniel Boone; a group dedicated to conservation, to the outdoor life, and the pioneer spirit. By 1909, he founded the Boy Pioneers of America. This group, like the Sons of Daniel Boone, was a way to improve the lives of urban youths, according to Beard.

Following the success of a youth movement in England, Beard worked to start the Boy Scouts of America which were chartered in 1910. As founder of the BSA, Beard designed the hat, shirt, and neckerchief to be worn as a symbol of the American frontier.

Beard appreciated the importance of preserving the dwindling frontier and felt it was important to stop the deterioration of the wilderness. He recognized that the frontier way of life was rapidly disappearing forever, and recognized the importance of preserving this rich heritage for future generations. He taught our young people how to camp, hunt, fish, and to appreciate their environment. The Boy Scouts of America continue to instruct these ideals and to preserve the teachings of Daniel Carter Beard.

Subsequently, Beard's personality made him a folk hero to many young men who attended his camp in Pennsylvania and read his articles in Boys Life. He became known as "Uncle Dan," with his public appearances wearing a buck skin suit, and his monthly columns describing his experiences in the wilderness.

Daniel Carter Beard died at the ripe age of 90, after living a life full of many experiences and accomplishments. His legacy lives on through his books, illustrations, and stories.

Board was laid to rest at the Brick Church Cemetery, not far from his home, Brooklands, in Suffern. He has continued to touch the lives of America's youth with his contributions to scouting and wildlife conservation.

Mr. Speaker, I urge my colleagues to join me in honoring Daniel Carter Beard. The Boy Scouts of America has been an important part of my of my life since my youth, and I recognize that it is an important outlet for young men to learn to appreciate their natural surroundings and to value all that nature has given us, and to hold character as they learn the importance of integrity, hard work, and brotherhood.

AMERICANS DON'T NEED SPEECH NANNIES

HON. TOM DeLAY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. DELAY. Mr. Speaker, I submit to the RECORD Douglas Johnson's insightful and valuable analysis of campaign regulation proposals and their impact on freedom of speech. I hope my colleagues will examine it prior to supporting so-called campaign "reform" measures.

[From National Right to Life News, Sept. 30, 1997]

DO AMERICAN VOTERS NEED SPEECH NANNIES?

(By Douglas Johnson)

Many incumbent members of Congress are eager to provide America's voters with a new government service—a federal law to protect them from messages about politicians that may "manipulate" simple-minded voters, especially those communications that are "negative" in tone, or that will result in "unhealthy" debate.

Yes, if Senator John McCain, Senator Russ Feingold, Common Cause, and their allies get their way, federal legislators, political appointees, and FEC career speech regulators will become the political speech nannies for the rest of us. They will do their utmost to shield their fellow citizens from an excess of information and claims about politicians—conflicting messages that may confuse and befuddle them, or even trick them into voting for the "wrong" candidates.

If you do not regard yourself as being in need of such a service from your government, then maybe it's time for you to take a closer look at the McCain-Feingold bill. The latest revision, currently on the Senate floor, contains speech-nanny provisions that are even stronger than those found in earlier versions, and astonishing in their brazenness.

In recent days, the media have reported that the new bill would restrict broadcast ads that mention candidates within 60 days of an election. However, the bill actually contains multiple speech restrictions that sweep far more broadly than the 60-day provision.

The other, less publicized provisions encompass both print and broadcast communications—and apply year around. The bill would generally prohibit unions and corporations—including issue-advocacy groups such as National Right to Life, the ACLU, or the Sierra Club—from paying for communications to the public at any time of the year that federal regulators consider to be "for the purpose of influencing a federal election," if the sponsoring organization is deemed to have any of ten broad categories of links (direct or indirect, actual or presumed) to a candidate, including the mere sharing of professional vendors. "Candidate" includes all incumbent members of Congress, unless they have announced their retirement, starting the day after any election.

AND "EXCEPTION" THAT PROVES THE RULE

Sen. McCain has made much of what he calls an "exception" which he claims would protect the right to disseminate certain printed information about the voting records of Members of Congress and the positions of candidates, including so-called "voter-guides."

Actually, however, the so-called "exception" amounts to an elaborate set of "speech specifications," spelling out what type of information on politicians' votes and positions the Congress would deign to permit. Among other specifications, such printed material would be verboten unless it is solely presented "in an educational manner," which is federal speech-regulation jargon meaning "no explicit or implicit value judgments allowed." The bill also contains an additional requirement that the communication must not contain "words that in context can have no reasonable meaning other than to urge the election or defeat of one or more clearly identified candidates."

This so-called "exception" would really operate as a ban on the sort of congressional voting "scorecards" and voter guides that are commonly disseminated by many issue-oriented citizen groups and unions. Typically, such materials reflect a viewpoint on the issues covered by the scorecard or voter guide. This viewpoint may be evident, for example, in the selection of issues and the way that they are characterized, through "positive" or "negative" rates of "grades," and through explicit commentary.

Such commentary is not an "abuse" or "evasion" of federal law. Rather, it is fully protected by the First Amendment, which is not a "loophole" but, among other things, the nation's paramount "election law."

Under the so-called "exception," however, a citizens' group such as NRLC, Inc., could not at any time of the year issue a brochure that contains the value-laden statement, "On May 20, 1997, Senator Russ Feingold voted to allow the brutal partial-birth abortion procedure to remain legal," without risk of facing an FEC investigation for engaging in advocacy against and "candidate." In addition, for 60 days before the primary or general election, NRLC, Inc., could not run an ad on the radio or TV that said simply, "Senator Russ Feingold voted against the Partial-Birth Abortion Ban Act, H.R. 1122, on May 20, 1997."

Isn't this really "incumbent protection," big time? One of the few disadvantages of being an incumbent is the possibility of being called upon to defend one's actual votes on any of hundreds of issues. But the incumbents will have to do a lot less such defending, if the McCain-Feingold speech restrictions were in effect.

These restrictions would apply even to communications that ask citizens to take action with respect to approaching votes on critical issues in Congress. For example, prior to the September, 1996 votes in the U.S. House and U.S. Senate on whether to override President Clinton's veto of the Partial-Birth Abortion Ban Act, NRLC published brochures that asked readers to contact specific members of Congress (i.e., "candidates") who had previously voted against the bill in order to urge them to switch sides and vote to override the veto. Some did so. Other groups ran TV ads with similar messages.

ONLY PACS CAN SPEAK

Under the bill, it would remain lawful for a Political Action Committees (PAC) to utter the name or depict the likeness of a candidate before an election, so long as the PAC was able to avoid inadvertently violating the bill's Byzantine provisions defining impermissible "coordination," which include such things as merely paying for "the professional services of any person that has provided or is providing campaign-related services in the same election cycle" to a candidate who the PAC wishes to support. Running afoul of these "coordination" rules automatically limits the PAC's speech on behalf of a candidate to $5,000.

A law that allows only PACs (and the news media) to speak about politicians would silence countless citizens' groups across the nation that do not have the resources to meet the complex regulatory demands that are involved in operating a PAC (e.g., hiring accountants and lawyers with expertise in federal election law, filing complex reports, reporting the names and occupations of donors to the government, etc.).

Moreover, even groups that have connected PACs, such as NRLC, would be able to engage in far less politician-specific speech than now, which is precisely the goal of the speech-regulators. Current law places stringent rationing restrictions on PACs. Such PACs may solicit and accept donations only from individual members, donations are limited to $5,000, and the names of all donors of over $200 (under the bill, $50) must be reported to the government, among other restrictions.

However, the Supreme Court has held that such government regulations may be applied only to communications that contain explicit words urging a vote for or against a candidate. The Court has held that "issue advocacy"—meaning citizen groups' commentary on politicians and their positions on issues—is core political expression and enjoys the highest degree of immunity under the First Amendment.

The Supreme Court's decisions do not allow this definition to be adjusted by federal or state legislative bodies, because that would allow precisely what is being attempted now—government control of the content and the amount of speech regarding the matters that are at the very core of the First Amendment's protections.

The Supreme Court did not adopt its narrow definition of "express advocacy" based on some native misperception that only messages that explicitly urge a "vote for" or "vote against" a specific candidate would influence voters. Rather, the Court explicitly recognized that many other types of speech regarding the merits of the positions and votes of candidates may sway voters (that's why they're called "voter guides"), but rejected limitations on such speech as alien to the First Amendment.

As the Court said in Buckley v. Valeo, "As long as persons and groups eschew expenditures that in express terms advocate the election or defeat of a clearly identified candidate, they are free to spend as much as they want *to promote the candidate and his views.*" [emphasis added] But under the McCain-Feingold bill, they cannot "spend as much as they want to promote the candidate and his views"—or even mention his name on the radio.

CONTROLLING POLITICAL DEBATE

Many of the arguments being offered to justify restrictions on private speech about politicians seem to flow from a preconception that certain political elites should define the proper parameters for political discourse—by force of law.

Burt Neuborne, legal director the Brennan Center for Justice (an organization devoted to seeking the overruling of *Buckley* v *Valeo*), displayed this elitist mindset at a February 27 hearing before the House Judiciary Constitution Subcommittee. Neuborne commended the panel's chairman, Congressman Charles Canady (R-Fl.), "for the disciplined way the hearing has been run, and how carefully you maintained the ground rules that allowed real free speech to come out here. And I'm really saying that the same idea has to be thought of in the electorial process. * * * In a courtroom speech is controlled. In this room speech is controlled, and the net result is good speech."

Here, indeed, is a new vision of democracy—elections in which the government sits on high as a judge, decreeing who will speak, at what time, and for how long.

Or consider the words of Sen. McCain himself, who explained on September 26, "These groups run ads that even the candidates who benefit from them often disapprove of. Further, these ads are almost always negative attacks on a candidate and do little to further healthy political debate." [emphasis added]

Where does Sen. McCain think he gets the authority to suppress commentary on politicians that he considers "negative" or "unhealthy"? And does he really imagine that it is constitutionally relevant whether or not candidates "disapprove of" the speech of citizens' groups?

Even more haughty are the words of Congressman Scotty Baesler (D-Ky.), who says that unless restrictions are placed on independent communications, "the candidate risks losing control over the tone, clarity, and content of his or her own campaign."

Whatever gave Mr. Baesler the outlandish notion that he has authority to control the tone or content of the debate that precedes an election? Elections are not the sole property of the candidates. The right to seek to persuade fellow citizens of what issues they should weigh heavily at election time is as fundamental as the right to vote itself. As the U.S. Court of Appeals for the Second Circuit put it in *FEC* v. *CLITRIM*—one of the innumerable federal court decisions striking down various speech regulation schemes put forward by the Federal Election Commission—"the right to speak out at election time is one of the most zealously protected under the Constitution."

PROTECT THE DIMWITS?

We are told that ads and voters guides put out by citizens' groups influence elections"—but just what does that mean? After all, none of the communications being debated—voter guides, scorecards, TV ads—can "influence elections" at all, except to the extent that they are given weight by registered voters.

Doesn't our constitutional system of government ultimately rest on the general premise that these people—grownups, American citizens—should be allowed to sort out the competing political messages (including those presented by the news media) without government-imposed filters or government-imposed counterspeech?

Restrictions on speech such as those contained in the McCain-Feingold bill seem to grow out of a "protect-the-dimwits" mindset—a usually unspoken premise among many members of certain political and media elites that we need laws to protect the poor perplexed voters from being manipulated by independent political voices.

For example: in an August 19 interview on CNN, Alan Baron, chief Democratic counsel for the campaign finance investigation of Sen. Fred Thompson's Governmental Affairs Committee, suggested that there is something improper or illicit about the voter guides that the Christian Coalition distributes by the millions. These leaflets typically summarize the positions of two or more candidates on from five to fifteen issues.

These voter guides "are manipulated," Mr. Baron complained. "Certain issues are emphasized in one election and then deemphasized in another election. They are clearly intended—based on everything I have discovered about them—they are intended to manipulate the voter into voting a certain way, usually for very conservative Republican candidates."

(This is pretty sinister stuff—"manipulating" voters into looking more favorably on certain types of candidates by talking about their positions on certain issues and not other issues. What will happen if the AFL-CIO, Handgun Control, the Sierra Club, and the National Abortion and Reproductive Rights Action League—or, for that matter, the League of Women Voters—find out about this trick?)

Clearly, in Mr. Baron's eyes, the Christian Coalition voter guides "in context can have no reasonable meaning other than to urge the election or defeat of one or more clearly identified candidates," and are deficient in maintaining the proper "educational manner" that would be required by law under the McCain-Feingold bill.

But mind you, when Mr. Baron says that the Christian Coalition's voter guides "manipulate voters," he does not mean sophisticated voters such as himself. No, if a smart Washington insider like Mr. Baron received a Christian Coalition voter guide, he would decide whether or not the issues discussed were the issues he considered salient, compare the information presented there to the information available from other sources, and reach his own judgment. But there are so many other voters out there in the hinterlands who Mr. Baron knows lack his powers of discernment, and it is they who are in need of the speech nannies that McCain-Feingold would provide.

This is a very steep and slippery slope. Those who hold or seek office are human, which means they don't like to be criticized. If speech-regulating legislators can get the courts to back off and use legal restrictions to reduce the amount of unpleasant stimuli to which they are subjected—and be applauded for their unselfish "reform" efforts to boot—we can expect that the scope and duration such restrictions will rapidly expand in all directions.

For example, Congressman Sam Farr (D-Ca.), author of the "campaign reform" bill sponsored by the House Democratic leadership, wrote that "material that is written in such a way that the recipient is left with the clear impression that the material advocates support or defeat of a particular political candidate or party—even without naming that candidate or party—would constitute express advocacy and would fall under the scope of campaign expenditure laws." (emphasis added)

In the same vein, Senator Max Cleland (D-Ga.) recently complained to the Associated Press about what he call "independent expenditure" ads on TV that asked his constituents to urge him to vote for the Partial-Birth Abortion Ban Act, shortly before the Senate passed the bill on May 20. (He didn't.) These ads demonstrated the need for "campaign reform" legislation such as the McCain-Feingold bill, Sen. Cleland fumed. Sen. Cleland is not up for re-election for 5½ years.

On ABC This Week for September 28, George Will asked Democratic National Committee General Chairman Roy Romer if the National Right to Life Committee should be able to buy pre-election newspaper ads that decry partial-birth abortions, if the ads do not name a candidate. The Colorado governor replied, "I think you ought to separate that from the time of the election. You've got twelve months during a year." Only when challenged by an incredulous Will did Romer graciously allow that "if it doesn't mention the candidate's name, you could probably leave it unregulated."

Rather than go down this path, we should heed the words of the Supreme Court in *Buckley* v. *Valeo:* "In the free society ordained by our Constitution it is not the government, but the people—individually as citizens and candidates and collectively as associations and political committees—who must retain control over the quantity and range of debate on public issues in a political campaign."

In other words, let's respect our elected officials and the demanding offices that they hold. But let's not be such dimwits that we allow them to start telling us when, how, or how much we can talk about their voting records.

TRIBUTE TO TREVOR OLSON

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. THOMAS. Mr. Speaker, I rise today to tell you about a child in my congressional district in Bakersfield, California who is battling chest and lung cancer at the young age of eleven. His name is Trevor Olson. Trevor's parents, John and Karen, and younger brother and sister, Taylor and Leanne, have been a special source of love and support during this ordeal. However, it is Trevor's courage and heroism that provide an example to all of the people that know him and learn his story, that even the youngest of us can respond to extraordinary circumstances with bravery. I believe this young American's story needs to be shared.

On June 13th the people of Bakersfield will respond to Trevor's battle by granting a wish Trevor has had for a long time. That wish is to ride in a race car. Hospice, a local health-care clinic for the critically ill, and Young-Woolridge, a local law firm, will sponsor the televised event. Gary Collins, an internationally known race car driver, will drive Trevor. I am pleased that Hospice, an organization known for their compassion and assistance to those who are critically ill, is the organizer of this event.

To Trevor, we all hope as your wish comes true, that it is everything you dreamt it would be.

God bless you.

IN APPRECIATION OF JUDGE AARON COHN

HON. MAC COLLINS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. COLLINS. Mr. Speaker, I rise to express my most sincere congratulations to and appreciation for Muscogee County Juvenile Court Judge Aaron Cohn.

Columbus, Georgia, which falls within the boundaries of Muscogee County, shares many of the juvenile crime problems faced by cities around the nation. Drugs, gangs, and violent crime are serious challenges that parents, teachers, and law enforcement officers are forced to address every day. When the efforts of these individuals fall short, however, we rely on the juvenile justice system to assist troubled youth and to protect our communities.

Boot camps are one approach that has proved particularly effective in Muscogee County. While some federal bureaucrats have suggested that boot camps are too severe a punishment, Judge Cohn's use of the program has been a very effective "last resort" for some of the area's most difficult cases. I congratulate Judge Cohn for utilizing successful local approaches to juvenile crime such as the boot camp program.

Boot camps are not, however, Judge Cohn's only approach to the juvenile crime problem. Judge Cohn understands that every child represents a unique set of circumstances and is in need of a personalized approach. I am sure I speak for many Muscogee County residents in expressing my appreciation for Judge Cohn's sensitivity to the needs of both children and the communities in which they live. The "tough love" that he provides the children of Muscogee County is saving taxpayers millions of dollars in future adult correctional costs, providing a safer environment for all children in their schools and neighborhoods, and insuring that even the most difficult children are given a fighting chance to succeed in life. Thank you, Judge Cohn, for your love of children and for your dedication to the communities of Georgia.

A FEW WORDS WITH . . . AARON COHN
MUSCOGEE COUNTY JUVENILE COURT JUDGE

Monday's paper carried a story that said more than 16,000 juveniles have been sentenced to boot camps since the program began four years ago. As juvenile judge, what is your assessment of that program?

I think it is a wonderful program for some children. Juvenile justice has to be individualized justice: One kid may react better to probation than to incarceration; another kid may require incarceration. It's not an exact science. You just never know sometimes.

One thing we do know: I don't think you can mix 11-year-olds with 15- and 16-year-olds. If the kid is real young I try to steer away from boot camp.

But with the boot camps, we're dealing with children who would never know what the word "discipline" is. And most of the kids going there, the ones we're sending there, are kids we've adjusted, we've talked to them, we've done everything we could to avoid it.

I think the first year, we may have led the pack (in boot camp sentences) for all I know. But we used it only as a last resort, based on the type of offense the person has committed.

What have the results been, in your experience?

The program does work for lots of people. It's like a baseball game—some you win, some you lose, some get rained out. Not every program works with every child, but they'll get something from this program.

I read the article saying the feds think it's a bad program . . . I don't know about any child who's been mistreated. I do know one thing—you couldn't just get some drill instructor at Parris Island. He's got to have tough love, but not so he just scares kids to death.

It's a good plan, but sometimes you may have the wrong person in there. You can't get away from the human equation.

What kind of youthful offender most benefits from a military program of that kind?

I like a child to be around 15 years old or older. We as a general rule do not send the 11- and 12-year-olds because they haven't even reached the age of criminal responsibility.

The bad part is that in any of our work, we can take a kid from a home that has no discipline, that's so fragmented and dysfunctional the family can't handle him. So even after we send him (to boot camp), what does he come back to? The same home, because we don't have enough foster homes, group homes to take care of him.

If we save one kid, if we turn him around, we save taxpayers about $250,000. You pay now or you pay later, and if we can get him early enough where he doesn't go into the adult system . . . it's the only place we're going to save them is in the juvenile justice system.

The thing we have to do is make sure there's no favoritism, because not every child is treated alike. Some have a good support system, some have no support system.

You walk a tightrope. I want what's in best interest of the children, but we have to protect our friends and neighbors in the community.

There's nothing wrong with that program as long as it's handled right.

AGRICULTURAL COMMODITIES SHOULD BE EXEMPT FROM SANCTIONS

HON. GEORGE R. NETHERCUTT, JR.

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. NETHERCUTT. Mr. Speaker, today, I am introducing legislation on behalf of more than thirty original cosponsors to exempt federally guaranteed agricultural commodities from the application of sanctions under the Arms Export Control Act. Recent nuclear tests in India and Pakistan forced the Administration to impose sweeping economic sanctions on both countries, with potentially devastating consequences for American agricultural exports to South Asia.

Under the terms of the Arms Export Control Act, the President has very little flexibility in the imposition of sanctions. When a non-nuclear weapon state detonates a nuclear device, the U.S. government is required to terminate sales of defense articles, end foreign military financing, oppose all loans from international financial institutions, and prohibit all commercial loans from U.S. banks, except for the purchase of agricultural commodities. The Act also requires the government to deny any credit guarantees or financial assistance by any department or agency.

This sanction could effectively cut off any federally guaranteed agricultural exports to either India or Pakistan. These new sanctions come at a difficult time for many American farmers, who are experiencing historically low grain prices, and who could now be locked out of a market of 1.1 billion consumers.

Some of these sanctions may have a place, and U.S. interests are certainly served by limiting the flow of technologies and financing that contribute to weapons proliferation. But having failed to deter nuclear testing, what continued purpose do the broader, unilateral sanctions serve? If international competitors quickly fill the market that the U.S. has unilaterally abandoned, the effects of most sanctions will be negligible. In a classic case of unintended consequences, the sanctions on both India and Pakistan may severely impact certain sectors of the American economy while having relatively little consequence on the target nations.

I am particularly concerned about sanctions which deny all U.S. credit guarantees to both nations, a prohibition which could unintentionally punish American agricultural producers. Export credit guarantee programs administered by the Department of Agriculture are a critical tool for foreign agricultural sales, but the Arms Export Control Act could effectively cut off any federally guaranteed exports to either India or Pakistan. Such sanctions come at a difficult time for many American farmers, who are experiencing historically low grain prices, and who could now be locked out of a market of 1.1 billion consumers.

The issue goes beyond the specific programs guaranteed through the Department of Agriculture by undermining American's reliability as a supplier. Sanctions introduce an uncertain element that makes our trading partners reluctant to do business with us when more consistent, reliable trade partners are available. International competitors have already indicated a willingness to fill orders for American agricultural commodities. Our farmers lose twice in this situation—we miss the first sale and will have difficulty convincing the governments of India and Pakistan to buy from us in the future.

This legislation provides a necessary clarification of applicable sanctions under the Arms Control Export Act. While I believe that the Secretary of Agriculture has the authority to make this determination, the terms for an exemption remain unclear and require codification. This effort must be part of a larger process of reviewing the effectiveness and hidden costs associated with unilateral sanctions. Legislated, mandatory sanctions force diplomatic flexibility to the side in favor of a chainsaw approach to carving out foreign policy positions. The Arms Export Control Act has forced the President into a corner and marginalized the role of the United States in South Asia. Pulling India and Pakistan away from the precipice of armed confrontation will require an element of delicate maneuvering that should be accommodated in the U.S. Code.

TALENTED HIGH SCHOOL STUDENTS REPRESENTING OREGON

HON. ELIZABETH FURSE

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Ms. FURSE. Mr. Speaker, on May 2–May 4, 1998, more than 1,200 students from 50 states and the District of Columbia competed in the national finals of the We the People . . . The Citizens and the Constitution program in Washington, D.C. I am proud to announce that the class from Lincoln High School from Portland representing Oregon and the First Congressional District won an honorable mention as one of the top ten finalists. These young scholars worked diligently to reach the national finals by winning local competitions in their home state.

The distinguished members of the team representing Oregon are:

Alyssa Anne Aaby, Rebecca Mae Allen, Milo Twohy Dochow, Ian James Dunlap, Joshua Josef Hansen, Andrea Marina Hart, Thomas Hugh Hendrickson, Misha Andrew David Isaak, Laura Elizabeth Kanter, Aaron Matthew Lande, Andrew Benjamin Lauck, Dugan Alan Lawrence, Marcus Page Lindbloom, Brenna Rose McMahon, Maren Christine Olson, Galway Peter O'Mahony, Nicholas Albert Peters, Emma Rachel Pollack-Pelzvner, Jennifer Lewis Rosenbaum, Jay Boss Rubin, Karen Deborah Rutzick, Margaret Suzanne Schouten, Kennon Harris Scott, Andrew Patterson Sheets, Meghan Marie Simmons, Kristin Kiele Sunamoto, Evan Miles Wiener.

I would also like to recognize their teacher, Mr. Hal Hart, who deserves much of the credit for the success of the team. The district coordinator, Mr. Daniel James, and the state coordinator, Ms. Marilyn Cover, also contributed a significant amount of time and effort to help the team reach the national finals.

The We the People . . . The Citizens and the Constitution program is the most extensive educational program in the country developed specifically to educate young people about the Constitution and the Bill of Rights. The three-day national competition simulates a congressional hearing in which students' oral presentations are judged on the basis of their knowledge of constitutional principles and their ability to apply them to historical and contemporary issues.

Administered by the Center for Civic Education, the We the People . . . program, now in its ninth academic year, has reached more than 75,000 teachers, and 24 million students nationwide at the upper elementary, middle and high school levels. Members of Congress and their staff enhance the program by discussing current constitutional issues with students and teachers.

The We the People . . . program provides an excellent opportunity for students to gain an informed perspective on the significance of the U.S. Constitution and its place in our history and our lives. I congratulate these students in the national finals and look forward to their continued success in the years ahead.

TRIBUTE TO HERBERT AND SALLY BOYKIN

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to a couple celebrating their 50th wedding anniversary, Herbert and Sally Boykin of Rembert, South Carolina.

Mr. Boykin worked first as a janitor and then as a custodial supervisor in the Sumter County schools. He also served as a Deacon for more than forty years at Union Baptist Church and recently retired as a Chairman of the Deacon Board. Mr. Boykin is also a Mason.

Mrs. Boykin returned to school after having five children to continue her education at Morris College where she became a certified classroom teacher. She taught in Kershaw County and the City of Sumter for more than thirty years. Mrs. Boykin is still an active member of the Deaconess Board and the National Council of Negro Women.

Mr. & Mrs. Boykin were married on July 11, 1948. After ten years of marriage, the couple had five children. The Boykins worked hard to provide a college education for all five of their children. They remain active members of Union Baptist Church, where their children were baptized.

Mr. Speaker, I ask you and my colleagues to join me in honoring Herbert and Sally Boykin, as they celebrate their Golden Anniversary.

RECOGNIZING "MATHCOUNTS" CONTEST STAR

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Ms. NOTRON. Mr. Speaker, I rise today to recognize Sarah Gilberg, one of the many achievers of the D.C. public schools. Sarah Gilberg, an eighth-grader at Alice Deal Junior High School, recently finished first nationwide among all female participants at the national "Mathcounts" competition here in Washington. Her hard work has won her a $3,000 scholarship from the American Association of University Women. Today I rise to offer Sarah much-deserved recognition from the entire city and from this body.

Sarah Gilberg placed first in the state level of "Mathcounts" before moving on to lead the small D.C. team to a 25th-place finish in the national competition. Her performance, which surpassed that of all other young women in the competition nationwide, shows that achievement is not limited to private schools. An eighth-grade student in Mr. Guy Brandenburg's geometry class, Sarah has taken the initiative and has met with great success. Sarah pursues interests in astronomy, art and music, in addition to her ongoing work in mathematics. Under the able and dedicated coaching and encouragement of a generous leader, Guy Brandenburg, she has risen to excel, and has added this latest award to many others held by Alice Deal Junior High School. Sarah truly represents the well-rounded D.C. student, combining her intellectual, academic and personal interests to achieve larger and larger honors. Across this city, DCPS students work hard and achieve excellence each and every day. Like Sarah Gilberg, many D.C. students build exemplary records but most go unnoticed.

Members of the House have been quick to criticize the District's public school system for its considerable failures. I know that Members would want to recognize one of the many achievers produced by the D.C. public school system. I urge every Member to take note of the stars of the District of Columbia's public school system, beginning with Sarah Gilberg. I invite members and staff to participate in helping our youngsters to improve by mentoring, tutoring, and finding other ways to help our public schools. Public education needs our personal attention in order to blossom and reach for the stars. I am happy to represent Sarah Gilberg, one of these bright stars.

TRIBUTE TO STERLING HAALAND

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Mr. THOMAS. Mr. Speaker, on July 2nd, the United States will lose 30 years of defense research experience and program management skills when Mr. Sterling Haaland, the Executive Director of the Naval Air Warfare Center, Weapons Division, takes retirement. His knowledge and experience are going to be sorely missed.

If you consider the measure of our nation's ability to defend us to be an ability to accurately deliver force, Sterling Haaland's work stands out. His expertise and accomplishments have produced more accurate weapons systems, better flight software for pilots and state of the art facilities for weapons development and testing at the Navy's China Lake and Pt. Mugu ranges into the Naval Air Warfare Center, Weapons Division.

More than senior executive, program manager or researcher, Sterling Haaland's work embodies the skill and dedication this country has come to depend on getting from its defense professionals in times of crisis. When called upon to ensure our troops in Desert Storm had the best equipment we could provide, Haaland's organization made critical improvements to the AIM–9M Sidewinder missile, adapted the HARM anti-radar missile to Persian Gulf conditions, adjusted fuzes, missiles and bomb subsystems to meet new conditions and delivered improved electronic warfare systems to Navy and Marine pilots.

The legacy Sterling Haaland leaves behind him is one of accomplishment. A new generation of professionals is assuming the responsibilities he has carried. His example and the premier defense research organization he leaves behind are blueprints his successors will be able to follow in keeping the Naval Air Warfare Center, Weapons Division, in the forefront of defense technology development and testing.