be taken against the developer's income, like other business tax credits.

I urge my colleagues to support Senator MOSELEY-BRAUN's bill to help local communities rebuild America's crumbling schools. I look forward to continuing to work with her to make sure that Congress does its part to help address this national need.

By Mr. D'AMATO (for himself, Ms. MOSELEY-BRAUN, and Mr. COCHRAN):

S. 1476. A bill to authorize the President to enter into a trade agreement concerning Northern Ireland and certain border counties of the Republic of Ireland, and for other purposes; to the Committee on Finance.

NORTHERN IRELAND/BORDER COUNTIES FREE TRADE, DEVELOPMENT AND SECURITY ACT

Mr. D'AMATO. Mr. President, today I introduce the Northern Ireland/Border Counties Free Trade, Development and Security Act. This legislation is a carbon copy of S. 1976, legislation that I introduced in the 104th Congress. Joining me as original cosponsors are my friends and colleagues, the senior Senator from Illinois, Senator MOSELEY-BRAUN and the Senator from Mississippi, Mr. COCHRAN.

The Northern Ireland Free Trade, Development and Security Act reintroduced today will—by University of Ulster estimates, create 12,000 jobs within the twelve counties of Northern Ireland and the Border Counties. It will produce an additional $1.5 billion into that economy annually. The new jobs it will create will be targeted to those areas that need the most, areas where the current unemployment rate ranges between 30 percent and 50 percent, areas that have never felt the effects of real economic expansion or growth. Further, this legislation will provide those jobs and hope without any discernable impact upon our nations trade or budget deficit, as was the case with Gaza/West Bank legislation. This bill will operate in harmony with stated goals of the European Union, United Kingdom and the Irish Republic. It will additionally comport with the requirements of the World Trade Organization.

Mr. President, the paradox of Northern Ireland is that she has given so much to other cultures and lands but has been incapable of fully reaping the rewards of her own peoples skills and strengths at home. The unfortunate reality is that as in the Republic of Ireland, a large majority of the North's highly educated and skilled younger generation has been forced to emigrate due to high unemployment levels which are as high as 70 percent in some areas. These disadvantaged areas are the ones which this legislation has been especially designed to target. Joint cooperation and joint economic development between the United States, Northern Ireland and the European Union will integrate the most distressed parts of Northern Ireland and the Border Counties into a dynamic economy that—while firmly rooted in the European Union—continues to expand and cement new trading relationships beneficial to all trading partners.

Northern Ireland's peace process must move forward and the aspirations and goodwill of the vast majority of its citizens must be accompanied by hard work and endeavor. A more prosperous economy with more evenly spread and meaningful job opportunities can only serve to bridge the social and economic disparities that exist in this region. In conclusion this opportunity cannot be overlooked, after 25 years since the outbreak of the ''troubles,'' the people of Northern Ireland have suffered enough violence and depravity. Now it is time to embark on a rebuilding process that will give no chance to the terrorist but every chance to peace and reconciliation.

Mr. President, it is time to roll up our sleeves and do something real and substantive for all the people of Northern Ireland. This legislation goes far beyond symbolic gestures and grand statements of concern. It will provide a real and solid foundation that the people of Northern Ireland can use to build that new and brighter future. This legislation represents the Senate's down payment on that future.

Mr. President, I ask unanimous consent that a public statement of support from Minister James McDaid, the Minister of Tourism and Trade for the Republic of Ireland, found in today's Irish News—be printed in the RECORD.

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

[From the Irish News]

MINISTER GIVES BACKING TO U.S. FREE TRADE BILL FOR NORTH

(By Jim Fitzpatrick)

The Republic's tourism minister Dr. Jim McDaid has given his backing to the American free trade bill for Northern Ireland and the border counties.

The Irish News reported last month that the proposed bill, which a University of Ulster study concluded would create at least 12,000 jobs, was facing opposition from officials in London, Dublin and Brussels.

But Fianna Fail minister Dr. McDaid gave his unqualified backing to the proposal yesterday, saying that he felt special measures were necessary to redress the economic imbalance on the island.

The bill would allow companies based in the northern twelve counties of Ireland to sell products directly into the U.S. without any tariffs.

Its backers argue that it would be a massive boost for foreign investment and create thousands of jobs because it would allow companies free access the two largest markets in the world—north America and Europe.

But the legislation, which is in the early stages of development in the U.S. Congress, has faced opposition from some sections of the Irish political establishment.

Dr. McDaid's predecessor, Fine Gael minister Enda Kenny who also held responsibility for trade, said the bill would require customs posts to be set up within the Republic along the border of the zone.

But Dr. McDaid rejected that suggestion: ''I don't agree that this bill will mean the 're-partition of Ireland'. The bill addresses an area which has already been recognized by the European Union and the International Fund for Ireland as needing special assistance.''

He said there was a need for ''positive discrimination'' and a radical economic plan to tackle the economic problems of the northern part of Ireland so that the ''whole of the island'' can share in its economic success.

He said the bill would undoubtedly be a boost to the peace process, and help redress the economic imbalance crested by the years of violence in the north.

Dr. McDaid said he felt that the free trade status would probably have to be granted on a time-limited basis—perhaps for 25 years or more.

It's understood that support for the free trade bill has been growing within Irish political circles, although the Irish government has not taken a formal position on the matter.

A number of senators and MEPs from border counties have submitted letters of support to the U.S. Congress.

The U.S. Congressman pushing the bill wrote to the Irish News recently calling on people in the region to publicly support the initiative.

Massachusetts Congressman Marty Meehan praised the Clinton administration's current efforts to bring new investment to the north, and called on the people of the north to work with the influential American politicians who are backing the free trade initiative.

''I encourage the people of Northern Ireland and the border counties to work with me through trade associations, councils and elected representatives to help pass this bill as well as other related measures. Together, we can help lay the groundwork for a sound economic future in Northern Ireland,'' he wrote.

Mr. Meehan stressed in his letter that, contrary to some of the criticisms levelled against the bill, his legislation would comply fully with European Union law.

By Mr. D'AMATO:

S. 1477. A bill to amend the Harmonized Tariff Schedule of the United States to provide that certain goods may be reimported into the United States without additional duty; to the Committee on Finance.

U.S. CATALOGUE MERCHANTS EXPORT PROMOTION ACT OF 1997

Mr. D'AMATO. Mr President, I rise today to introduce legislation necessary to correct a problem faced by an important segment of the American exporting community, catalogue merchants. Catalogue merchants are multi-billion dollar export businesses in New York State and across the nation. Due to an anomaly in our customs law, some products sold by these merchants face double duties when the goods are returned to them by customers abroad. The bill I am introducing today seeks to correct this problem by making sure that duties are only assessed once—as the law intended—the first time a product comes into this country from abroad.

If I may Mr. President, let me explain the problem by first telling you how the system is supposed to work. When a catalogue merchant imports a product directly from abroad, as the

importer of record, he pays a duty on the product. Let's say the product is a pair of trousers from Taiwan. A merchant in the United States takes direct delivery of a pair of pants from a company in Taipei, and pays duties to the U.S. Treasury on the trousers when they enter the United States. The merchant then sells the pants to a customer in Montreal, Canada. But, the pants are the wrong size, and the customer returns the same pair of trousers directly to the catalogue merchant in the U.S. In that case, properly, is no duty paid on the returned trousers. After all, a duty was properly paid on the trousers when they were first imported into the U.S. That is how the law works when the catalogue merchant is also the official importer of record.

Now, take the same situation, but add a broker here in the United States, (the way most catalogue merchants import merchandise into the United States) who is officially the importer of record. The trousers come into the United States from Taipei, but this time, instead of going directly to the merchant, they are imported by a U.S. distributer. The distributer, who is the importer of record, properly pays the duty on the pants, and then transfers the trousers to the catalogue merchant in the U.S. The catalogue merchant then sells the trousers to the customer in Montreal, who subsequently returns the trousers to the U.S. merchant (via a return clearinghouse in Canada, that is set up to ship returned products back to the U.S. in bulk). That is where the problem comes in. When the trousers come back to the United States (as part of a bulk shipment), duty has to be paid on the trousers a second time. Officially, that is because the catalogue merchant is not the original importer of record, and thus a second duty is assessed on the trousers.

Clearly, this makes no sense. A second duty should not have to be paid on the same pair of trousers, just because the U.S. catalogue seller is not the original U.S. importer of record. What this amendment says, essentially, is that it doesn't matter who the original importer of record is; as long as the proper duty is paid when an article first enters the U.S., a duty is not assessed the second time the article enters the U.S., when it re-enters the U.S. as a sales return.

The President may know that I have sought this change in law for more than a year, and it is my hope that when the Senate next turns to miscellaneous trade matters, this very minor provision can be included. The U.S. Customs Service has told importers that legislation is the only remedy to correct this anomaly. Furthermore, the measure should be deemed ''revenue neutral'' because importers can already avoid the double duty by simply shipping the returns back by (inefficiently) shipping the returns back to the U.S. individually rather than (efficiently) consolidating the shipments.

This measure is a common-sense, good government measure which promotes U.S. exports, and correspondingly keeps companies from moving good jobs in distribution and logistics offshore.

By Ms. SNOWE (for herself and Mr. BREAUX):

S. 1480. A bill to authorize appropriations for the National Oceanic and Atmospheric Administration to conduct research, monitoring, education and management activities for the eradication and control of harmful algal blooms, including blooms of Pfiesteria piscicida and other aquatic toxins; to the Committee on Commerce, Science, and Transportation.

THE HARMFUL ALGAL BLOOM RESEARCH AND CONTROL ACT OF 1997

Ms. SNOWE. Mr. President, today I am introducing legislation designed to address a serious national problem affecting our coasts.

The recent outbreak of Pfiesteria in the Chesapeake Bay has garnered a lot of media attention, and deservedly so. But Pfiesteria is actually just one example of a larger phenomenon—Harmful algal blooms.

These damaging outbreaks of often toxic algae affect every U.S. coastal State and territory. In my State of Maine, we have outbreaks of paralytic shellfish poisoning every year which require the closure of clam flats along the coast, and the loss of millions of dollars in potential income.

On Georges Bank off the New England coast, harmful algal blooms cause $3 million to $5 million worth of damage every year. In Washington in 1991, an outbreak resulted in losses of razor clams exceeding $15 million. And off Alaska, which has our Nation's most pristine coastline, an estimated $50 million worth of shellfish remain unexploited each year due to these outbreaks.

What is frightening is that these blooms have been increasing over the last 30 years with no sign of abatement—and science cannot explain why. Nor do we have any other way of addressing the problem besides closing areas to swimming and fishing.

My bill is designed to address this problem with focused and appropriate Federal action. NOAA, the lead Federal agency on harmful algal blooms, currently has the major Federal research program to address the problem—the Ecology and Oceanography of Harmful Algal Blooms project, or ECO-HAB. It is part of NOAA's Coastal Ocean Program, but it does not have a specific authorization. My bill would give this program a specific authorization for $10.5 million annually during fiscal years 1998, 1999, and 2000, providing it with a more certain future as the next century approaches.

The bill would also authorize the following activities for the next 3 years—$5 million per year for NOAA to upgrade its research lab capabilities to more effectively study the problem; $3 million annually for education and extension services through the Sea Grant colleges; $5.5 million annually to augment Federal and State monitoring programs to help detect harmful algal blooms early; and $8 million annually in grants to the States through the Coastal Zone Management Act [CZMA] programs to help States control blooms in their area.

My bill represents a coordinated strategy for attacking this serious problem. I hope all of my colleagues will join me in supporting this legislation. 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. 1480

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 ''Harmful Algal Bloom Research and Control Act of 1997''.

SEC. 2. FINDINGS.

The Congress finds that—

(1) the recent outbreak of the harmful microbe *Pfiesteria piscicida* in the coastal waters of the United States is one of the larger set of potentially harmful algal blooms that appear to be increasing in abundance and intensity in the Nation's coastal waters;

(2) in recent years, harmful algal blooms have resulted in massive fish kills, the deaths of numerous endangered West Indian manatees, beach closures, and threats to public health and safety;

(3) other recent occurrences of harmful algal blooms include red tides in the Gulf of Mexico and the southeast, brown tides in New York and Texas, and shellfish poisonings in the Gulf of Maine, the Pacific northwest and the Gulf of Alaska;

(4) harmful algal blooms have been responsible for an estimated $1,000,000,000 in economic losses during the past decade;

(5) harmful algal blooms are composed of naturally occurring species that reproduce explosively when the natural system is out of balance;

(6) under certain circumstances, harmful algal blooms can lead directly to other damaging marine conditions such as hypoxia, as has been found in the Gulf of Mexico;

(7) factors thought to cause or contribute to harmful algal blooms include excessive nutrients and toxins from polluted runoff;

(8) there is a strong need for a national strategy to identify better means of controlling polluted runoff;

(9) the National Oceanic and Atmospheric Administration (NOAA) in the Department of Commerce, through its ongoing research, grant, and coastal resource management programs, possesses a full range of capabilities necessary to support a near and long-term comprehensive effort to control and eradicate harmful algal blooms; and

(10) funding for NOAA's research and related programs will aid in improving the Nation's understanding and capabilities for addressing the human and environmental costs associated with harmful algal blooms.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS FOR ALGAL BLOOM ERADICATION AND CONTROL.

There are authorized to be appropriated to the Secretary of Commerce for activities related to the research, eradication, and control of harmful algal blooms $32,000,000 in

each of fiscal years 1998, 1999, and 2000, to remain available until expended. Of such amounts for each fiscal year—

(1) $5,000,000 may be used to enable the National Oceanic and Atmospheric Administration to carry out research activities, including procurement and maintenance of research facilities, of the Office of Oceanic and Atmospheric Research, National Marine Fisheries Service, and the National Ocean Service;

(2) $10,500,000 may be used to carry out the Ecology and Oceanography of Harmful Algal Blooms (ECO–HAB) project and related research under the Coastal Ocean Program established under section 201(c) of Public Law 102–567.

(3) $3,000,000 may be used for outreach, education and advisory services administrated by the National Sea Grant Office established under subsection 204(a) of the National Sea Grant College Program Act (33 U.S.C. 1123(a));

(4) $5,500,000 may be used to carry out federal and state annual monitoring and analysis activities administered by the Office of Resource Conservation and Assessment of the National Oceanic and Atmospheric Administration; and

(5) $8,000,000 may be used for grants under sections 306, 306A and 310 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455, 1455a and 1456c).

By Mr. DEWINE:

S. 1481. A bill to amend the Social Security Act to eliminate the time limitation on benefits for immunosuppressive drugs under the Medicare Program, to provide for continued entitlement for such drugs for certain individuals after Medicare benefits end, and to extend certain Medicare secondary payer requirements; to the Committee on Finance.

THE IMMUNOSUPPRESSIVE DRUGS COVERAGE ACT OF 1997

Mr. DEWINE. Mr. President, I rise today to introduce a bill that will help organ transplant recipients maintain access to drugs that they need to prevent their immune systems from rejecting transplanted organs. This bill is the product of many conversations I have had with folks in the organ and tissue transplant community, including many people from Ohio.

I have worked with people interested in organ and tissue donation for quite some time to increase awareness and education about transplant issues. Organs are very scarce, and we work hard to raise awareness so we can increase donation. Despite our efforts, more than 55,000 Americans are on the organ transplant waiting list—where they wait, and wait, and some of them die.

Others are lucky—they get one of the precious organs, allowing them to live a healthier, longer life. Because of the wonderful gift these lucky few have been given, it is particularly tragic that some can't afford the drugs—called immunosuppressive drugs—that help ensure that their immune systems won't reject their new organs.

That is why I am introducing the ''Immunosuppressive Drugs Coverage Act of 1997.'' This bill makes sure that the 75,000 people that have received an organ transplant covered by Medicare always have access to immunosuppressive drugs. Medicare currently limits coverage for immunosuppressive drugs to 30 months after a transplant. In 1998, the limit will rise to 36 months under current law.

But then what? After Medicare coverage ends, the transplant recipient must find some other way to pay for these essential drugs. Many transplant recipients may not be able to get other insurance coverage or be able to afford to pay out-of-pocket for the drugs, which average around $5,000 annually and can cost in excess of $10,000. Without a way to pay for them, these patients may be forced to stop taking the immunosuppressive drugs. Others will ration use of the drugs and take them irregularly. In either case, the risk of rejection for the transplant organ is much greater.

If a transplanted organ is rejected, the recipient may die or may need intensive, life-sustaining medical care, which Medicare often does pay for. And yet, it won't pay for the drugs to prevent these life-threatening episodes.

For kidney recipients, who make up the vast majority of Medicare transplant recipients, immune rejection means an immediate return to renal dialysis at a cost to Medicare of around $30,000 a year. For some kidney patients and all other Medicare transplant recipients, rejection means a return to the transplant waiting list, and a need for expensive life-sustaining care. If they are lucky, they will get a second transplant, which can cost hundreds of thousands of dollars.

My bill simply makes sure that everyone who receives an organ transplant through Medicare will have continued access to immunosuppressive drugs. This bill will help people who cannot pay for life-preserving immunosuppressive drugs and, at the same time, will help Medicare avoid the huge additional costs currently incurred when organs are rejected.

When working with people to write this bill, I wanted to make sure the cost was as low as possible, while still getting the job done. That is why my bill contains safeguards that say that if any patient has private insurance coverage, it is the private insurance plan—and not Medicare—that pays for the immunosuppressive drugs.

Someday, immunosuppressive drugs may not be necessary. We are beginning to see some promising research in this area. But today's transplant recipients need help now. They need this bill.

The miracle of transplantation gives people the ''Gift of Life.'' It does not make sense to put this gift at risk because the recipient is unable to pay for immunosuppressive drugs. I urge every Senator to consider cosponsoring and supporting this bill.

By Mr. COATS:

S. 1482. A bill to amend section 223 of the Communications Act of 1934 to establish a prohibition on commercial distribution on the World Wide Web of material that is harmful to minors, and for other purposes; to the Committee on Commerce, Science, and Transportation.

PORN LEGISLATION

Mr. COATS. Mr. President, during Senate consideration of the Telecommunications Act of 1996 I, along with Senator James Exon, introduced an amendment to the Act which came to be known as the Communications Decency Act or CDA. This amendment held forth a basic principle, that children should be sheltered from obscene and indecent pornography. There was spirited debate on the amendment. However, ultimately the Senate adopted the CDA by an overwhelming margin of 84 to 16.

On the very day that the President signed the Telecommunications Act into law, the American Civil Liberties Union and the American Library Association, along with America On-Line and other representatives of the computer industry, filed a law suit against the CDA in District Court. In short, the case ultimately came before the Supreme Court, where it was struck down.

Mr. President, however much I disagree with the ruling of the Supreme Court, it is reality and as such, I have studied the opinion of the Court and come before my colleagues today to introduce legislation that reflects the parameters laid out by the Court's opinion.

Mr. President, during Congressional consideration of the CDA, opponents of the measure took what I like to call an ostrich approach. They stuck their head in the sand and their rear end in the air.

With companies like America on Line and Microsoft in the forefront, there came an indignant claim from the computer industry that there was no problem with pornography on the Internet. They claimed that there was very little pornography, and that what exists is difficult to find. However incredulous, this is what they claimed.

Well, Mr. President, this ostrich appears to have extricated its head from the sand. For after the Supreme Court's ruling, the computer industry, along with so-called civil liberties groups, gathered for a White House summit to address the issue of pornography on the net, and what could be done about it. There are now panels and working groups, media discussions and industry alternatives all designed to address this problem of the proliferation of pornography on the Internet and the threat it poses to our children.

Mr. President, let me congratulate the computer industry, and welcome them to the real world.

And what is this real world? Mr. President, I turn now to the February 10 edition of U.S. News and World Report. The cover story is entitled, ''The Business of Porn.'' The article outlines in rather disturbing clarity the issue of pornography in America. ''Last year''

it states, ''America spent more than $8 billion on hard-core videos, peep shows, live sex acts, adult cable programming, sexual devices, computer porn, and sex magazines—an amount much larger than Hollywood's domestic box office receipts and larger than all the revenues generated by rock and country music recordings. Americans now spend more money at strip clubs than at Broadway, off-broadway, regional, and nonprofit theaters; at the opera, the ballet, and jazz and classical music performances combined.''

This is truly alarming, and reflects poorly on the moral direction of the country. And, Mr. President, as the Internet continues to grow as a medium of communication and commerce in our society, its role in expanding the commerce of pornography increases exponentially.

The Article goes on to say that: ''In much the same way that hard-core films on videocassette were largely responsible for the rapid introduction of the VCR, porn on and CD-ROM and on the Internet has hastened acceptance of these new technologies. Interactive adult CD-ROMS, such as Virtual Valarie and the Penthouse Photo Shoot, create interest in multimedia equipment among male computer buyers.'' It goes on: ''Porn companies have established elaborate Web sites to lure customers . . . Playboy's web site, which offers free glimpses of its Playmates, now averages about 5 million hits a day.''

The Article quotes Larry Flint, who says he ''imagines a future in which the TV and the personal computer have merged. Americans will lie in bed, cruising the Internet with their remote controls and ordering hard-core films at the punch of a button. The Internet promises to combine the video store's diversity of choices with the secrecy of purchases through the mail.''

Mr. President, there has been a virtual explosion of commerce in pornography on the Internet. Adult book stores, live peep shows, adult movies, you name it and it is there. It is available, Mr. President, not just to adults, but to children.

And what does the computer industry, the ACLU, and the American Library Association tout as a solution to this problem? They tout self-ratings systems and blocking software. Opponents of the CDA, companies like America On-Line, the ACLU, the American Library Association, Larry Flint, have argued that there is no role for government in protecting children, that the Internet can regulate itself. The primary solution these people promote is system called PICs (Platform for Internet Content Selection), a type of self-ratings system. This would allow the pornographer to rate his own page, and browsers, the tool used to search the Internet, would then respond to these ratings. Aside from the ludicrous proposition of allowing the pornographer to self-rate, Mr. President, there is no incentive for compliance.

I now turn to an editorial by writers in PC Week Magazine, a very prominent voice in the computer industry. The editorial is titled: ''Web Site Ratings—Shame on Most of Us.'' The column discusses the lack of voluntary compliance by content providers with the PICs system: ''We and many others in the computer industry and press have decried the Communications Decency Act and other government attempts to regulate the content of the Web. Instead, we've all argued, the government should let the Web rate and regulate its own content. Page ratings and browsers that respond to those ratings, not legislation, are the answers we've offered.''

The article goes on, ''Too bad we left the field before the game was over.'' the article says, ''We who work around the Web have done little to rate our content.'' it states that, in a search of the Web, they found ''few rated sites.'' And that rated sites were the ''exception to the rule'' In other words, PICs does not work. It does not work, because there is no incentive for pornographers to comply.

And what about blocking software? Mr. President, let me begin by pointing out the amazing level of deceit that proponents of this solution are willing to go to. The American Library Association, a principal opponent of the CDA, lined up with plaintiffs in challenging the Constitutionality of the Act. It was a central argument of the Library Association and their cohorts, that blocking software presented a non-governmental solution to the problem.

However, Mr. President, if one logs onto the American Library Association Web site one finds quite a surprise. Contained on the site is a resolution, adopted by the ALA Council on July 2, 1997, that resolves: ''That the American Library Association affirms that the use of filtering software by libraries to block access . . . violates the Library Bill of Rights.'' Mr. President, I ask unanimous consent that this Resolution be inserted into the RECORD.

So, here we find the true agenda of the American Library Association. They represent to the Court that everything is O.K., that all we need is blocking software. Then, they turn around and implement a policy that says no-way.

And what are the implications? I quote now from a February 12, 1997 article in the Boston Herald. ''John Hunt, a parent from Dorchester, said he was furious to learn his 11-year-old daughter was able to view pornography yesterday while working on a school essay at the BPL's Copley Square branch.'' The article goes on: ''She said all the boys were around the computer and they were laughing and called the girls over to look at the pictures of naked people,'' Hunt said. ''I want to find out from these library officials what is going on.''

The article goes on to tell the story of another parent, Susan Sullivan who said she was stunned when her 10-year-old son spent the afternoon researching a book report on the computer in the BPL's Adams Street branch, but ended up looking through explicit photographs instead.

Ms. Sullivan says: ''I'm very, very upset because I have no idea what he saw on the screen. He said he was using the Internet to do a book report on Indians and he was able to access dirty pictures, pictures of naked people.''

When the library spokesman was asked about parent's concerns, he dismissed them saying, ''We do have children's librarians but we do not have Internet police.''

So here is the genuine concern of the American Library Association for children and their genuine support for blocking software as a solution.

Again, Mr. President, I ask unanimous consent that this article be made part of the record.

However, Mr. President, this is a side issue. As I pointed out earlier, in the case of the computer industry, deceit and denial are tactics regularly employed by opponents of real child protections. The fact is, Mr. President, that the software does not work. In fact, it is particularly dangerous because it creates a false sense of security for parents, teachers, and children.

I have here a transcript from Morning Edition on National Public Radio. It is from the September 12, 1997 program. The host, Brooke Gladstone is interviewing a 12-year-old named Jack. Ms. Gladstone asks Jack what he does when he bumps up against Net Nanny, a popular blocking software program.

Jack replies: ''You go to hacking sites such as the Undernet, which is a site which you pay money to go a member{sic}. And then, after that, you have full access to all these hacking, cracking and phreaking and credit card fraud and all these other tools.''

Ms. Gladstone then asks Jack if kids use these services.

Jack replies: ''A lot. I mean, you have kids at school who bring in 3.5 inch disks saying hey, buddy, come here. I'll sell you this disk for $10 dollars. There's all the hacking stuff you'll ever need.

Ms. Gladstone then goes on to discuss with Jack how he made money downloading pornography and selling it to his school-mates, making $30.

Jack describes the various methods by which he defeats the blocking software his parents have installed.

Later in the interview, Ms. Gladstone interviews Jay Friedland, founder of Surf Watch, another well-hyped blocking software program. Mr. Friedland readily concedes that his software can be broken, even describing the ways to hack the program.

In describing the security his product offers parents, he says: ''It's a little bit like suntan lotion. It allows you to stay out in the sun longer, but you can still get sunburnt.'' Mr. President, this does not sound very reassuring to me.

I ask unanimous consent that the full text of this article be inserted into the RECORD at the appropriate place.

The bottom line here is money. There are millions upon millions of dollars being made on the Internet in the pornography business. There is even more money being made marketing software to terrified parents, software that does not work.

Let's look at the situation. You have the computer industry working to defeat laws designed to prohibit distribution of pornography to children. The solution that they promote is blocking software, manufactured by themselves. They are making tens- of-millions of dollars off of it. However, what we find out is that the software doesn't work. And all the while, you have companies like America On-Line out there, head in the sand, telling parents, schools, Congress, and the American public that there isn't a problem with pornography on the Internet. And the Internet Access Providers are pulling in the big bucks, providing access to the red light district.

''The Erotic Allure of Home Schooling,'' that is the name of an article, published in the September 8 edition of Fortune Magazine. Mr. President, I have long been an advocate of home schooling. But, I must confess that its erotic allure has never been one of my motivations.

It begins: ''Here's one of the Web's dirtiest words: Mars. Try searching for sites about the red planet lately, and you could land on a porn purveyor's online playground. What next?'' the article asks, ''Smut linked to the keywords'home schooling'? Don't look now—it's already happened.''

The article goes on: ''Perverse as these connections seem, they're right out of Economics 101, specifically the part about competition. Pornography sites are among the Web's few big moneymakers. There are thousands of them, from the R-rated to the boundlessly perverse. They compete furiously, and their main battleground for market share is search engines like Yahoo, Lycos, Excite, and Infoseek. Web surfers looking for porn typically tap into such search services and use keywords like ''sex'' and ''XXX.'' But so many on- line sex shops now display those words that their presence won't make a site stand out in a list resulting from a user's query. To get noticed, pornographers increasingly try to trick search engines into giving them top billing—sometimes called 'spoofing'.''

The article points out that: ''Search engine companies like Infoseek constantly develop new filters to defeat spoofing. But calls still come in from irate mothers and grade-school teachers who click on innocent-looking search results and find themselves on a page too exotic to mention.'' The article concludes: ''The Clinton Administration is encouraging efforts based on'voluntary restraint.' That's a lot to ask in the Web's open bazaar, where market share is the name of the game.''

I ask unanimous consent that the full text of this article be inserted in the record at the appropriate place.

Mr. President, it is not just a lot to ask. It is foolish and futile to ask. The bottom line is that, unless commercial distributors of pornography are met with the force of law, they will not act responsibly.

I am here today to introduce legislation that will provide just such force of law.

As I stated in my opening comments, the legislation I introduce today is designed to accommodate the concerns of the Supreme Court. This legislation is specifically targeted at the commercial distribution of materials harmful to minors on the World Wide Web.

It states simply that ''Whoever in interstate or foreign commerce in or through the World Wide Web is engaged in the business of the commercial distribution of material that is harmful to minors shall restrict access to such material by persons under 17 years of age.''

It is an affirmative defense to prosecution that the defendant restricted access to such material by requiring use of a verified credit card, debit account, adult access code, or adult personal identification number. The bill also calls upon the FCC to prescribe alternative procedures. The FCC is expressly restricted from regulation of the Internet, or Internet Speech.

Further, the FCC and the Justice Department are directed to post on their Web sites information as is necessary to inform the public of the meaning of the term ''harmful to minors.''

As I know that it will be of some concern to my colleagues that any legislation dealing with this topic takes into account the Supreme Court's ruling in the CDA, I would like to take some time now to examine the key precedents which the Court considered in its opinion on the CDA and how they relate to this bill.

Central to the construction of this legislation is the Ginsberg case. This Court ruling upheld the constitutionality of a New York statute that prohibited the selling to minors under 17 years of age material that was considered obscene as to them even if not obscene as to adults. In Ginsberg, the Court rejected the defendant's argument that ''the scope of the constitutional freedom of expression secured to a citizen to read or see material concerned with sex cannot be made to depend on whether the citizen is an adult or a minor.''

In Ginsberg, the Court relied on both the state's interest in protecting the well-being of children, but also on the principle that ''the parent's claim to authority in their own household to direct the rearing of their own children is basic in the structure of our society.''

In the Court's opinion on the CDA, they laid out four differences between the CDA and the question contained in the Ginsberg case. As you will see, the legislation I introduce today carefully addresses each of these concerns.

First, the Court points out that in the New York statute examined in Ginsberg, ''the prohibition against sales to minors does not bar parents who so desire from purchasing the magazines for their children.'' The Court interpreted the CDA to prohibit such activity. Though I must confess to my colleagues that I find it a disturbing proposition that a parent should so desire to purchase pornographic material for their children's consumption, it seems that this is a right that this Court feels compelled to protect.

The legislation I introduce today places no restriction on a parent's right to purchase such material, and to provide it to their children, or anyone else. In fact, it places no restriction on any potential consumer of pornography. Rather, it simply requires the commercial purveyor of pornography to cast their message in such a way as not to be readily available to children.

The Court's second issue relating to the Ginsberg case is that the New York statute applied only to commercial transactions. As I have previously stated, my legislation deals only with commercial transactions.

Third, the Court points out that in Ginsberg, the New York statute combined its definition of harmful to minors with the requirement that it be ''utterly without redeeming social importance for minors.'' The Court goes on to express that the CDA omits any requirement that the material covered in the statute lack serious literary, artistic, political, or scientific value.

This concern is addressed directly in my legislation, with a specific plank of the definition of harmful to minors requiring that the material in question ''lacks serious literary, artistic, political, or scientific value.'' Mr. President, I do not believe that it is possible to address a concern more directly.

Finally, the Court states that the New York statute considered in Ginsberg defined a minor as a person under the age of 17, whereas the CDA applied to children under the age of 18, citing concern that by extending protection to those under 18, the CDA reached ''those nearest the majority.''

Mr. President, here again I am confused my the rationale of the Court. For it is common practice in federal statute to recognize minors as those under the age of 18 years. However, the legislation I introduce today contains the same under 17 requirement established under Ginsberg.

The second case of importance as relates to the Supreme Court ruling on the CDA is the Pacifica case. Though the specifics of this case are well-known to most by now, a summary might be helpful. In the Pacifica case, the Supreme Court upheld a declaratory order of the FCC relating to the broadcast of a recording of a monologue entitled ''Filthy Words.''

The Commission found that the use of certain words referring to excretory or sexual activities or organs ''in an afternoon broadcast when children are in the audience was patently offensive'' and thus inappropriate for broadcast.

In considering the precedent established in Pacifica, and their relationship to the CDA, the Court outlined 3 concerns.

First, the Court stated that, unlike in Pacifica where the content in question was regulated as to the time it was broadcast, the CDA made no such distinction. Further, the Court makes a rather curious distinction in stating that the regulation in question in the Pacifica case had been promulgated by an agency with ''decades'' of experience in regulating the medium.

On the first point, the regulation of Internet content in the context of time is irrelevant, as a child may access or be inadvertently exposed to pornography any time he or she logs onto the Internet. That could be in the evening, when doing a research paper, or during class—working on an assignment, or at the public library. The simple fact that a child runs the risk of exposure any time presents a more substantial potential for harm than the time regulation approach approved in Pacifica, and calls for a higher level of control, not lower as the Court concluded.

On the question of regulation by an agency with decades of experience, given the fact that the Internet is a very new medium of communication, it is a rather ludicrous distinction to make. No agency, short of the Defense Department, could demonstrate the historical relationship to the Internet that the FCC can with broadcast radio. Surely the Supreme Court would not advocate Defense Department regulation of the Internet.

Further, given the concern among supporters of the Internet regarding government regulation of the medium, it would seem preferable to have a clearly defined statute, enforced by the Justice Department, as opposed to a regulatory regime, which would be enforced by an unaccountable federal agency and subject to bureaucratic creep. During debate and negotiations on passage of the CDA, opponents raised strong concerns that the FCC not be given any regulatory authority over the Internet. It was this opposition to a regulatory solution that resulted in a very restricted agency roll.

Though the FCC is expressly prohibited from regulating content under the legislation I introduce today, a specific provision is made for the FCC to prescribe a method of restricting access that would function as an affirmative defense to prosecution.

As such, this legislation provides the benefit and flexibility of an evolving agency regulation, whereby as technology evolved and new and more effective means of access restriction emerge, the Commission could modify the regulation, without the creation of a regulatory regime with expansive FCC authority over the Internet and speech.

The Court goes on to point out that in Pacifica, the Commission's declaratory order was not punitive, whereas there were penalties under the CDA. Here, it is important to distinguish the difference in scope between this legislation and the CDA.

A principal concern of the Court with the CDA, was that the CDA dealt with both commercial and non-commercial communications. As such, the cost and technology burdens necessary to restrict access that would be imposed by the CDA on non-commercial speakers, according to the opinion of the Court, would be prohibitive. The result would be, in the Opinion of the Court, that speech would be chilled.

The legislation I introduce today is strictly limited to the commercial distribution of pornography on the World Wide Web. The commercial distributors of pornography on the Web already use the very mechanisms (credit cards and PIN numbers) that are required under this bill. The difference between the status quo and this bill is that pornography distributors would be required to cease to give away the freebies that any child with a mouse could gain access to.

As such, Court concerns regarding the potential chilling effect to non-commercial speech that they perceived under the CDA is moot. The scope of this legislation does not extend to the non-commercial speaker. Secondly, this legislation imposes no new technological or economic burden on the commercial operator. It simply imposes a control on the manner of distribution and provides penalties for violations. Mr. President, there is a long tradition of fines and penalties for violations of laws governing the commercial distribution of pornography. This legislation is simply a continuation of these principles. In fact, the very treatment of fines in penalties under this legislation, mirrors those under dial-a-porn, which have been upheld by the Supreme Court.

Finally, under an examination of Pacifica, the Court points out the differences between the level of First Amendment protection extended to broadcast and the Internet. Mr. President, I must say that however much I differ with the opinion of the Court on this question in general, I would simply point out that the harmful to minors standard has traditionally been used, and has been constitutionally upheld, as a standard for regulating print media. Print media is extended the highest level of First Amendment protection. As such, this legislation clearly accounts for the Supreme Court's concerns in this area.

The Court also examines the precedents established under Renton. The Renton case dealt with a zoning ordinance that kept adult movie theaters out of residential neighborhoods. It did so based on the ''secondary effects'' of the theaters—such as crime and deteriorating property values. It was the Court's opinion that the CDA treated the entire universe of cyberspace rather than specific areas or zones. Further, the Court seemed preoccupied that the CDA dealt with the primary, not the secondary effects of pornography.

The legislation I introduce today deals with a narrow zone of the Internet, commercial activity on the World Wide Web. Though there is tremendous economic activity in pornography on the Web. The cyber-geography of this bill is very limited.

Mr. President, on this question of primary and secondary effects, I must differ with the Court and would like to go into this question in some detail.

The underlying principle which the Senate supported by a vote of 84 to 16 in adopting the CDA, and which is embodied in the legislation I introduce today is articulated in New York versus. Ferber: ''It is evident beyond the need for elaboration that the State's interest in 'safeguarding the physical and psychological well-being of a minor' is compelling.''

There is no question that exposure to pornography harms children. A child's sexual development occurs gradually through childhood. Exposure to pornography, particularly the type of hard-core pornography available on the Internet, distorts the natural sexual development of children.

Essentially, pornography shapes children's sexual perspective by providing them information on sexual activity. However, the type of information provided by pornography does not provide children with a normal sexual perspective. As pointed out in Enough is Enough's brief to Court on the CDA, pornography portrays unhealthy or antisocial kinds of sexual activity, such as sadomasochism, abuse, and humiliation of females, involvement of children, incest, group sex, voyeurism, sexual degradation, bestiality, torture, objectification, that serve to teach children the rudiments of sex without adult supervision and moral guidance.

Ann Burgess, Professor of Nursing at the University of Pennsylvania, states that children generally do not have a natural sexual capacity until between 10 and 12 years old. Pornography unnaturally accelerates that development. By short-circuiting the normal development process and supplying misinformation about their own sexuality, pornography leaves children confused, changed and damaged.

As if the psychological threat of pornography does not present a sufficient compelling interest, there is a significant physical threat. As I have stated, pornography develops in children a distorted sexual perspective. It encourages irresponsible, dehumanized sexual behavior, conduct that presents a genuine physical threat to children. In the United States, about one in four sexually active teenagers acquire a sexually transmitted disease (STD) every year, resulting in 3 million STD cases. Infectious syphilis rates have more than doubled among teenagers since the mid-1980's. One million American teenage girls become pregnant each year. A report entitled ''Exposure to Pornography, Character and Sexual

Deviance'' concluded that as more and more children become exposed not only to soft-core pornography, but also to explicit deviant sexual material, society's youth will learn an extremely dangerous message: sex without responsibility is acceptable.

However, there is a darker and more ominous threat. For research has established a direct link between exposure and consumption of pornography and sexual assault, rape and molesting of children. As stated in Aggressive Erotica and Violence Against Women, ''Virtually all lab studies established a causal link between violent pornography and the commission of violence. This relationship is not seriously debated in the research community.'' What is more, pedophiles will often use pornographic material to desensitize children to sexual activity, effectively breaking down their resistance in order to sexually exploit them.

A study by Victor Cline found that child molesters often use pornography to seduce their prey, to lower the inhibitions of the victim, and as an instruction manual. Further, a W.L. Marshal study found that: ''87 percent of female child molesters and 77 percent of male child molesters studied admitted to regular use of hard-core pornography.''

Given these facts, Mr. President, any distinction the Court makes regarding the effects of pornography on children seems to miss the very point of the state's compelling interest. For the sanctity and security of childhood is what these efforts are all about.

As I have stated before in addressing this subject, childhood must be defended by parents and society as a safe harbor of innocence. It is a privileged time to develop values in an environment that is not hostile to them. But this foul material on the Internet invades that place and destroys that innocence. It takes the worst excesses of the red-light district and places it directly into a child's bedroom, on the computer their parents bought them to help them with their homework.

I urge my colleagues to support this legislation, and yield the floor.

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

[From U.S. News & World Report, Feb. 10, 1997]

THE BUSINESS OF PORNOGRAPHY

(By Eric Schlosser)

MOST OF THE OUTSIZE PROFITS BEING GENERATED BY PORNOGRAPHY TODAY ARE BEING EARNED BY BUSINESSES NOT TRADITIONALLY ASSOCIATED WITH THE SEX INDUSTRY

John Stagliano is a wealthy entrepreneur, a self-made man whose rise to the top could happen only in America. Raised in a conservative, Midwestern household, Stagliano read the books of Ayn Rand and was greatly influenced by their heroes, rugged individualists willing to defy conventional opinion. He attended the University of California—Los Angeles hoping to become a professor of economics. Instead, he studied modern dance, struggled to find work as an actor, became one of the original Chippendale dancers, performed occasionally in hard-core films, and used the prize money won during a cable television strip contest to finance and direct a porn film of his own.

Today, Stagliano is the nation's leading director of hard-core videos, a porn auteur whose distinctive cinema verite style of filmmaking has been widely imitated. His videos cost about $8,000 to produce—and often earn him 30 times that amount. Stagliano shoots without a crew, edits the films himself, and performs in them. He also is a major contributor to the Cato Institute, a well-known think tank in Washington, D.C., where he regularly discusses policy issues with its economists.

Stagliano's company, Evil Angel Video, has become a veritable United Artists of porn, distributing the work of other top directors. Evil Angel sold about half a million videos last year. At its modern Southern California warehouse, hundreds of VCRs, stacked floor to ceiling, run 24 hours a day, five days a week, churning out copies of hard-core films.

A great deal has been written about pornography, both pro and con. A new movie about the life of Larry Flynt, the publisher of Hustler magazine, has once again raised the issue of pornography and the First Amendment. But much less attention has been given to the underlying economics of porn, to porn as a commodity, the end product of a modern industry that arose in this country after the Second World War and has grown enormously ever since.

Critics of the sex industry have long attacked it for being ''un-American''—and yet there is something quintessentially American about it: the heady mix of sex and money, the fortunes quickly made and lost, the new identities assumed and then discarded, the public condemnations of a private obsession. Largely fueled by loneliness and frustration, the sex industry has been transformed from a minor subculture on the fringes of society into a major component of American popular culture.

Meese formation. More than a decade ago, Attorney General Edwin Meese III's Commission on Pornography issued its controversial report, asserting that sexually explicit materials were harmful and calling for strict enforcement of the federal obscenity laws. The report prompted President Ronald Reagan to launch one of the most far-reaching assaults on porn in the nation's history, a campaign that continued under President George Bush. Hundreds of producers, distributors, and retailers in the sex industry were indicted and convicted. Many were driven from the business and imprisoned.

The Reagan-Bush war on pornography coincided, however, with a dramatic increase in America's consumption of sexually explicit materials. According to Adult Video News, an industry trade publication, the number of hard-core-video rentals rose from 75 million in 1985 to 490 million in 1992. The total climbed to 665 million, an all-time high, in 1996. Last year Americans spent more than $8 billion on hard-core videos, peep shows, live sex acts, adult cable programming, sexual vices, computer porn, and sex magazines—an amount much larger than Hollywood's domestic box office receipts and larger than all the revenues generated by rock and country music recordings. Americans now spend more money at strip clubs than at Broadway, off-Broadway, regional, and nonprofit theaters; at the opera, the ballet, and jazz and classical music performances—combined.

Porn has become so commonplace in recent years that one can easily forget how strictly it was prohibited not long ago. The sociologist Charles Winick has noted that the sexual content of American culture changed more in two decades than it had in the previous two centuries. Twenty-five years ago, a federal study of pornography estimated that the total retail value of all the hard-core porn in the United States was no more than $10 million, and perhaps less than $5 million.

Durng the 1980s, the advent of adult movies on videocassette and on cable television, as well as the huge growth in telephone sex services, shifted the consumption of porn from seedy movie theaters and bookstores into the home. As a result, most of the profits being generated by porn today are being earned by businesses not traditionally associated with the sex industry—by mom and pop video stores; by long-distance carriers like AT&T; by cable companies like Time Warner and Tele-Communications Inc.; and by hotel chains like Marriott, Hyatt, and Holiday Inn that now reportedly earn million of dollars each year supplying adult films to their guests. America's porn has become one more of its cultural exports, dominating overseas markets. Despite having some of the toughest restrictions on sexually explicit materials of any Western industrialized nation, the United States is now by far the world's leading producer of porn, churning out hard-core videos at the astonishing rate of about 150 new titles a week.

Parallel universe. In the San Fernando Valley of Southern California, near Universal City and the Warner Bros. back lot, an X-rated-movie industry has emerged, an adult dream factory, with its own studios, talent agencies, and stars, its own fan clubs and film critics. Perhaps three quarters of the hard-core films made in the United States today come from Los Angeles County. Sound stages, editing facilities, and printing plants are tucked away in middle- and working-class neighborhoods, amid a typical Southern California landscape of palm trees, shopping malls, car washes, and fast-food joints. You could hardly choose a more unexceptional spot for the world capital of porn.

Nevertheless, strange things are happening in the valley, behind closed doors. Every few weeks, in the upscale suburb of Sherman Oaks, there's an open casting call at the industry's top talent agency. Scores of young men and women crowd its small offices, undressing for producers and directors who audition promising newcomers and inspect them for tattoos. At the sleek headquarters of an adult-film company in Chatsworth, the hallways are lined with autographed basketball and hockey jerseys, expensively framed. There is not an obscene image in sight. It could be the headquarters of ESPN. In addition to hard-core videos, the company's start-of-the-art, $30 million duplicating equipment also copies videos for government agencies and local church groups. At a factory in Panorama City, near the foothills of the San Gabriel Mountains, shelves are lined with plaster casts of the buttocks and genitalia of famous porn stars. The casts are used to make sexual devices, lifelike reproductions packaged with celebrity endorsements. A rival L.A. company sells a plastic, inflatable woman that speaks with an English accent. The factory calls to mind the set of a science fiction movie: Wires peek from battery-powered devices; metal cages on the floor are filled with rubber body parts.

The distribution of sexually explicit material has become intensely competitive. Hundreds of companies now produce and distribute hard-core films, selling them to wholesalers and retailers and directly to consumers. Videotape has lowered production costs so much, according to one industry executive, that the only barriers to entry today are ''a sense of embarrassment and the lack of a good lawyer.'' The availability of hard-

core films on home video has forced adult theaters out of business in cities nationwide. Los Angeles once had more than 30 adult theaters; today it has perhaps six. The number of adult bookstores has also declined, though not so precipitously. The bookstores are supported mainly by their peep booths, which at some locations now allow a customer to watch five hard-core videos simultaneously on dual TV screens, demanding a new quarter every 20 seconds.

Although the sex industry in Southern California is booming, most of the revenues generated by hard-core videos are going to mainstream video stores. The consolidation of the retail video business, marked by the growth of national chains like Blockbuster, has put enormous pressure on mom and pop video stores. Faced with competition from superstores, independent retailers have turned to renting and selling hard-core porn as a means of attracting customers. This marketing strategy has been made possible by Blockbuster's refusal to carry X-rated material and by the higher profit margins of hard-core videos. A popular Hollywood movie on videotape, such as Pulp Fiction, may cost the retailer $60 or more per tape and rent for $3 a night. A new hard-core release, by comparison, may cost $20 per tape and rent for $4 a night. Some mom and pop video stores now derive a third of their income from porn. According to Paul Fishbein, editor of Adult Video News, there are approximately 25,000 video stores that rent and sell hard-core films—almost 20 times the number of adult bookstores.

Economies of scale. The spread of hard-core videos into mainstream channels of distribution has fueled a tremendous rise in the production of porn. Since 1991, the number of new hard-core titles released each year has increased by 500 percent. The falling cost of video equipment has attracted more and more filmmakers to the business. In 1978, perhaps 100 hard-core feature films were produced, at a typical cost in today's dollars of about $350,000. Last year, nearly 8,000 new hard-core videos were released, some costing just a few thousand dollars to produce. Wholesale prices have been driven down by this flood of product. A market once characterized by a relatively undifferentiated product has segmented into various niches, with material often aimed at narrowly defined audiences.

Hard-core videos now cater to almost every conceivable predilection—and to some that are difficult to imagine. There are gay videos and straight videos; bondage videos and spanking videos; tickling videos, interracial videos, and videos like Count Footula for people whose fetish is feet. There are ''shemale'' videos featuring transsexuals and ''cat fighting'' videos in which naked women wrestle one another or join forces to beat up naked men. There are hard-core videos for senior citizens, for sadomasochists, for people fond of verbal abuse. The sexual fantasies being sold in this country are far too numerous to list. America's sex industry today offers a textbook example of how a free market can efficiently gear production to meet consumer demand.

Men are by far the largest consumers of porn. Most of the hard-core material being sold depicts sexuality from a traditional male perspective, with women's bodies as the central focus, little subtlety, and an emphasis on the mechanics of sex. Some American women, however, are consuming a good deal of hard-core material. During the late 1980s, a survey by Redbook magazine, famous for its recipes and household tips, found that almost half of its readers regularly watched pornographic movies in the privacy of their homes. And a recent survey by the Advocate, a leading gay magazine, found that 54 percent of its lesbian readers had watched an X-rated video in the previous 12 months.

Valley girls. The office of Vivid Video are in Van Nuys, Calif., the epicenter of the sex industry. Located in the middle of the San Fernando Valley and founded with the slogan ''The Town That Started Right,'' Van Nuys has long been known as a solid middle-class community, home to the ''Valley girls'' whose distinctive idiom is often parodied. Great Western Litho, which prints the box covers for hard-core videos, is now one of the town's largest employers, along with Hewlett-Packard and Anheuser-Busch. The Mid-Valley Chamber of Commerce never mentions in its community guide that hard-core videos are one of the area's major exports. And yet from an inconspicuous set of buildings, across the street from a quiet residential block, Vivid Video has become one of the two or three leading adult-film companies in the world by adapting the old Hollywood studio system to the mass production of porn.

Steven Hirsch, the founder and president of Vivid, has long hair, a good tan, a firm handshake, a brand-new black Ferrari parked outside his office. As he talks about pay-per-view buy rates, brand recognition, and foreign licensing rights, he seems no different from the aggressive young Hollywood executives a few miles to the south. He started his company in 1984, at the age of 23. He thought that all porn films looked alike—and that he could make better ones. He signed actresses to exclusive contracts, heavily promoted his stars as the ''Vivid Girls,'' and put them in films aimed at couples, with dialogue and a plot. His formula soon proved a success.

In addition to creating a sex-star system, Hirsch has made Vivid one of the top hard-core film companies—along with VCA Pictures, Leisure Time, and Metro—by exploiting new avenues of distribution. Vivid's films appear on Playboy's cable channel, and in partnership with Playboy, Vivid has launched a new pay-per-view cable service called AdultVision. It offers porn films 24 hours a day, seven days a week. Adult movies on pay-per-view have become a large source of profits for cable companies; a ''cash cow,'' one executive told Variety. When an adult film is sold on pay-per-view, the cable operator typically gets to keep 70 percent of the revenue.

Last year, Americans spent more than $150 million ordering adult movies on pay-per-view. Most of that money was earned by the nation's major cable companies: Time Warner, Continental Cablevision, Cablevision Systems Corp., and TeleCommunications Inc. The porn services like AdultVision and its main competitor, the Spice Channel, often attract more viewers than channels offering Hollywood movies. Some of the adult services give cable operators 5 percent of the revenues gained by selling various products that are advertised between porn films. There are cable companies that rank in the Fortune 500 that now earn money through the sale of love oils and lingerie.

Even larger revenues are being earned by companies that offer adult films in hotels. Last year guests spent about $175 million to view porn in their rooms at major hotel chains such as Sheraton, Hilton, Hyatt, and Holiday Inn. Few hotels have refused to carry adult material on their pay-per-view systems. Whenever a guest orders an adult movie through pay-per-view, the hotel gets a cut of up to 20 percent.

Hirsch also sells the foreign distribution rights to Vivid's films, sometimes covering the entire cost of a production through an overseas sale. Canal Plus, one of France's biggest cable companies, broadcasts two hard-core Vivid movies every month, which earn some of the channel's highest ratings. European countries tend to have much looser standards about nudity on television and much tougher restrictions on violence. In Germany, films like Rambo and RoboCop cannot be broadcast on television or rented in video stores by anyone under the age of 18—and yet German pay cable service offers extremely hard-core films. Although the French sex industry is growing, American porn dominates overseas markets.

In order to meet domestic and overseas commitments, Vivid shoots eight new hard-core movies a month, half on video, half on 16-mm film, with an average budget of $80,000. ''We're like a big machine,'' Hirsch says. Logistical nightmares are common: Screenplays fail to arrive on time; performers don't show up on the set.

Hirsch says his job is not as exciting as some people think: ''You spend half your day on the phone selling the product and the other half of the day collecting for it.'' He also believes there's nothing wrong with being in the porn business; indeed, he grew up in it. Hirsch's father is a former stockholder who started his own adult-film company and put his teenage kids to work in the warehouse during summer vacations. Hirsch's sister is now the head of production at Vivid.

Nina Hartley is the stage name of a well-known porn star whose career in the sex industry has lasted more than a decade. Hartley grew up in Berkeley, considers herself a radical feminist, and comes from a long line of American rebels. She says that her grandfather (a physics professor) and her father (a radio announcer) were members of the Communist Party. Raised as a feminist to distrust the male gaze, Hartley secretly fantasized about dancing naked. After graduating magna cum laude with a nursing degree from San Francisco State, she decided to become a porn star. Since the early 1980s, she has appeared in more than 300 hard-core films. She is a proud exhibitionist. For the past 14 years, she has lived in a stable, triangular relationship with her husband—a former member of the campus radical group Students for a Democratic Society—and another woman. ''Nina Hartley'' is a deliberate creation of theirs, a larger-than-life persona designed to show that a woman can be strong and sexually autonomous.

Fear of sex? ''For all the lip service we give to sex being holy and wonderful and spiritual,'' Hartley says, ''we let Madison Avenue use it to sell spark plugs and dishwashing detergent—to sell anything but sex.'' She thinks a great deal of today's porn is not only misogynous but misanthropic, treating men with disrespect. It is a disposable commodity, reflecting the culture's deep fear of sex. ''The people who run the porn business are not sex radicals,'' she notes, with regret; their sex lives at home tend to be extremely conventional. ''You'd be surprised how many of the producers and manufacturers are Republicans.''

Some women are drawn to the sex industry because they're exhibitionists who love the sex and the stardom. Most are attracted by the money. One well-known porn star put herself through law school by acting in hard-core films; others have saved their earnings, invested well, and then quit. But many are drawn to the industry by drug habits and self-loathing. For these women, hard-core videos become a permanent record of the most degrading moments of their life.

There is a constant demand for new talent, and few actresses last more than a year or two. Hartley warns new performers to avoid overexposure. A woman's pay is largely based on her novelty. Hundreds of women are constantly entering and exiting the industry. As in Hollywood, the demand is greatest for actresses in their late teens and early 20s.

Sexually transmitted diseases are one of the industry's occupational hazards. Performers are now required to undergo monthly HIV testing, and their test results serve as a passport for work. A number of producers insist upon the use of condoms during especially high-risk activity; the majority of producers don't. A leading actor with AIDS could in a matter of days spread the virus to many other performers. Because such an epidemic has not yet struck the porn community, many performers question the prevailing wisdom about AIDS and how it is spread. Behind these doubts lies a great deal of fear, denial, and wishful thinking. Drawing upon her experience as a registered nurse, Hartley has published a set of ''Health and Hygiene Tips for Adult Performers.''

Attempts to form a union for sex workers have met with little success. Most of the performers, according to Hartley, are ''eighties kids'' who want to be rich and pay fewer taxes: ''Solidarity? Brotherhood? Sisterhood? Ha!'' Verbal contracts are routinely made and broken, by producers and performers. Checks sometimes bounce. The borderline legal status of the industry makes performers reluctant to seek redress in court.

The highest-paid performers, the actresses with exclusive contracts, earn between $80,000 and $100,000 a year for doing about 20 sex scenes and making a dozen or so personal appearances. Only a handful of actresses—perhaps 10 to 15—are signed to such contracts. Other leading stars are paid roughly $1,000 per scene. The vast majority of porn actresses are ''B girls,'' who earn about $300 a scene. They typically try to do two scenes a day, four or five times a week. At the moment, there is an oversupply of women in Southern California hoping to enter the porn industry. Overtime is a thing of the past, and some newcomers will work for $150 a scene.

The dirty dozen. The actors in hard-core films serve mainly as props for the female performers. Leading actors earn less money than the top actresses but enjoy much longer careers. Most enter the business in order to have sex with a large variety of women. The men are valued primarily for their ability to perform on cue. Perhaps a dozen men consistently display that skill; some have now appeared in more than 1,000 hard-core films.

Hartley spends about half of her year on the road, dancing in strip clubs four to six nights a week. Like many porn actresses, that is how she earns the bulk of her income. The huge growth in the hard-core-video business during the 1980s coincided with the opening of large strip clubs all over the country. Hard-core videos now serve as a promotion for live performances. According to Rob Abner, a former analyst at E.F. Hutton who now publishes Stripper magazine, a trade journal, the number of major strip clubs in the United States roughly doubled between 1987 and 1992. Today there are about 2,500 of these clubs nationwide, with annual revenues ranging from $500,000 to more than $5 million at a well-run ''gentlemen's club.'' The salaries of featured dancers have risen astronomically. The nation's top five or six porn actresses earn $15,000 to $20,000 a week to dance at strip clubs, doing four 20-minute shows each night. Another five or six porn actresses earn between $8,000 and $15,000 a week. Featured dancers are now paid, for the most part, according to the ''credits'' they have accumulated—their appearances in hard-core films, on video-box covers, in men's-magazine photo spreads. In the hierarchy of sex workers, strippers always used to look down at porn stars, viewing their work with distaste. Now strippers from all over the United States are flocking to Southern California and competing for roles in hard-core films.

The uncontrolled, and perhaps uncontrollable, nature of today's sex industry is best illustrated by the thriving trade in homemade hard-core videos. During the 1980s the camcorders advertised as a means of recording weddings, graduations, and a child's first steps were soon used to record sex. People began making and exchanging tapes of themselves in bed. An underground market arose for these crude but authentic sex tapes, and companies began to distribute them. Today anywhere from one fifth to one third of the hard-core videos being sold in the United States are classified as ''amateur,'' featuring to some degree the work of nonprofessionals. Most of the companies that distribute amateur porn are located in Southern California. But there are hard-core amateur-video companies distributing tapes from Vandalia, Ohio, and Wentzville, Mo.; from Wichita, Kan., and Ronkonkoma, N.Y.; from Woodridge, Ill., and Chattanooga, Tenn. Americans who like to be watched and Americans who like to watch are now linked in a commerce worth hundreds of millions of dollars.

The oldest, and one of the largest, amateur porn companies is based in San Diego, not far from the Salk Institute. Homegrown Video offers more than 500 different tapes of ordinary people having sex. The company's current owner, Tim Lake, is 31 years old and could easily pass for a drummer in a Seattle rock band. Lake and his wife, Alyssa, sift through the new tapes that arrive at their office each week from around the world. The people who appear in these videos are of every race, size, and shape. Their bodies are different from those seen in typical hard-core films, in which the performers often look like parodies of the reigning masculine and feminine ideals. People who send tapes to Homegrown hope to break into the porn business, or earn a little extra money, or show off. The company pays them $20 for every minute of video it uses; about half the tapes that Homegrown receives are eventually released in some form. In a sense, the company serves as a clearinghouse for the democracy of porn, supplying hard-core videos by the people, for the people.

Lake, whose real name is Farrell Timlake, was raised in Fairfield County, Conn. He attended prep schools in New Canaan and Kent, studied literature at the University of Washington, became a performance artist, met his wife at a rock club, and followed the Grateful Dead with her for years. The two have been together for more than a decade and have a young daughter. Lake was a porn star in Los Angeles before buying Homegrown, as was his wife. Lake's brother, who attended Exeter and Stanford, is now Homegrown's head of sales and has performed in its films.

In much the same way that hard-core films on videocassette were largely responsible for the rapid introduction of the VCR, porn on CD–ROM and on the Internet has hastened acceptance of these new technologies. Interactive adult CD–ROMs, such as Virtual Valerie and The Penthouse Photo Shoot, created interest in multimedia equipment among male computer buyers. The availability of sexually explicit material through computer bulletin board systems has drawn many users to the Internet. Porn companies have established elaborate Web sites to lure customers. But these new technologies have not yet become a major source of income for the sex industry. Most of the adult-film producers in Southern California—like their Hollywood counterparts—have been disappointed with their multimedia sales. Despite the vast quantities of porn available on the Internet, the revenues being generated are minuscule compared with the video trade. Nevertheless, distributing porn via the Net may yield large profits one day. Playboy's Web site, which offers free glimpses of its Playmates, now averages about 5 million hits a day.

Larry Flynt imagines a future in which the TV and the personal computer have merged. Americans will lie in bed, cruising the Internet with their remote controls—and ordering hard-core films at the punch of a button. The Internet promises to combine the video store's diversity of choices with the secrecy of purchases through the mail. The best example of how such ''non-face-to-face transactions'' will take place can be found in any recent issue of Hustler. Most of the ads, which cost $15,000 a page, are selling telephone sex.

Tough call. Telephone sex—considered simply one more form of ''audiotext'' by executives in the trade—became a huge business in the 1980s despite government efforts at regulation. Every night, between the peak hours of 9 p.m. and 1 a.m., perhaps a quarter of a million Americans pick up the phone and dial a number for commercial phone sex. The average call lasts six to eight minutes, and the charges range from 89 cents to $4 a minute. According to the owner of one of America's largest ''audiotext providers,'' three quarters of the callers are lonely hearts seeking conversation with a woman. The sexual content of the call is often of secondary importance. Some calls reach a recorded message, but most are answered by ''actresses''—bank tellers, accountants, secretaries, and housewives earning a little extra money at the end of the day. The ease, anonymity, and interactive quality of phone sex explain its commercial success and its relevance to the future of the Internet. Last year Americans spent between $750 million and $1 billion on telephone sex.

AT&T is one of the biggest carriers of phone sex. In 1991, the FCC restricted the type of adult calls that could be made to numbers with a 900 prefix, banning ''obscene communications for commercial purposes.'' But no such restrictions apply to overseas calls, which can easily be made from most telephones. Audiotext providers now make financial arrangements with foreign phone companies and route their phone-sex calls to ''actresses'' in the Dominican Republic, Aruba, the Marianas, Guyana, and Russia. Half of every dollar spent on one of these international sex calls goes to the domestic phone company; the foreign telephone company gets the other half, splitting its take with the phone-sex provider. Some phone-sex providers have started their own long-distance phone companies in order to cut the U.S. carrier out of the deal. The use of overseas calls for phone sex has been a boon to some foreign telephone companies. This new routing system helps explain why the annual volume of long-distance calls to the small African nation of Sao Tome recently increased from 40,000 minutes to 13 million minutes.

Online sex. The nation's obscenity laws and the Communications Decency Act are the greatest impediments to Flynt's brave new world of porn. Even he is shocked by some of the material he has obtained through the Internet. ''Some of the stuff othere,'' he says, ''I mean, I wouldn't even publish it.'' He supports the V-chip, which will soon give parents the ability to prevent their children from watching violent TV programming. And he thinks children should be strictly denied access to sexually explicit material. But Flynt believes that adults can safely read any book or see any movie without risk of being corrupted and that the obscenity laws are an insult to the intelligence of the American people.

Flynt has slowly, almost imperceptibly, made the sexual content of Hustler more explicit over the past few years. Its photo spreads are now right on the border between soft core and hard core. Readers have noticed the change and have sent letters asking if

what they see is real. Flynt may soon cross the line and make Hustler hard core. His attorneys are not pleased with the idea. But Flynt is beginning to think about his legacy. The Supreme Court's 1988 decision in Larry Flynt v. Jerry Falwell extended constitutional protection to political satire. The infidel who once cursed the Supreme Court now seems almost old-fashioned in his yearning to set another legal precedent. ''I have all the money I need now,'' Flynt says, ''and I'm not really motivated by it anymore. The most important contribution I could make would be an end to the obscenity laws.''

Flynt predicts that if the obscenity laws are rescinded, the amount of hard-core material sold in the United States will skyrocket—but not for long. Once the taboo is lifted, once porn loses the aura of a forbidden vice, people will lose interest in it. Within a decade of overturning the obscenity laws, he claims, the size of the American sex industry would decline to a fraction of what it is today.

Bruce A. Taylor is president and chief counsel of the National Law Center for Children and Families, one of the leading supporters of the Communications Decency Act and of its provision banning information on abortion from the Internet. Taylor thinks that Flynt's prediction is absurd, that eliminating the nation's obscenity laws would be an unmitigated disaster. Taylor opposes hard-core porn because, he says, it degrades women, promotes rape, and thrives on prostitution—hiring people to have sex. He thinks most soft-core porn should be outlawed as well. Taylor warns Americans not to be fooled by Flynt: ''Of course people in the business want to see it legalized!''

But Flynt's theory—that legalizing porn will eventually reduce the demand—may not be as outlandish as it seems. That is exactly what happened in Denmark a generation ago. In 1969, Denmark became the first nation in the world to rescind its obscenity laws, an act taken after much deliberation and study. According to Vagn Greve, director of the Institute of Criminology and Criminal Law at the University of Copenhagen, when the Danish obscenity law was overturned, there was a steep rise in the consumption of porn, followed by a long, steady decline. ''Ever since then,'' he says, ''the market for pornography has been shrinking.'' Porn sales remain high in Copenhagen mainly because of purchases by foreigners. Greve's colleague at the institute, the late Berl Kutchinsky, studied the effects of legalized pornography in Denmark for more than 25 years. In a survey of Copenhagen residents a few years after the ''porno wave'' had peaked, Kutchinsky found that most Danes regarded porn as being ''uninteresting'' and ''repulsive.'' Less than a quarter of the population said they liked watching hard-core films. Subsequent research confirmed these findings. ''The most common immediate reaction to a one-hour pornography stimulation,'' Kutchinsky concluded, ''was boredom.''

[From PC Week, Feb. 3, 1997]

WEB SITE RATINGS—SHAME ON MOST OF US

We and many others in the computer industry and press have decried the Communications Decency Act and other government attempts to regulate the content of the Web. Instead, we've all argued, the government should let the Web rate and regulate its own content. Page ratings and browsers that respond to those ratings, not legislation, are the answers we've offered.

The argument has been effective. With the CDA still wrapped up in the courts, the general feeling seems to be that we, the good guys, carried the day on this one.

Too bad we left the field before the game was over. We who work around the Web have done little to rate our content. We stumbled upon this situation while testing the latest release of Ziff-Davis' BrowserComp browser compatibility test (available at www.zdbop.com). We were checking a few random sites to verify that they contained ratings. They did not.

After visiting a broader set of sites, we were shocked by how little use of ratings we found. You can see for yourself by cranking up Internet Explorer 3.0. Follow the menu path View/Options/Security, and you'll see the Content adviser section. Enable ratings and start checking pages. We think your search will produce the same results as ours: few rated sites. A few notable exceptions, such as Playboy and Microsoft, had rated their pages, but they were more the exception than the rule.

They don't rate.

Shame on the sites, including some of Ziff-Davis' own, that lack ratings. No excuses really justify this lack of support. Rating pages certainly isn't particularly hard. Pretty much everyone agrees that the way to put a rating in a page is to use the HTML PICS (Platform for Internet Content Selection) tags. These tags let you specify for each of a set of rating areas, such as language or violence, a level, or ratings, that applies to that page. (For more information, visit www.w3.org/pub/WWW/PICS.)

Exactly which rating types a site should use is less settled, but the RSACi system from the Recreational Software Advisory Council (www.rsac.org) seems to be the front-runner and is the one IE supports. Some might argue that their sites contain no objectionable content and thus don't need ratings. That argument doesn't wash, however, because to be safe those wishing to limit access to potentially unsuitable pages will choose the option of having the browser block unrated pages. For even the best-behaved pages to be available to such folks, it needs a rating.

A bigger excuse may be the current paucity of browser support for ratings. Netscape's Navigator 3.0 does not include RSACi support. (Such support is coming in a future release from Netscap, but it's sad that this leader in the Web community was not a leader in ratings support.)

If you are as outraged as we are by the lack of page ratings, do something about it. Stop by the PICS and RSACi pages. Try our experiment. Complain to sites that are not rated. Complain if your browser does not support ratings.

Raise a ruckus! If we don't rate ourselves and solve the unsuitable content problem on our own, then we will have no right to complain when Big Brother attempts to do it for us.

[From the Boston Herald, Feb. 12, 1997]

KIDS CRUISE ON-LINE PORN IN LIBRARY; STUDENTS' 'RIGHT' BACKED AS ANGRY PARENTS LASH OUT

(By Maggie Mulvihill)

Boston parents who thought their kids were busy studying at the public library have been shocked to find out they were pulling up X-rated pictures on the Internet instead.

While city officials are demanding action, a library spokesman said officials can't censor the computer screens because ''First Amendment rights do cover kids.''

John Hunt, a parent from Dorchester, said he was furious to learn his 11-year-old daughter was able to view pornography yesterday while working on a school essay at the BPL's Copley Square branch.

''She said all the boys were around the computer and they were laughing and called the girls over to look at pictures of naked people,'' Hunt said. ''I want to find out from these library officials what is going on.''

Parent Susan Sullivan said she was stunned when her 10-year-old son spent an afternoon researching a book report on the computer in the BPL's Adams Street branch, but ended up looking through explicit photographs instead.

''I'm very, very upset because I have no idea what he saw on the screen,'' she said. ''He said he was using the Internet to do a book report on Indians and he was able to access dirty pictures, pictures of naked people.''

However, library spokesman Arthur Dunphy said, ''We do have children's librarians but we don't have Internet police.''

The lack of controls on library computers used by city schoolchildren has police investigating and city councilors demanding action at a meeting today.

''I'm a believer in early learning, but not this kind of early learning,'' said City Councilor Peggy Davis-Mullen.

Sgt. Tom Flanagan of Area C–11 in Dorchester said his station has received a number of complaints from parents over the past week, prompting police to ask local library staff to keep a closer eye on kids.

''As far as what these kids are actually getting into, I'm not really sure,'' Flanagan said. ''But we'd like the libraries to be a little more watchful of the kids on the computers, to be a little more aware of what the kids are looking at and monitoring it, especially when the children today are so quick with computers.''

Councilor Maureen Feeney of Dorchester said, ''A library is supposed to be a safe haven for our children.''

Feeney's City Council office has been flooded with calls from angry parents.

The councilor filed an order with the council's Committee on City and Neighborhood Services, which will be heard today, to determine ways to regulate children's Internet access at local libraries.

''My daughter is a fourth-grader and she uses that library so I am especially concerned,'' Feeney said.

''We encourage children to use computers but I don't want any of our kids to be exposed to that kind of stuff,'' she said.

Davis-Mullen said she is concerned her second-grade twins will be able to view pornography at local libraries and is calling on officials to keep a closer eye on children using computers.

''These computers are supposed to be tools to enable our children to learn, not look at pornography,'' she said.

Feeney called the constitutional rights argument ''lunacy.''

However, Dunphy said a federal court decision last year banned the government from forcing libraries to censor materials on the Internet for children because it violated their First Amendment rights.

The opinion, handed down by the U.S. District Court in Philadelphia, enjoined the government from enforcing portions of the federal Communications Decency Act, because it would unconstitutionally censor materials on the Internet, Dunphy said.

The increasing amount of sexual content on the Internet and World Wide Web had become a major issue nationally.

Internet access providers have offered control commands which give parents the option of restricting their children from using unsupervised chat lines or other areas where X-rated photos or conversation are available.

RESOLUTION ON THE USE OF FILTERING SOFTWARE IN LIBRARIES

Whereas, On June 26, 1997, the United States Supreme Court issued a sweeping re-

affirmation of core First Amendment principles and held that communications over the Internet deserve the highest level of Constitutional protection; and

Whereas, The Court's most fundamental holding is that communications on the Internet deserve the same level of Constitutional protection as books, magazines, newspapers, and speakers on a street corner soapbox. The Court found that the Internet ''constitutes a vast platform from which to address and hear from a world-wide audience of millions of readers, viewers, researchers, and buyers,'' and that ''any person with a phone line can become a town crier with a voice that resonates farther than it could from any soapbox''; and

Whereas, For libraries, the most critical holding of the Supreme Court is that libraries that make content available on the Internet can continue to do so with the same Constitutional protections that apply to the books on libraries' shelves; and

Whereas, The Court's conclusion that ''the vast democratic fora of the Internet'' merit full constitutional protection will also serve to protect libraries that provide their patrons with access to the Internet; and

Whereas, The Court recognized the importance of enabling individuals to receive speech from the entire world and to speak to the entire world. Libraries provide those opportunities to many who would not otherwise have them; and

Whereas, The Supreme Court's decision will protect that access; and

Whereas, The use in libraries of software filters which block Constitutionally protected speech is inconsistent with the United Stats Constitution and federal law and may lead to legal exposure for the library and its governing authorities; now, therefore, be it

Resolved, That the American Library Association affirms that the use of filtering software by libraries to block access to constitutionally protected speech violates the *Library Bill of Rights*.

Adopted by the ALA Council, July 2, 1997.

[From Fortune, Sept. 8, 1997]

THE EROTIC ALLURE OF HOME SCHOOLING; WEB PORN SITES

(By Edward W. Desmond)

Pssst. Here's one of the Web's dirty words: Mars. Try searching for sites about the red planet lately, and you could land in a porn purveyor's online playground. What next? Smut linked to the keywords ''home schooling''? Don't look now—it's already happened.

Perverse as these connections seem, they're right out of Economics 101, specifically the part about competition. Pornography sites are among the Web's few big moneymakers. There are thousands of them, from the R-rated to the boundlessly perverse. They compete furiously, and their main battleground for market share is search engines like Yahoo, Lycos, Excite, and Infoseek. Web surfers looking for porn typically tap into such search services and use keywords like ''sex'' and ''XXX.'' But so many online sex shops now display those words that their presence won't make a site stand out in a list resulting from a user's query. To get noticed, pornographers increasingly try to trick search engines into giving them top billing—sometimes called ''spoofing.''

For a while, spoofing seldom went beyond simple tactics such as stuffing home pages with lines like ''SEXSEXSEXSEXSEX.'' If a search-engine user types ''sex,'' the program looks for sites in its index of millions of pages with the most occurrences of the words. Winners come up first in the search results.

Once that trick became old hat, porn sellers got bolder. Some bought ads on the search engines—one of the more startling ads run recently by Yahoo and Excite reads: ''Which site ALSO offers live sorority-slut sex shows, for FREE? Fastporn.'' Others took spoofing to new depths. Infoseek staffers recently deleted porn pages from the index that were labeled with words like Tyson, Mars, and home schooling—apparently the sites' sponsors hope to snag unwitting surfers.

Search-engine companies like Infoseek constantly develop new filters to defeat spoofing. But calls still come in from irate mothers and grade-school teachers who click on innocent-looking search results and find themselves on a page too toxic to mention. All this, of course, has direct bearing on the powwows in Washington about making the Web safe for kids. The Clinton Administration is encouraging efforts based on ''voluntary restraint.'' That's a lot to ask in the Web's open bazaar, where market share is the name of the game, not social responsibility.

By Mr. MURKOWSKI:

S. 1483. A bill to amend the Internal Revenue Code of 1986 to provide for the treatment of tax-exempt bond financing of certain electrical output facilities; to the Committee on Finance.

TAX-EXEMPT OUTPUT FACILITY BONDS LEGISLATION

Mr. MURKOWSKI. Mr. President, today we are on the verge of a revolution in the transmission and distribution of electricity that is fast bringing about competition and deregulation at both the wholesale and retail level.

Nowhere has the competitive model advanced further than in California, where full deregulation will become a reality at the beginning of 1998. As many as 13 States representing one-third of Americans have moved to competition in the electricity industry.

Today, I am introducing legislation that I believe will enhance all States' ability to facilitate competition. This legislation arises from the Energy Committee's intensive review of the electric power industry and from the Joint Tax Committee's report that I requested.

Over the past two Congresses, the Committee has held 14 hearings and workshops on competitive change in the electric power industry, receiving testimony from more than 130 witnesses. One of the workshops specifically focused on how public power utilities will participate in the competitive marketplace. At these and in other forums, concerns have been expressed by representatives of public power about the potential jeopardy to their tax-exempt bonds if they participate in State competitive programs, or if they transmit power pursuant to FERC order No. 888, or pursuant to a Federal Power Act section 211 transmission order.

The Joint Tax Committee report, titled Federal Income Tax Issues Arising in Connection with Proposal to Restructure the Electric Power Industry, concluded that current tax laws effectively preclude public power utilities from participating in State open access restructuring plans without jeopardizing the tax-exempt status of their bonds. Under the tax law, if the private use and interest restriction is violated, the utility's bonds become retroactively taxable.

These concerns have been echoed by the FERC. For example, in FERC Order No. 888, the Commission stated that reciprocal transmission service by a municipal utility will not be required if providing such service would jeopardize the tax-exempt status of the municipal utility. A similar concern exists if FERC issues a transmission order under section 211 of the Federal Power Act.

Mr. President, if consumers and businesses are to maximize the full benefits of open competition in this industry it will be necessary for all electricity providers to interconnect their facilities into the entire electric grid. Unfortunately, this system efficiency is significantly impaired because of current tax law rules that effectively preclude public power entities—entities that financed their facilities with tax-exempt bonds—from participating in State open access restructuring plans and Federal transmission programs, without jeopardizing the exempt status of their bonds.

No one wants to see bonds issued to finance public power become retroactively taxable because a municipality chooses to participate in a State open access plan. That would cause havoc in the financial markets and could undermine the financial stability of many municipalities. At the same time, public power should not obtain a competitive advantage in the open marketplace based on the Federal subsidy that flows from the ability to issue tax-exempt debt. Clearly we must provide for the transition to allow public providers to enter the private competitive marketplace without severe economic dislocation for municipalities and consumers.

Top remedy this dilemma, I am today introducing legislation that will allow municipal utilities to interconnect and compete in the open marketplace without the draconian retroactive impacts currently required by the Tax Code. My bill is modeled after legislation that passed Congress last year which addressed electricity and gas generation and distribution by local furnishers.

My bill removes the current law impediments to public power's capacity to participate in open access plans if such entities are willing to forego future use of federal subsidized tax-exempt financing. If public power entities make this election, and choose to compete on a level playing field with other power suppliers, tax-exemption of the interest on their outstanding debt will be unaffected. They will be allowed an extended period during which outstanding bonds subject to the private use restrictions may be retired instead of retroactive taxation, which is the situation under existing law. The relief provided by my bill applies equally to outstanding bonds for electric generation, transmission, and distribution facilities.

Mr. President, without this legislation, public power will face an untenable choice: either stay out of the competitive marketplace or face the threat of retroactive taxability of their bonds. With this legislation, public power will be able to transition into the competitive marketplace.

Let me provide a few examples of real-world choices that public power faces today. According to the Joint Tax Committee report, the mere act of transferring public power transmission lines to a privately operated independent service operator [ISO] could cause the public power entity's tax exempt bonds to be retroactively taxable. Similarly, a transfer of transmission lines to a State operated ISO could, in many instances, trigger similar retroactive loss of tax-exemption depending on the amount or value of the power that is transmitted along those lines to private users.

Moreover, participation in a state open access plan could, de facto, force public power entities to take defensive actions to maintain their competitive position which could inevitably lead to retroactive taxation of their bonds. Such actions would include offering a discounted rate to selective customers or selling excess capacity to a brokers for resale under long-term contract at fixed rates or discounted rates.

I have also heard from the California Governor and members of the California Legislature about many of these problems and the need for legislation to address them. I stand ready to work with them and representatives from other States to solve this problem as part of the legislation I introduced today.

Mr. President, my bill allows public power to participate in the new competitive world and provides a safe harbor within which they can transition from tax-exempt financing to the level playing field of the competitive marketplace. In addition, the legislation recognizes that there are some transactions that public power entities engage in that should not jeopardize the tax-exempt status of their bonds under current law and seeks to protect those transactions by codifying the rules governing them. This list may need to be expanded and I look forward to the input of the affected utilities in this regard.

In general, the exceptions contained in this bill closely parallel the policies enunciated in the legislative history of the amendments made in the 1986 Tax Reform Act. For example, the sale of electricity by one public power entity to another public power entity for resale by the second public power entity would be exempt so long as the second public power entity is not participating in a State open access plan. In addition, a public power entity would be allowed to enter into pooling and swap arrangements with other utilities if the public power entity is not a net seller of output, determined on an annual basis. Finally, the bill contains a de minimis exception for sales of excess output by a facility when such sales do not exceed $1 million.

Mr. President, this legislation attempts to balance many competing interests. This will be a difficult transition and this legislation does not address all the difficult problems to be faced. This is why I emphasize today that this is a starting point for discussion over the months ahead. This will be a difficult transition and this legislation does not address all the difficult problems to be faced. This is why I emphasize today that this is a starting point for discussion over the months ahead. I look forward to receiving comments from all interested parties and will encourage Finance Committee Chairman ROTH to hold hearings on this bill early next year.

I am open to making revisions to this bill consistent with a public policy that emphasizes a level playing field and a soft transition to competition for our important public utilities. I look forward especially to working with the Chairman of the Senate Finance Committee, Senator ROTH, who has been a leader in addressing tax issues relating to competition in this industry.

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

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

S. 1483

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

SECTION 1. TREATMENT OF TAX-EXEMPT BOND FINANCING OF CERTAIN ELECTRICAL OUTPUT FACILITIES.

(a) CERTAIN TRANSACTIONS TREATED AS SALES TO GENERAL PUBLIC FOR PURPOSES OF PRIVATE BUSINESS TESTS.—Paragraph (8) of section 141(b) of the Internal Revenue Code of 1986 (defining nonqualified amount) is amended to read as follows:

''(8) NONQUALIFIED AMOUNT.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'nonqualified amount' means, with respect to an issue, the lesser of—

''(i) the proceeds of such issue which are to be used for any private business use, or

''(ii) the proceeds of such issue with respect to which there are payments (or property or borrowed money) described in paragraph (2).

''(B) USE PURSUANT TO CERTAIN TRANSACTIONS NOT TAKEN INTO ACCOUNT.—There shall not be taken into account in determining a nonqualified amount with respect to an issue 5 percent or more of the proceeds of which are to be used with respect to any output facility furnishing electric energy any of the following transactions:

''(i) The sale of output by such facility to another State or local government output facility for resale by such other facility if such other facility is not participating in an open access plan (as defined in subsection (f)(3)) and the output is to be used for government use.

''(ii) Participation by such facility in an output exchange agreement with other output facilities if—

''(I) such facility is not a net seller of output under such agreement determined on not more than an annual basis,

''(II) such agreement does not involve output-type contracts, and

''(III) the purpose of the agreement is to enable the facilities to satisfy differing peak load demands or to accommodate temporary outages.

''(iii) The sale of excess output by such facility pursuant to a single agreement of not more than 30 days duration, other than through an output contract with specific purchasers.

''(iv) The sale of excess output by such facility not to exceed $1,000,000.''.

(b) ELECTION TO TERMINATE TAX-EXEMPT BOND FINANCING BY CERTAIN ELECTRICAL OUTPUT FACILITIES.—Section 141 of the Internal Revenue Code of 1986 (relating to private activity bond; qualified bond) is amended by adding at the end the following:

''(f) ELECTION TO TERMINATE TAX-EXEMPT BOND FINANCING BY CERTAIN ELECTRICAL OUTPUT FACILITIES.—

''(1) IN GENERAL.—In the case of an output facility for the furnishing of electric energy financed with bonds which would cease to be tax-exempt as the result of the participation by such facility in an open access plan, such bonds shall not cease to be tax-exempt bonds if the person engaged in such furnishing by such facility makes an election described in paragraph (2). Such election shall be irrevocable and binding on any successor in interest to such person.

''(2) ELECTION.—An election is described in this paragraph if it is an election made in such manner as the Secretary prescribes, and such person agrees that—

''(A) such election is made with respect to all output facilities for the furnishing of electric energy by such person,

''(B) no bond exempt from tax under section 103 may be issued on or after the date of the participation by such facilities in an open access plan with respect to all such facilities of such person, and

''(C) such outstanding bonds used to finance such facilities for such person are redeemed not later than 6 months after—

''(i) in the case of bonds issued before December 1, 1997, the later of—

''(I) the earliest date on which such bonds may be redeemed, or

''(II) the date of the election, and

''(ii) in the case of bonds issued after November 30, 1997, and before the date of the participation by such facility in an open access plan, the earlier of—

''(I) the earliest date on which such bonds may be redeemed, or

''(II) the date which is 10 years after the date of the enactment of this subsection.

''(3) OPEN ACCESS PLAN.—For purposes of this subsection, the term 'open access plan' means—

''(A) a plan by a State to allow more than 1 electric energy provider to offer such energy in a State authorized competitive market, or

''(B) a plan established or approved by an order issued by the Federal Energy Regulatory Commission which requires or allows transmission of electric energy on behalf of another person.

''(4) RELATED PERSONS.—For purposes of this subsection, the term 'person' includes a group of related persons (within the meaning of section 144(a)(3)) which includes such person.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales of output after November 8, 1997.

By Mr. BINGAMAN:

S. 1484. A bill to increase the number of qualified teachers; to the Committee on Labor and Human Resources.

THE QUALITY TEACHER IN EVERY CLASSROOM ACT OF 1997

Mr. BINGAMAN. Mr. Presdient, I rise today to introduce the Quality Teacher

in Every Classroom Act, a bill to ensure quality and accountability in Federal efforts to improve public school teaching.

Let me begin by stating that I am a strong supporter of the hard-working teachers in American classrooms. Coming from a family of teachers, I know first-hand how challenging the work is. Having visited schools throughout my home State of New Mexico, I know how dedicated and professional the vast majority of our teachers are. And any time you talk to students, the conversation always comes back to teachers.

However, it's also pretty clear that we are not doing anyone—neither teachers nor students—a great service by putting so many under-qualified teachers in American classrooms, and providing so little support to teachers and the institutions that prepare and support them.

Too often, our teachers lack enough background in their subjects, our colleges of education are not rigorous enough, our state licensing standards are too low, and local districts have too few high-quality candidates to choose from.

Improving teaching quality won't solve all of our educational problems, but it is at the heart of what goes on in individual classrooms around the nation. And as shown on the following charts, the state and national statistics are alarming. None of us is doing as much as is needed to improve teaching quality:

As this first chart shows, most States have a long way to go in promoting teaching quality. In the 1997 Education Week national report card called ''Quality Counts,'' none of the States received an ''A'', and most received ''C's.''

Like many other States, New Mexico received a ''C-minus'' for teaching quality in this report because—while the State does require national certification for all its schools of education: Only 52 percent of NM high school teachers have degrees in their subject areas; the State does not require that teachers have a degree in liberal arts (math, science, history, etc.); and fewer than three-fourths of NM teachers who participated in professional development received some form of support to do so.

As a Nation, we are unfortunately actually doing worse over all as the 1990's have progressed. The just-released 1997 Goals report showed that the percentage of high school teachers with a degree in their subject area actually declined over all from 66 percent in 1990 to 63 percent in 1994. For New Mexico, the percentage has remained near the bottom, at 52 percent.

For New Mexico students, that means that it's about a 50–50 chance whether their teachers have a strong background in the area they are teaching.

And the situation is particularly bleak in the key areas of math and science, where we need to be at our best.

This second chart shows the latest data showing that nearly one in three high school math teachers lacks a math degree. In New Mexico, the percentage was 36 percent, and in other states over half the math teachers lack even a minor in math.

This next charts shows a similar story in the area of high school science. Nearly one in four high school science teachers lacks a science degree. In most states, over 20 percent of the high school science teachers lack that background. It's worth noting that in this area New Mexico fares better than most States, at only 19 percent.

More than 50,000 people are teaching America's children without the minimal training required to meet professional standards. In schools with the highest minority enrollments, minority students have less than a 50% chance of sitting in the class of a math or science teacher with a degree in that field.

From talking to teachers, however, I know that it's they more than anyone else who want our public schools to be improved so that children to learn as much as they can. And that's important, because improving and maintaining the quality of America's teaching force is on the mind of every policy maker today. Clearly, all our efforts at raising curriculum and testing standards for children will be severely diluted without the powerful presence of a competent instructor in each classroom.

More than anything else, the public is demanding properly prepared teachers. A properly prepared teacher in every classroom is a reasonable demand. And the federal government, which has for too long talked about improving teaching without doing anything about it, needs to become a leader in this area. That's what this legislation is all about.

Now I want to be the first to acknowledge that I am not the only one interested in this issue. Senators KENNEDY, REED, FRIST, and others have already introduced teacher training legislation, much of it based on the 1996 findings of the National Commission on Teaching and Learning. And I know that the Chairman of the Labor Committee is extremely interested in this issue. I look forward to working with all of them as the reauthorization of the Higher Education Act continues.

However, this legislation, called the Quality Teacher in Every Classroom Act, is distinctive in several regards. Most importantly, this is the only Senate proposal that provides a thorough formula for reform in teacher training. The legislation addresses the problem comprehensively, and leverages as much improvement as possible given the limited Federal investment in education.

Let me take a moment to describe its main features, which are outlined on the chart summarizing the bill.

First, the Act would take the simple step of making sure that parents have available to them important information about the basic qualifications and academic background of their children's teachers.

Teachers are professionals just like the family doctor or the local lawyer, and so their backgrounds should be just as available as if their diplomas were framed on the wall. I believe that the availability of this information will engage and empower parents in advocating for improved schools.

Second, the Act calls on states to reduce the percentage of teachers who are uncertified or lack a sufficient academic background. States must make zero tolerance for poorly prepared teachers their number one priority.

This bill gives them five years to reduce substantially the number of unlicensed teachers as well as those who are teaching outside of their area of expertise. It also requires them to accept any teacher from another area who has national certification as a master teacher as fully qualified to teach in that state.

Next, the Act calls on colleges of education to make substantial changes in the preparation that they provide teaching candidates, including graduating more students who will pass state teacher licensing exams and requiring a rigorous liberal arts major in an academic subject area, which is not uniformly required.

In addition, the Act will address the lack of high-quality teachers and teaching candidates in our most poverty-stricken schools by providing financial incentives for highly qualified teaching candidates. For each year they taught in high-need areas, new teachers would have their school loans forgiven. And experienced teachers who pursue advanced work such as national certification or Advanced Placement training would also qualify for loan forgiveness.

This incentive should bring new energy and talent to poor communities, inspiring students and instilling parents with renewed confidence in their children's schools.

Finally, the bill would help improve the recruitment and support provided for new teachers by creating a competitive grant program to fund partnerships among colleges of education, school districts, and schools.

Each member of the partnership including a school district, a school that includes at least 30% children who meet criteria for poverty, and a university or college that offers teacher preparation. Special priority would be given to applications that used or created laboratory or ''teaching'' schools with their partner districts, where teaching candidates learn hands-on.

In conclusion, I would like to say that I am excited to introduce a bill that brings together so many of the legislative agendas I have been promoting for many years: rigorous standards, constructive support for those who are

failing to meet those standards, and a comprehensive approach to solving central problems of American public life.

I ask unanimous consent that a copy 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. 1484

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 ''Quality Teacher in Every Classroom Act''.

SEC. 2. STATEMENT OF POLICY; FINDINGS.

(a) STATEMENT OF POLICY.—The Congress declares it to be the policy of the United States that each student shall have a competent and qualified teacher.

(b) FINDINGS.—Congress makes the following findings:

(1) The number of elementary and secondary school students is expected to increase each successive year between 1997 and 2006, at which time total enrollment will reach 54,600,000.

(2) As the number of students increases, the need for qualified teachers will increase. Increases in enrollment and teacher retirements together will create demand for 2,000,000 new teachers by the year 2006.

(3) The lack of qualified teachers to meet this demand is a significant barrier to students receiving an appropriate education.

(4) The National Commission on Teaching and America's Future has found that one-quarter of the Nation's classroom teachers are not fully qualified to teach in their subject areas. Unless corrective action is taken at the local, State, and Federal levels, the additional demand for teachers is likely to result in a further decline in teacher quality.

(5) 1997 is the time to redouble efforts to ensure that teachers are properly prepared and qualified, and receive the ongoing support and professional development teachers need to be effective educators.

TITLE I—PARENTAL RIGHTS

SEC. 101. PARENTAL RIGHT TO KNOW.

Part E of title XIV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8891 et seq.) is amended by adding at the end the following:

"SEC. 14515. TEACHER QUALIFICATIONS.

''Any public elementary school or secondary school that receives funds under this Act shall provide to the parents of each student enrolled in the school information regarding—

''(1) the qualifications of each of the student's teachers, both generally and with respect to the content area or areas in which the teacher provides instruction; and

''(2) the minimum qualifications required by the State for teacher certification or licensure.''.

TITLE II—QUALIFIED TEACHERS

SEC. 201. ENSURING A QUALIFIED TEACHER IN EVERY CLASSROOM.

Part E of title XIV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8891 et seq.) (as amended by section 101) is further amended by adding at the end the following:

"SEC. 14516. ENSURING A QUALIFIED TEACHER IN EVERY CLASSROOM.

''To be eligible to receive funds under this Act, each State shall ensure that—

''(1) not later than the period that begins on the date of enactment of this section and ends 5 years after such date, and subject to paragraphs (2) and (3), each teacher in a public elementary school or secondary school in the State has demonstrated the subject matter knowledge, teaching knowledge, and teaching skill necessary to teach effectively in the content area or areas in which the teacher provides instruction;

''(2) each teacher in the State for whom the demonstration described in paragraph (1) has been waived temporarily by State or local education agencies to respond to emergency teacher shortages or other circumstances shall, not later than 3 years after such waiver, demonstrate the subject matter knowledge, teaching knowledge, and teaching skill necessary to teach effectively in the content area or areas in which the teacher provides instruction;

''(3) no student will be taught for more than 1 year by an elementary school teacher, or for more than 2 consecutive years in the same subject by a secondary school teacher, who has not made the demonstration described in paragraph (1);

''(4) the State provides incentives for teachers to pursue and achieve advanced teaching and subject area content standards;

''(5) the State has in place an effective mechanism to remove incompetent or unqualified teachers;

''(6) the State aggressively helps schools, particularly schools in high need areas, recruit and retain qualified teachers;

''(7) during the period described in paragraph (1), elementary school and secondary school teachers who do not meet the requirements of paragraph (1), shall not be disproportionately employed in high poverty elementary schools or secondary schools; and

''(8) any teacher who meets the standards set by the National Board for Professional Teaching Standards is considered fully qualified to teach in any school district or community in the State.''.

TITLE III—FEDERAL FUNDS USED IN THE PREPARATION OF TEACHERS

SEC. 301. MINIMUM TEACHER TRAINING STANDARDS.

Title V of the Higher Education Act of 1965 (20 U.S.C. 1101 et seq.) is amended by inserting after section 500 of such Act (20 U.S.C. 1101) the following:

"SEC. 500A. MINIMUM TEACHER TRAINING STANDARDS.

''(a) GENERAL REQUIREMENT.—Any institution of higher education that receives, directly or indirectly, any funds appropriated pursuant to this Act or pursuant to any other Federal law for the purpose of preparing or training teachers shall—

''(1)(A) meet nationally recognized professional standards for accreditation; or

''(B) demonstrate to the Secretary that at least 90 percent of the graduates of such institution who enter the field of teaching take, and pass on their first attempt, the State teacher certification or licensure examination for new teachers that is in place on the day of enactment of the Quality Teacher in Every Classroom Act; and

''(2) ensure that the graduates hold a liberal arts degree (consisting of a minimum of 18 credits in a social science, arts, humanities, science, or mathematics major) in addition to professional education courses leading to State teacher certification or licensure.

''(b) AUTHORITY OF SECRETARY TO WAIVE.—The Secretary may issue a one-time waiver, for a duration of not more than 5 years, in any case in which an institution of higher education can demonstrate a bona fide commitment to, and demonstrate measurable progress toward, meeting the requirements of subsection (a).''.

TITLE IV—INCENTIVES FOR INCREASING THE SUPPLY OF QUALIFIED TEACHERS

SEC. 401. LOAN FORGIVENESS.

(a) GUARANTEED LOANS.—Section 437 of the Higher Education Act of 1965 (20 U.S.C. 1087) is amended—

(1) in the section heading, by striking the period at the end and inserting a semicolon and ''**LOAN FORGIVENESS FOR TEACHING.**'';

(2) by amending the heading for subsection (c) to read as follows: ''DISCHARGE RELATED TO SCHOOL CLOSURE OR FALSE CERTIFICATION.—''; and

(3) by adding at the end thereof the following new subsection:

''(e) CANCELLATION OF LOANS FOR TEACHING.—

''(1) IN GENERAL.—The Secretary shall discharge the liability of a borrower of a loan made under section 428, 428H, or 428C (to the extent that a loan made under section 428C repays a loan made under section 428 or 428H) on or after the date of enactment of the Quality Teacher in Every Classroom Act, to students who have not previously borrowed under any of such sections, by repaying the amount owed on the loan, to the extent specified in paragraph (3), for service described in paragraph (2) as a full time teacher who—

''(A) has demonstrated, in accordance with State teacher certification or licensure law, the subject matter knowledge, teaching knowledge, and teaching skill necessary to teach effectively in the content area or areas for which the borrower provides instruction;

''(B) has a liberal arts major (in the subject in which the teacher teaches if the teacher teaches in a secondary school) consisting of a minimum of 18 credits in a social science, arts, humanities, science, or mathematics major;

''(C)(i) graduated in the top 25 percent of the teachers class in college (as determined by the teacher's grade point average in college); or

''(ii) scored in the top 20 percent of students taking a Graduate Record Examination (GRE) or a State teacher certification or licensure examination; and

''(D) graduated from an institution of higher education that meets the requirements of section 500A.

''(2) QUALIFYING SERVICE.—

''(A) IN GENERAL.—A loan shall be discharged under paragraph (1) for service by the borrower as a full-time teacher for 1 or more academic years in a public elementary or secondary school—

''(i)(I) in the school district of a local educational agency that is eligible in that academic year for assistance under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.); and

''(II) that, for that academic year, has been determined by the Secretary to be a school in which the enrollment of children counted under section 1124(c) of that Act (20 U.S.C. 6333(c)) exceeds 30 percent of the total enrollment of that school; or

''(ii) in an academic subject matter area in which the State or local educational agency determines to the satisfaction of the Secretary that there is a shortage of qualified teachers.

''(B) ACCELERATED DISCHARGE.—A loan shall be discharged under paragraph (1) at the rate provided in paragraph (3)(B) for service described in clause (i) or (ii) of subparagraph (A) by the borrower as a full-time teacher for 1 or more academic years if such borrower—

''(i) has engaged in such service for each of the 5 preceding academic years; and

''(ii) has pursued and achieved advanced teaching credentials, such as certification by

the National Board for Professional Teaching Standards, Advanced Placement Institutes training, or a graduate degree in a related field.

''(3) PERCENTAGE OF CANCELLATION.—

''(A) IN GENERAL.—Loans shall be discharged under paragraph (1) for service described in paragraph (2)(A) at the rate of—

''(i) 20 percent for the first or second complete academic year of such service, which amount for each year shall not exceed $6,000;

''(ii) 25 percent for the third complete year of such service, which amount shall not exceed $7,500; and

''(iii) 35 percent for the fourth complete year of such service, which amount shall not exceed $10,500;

except that the total amount for all such academic years shall not exceed $30,000.

''(B) ACCELERATED DISCHARGE.—Loans shall be discharged under paragraph (1) for service described in paragraph (2)(B) at the rate of 50 percent for each complete academic year of such service, except that the total amount discharged shall not exceed $5,000 for any borrower.

''(C) TREATMENT OF INTEREST.—If a portion of a loan is discharged under subparagraph (A) or (B) for any year, the entire amount of interest on that loan that accrues for that year shall also be discharged by the Secretary.

''(D) REFUNDING PROHIBITED.—Nothing in this section shall be construed to authorize refunding of any repayment of a loan.

''(4) TREATMENT OF CANCELED AMOUNTS.—The amount of a loan, and interest on a loan, that is canceled under this subsection shall not be considered income for purposes of the Internal Revenue Code of 1986.

''(5) PREVENTION OF DOUBLE BENEFITS.—No borrower may, for the same volunteer service, receive a benefit under both this subsection and subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12601 et seq.).

''(6) LENDER REIMBURSEMENT.—The Secretary shall specify in regulations the manner in which lenders shall be reimbursed for loans made under this part, or portions thereof, that are discharged under this subsection.

''(7) LIST OF SCHOOLS.—

''(A) PUBLICATION.—The Secretary shall publish annually a list of the schools for which the Secretary makes a determination under paragraph (2)(A)(i)(II).

''(B) SPECIAL RULE.—If the list of schools described in subparagraph (A) is not available before May 1 of any year, the Secretary may use the list for the year preceding the year for which the determination is made to make such service determination.

''(8) CONTINUING ELIGIBILITY.—Any teacher who performs service in a school which—

''(A) meets the requirements of paragraph (2)(A) in any year during such service; and

''(B) in a subsequent year fails to meet the requirements of such paragraph,

may continue to teach in such school and shall be eligible for loan cancellation pursuant to paragraph (1) with respect to such subsequent years.''.

(b) DIRECT LOANS.—Part D of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087h et seq.) is amended by adding at the end the following:

"SEC. 459. CANCELLATION OF LOANS FOR CERTAIN PUBLIC SERVICE.

''(a) CANCELLATION OF PERCENTAGE OF DEBT BASED ON YEARS OF QUALIFYING SERVICE.—

''(1) IN GENERAL.—The percent specified in paragraph (3) of the total amount of any loan made under this part after the date of enactment of the Quality Teacher in Every Classroom Act, to students who have not previously borrowed under this part, shall be canceled for each complete year of service after such date by the borrower under circumstances described in paragraph (2) for service as a full time teacher who has demonstrated, in accordance with State teacher certification or licensure law, the subject matter knowledge, teaching knowledge, and teaching skill necessary to teach effectively in the content area or areas for which the borrower provides instruction.

''(2) QUALIFYING SERVICE.—

''(A) IN GENERAL.—A loan shall be discharged under paragraph (1) for service by the borrower as a full-time teacher for 1 or more academic years in a public elementary or secondary school—

''(i)(I) in the school district of a local educational agency that is eligible in that academic year for assistance under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.); and

''(II) that, for that academic year, has been determined by the Secretary to be a school in which the enrollment of children counted under section 1124(c) of that Act (20 U.S.C. 6333(c)) exceeds 30 percent of the total enrollment of that school; or

''(ii) in an academic subject matter area in which the State or local educational agency determines to the satisfaction of the Secretary that there is a shortage of qualified teachers.

''(B) ACCELERATED DISCHARGE.—A loan shall be discharged under paragraph (1) at the rate provided in paragraph (3)(B) for service described in clause (i) or (ii) of subparagraph (A) by the borrower as a full-time teacher for 1 or more academic years if such borrower—

''(i) has engaged in such service for each of the 5 preceding academic years; and

''(ii) has pursued and achieved advanced teaching credentials.

''(3) PERCENTAGE OF CANCELLATION.—

''(A) IN GENERAL.—Loans shall be discharged under paragraph (1) for service described in paragraph (2)(A) at the rate of—

''(i) 20 percent for the first or second complete academic year of such service, which amount for each year shall not exceed $6,000;

''(ii) 25 percent for the third complete year of such service, which amount shall not exceed $7,500; and

''(iii) 35 percent for the fourth complete year of such service, which amount shall not exceed $10,500;

except that the total amount for all such academic years shall not exceed $30,000.

''(B) ACCELERATED DISCHARGE.—Loans shall be discharged under paragraph (1) for service described in paragraph (2)(B) at the rate of 50 percent for each complete academic year of such service, except that the total amount discharged shall not exceed $5,000 for any borrower.

''(C) TREATMENT OF INTEREST.—If a portion of a loan is discharged under subparagraph (A) or (B) for any year, the entire amount of interest on that loan that accrues for that year shall also be discharged by the Secretary.

''(D) REFUNDING PROHIBITED.—Nothing in this section shall be construed to authorize refunding of any repayment of a loan.

''(4) DEFINITION.—For the purpose of this section, the term 'year' where applied to service as a teacher means an academic year as defined by the Secretary.

''(5) TREATMENT OF CANCELED AMOUNTS.—The amount of a loan, and interest on a loan, which is canceled under this section shall not be considered income for purposes of the Internal Revenue Code of 1986.

''(6) PREVENTION OF DOUBLE BENEFITS.—No borrower may, for the same volunteer service, receive a benefit under both this section and subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12601 et seq.).

''(b) SPECIAL RULES.—

''(1) LIST.—

''(A) PUBLICATION.—The Secretary shall publish annually a list of the schools for which the Secretary makes a determination under paragraph (2)(A)(i)(II).

''(B) SPECIAL RULE.—If the list of schools described in subparagraph (A) is not available before May 1 of any year, the Secretary may use the list for the year preceding the year for which the determination is made to make such service determination.

''(2) CONTINUING ELIGIBILITY.—Any teacher who performs service in a school which—

''(A) meets the requirements of subsection (a)(2)(A) in any year during such service; and

''(B) in a subsequent year fails to meet the requirements of such subsection,

may continue to teach in such school and shall be eligible for loan cancellation pursuant to subsection (a)(1) with respect to such subsequent years.''.

TITLE V—BEGINNING TEACHER RECRUITMENT AND SUPPORT

SEC. 501. PROGRAM ESTABLISHED.

Title V of the Higher Education Act of 1965 (20 U.S.C. 1101 et seq.) is amended by adding at the end the following:

"PART G—BEGINNING TEACHER RECRUITMENT AND SUPPORT

"SEC. 599A. DEFINITIONS.

''In this part:

''(1) PARTICIPANT.—The term 'participant' means an individual who receives assistance under this part.

''(2) PARTNERSHIP.—The term 'partnership' means a partnership consisting of—

''(A) a local educational agency, a subunit of such agency, or a consortium of such agencies; and

''(B) 1 or more nonprofit organizations, including institutions of higher education—

''(i) each of which have a demonstrated record of success in teacher preparation and staff development;

''(ii) that have expertise and a demonstrated record of success, either collectively or individually, in providing teachers with the subject matter knowledge, teaching knowledge, and teaching skills necessary for the organizations to teach effectively in each and every content area in which the organizations plan to prepare teachers to provide instruction under a grant made under this part; and

''(iii) that include at least 1 teacher preparation institution, or school or department of education within an institution of higher education that meets the requirements of section 500A (as added by section 301 of the Quality Teacher in Every Classroom Act) and is not subject to a waiver under section 500A(b).

''(3) ELIGIBLE SCHOOL.—The term 'eligible school' means a public elementary school or secondary school—

''(A)(i) served by a local educational agency that is eligible for assistance under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.); and

''(ii) that has been determined by the Secretary to be a school in which the enrollment of children counted under section 1124(c) of that Act (20 U.S.C. 6333(c)) exceeds 30 percent of the total enrollment of the school; or

''(B) that the State educational agency or local educational agency determines, to the satisfaction of the Secretary, has a shortage of qualified teachers.

"SEC. 599B. PROGRAM AUTHORIZED.

''(a) GRANTS BY THE SECRETARY.—The Secretary shall use funds made available pursuant to this part to award grants, on a competitive basis, to partnerships for the purpose of recruiting, training, and supporting qualified entry-level elementary school or secondary school teachers to teach in eligible schools.

''(b) DURATION.—Grants shall be awarded for a period of 3 years, of which not more than 1 year may be used for planning and preparation.

"SEC. 599C. USES OF FUNDS.

''(a) PARTNERSHIPS.—Each partnership receiving a grant under this part shall use the grant funds to—

''(1) recruit and screen individuals for assistance under this part;

''(2) establish and conduct intensive summer preplacement professional development seminars for participants;

''(3) establish and conduct ongoing and intensive professional development and support programs for participants during the participants' first 3 years of teaching service, that incorporate—

''(A) State curriculum standards for kindergarten through 12th grade students;

''(B) national professional standards for the teaching of specific subjects; and

''(C) the use of educational technology to improve learning, especially the use of computers and computer networks; and

''(4) annually evaluate the performance of participants to determine whether the participants meet standards for continued participation in the activities assisted under this part.

''(b) CRITERIA.—

''(1) IN GENERAL.—The partnership shall select a participant according to criteria designed to—

''(A) attract highly qualified individuals to teaching, including individuals with post-college employment experience who plan to enter teaching from another occupational field; and

''(B) meet the needs of eligible schools in addressing shortages of qualified teachers in specific academic subject areas.

''(2) SPECIFIC CRITERIA.—Such criteria shall include that each participant has demonstrated the ability to attain the subject matter knowledge, teaching knowledge, and teaching skills necessary to teach effectively in the content area or areas in which the participant will provide instruction.

''(3) SPECIAL CONSIDERATION.—Each partnership shall make a particular effort to recruit for participation in activities assisted under this part individuals who are members of populations that are underrepresented in the teaching profession, especially in the curricular areas in which such individuals are preparing to teach.

''(4) MINIMUM NUMBER OF TEACHERS PER SCHOOL.—The partnership shall ensure that the number of beginning participant teachers is equal to not less than 3 percent of the faculty of the eligible schools to which the participant teachers are assigned, except that in no circumstance shall fewer than 2 beginning participant teachers be assigned to each eligible school.

"SEC. 599D. PARTNERSHIP APPLICATION.

''(a) IN GENERAL.—In order to receive funds under this part, a partnership shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require. Each application shall—

''(1) describe how the partnership shall select individuals to receive assistance under this part;

''(2) describe how recruitment will meet the needs of eligible schools, especially with regard to the particular academic subject areas in which there is a shortage of qualified teachers;

''(3) describe how the partnership will advance the subject matter knowledge, teaching knowledge, and teaching skill of all participants in ongoing professional development and support activities;

''(4) describe how school faculty will be involved in the planning and execution of ongoing professional development and support activities, including paired mentorships between participants and experienced classroom teachers;

''(5) provide assurances that—

''(A) participants are paid at rates comparable to other entry-level teachers in the school district where the participants are assigned to teach; and

''(B) master teachers are provided with stipends for their mentoring services;

''(6) describe how the partnership will monitor, and report not less than annually regarding, the progress of participants, including—

''(A) the retention rate for participant teachers in comparison with other teachers in the same schools in which participant teachers teach; and

''(B) the academic achievement of students served by participant teachers, in comparison to those students taught by other entry-level teachers;

''(7) describe direct and indirect contributions to the overall cost of the program by the State and local educational agency, and the extent to which the partnership activities will be integrated with other professional development and educational reform efforts (including federally funded efforts such as the programs under titles I and II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq., 6601 et seq.)); and

''(8) contain an assurance that the chief State school officer or the officer's designee has reviewed and approved the application.

''(b) SPECIAL RULE.—The Secretary shall give special consideration to funding applications for assistance under this part to partnerships that include teacher preparation institutions described in section 599A(a)(2)(B)(iii) that—

''(1) support or have plans to support professional development schools or laboratory schools; and

''(2) are not subject to a waiver under section 500A(b).

''(c) DEVELOPMENT AND SUBMISSION.—The members of the partnership shall jointly develop and submit the application for assistance under this part.

TITLE VI—GENERAL PROVISIONS

SEC. 601. GENERAL PROVISION REGARDING NONRECIPIENT NONPUBLIC SCHOOLS.

Nothing in this Act or any amendment made by this Act shall be construed to permit, allow, encourage, or authorize any Federal control over any aspect of any private or religious school that does not receive Federal funds or does not participate in Federal programs or services under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.).

SEC. 602. APPLICABILITY TO HOME SCHOOLS.

Nothing in this Act or any amendment made by this Act shall be construed to affect home schools.

By Mr. WARNER (for himself and Mr. STEVENS):

S. 1486. A bill to authorize acquisition of certain real property for the Library of Congress, and for other purposes; to the Committee on Rules and Administration.

REAL PROPERTY ACQUISITION AUTHORIZATION LEGISLATION

Mr. WARNER. Mr. President, in my capacity as chairman of the Rules Committee, I rise to introduce legislation that will authorize the acquisition of property for use by the Library of Congress. This legislation will allow the Library of Congress to take advantage of a unique opportunity to advance the preservation of the Library's motion pictures, recorded sound, television and radio collections, a unique record of American life and history in the 20th century.

The Library of Congress is clearly facing a crisis in fulfilling its statutory—and I underline, Mr. President, ''statutory''—obligations to preserve, maintain and make available these national collections. The Library must vacate its Suitland, MD, storage location by next May 1998. Facilities in Ohio at Wright Patterson Air Force Base are beyond cost-effective repair. This has created an urgent need to find a new facility.

The former Richmond Federal Reserve facility in Culpepper, VA, is currently available for purchase on the open market and it already has many of the attributes, that is, the physical attributes, the construction and the like, needed to consolidate the Library's collection in a single, efficient facility for conservation, storage and access. That facility in Culpepper, VA, is reasonably accessible from the Nation's Capital for scholars and others to work on this material.

The staff of the Rules Committee has reviewed an extensive financial analysis the Library provided us, showing alternative arrangements and sites for creating an audiovisual and digital master conservation center. The analysis concluded that Culpepper, VA, by allowing consolidation of various storage and Library sites into a single facility, is the most cost-effective option that they have found to date. We can increase the cost-effectiveness of this proposal for the taxpayer even further by taking advantage now of a generous offer by a nationally known foundation to provide up to a $10 million donation for the purchase and initial modifications of the Culpepper property.

However, it appears the gift will only be available if Congress passes legislation as incorporated in this bill and in this session to authorize acceptance of the building by the Architect of the Capitol.

I stress, Mr. President, that this $10 million gift to the American taxpayers for preservation of this very important collection—and I participated somewhat in the discussion of this with the chairman of the board of the foundation together with the Librarian of Congress. We have reason to believe that if we do not act in this session, this gift might not be available at the time the Congress resumes its work next year. Congress clearly has responsibility to enable the Library to fulfill its statutory mandates to preserve

these collections, and these urgent storage and access needs must be addressed both from an oversight and an appropriations viewpoint. We now have an opportunity to meet these needs in a cost-effective manner, which takes advantage of a significant private donation.

In my view, moving forward with the Culpepper option at this time is in the best interests of the Library and the American taxpayers. Therefore, I hope all Members will support this legislation promptly, that it can be cleared on the hotline here within the next 24 hours, and that this body, the Senate, will act. I have reason to believe, having had consultations with my colleagues in the House with comparable responsibility as the Rules Committee, that the House will quickly accept this bill.

Mr. President, I yield the floor.

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 1488. A bill to ratify an agreement between the Aleut Corp. and the United States of America to exchange land rights received under the Alaska Native Claims Settlement Act for certain land interests on Adak Island, and for other purposes; to the Committee on Energy and Natural Resources.

THE ADAK ISLAND NAVAL BASE REUSE FACILITATION ACT OF 1997

Mr. MURKOWSKI. Mr. President, I rise today to introduce legislation which will facilitate and promote the successful commercial reuse of the Naval Air Facility being closed on Adak Island, AK. This legislation will ratify an agreement between the Aleut Corp. in Alaska, the Department of the Interior, and the Department of the Navy.

While not yet complete, the Aleut Corp. has been working together with the Department of the Interior and the Department of the Navy on the agreement that would be ratified by this legislation. I know from my Aleutian constituents that a good number of issues have been resolved through extracted negotiations, but that important issues remain on the table. it is my hope that the remaining issues can be resolved through mutual agreement prior to hearings on this bill early next year. In the meantime, it is imperative that the Navy make the facilities at Adak available for interim reuse, as has been done with transfers at other closed facilities.

For many decades the Navy has been an important and steadfast constituent in Alaska's Aleutian Chain. Their presence was first established during World War II with the selection and development of the island because of its combination of ability to support a major airfield and its natural and protected deep water port. The Navy's presence there contributed greatly to the defense of our Pacific coast during World War II and throughout the cold war. Through the Navy's presence, Adak became the largest development in the Aleutians as well as Alaska's sixth largest community.

The facility was selected for closure during the last base closure round, and while the importance of using the island for defense purposes has diminished, it has not lost any of its unique geographic advantages. Adak is a natural stepping stone to Asia and is at the crossroads of air and sea trade between North America, Europe, and Asia. The Aleutian Islands, although stark and desolate to some, are the ancestral home to the shareholders of the Aleut Corp. This legislation will allow Adak's natural constituents, the Aleut people, to reinhabit the island and to make use of its modern developments.

These very same features that made Adak strategically important to the Navy for defense purposes make the island strategically important for commercial purposes. Adak Island is at the middle of the great expanse of the Aleutian Islands, and is among the island chain's southernmost islands, near to the great circle route shipping lanes. With the ability to use Adak commercially, the Aleut Corp. aims to make the island an important intercontinental location with enterprise enough to provide year round jobs for the Aleut people. These goals are consistent with the promises and the Alaska Native Claims Settlement Act, the legislation that created the corporation.

The legislation supports the broader interests of the country as well. In addition to the Navy, Adak has housed the Department of the Interior's Aleutian Islands subunit of the Alaska Maritime National Wildlife Refuge. This legislation promotes the Department of the Interior's interests in managing and protecting the refuge by the exchange of base lands for certain property interests the Aleut Corp. holds throughout the rest of the Aleutian Islands refuge. In addition to the Department of the Interior, the Department of Defense is promoting this exchange as the most effective way to meet this country's objectives of conversion of closed defense facilities into successful commercial reuse.

Many potential concurrent reuse possibilities of the Adak lands are being explored. These include but are certainly not limited to an air and sea transhipment, refueling and reprovisions facility, a new ecotourism cruise ship destination, a law enforcement or Job Corps training facility or a somewhat less glamorous but nonetheless needed correctional facility. All these are possibilities available through enactment of this legislation.

Mr. President, it is my intention to hold a hearing on this legislation at the earliest opportunity when Congress returns next year. I suggest to all the parties to this agreement that I will be keeping a close eye on progress toward expedient closure on the final issues. If progress is not made, or if negotiated commitments are not honored, I am prepared to modify this legislation and direct an appropriate structure for this land exchange.

By Mr. CRAIG (for himself and Mr. WYDEN):

S. 1489. A bill to provide the public with access to outfitted activities on Federal land, and for other purposes; to the Committee on Energy and Natural Resources.

THE OUTFITTER POLICY ACT OF 1997

Mr. CRAIG. Mr. President, I am pleased to introduce today the Outfitter Policy Act of 1997.

This legislation puts into law many of the management practices by which Federal land management agencies have successfully managed the outfitter and guide industry on national forests, national parks and other Federal lands over many decades.

The bill recognizes that many Americans need and seek the skills and experience of commercial outfitters and guides in order to enjoy a safe and pleasant journey through wild lands and over the rivers and lakes that are the spectacular destinations for many visitors to our Federal lands.

My bill assures the public continued opportunities for reasonable and safe access to these special areas. It assures high standards will be met for the health and welfare of visitors who chose outfitted services and quality professional services will be avaiable for their recreational and educational experiences on federal land.

This legislation is called for because the management of outfitted and guided services by this administration has created problems that threaten to destabilize some of these typically small, independent outfitter and guide businesses. In addressing these problems, this legislation relies heavily on practices that have historically worked well for outfitters, visitors, and other user groups, as well as for Federal land managers in the field. When the bill is enacted, it will assure that these past fine levels of service are continued and enhanced.

When I introduced similar legislation, S. 2194, at the conclusion of the 104th Congress, I did do so for the purpose of creating discussion concerning outfitter and guide operations within the context of the broader issue of concessioner reform that this Congress has been addressing for two decades.

In the year that has followed, the Senate Committee on Energy and Natural Resources has held one oversight hearing on concessions operations, but has not yet addressed the issue of concessions that specifically offer outfitting and guiding services. S. 2194 provided the intended opportunity for discussion, however. It has allowed for the examination of the historical practices that have offered consistent, reliable outfitter services to the public. This earlier version of the bill also facilitated a discussion of the need for consistency between Federal agencies in the management of outfitted services and allowed the opportunity to examine policies that have provided high

quality recreation services, protection of natural resources, a fair return to the government, and reasonable economic stability that the public expects. The legislation I am now introducing is a result of those discussions.

I look forward to a hearing on this legislation and to moving with its enactment in the coming session of the 105th Congress.

By Mr. JEFFORDS.

S. 1490. A bill to improve the quality of child care provided through Federal facilities and programs, and for other purposes; to the Committee on Governmental Affairs.

QUALITY CHILD CARE FOR FEDERAL EMPLOYEES ACT

Mr. JEFFORDS. Mr. President, I rise today to introduce the Quality Child Care for Federal Employees Act. This bill was drafted with an eye toward several serious incidents which occurred earlier this year in federal child care facilities. At that time, it came to my attention that child care centers located in Federal facilities are not subject to even the most minimal health and safety standards.

As you know, Federal property is exempt from State and local laws, regulations, and oversight. What this means for child care centers on that property is that State and local health and safety standards do not and cannot apply. This might not be a problem if federally owned or leased child care centers met enforceable health and safety standards. I think most parents who place their children in Federal child care would assume that this would be the case. However, I think Federal employees will find it very surprising to learn, as I did, that, at many centers, no such health and safety standards apply.

I find this very troubling, and I think we sell our Federal employees a bill of goods when federally-owned leased child care cannot guarantee that their children are in safe facilities. The Federal Government should set the example when it comes to providing safe child care. It should not be turn an apathetic shoulder from meeting such standards simply because State and local regulations do not apply to them.

In 1987, Congress passed the Trible Amendment which permitted executive, legislative, and judicial branch agencies to utilize a portion of federally-owned or leased space for the provision of child care services for Federal employees. The General Services Administration [GSA] was given the authority to provide guidance, assistance, and oversight to Federal agencies for the development of children centers. In the decade since the Trible Amendment was passed, hundreds of Federal facilities throughout the Nation have established onsite child care centers which are a tremendous help to our employees.

The General Services Administration has done an excellent job of helping agencies develop child care centers and have adopted strong standards for those centers located in GSA leased or owned space. However, there are over 100 child care centers located in Federal facilities that are not subject to the GSA standards or any other laws, rules, or regulations to ensure that the facilities are safe places for our children. Most parents, placing their children in a Federal child care center, assume that some standards are in place—assume that the centers must minimally meet State and local child care licensing rules and regulations. They assume that the centers are subject to independent oversight and monitoring to continually ensure the safety of the premises.

Yet, that is not the case. In a case where a Federal employee had strong reason to suspect the sexual abuse of her child by an employee of a child care center located in a Federal facility, local child protective services and law enforcement personnel were denied access to the premises and were prohibited from investigating the incident. Another employee's child was repeatedly injured because the child care providers under contract with a Federal agency to provide onsite child care services failed to ensure that age-appropriate health and safety measures were taken—current law says they were not required to do so, even after the problems were identified and injuries had occurred.

As Congress and the administration turn their spotlight on our Nation's child care system, we must first get our own house in order. We must safeguard and protect the children receiving services in child care centers housed in Federal facilities. Our employees should not be denied some assurance that the centers in which they place their children are accountable for meeting basic health and safety standards.

The Quality Child Care for Federal Employees Act will require all child care services located in Federal facilities to meet, at the very least, the same level of health and safety standards required of other child care centers in the same geographical area. That sounds like common sense, but as we all know too well, common sense is not always reflected in the law. This bill will make that clear.

Further, this legislation demands that Federal child care centers begin working to meet these standards now. Not next year, not in 2 years, but now. Under this bill, after 6 months we will look at the Federal child care centers again, and if a center is not meeting minimal State and local health and safety regulations at that time, that child care facility will be closed until it does. I can think of no stronger incentive to get centers to comply.

Now, just as there have often been difficulties with Federal facilities ignoring State and local standards simply because of a division of power between the Federal and State governments, so, too, do divisions in the Federal Government—what we call the separation of powers—help create chaos in enforcement at the Federal level. Who has oversight of the facilities in the Federal Government, and who is responsible for monitoring and enforcement?

Mr. President, this legislation respects the separation of powers within the Federal Government, but it also makes it very clear where the oversight and responsibility for meeting health and safety standards lies. For the most part, centers located in agencies within the executive branch—within, for example, the Department of Veterans' Affairs—will retain responsibility for monitoring and ensuring compliance. For centers within the jurisdiction of the legislative branch, including the Library of Congress, this responsibility will lie with the Architect of the Capitol or his designee. In the judicial branch, monitoring and compliance will fall under the jurisdiction of the Director of the Administrative Office of the U.S. Courts. The GSA will continue to monitor centers it owns and leases in the judicial and executive branches. The costs of this monitoring are already included in this year's appropriations bills and will not add to the deficit.

It should also be made clear that State and local standards should be a floor for basic health and safety, and not a ceiling. The role of the Federal Government—and, I like to think, of the U.S. Congress in particular—is to constantly strive to do better and to lead by example. Federal facilities should always try to meet the highest possible standards. In fact, the GSA has required national accredition in GSA-owned and leased facilities, and has stated that its centers are either in compliance or are strenuously working to get there. This is the kind of tough standard we should strive for in all of our Federal child care facilities.

Federal child care should mean something more than simply location on a Federal facility. The Federal Government has an obligation to provide safe care for its employees, and it has a responsibility for making sure that those standards are monitored and enforced. Some Federal employees receive this guarantee. Many do not. We can do better.

I urge swift passage of this legislation, and thank my colleagues for their attention to this matter.

Mr. President, I ask unanimous consent that the text of my legislation appear in the RECORD.

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

S. 1490

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 ''Quality Child Care for Federal Employees Act''.

SEC. 2. DEFINITIONS.

In this Act:

(1) ACCREDITED CHILD CARE CENTER.—The term ''accredited child care center'' means—

(A) a center that is accredited, by a child care credentialing or accreditation entity recognized by a State, to provide child care to children in the State (except children who a tribal organization elects to serve through a center described in subparagraph (B));

(B) a center that is accredited, by a child care credentialing or accreditation entity recognized by a tribal organization, to provide child care for children served by the tribal organization;

(C) a center that is used as a Head Start center under the Head Start Act (42 U.S.C. 9831 et seq.) and is in compliance with any applicable performance standards established by regulation under such Act for Head Start programs; or

(D) a military child development center (as defined in section 1798(1) of title 10, United States Code).

(2) CHILD CARE CREDENTIALING OR ACCREDITATION ENTITY.—The term ''child care credentialing or accreditation entity'' means a nonprofit private organization or public agency that—

(A) is recognized by a State agency or tribal organization; and

(B) accredits a center or credentials an individual to provide child care on the basis of—

(i) an accreditation or credentialing instrument based on peer-validated research;

(ii) compliance with applicable State and local licensing requirements, or standards described in section 658E(c)(2)(E)(ii) of the Child Care and Development Block Grant Act (42 U.S.C. 9858c(c)(2)(E)(ii)), as appropriate, for the center or individual;

(iii) outside monitoring of the center or individual; and

(iv) criteria that provide assurances of—

(I) compliance with age-appropriate health and safety standards at the center or by the individual;

(II) use of age-appropriate developmental and educational activities, as an integral part of the child care program carried out at the center or by the individual; and

(III) use of ongoing staff development or training activities for the staff of the center or the individual, including related skills-based testing.

(3) CREDENTIALED CHILD CARE PROFESSIONAL.—The term ''credentialed child care professional'' means—

(A) an individual who is credentialed, by a child care credentialing or accreditation entity recognized by a State, to provide child care to children in the State (except children who a tribal organization elects to serve through an individual described in subparagraph (B)); or

(B) an individual who is credentialed, by a child care credentialing or accreditation entity recognized by a tribal organization, to provide child care for children served by the tribal organization.

(4) STATE.—The term ''State'' has the meaning given the term in section 658P of the Child Care and Development Block Grant Act (42 U.S.C. 9858n).

SEC. 3. PROVIDING QUALITY CHILD CARE IN FEDERAL FACILITIES.

(a) DEFINITION.—In this section:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of General Services.

(2) ENTITY SPONSORING A CHILD CARE CENTER.—The term ''entity sponsoring a child care center'' means a Federal agency that operates, or an entity that enters into a contract or licensing agreement with a Federal agency to operate, a child care center.

(3) EXECUTIVE AGENCY.—The term ''Executive agency'' has the meaning given the term in section 105 of title 5, United States Code, except that the term—

(A) does not include the Department of Defense; and

(B) includes the General Services Administration, with respect to the administration of a facility described in paragraph (4)(B).

(4) EXECUTIVE FACILITY.—The term ''executive facility''—

(A) means a facility that is owned or leased by an Executive agency; and

(B) includes a facility that is owned or leased by the General Services Administration on behalf of a judicial office.

(5) FEDERAL AGENCY.—The term ''Federal agency'' means an Executive agency, a judicial office, or a legislative office.

(6) JUDICIAL FACILITY.—The term ''judicial facility'' means a facility that is owned or leased by a judicial office (other than a facility that is also a facility described in paragraph (4)(B)).

(7) JUDICIAL OFFICE.—The term ''judicial office'' means an entity of the judicial branch of the Federal Government.

(8) LEGISLATIVE FACILITY.—The term ''legislative facility'' means a facility that is owned or leased by a legislative office.

(9) LEGISLATIVE OFFICE.—The term ''legislative office'' means an entity of the legislative branch of the Federal Government.

(b) EXECUTIVE BRANCH STANDARDS AND COMPLIANCE.—

(1) STATE AND LOCAL LICENSING REQUIREMENTS.—

(A) IN GENERAL.—Any entity sponsoring a child care center in an executive facility shall—

(i) obtain the appropriate State and local licenses for the center; and

(ii) in a location where the State or locality does not license executive facilities, comply with the appropriate State and local licensing requirements related to the provision of child care.

(B) COMPLIANCE.—Not later than 6 months after the date of enactment of this Act—

(i) the entity shall comply, or make substantial progress (as determined by the Administrator) toward complying, with subparagraph (A); and

(ii) any contract or licensing agreement used by an Executive agency for the operation of such a child care center shall include a condition that the child care be provided by an entity that complies with the appropriate State and local licensing requirements related to the provision of child care.

(2) HEALTH, SAFETY, AND FACILITY STANDARDS.—The Administrator shall by regulation establish standards relating to health, safety, facilities, facility design, and other aspects of child care that the Administrator determines to be appropriate for child care centers in executive facilities, and require child care centers, and entities sponsoring child care centers, in executive facilities to comply with the standards.

(3) ACCREDITATION STANDARDS.—

(A) IN GENERAL.—The Administrator shall issue regulations requiring, to the maximum extent possible, any entity sponsoring an eligible child care center (as defined by the Administrator) in an executive facility to comply with child care center accreditation standards issued by a nationally recognized accreditation organization approved by the Administrator.

(B) COMPLIANCE.—The regulations shall require that, not later than 5 years after the date of enactment of this Act—

(i) the entity shall comply, or make substantial progress (as determined by the Administrator) toward complying, with the standards; and

(ii) any contract or licensing agreement used by an Executive agency for the operation of such a child care center shall include a condition that the child care be provided by an entity that complies with the standards.

(C) CONTENTS.—The standards shall base accreditation on—

(i) an accreditation instrument described in section 2(2)(B);

(ii) outside monitoring described in section 2(2)(B), by—

(I) the Administrator; or

(II) a child care credentialing or accreditation entity, or other entity, with which the Administrator enters into a contract to provide such monitoring; and

(iii) the criteria described in section 2(2)(B).

(4) EVALUATION AND COMPLIANCE.—

(A) IN GENERAL.—The Administrator shall evaluate the compliance, with the requirements of paragraph (1) and the regulations issued pursuant to paragraphs (2) and (3), of child care centers, and entities sponsoring child care centers, in executive facilities. The Administrator may conduct the evaluation of such a child care center or entity directly, or through an agreement with another Federal agency or private entity, other than the Federal agency for which the child care center is providing services. If the Administrator determines, on the basis of such an evaluation, that the child care center or entity is not in compliance with the requirements, the Administrator shall notify the Executive agency.

(B) EFFECT OF NONCOMPLIANCE.—On receipt of the notification of noncompliance issued by the Administrator, the head of the Executive agency shall—

(i) if the entity operating the child care center is the agency—

(I) within 2 business days after the date of receipt of the notification correct any deficiencies that are determined by the Administrator to be life threatening or to present a risk of serious bodily harm;

(II) develop and provide to the Administrator a plan to correct any other deficiencies in the operation of the center and bring the center and entity into compliance with the requirements not later than 4 months after the date of receipt of the notification;

(III) provide the parents of the children receiving child care services at the center with a notification detailing the deficiencies described in subclauses (I) and (II) and actions that will be taken to correct the deficiencies;

(IV) bring the center and entity into compliance with the requirements and certify to the Administrator that the center and entity are in compliance, based on an on-site evaluation of the center conducted by an independent entity with expertise in child care health and safety; and

(V) in the event that deficiencies determined by the Administrator to be life threatening or to present a risk of serious bodily harm cannot be corrected within 2 business days after the date of receipt of the notification, close the center until such deficiencies are corrected and notify the Administrator of such closure; and

(ii) if the entity operating the child care center is a contractor or licensee of the Executive agency—

(I) require the contractor or licensee within 2 business days after the date of receipt of the notification, to correct any deficiencies that are determined by the Administrator to be life threatening or to present a risk of serious bodily harm:

(II) require the contractor or licensee to develop and provide to the head of the agency a plan to correct any other deficiencies in the operation of the center and bring the center and entity into compliance with the

requirements not later than 4 months after the date of receipt of the notification;

(III) require the contractor or licensee to provide the parents of the children receiving child care services at the center with a notification detailing the deficiencies described in subclauses (I) and (II) and actions that will be taken to correct the deficiencies;

(IV) require the contractor or licensee to bring the center and entity into compliance with the requirements and certify to the head of the agency that the center and entity are in compliance, based on an on-site evaluation of the center conducted by an independent entity with expertise in child care health and safety; and

(V) in the event that deficiencies determined by the Administrator to be life threatening or to present a risk of serious bodily harm cannot be corrected within 2 business days after the date of receipt of the notification, close the center until such deficiencies are corrected and notify the Administrator of such closure, which closure shall be grounds for the immediate termination or suspension of the contract or license of the contractor or licensee.

(C) COST REIMBURSEMENT.—The Executive agency shall reimburse the Administrator for the costs of carrying out subparagraph (A) for child care centers located in an executive facility other than an executive facility of the General Services Administration. If an entity is sponsoring a child care center for 2 or more Executive agencies, the Administrator shall allocate the costs of providing such reimbursement with respect to the entity among the agencies in a fair and equitable manner, based on the extent to which each agency is eligible to place children in the center.

(c) LEGISLATIVE BRANCH STANDARDS AND COMPLIANCE.—

(1) STATE AND LOCAL LICENSING REQUIREMENTS, HEALTH, SAFETY, AND FACILITY STANDARDS, AND ACCREDITATION STANDARDS.—The Architect of the Capitol shall issue regulations, approved by the Senate Committee on Rules and Administration and the House Oversight Committee, for child care centers, and entities sponsoring child care centers, in legislative facilities, which shall be no less stringent in content and effect than the requirements of subsection (b)(1) and the regulations issued by the Administrator under paragraphs (2) and (3) of subsection (b), except to the extent that the Architect, with the consent and approval of the Senate Committee on Rules and Administration and the House Oversight Committee, may determine, for good cause shown and stated together with the regulations, that a modification of such regulations would be more effective for the implementation of the requirements and standards described in paragraphs (1), (2), and (3) of subsection (b) for child care centers, and entities sponsoring child care centers, in legislative facilities.

(2) EVALUATION AND COMPLIANCE.—

(A) ARCHITECT OF THE CAPITOL.—The Architect of the Capitol shall have the same authorities and duties with respect to the evaluation of, compliance of, and cost reimbursement for child care centers, and entities sponsoring child care centers, in legislative facilities as the Administrator has under subsection (b)(4) with respect to the evaluation of, compliance of, and cost reimbursement for such centers and entities sponsoring such centers, in executive facilities.

(B) HEAD OF A LEGISLATIVE OFFICE.—The head of a legislative office shall have the same authorities and duties with respect to the compliance of and cost reimbursement for child care centers, and entities sponsoring child care centers, in legislative facilities as the head of an Executive agency has under subsection (b)(4) with respect to the compliance of and cost reimbursement for such centers and entities sponsoring such centers, in executive facilities.

(d) JUDICIAL BRANCH STANDARDS AND COMPLIANCE.—

(1) STATE AND LOCAL LICENSING REQUIREMENTS HEALTH, SAFETY, AND FACILITY STANDARDS, AND ACCREDITATION STANDARDS.—The Director of the Administrative Office of the United States Courts shall issue regulations for child care centers, and entities sponsoring child care centers, in judicial facilities, which shall be no less stringent in content and effect than the requirements of subsection (b)(1) and the regulations issued by the Administrator under paragraphs (2) and (3) of subsection (b), except to the extent that the Director may determine, for good cause shown and stated together with the regulations, that a modification of such regulations would be more effective for the implementation of the requirements and standards described in paragraphs (1), (2), and (3) of subsection (b) for child care centers, and entities sponsoring child care centers, in judicial facilities.

(2) EVALUATION AND COMPLIANCE.—

(A) DIRECTOR OF THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—The Director of the Administrative Office of the United States Courts shall have the same authorities and duties with respect to the evaluation of, compliance of, and cost reimbursement for child care centers, and entities sponsoring child care centers, in judicial facilities as the Administrator has under subsection (b)(4) with respect to the evaluation of, compliance of, and cost reimbursement for such centers and entities sponsoring such centers, in executive facilities.

(B) HEAD OF A JUDICIAL OFFICE.—The head of a judicial office shall have the same authorities and duties with respect to the compliance of and cost reimbursement for child care centers, and entities sponsoring child care centers, in judicial facilities as the head of an Executive agency has under subsection (b)(4) with respect to the compliance of and cost reimbursement for such centers and entities sponsoring such centers, in executive facilities.

(e) APPLICATION.—Notwithstanding any other provision of this section, if 8 or more child care centers are sponsored in facilities owned or leased by an Executive agency, the Administrator shall delegate to the head of the agency the evaluation and compliance responsibilities assigned to the Administrator under subsection (b)(4)(A).

(f) TECHNICAL ASSISTANCE, STUDIES, AND REVIEWS.—The Administrator may provide technical assistance, and conduct and provide the results of studies and reviews, for Executive agencies, and entities sponsoring child care centers in executive facilities, on a reimbursable basis, in order to assist the entities in complying with this section. The Architect of the Capitol and the Director of the Administrative Office of the United States Courts may provide technical assistance, and conduct and provide the results of studies and reviews, or request that the Administrator provide technical assistance, and conduct and provide the results of studies and reviews, for legislative offices and judicial offices, respectively, and entities operating child care centers in legislative facilities and judicial facilities, respectively, on a reimbursable basis, in order to assist the entities in complying with this section.

(g) COUNCIL.—The Administrator shall establish an interagency council, comprised of all Executive agencies described in subsection (e), a representative of the Office of Architect of the Capitol, and a representative of the Administrative Office of the United States Courts, to facilitate cooperation and sharing of best practices, and to develop and coordinate policy, regarding the provision of child care in the Federal Government.

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $900,000 for fiscal year 1998 and such sums as may be necessary for each subsequent fiscal year.

By Mr. KENNEDY (for himself, Mr. LAUTENBERG, Mr. DURBIN, Mr. REED, and Mr. KERRY):

S. 1492. A bill to amend the Public Health Act and the Federal Food, Drug and Cosmetic Act to prevent the use of tobacco products by minors, to reduce the level of tobacco addiction, to compensate Federal and State Governments for a portion of the health costs of tobacco-related illnesses, to enhance the national investment in biomedical and basic scientific research, and to expand programs to address the needs of children, and for other purposes; to the Committee on Labor and Human Resources.

THE HEALTHY AND SMOKEFREE CHILDREN ACT

Mr. KENNEDY. Mr. President, today, I am joining Senators LAUTENBERG, DURBIN, REED, and KERRY to introduce the Healthy and Smokefree Children Act, which is a comprehensive tobacco control initiative. Congress has an historic opportunity in the next session to protect current and future generations from nicotine addiction and early death caused by tobacco.

We know the enormous adverse health consequences of youth smoking. Each day, three thousand children begin smoking. A thousand of them will die prematurely from tobacco-induced illnesses. Ninety percent of current adult smokers began to smoke before they reached the age of 18.

Our primary goal is to reduce youth smoking and help children. Our legislation will raise the price of cigarettes by $1.50 a pack over three years. A substantial portion of the revenues raised by the increase will be used to fund major new initiatives in biomedical research, child health, and child development.

The legislation will affirm the authority of the Food and Drug Administration to regulate tobacco products. It also provides for strongly worded warning labels on packs of cigarettes, for a large-scale anti-tobacco advertising campaign, new restrictions on youth access to tobacco products, new protections against secondhand smoke, and transitional assistance to farmers.

Public health experts tell us that the most effective way to reduce youth smoking is by a significant increase in the price of cigarettes. Teenagers have less money to spend on tobacco products than adults, and those who are not yet addicted will be less likely to spend their dollars on smoking. In fact, price increases are three times more likely to deter youth from smoking than adults.

The 65 cent increase in the Attorneys' General settlement is not enough to do the job. If the national goal is to dramatically reduce teenage smoking,

a price increase of at least $1.50 a pack will be needed. Even with a price increase of that magnitude, cigarettes in America will still cost less than the current price in many European countries.

It would be irresponsible to wait another decade while we test the impact of lesser measures on youth smoking. Too many children are becoming addicted to tobacco each day. The most effective way to reduce youth smoking is a substantial price increase, and we should do it now.

The $1.50 increase will enable us to provide approximately $20 billion per year to be divided equally between medical research and child development investments. Under our proposal, half of these additional funds will be used for an unprecedented expansion of biomedial research to solve the scientific mysteries of the most severe diseases and medical conditions. We stand on the threshold of extraordinary medical breakthroughts against cancer, heart disease, Alzheimer's Disease, AIDS, diabetes, mental illness, and many other conditions. The benefits of greater research will save millions of lives and improve the quality of life for countless more.

The other half of the new funds will be directed to child health and child development. The brain research conducted in recent years has demonstrated the critical importance of the first three years of life to a child's learning potential. Additional resources will enable us to build on that foundation of knowledge, and implement it in ways that will enrich the lives of the next generation of children. By expanding Head Start to reach the large number of eligible pre-school children who are not now being served, and by improving the quality and availability of child care for working families, we can give far more children a better foundation on which to build their lives.

In addition, under our proposal, the key public health provisions in the Attorneys General agreement will be implemented, and smokers seeking to stop will be able to obtain help in overcoming their addiction. States will receive compensation from the tobacco industry for their Medicaid costs attributable to smoking, and will not have to reimburse the federal government for the federal share of the Medicaid costs recovered. These funds will be available to the states to address the unmet needs of children.

A strong FDA with broad authority to regulate tobacco is also essential. Our legislation affirms FDA's finding that nicotine is an addictive drug and that cigarettes are a drug delivery device. The scope of regulation will include manufacturing, marketing, advertising, and distributing tobacco products. The FDA will be freed from the numerous procedural roadblocks which the tobacco industry has placed in its path.

This legislation will substantially reduce smoking in America, enhance medical research, and help millions of children reach their full potential. Congress has a unique opportunity. We own it to America's children and America's future to act now.

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. 1492

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Healthy and Smoke Free Children Act''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
TITLE I—AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT RELATING TO TOBACCO
Sec. 101. Public health and education programs.
''TITLE XXVIII—PUBLIC HEALTH AND EDUCATION PROGRAMS AND TOBACCO CONTROL
''Sec. 2801. Definitions.
''Subtitle A—Public Health and Education Programs
''Sec. 2811. Payments to States.
''Sec. 2812. Public health programs.
''Sec. 2813. Biomedical research and child development investments.
''Sec. 2814. Tobacco victims compensation fund.
''Sec. 2815. Tobacco community transition assistance.
''Subtitle B—National Health Initiatives
''PART 1—NATIONAL BASIC AND CHILD DEVELOPMENT RESEARCH
''Sec. 2821. National Biomedical, Basic and Child Development Research Board.
''Sec. 2822. Grants for biomedical and basic research.
''Sec. 2823. Investments in healthy child development and research –projects and training.
''PART 2—PUBLIC HEALTH PROGRAMS
''Sec. 2825. Research, counter-advertising, and CDC programs.
''Sec. 2826. National tobacco usage reduction and education block grant program.
''Subtitle C—Reduction in Underage Tobacco Use
''Sec. 2831. Purpose.
''Sec. 2832. Child tobacco use surveys.
''Sec. 2833. Reduction in underage tobacco product usage.
''Sec. 2834. Noncompliance.
''Sec. 2835. Use of amounts.
''Sec. 2836. Miscellaneous provisions.
''Subtitle D—Miscellaneous Provisions
''Sec. 2841. Whistleblower protections.
''Sec. 2842. National Tobacco Document Depository.
''Sec. 2843. Tobacco Oversight and Compliance Board.
''Sec. 2844. Preservation of State and local authority.
''Sec. 2845. Regulations.
TITLE II—FDA JURISDICTION OVER TOBACCO PRODUCTS
Subtitle A—Amendments to the Federal Food, Drug and Cosmetic Act
Sec. 201. Reference.
Sec. 202. Statement of general authority.
Sec. 203. Treatment of tobacco products as drugs and devices.
Sec. 204. General health and safety regulation of tobacco products.
''CHAPTER IX—TOBACCO PRODUCTS
''Sec. 901. Definitions.
''Sec. 902. Purpose.
''Sec. 903. Promulgation of regulations.
''Sec. 904. Minimum requirements.
''Sec. 905. Scientific Advisory Committee.
''Sec. 906. Requirements relating to nicotine and other constituents.
''Sec. 907. Reduced risk products.
''Sec. 908. Good manufacturing practice standards.
''Sec. 909. Disclosure and reporting of non-tobacco ingredients and constituents.
''Sec. 910. Tobacco product warnings, labeling and packaging.
''Sec. 911. Statement of intended use.
''Sec. 912. Miscellaneous provisions.
TITLE III—STANDARDS TO REDUCE INVOLUNTARY EXPOSURE TO TOBACCO SMOKE
Sec. 301. Standards to reduce involuntary exposure to tobacco smoke.
TITLE IV—TOBACCO MARKET TRANSITION ASSISTANCE
Sec. 401. Definitions.
Subtitle A—Tobacco Quota Buyout Contracts and Producer Transition Payments
Sec. 411. Quota owner buyout contracts.
Sec. 412. Producer transition payments for quota tobacco.
Sec. 413. Producer transition payments for non-quota tobacco.
Sec. 414. Elements of contracts.
Subtitle B—No Net Cost Tobacco Program
Sec. 421. Budget deficit assessment.
Subtitle C—Tobacco Community Empowerment Block Grants
Sec. 431. Tobacco community empowerment block grants.
TITLE V—MISCELLANEOUS PROVISIONS
Sec. 501. Sense of the senate.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) Tobacco products are the foremost preventable health problem facing America today. More than 400,000 individuals die each year as a result of tobacco induced illnesses and conditions.

(2) Nicotine that is contained in tobacco products is extremely addictive.

(3) The tobacco industry has historically targeted tobacco product marketing and promotional efforts towards minors in order to entrap them into a lifetime of smoking.

(4) Over 90 percent of individuals who smoke began smoking regularly while they were still minors.

(5) Approximately 3000 minors begin smoking each day. 1000 of these minors will die prematurely from a tobacco induced illness or medical condition.

(6) Tobacco induced illnesses and medical conditions resulting from tobacco use cost the United States over $100,000,000,000 each year.

(7) Each year the Federal Government incurs costs in excess of $20,000,000,000 for the medical treatment of individuals suffering from tobacco induced illnesses and conditions.

(b) PURPOSES.—It is the purpose of this Act to—

(1) substantially reduce youth smoking;

(2) assist individuals who are currently addicted to tobacco products in overcoming that addiction;

(3) educate the public concerning the health dangers inherent in the use of tobacco products;

(4) fund medical research; and

(5) provide for the healthy development of young children and to enhance their learning capacity and improve the quality of their care.

TITLE I—AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT RELATING TO TOBACCO

SEC. 101. PUBLIC HEALTH AND EDUCATION PROGRAMS.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by adding at the end thereof the following new title:

"TITLE XXVIII—PUBLIC HEALTH AND EDUCATION PROGRAMS AND TOBACCO CONTROL

"SEC. 2801. DEFINITIONS.

''In this title:

''(1) BRAND.—The term 'brand' means a variety of a tobacco product distinguished by the tobacco used, tar content, nicotine content, flavoring used, size, filtration, or packaging.

''(2) CIGAR.—The term 'cigar' means any roll of tobacco wrapped in leaf tobacco or in any substance containing tobacco (other than any roll of tobacco which is a cigarette or cigarillo within the meaning of paragraph (3) or (4)).

''(3) CIGARETTE.—The term 'cigarette' means any product which contains nicotine, is intended to be burned under ordinary conditions of use, and consists of—

''(A) any roll of tobacco wrapped in paper or in any substance not containing tobacco; and

''(B) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in subparagraph (A).

''(4) CIGARILLOS.—The term 'cigarillos' means any roll of tobacco wrapped in leaf tobacco or any substance containing tobacco (other than any roll of tobacco which is a cigarette within the meaning of paragraph (3)) and as to which 1,000 units weigh not more than 3 pounds.

''(5) CIGARETTE TOBACCO.—The term 'cigarette tobacco' means any product that consists of loose tobacco that contains or delivers nicotine and is intended for use by persons in a cigarette. Unless otherwise stated, the requirements of this title pertaining to cigarettes shall also apply to cigarette tobacco.

''(6) COMMERCE.—The term 'commerce' means—

''(A) commerce between any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands or any territory or possession of the United States;

''(B) commerce between points in any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands or any territory or possession of the United States; or

''(C) commerce wholly within the District of Columbia, Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, or any territory or possession of the United States.

''(7) COMMISSIONER.—The term 'Commissioner' means the Commissioner of Food and Drugs.

''(8) DISTRIBUTOR.—The term 'distributor' means any person who furthers the distribution of tobacco products, whether domestic or imported, at any point from the original place of manufacture to the person who sells or distributes the product to individuals for personal consumption. Such term shall not include common carriers.

''(9) LITTLE CIGAR.—The term 'little cigar' means any roll of tobacco wrapped in leaf tobacco or any substance containing tobacco (other than any roll of tobacco which is a cigarette within the meaning of subsection (1)) and as to which 1,000 units weigh not more than 3 pounds.

''(10) MANUFACTURER.—The term 'manufacturer' means any person, including any repacker or relabeler, who manufactures, fabricates, assembles, processes, or labels a finished tobacco product.

''(11) NICOTINE.—The term 'nicotine' means the chemical substance named 3-(1-Methyl-2-pyrrolidinyl)pyridine or $C_{10}H_{14}N_2$, including any salt or complex of nicotine.

''(12) PACKAGE.—The term 'package' means a pack, box, carton, or container of any kind in which tobacco products are offered for sale, sold, or otherwise distributed to consumers.

''(13) PERSON.—The term 'person' means an individual, partnership, corporation, or any other business or legal entity.

''(14) PIPE TOBACCO.—The term 'pipe tobacco' means any loose tobacco that, because of its appearance, type, packaging, or labeling, is likely to be offered to, or purchased by, consumers as a tobacco product to be smoked in a pipe.

''(15) POINT OF SALE.—The term 'point of sale' means any location at which an individual can purchase or otherwise obtain tobacco products for personal consumption.

''(16) RETAILER.—The term 'retailer' means any person who sells tobacco products to individuals for personal consumption, or who operates a facility where vending machines or self-service displays are permitted under this title.

''(17) ROLL-YOUR-OWN TOBACCO.—The term 'roll-your-own tobacco'' has the meaning given such term by section 5702(p) of the Internal Revenue Code of 1986.

''(18) SALE.—The term 'sale' includes the selling, providing samples of, or otherwise making tobacco products available for personal consumption in any place within the scope of this title.

''(19) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

''(20) SMOKELESS TOBACCO.—The term 'smokeless tobacco' means any product that consists of cut, ground, powdered, or leaf tobacco that contains nicotine and that is intended to be placed in the oral or nasal cavity.

''(21) STATE.—The term 'State' includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, and any other territory or possession of the United States. Such term includes any political division of any State.

''(22) TOBACCO.—The term 'tobacco' means tobacco in its unmanufactured form.

''(22) TOBACCO PRODUCT.—The term 'tobacco product' means cigarettes, cigarillos, cigarette tobacco, little cigars, pipe tobacco, and smokeless tobacco, and roll-your-own tobacco.

"Subtitle A—Public Health and Education Programs

"SEC. 2811. PAYMENTS TO STATES.

''(a) FUNDS.—

''(1) IN GENERAL.—Subject to subsection (d), there are hereby made available to carry out this section for each fiscal year an amount equal to the amount necessary to reimburse States as provided for in subsection (b).

''(2) FISCAL YEAR LIMITATION.—Amounts made available for a fiscal year under paragraph (1) shall be equal to—

''(A) 43 percent of the net increase in revenues received in the Treasury for such fiscal year attributable to any amendments made to chapter 52 of the Internal Revenue Code of 1986 in the fiscal year in which this title is enacted, as estimated by the Secretary; less

''(B) amounts made available for such fiscal year under sections 2812 and 2814.

''(b) REIMBURSEMENT.—

''(1) IN GENERAL.—The Secretary shall use amounts made available under subsection (a) in each fiscal year to provide funds to each State to reimburse such State for amounts expended by the State for the treatment of individuals with tobacco-related illnesses or conditions, and to permit States to utilize the Federal share of such expended amounts to provide services for children.

''(2) AMOUNT.—The amount for which a State is eligible for under paragraph (1) shall be based on the ratio of the expenditures of the State under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) for fiscal year 1996 to the expenditures by all States under such title for such fiscal year.

''(3) ADJUSTMENT.—With respect to a fiscal year in which the amount determined under subsection (a)(1) exceeds the limitation under subsection (a)(2), the Secretary shall make pro rata reductions in the amounts provided to States under this subsection.

''(c) USE OF FUNDS.—

''(1) DETERMINATION.—With respect to each State, the Secretary shall determine the proportion of the reimbursement under subsection (b) for each fiscal year that is equal to the amount that has been paid to the State as the Federal medical assistance percentage (as defined in section 1905(b)) of the Social Security Act (42 U.S.C. 1396d(b)) expenditures by the State for the preceding fiscal year.

''(2) REQUIRED USE.—With respect to the amount determined under paragraph (1) for a State for a fiscal year, the Secretary shall not treat such amount as an overpayment under any joint Federal-State health program if the State certifies to the Secretary that such amount will be used by the State to serve the needs of children in the State under 1 or more of the following programs:

''(A) An Even Start program under section of the Head Start Act (42 U.S.C. 9801 et seq.).

''(B) The Head Start program under the Head Start Act (42 U.S.C. 9801 et seq.).

''(C) A child care program under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 658A et seq.).

''(D) The Individuals with Disabilities Education Act.

''(E) The child care food program and start-up and expansion funds for school break programs and summer food programs under section 17 of the National School Lunch Act (42 U.S.C. 1766).

''(F) The special supplemental food program under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

''(G) The Maternal and Child Health Services Block Grant program under title V of the Social Security Act (42 U.S.C. 701 et seq.).

''(H) The State Children's Health Insurance Program of the State under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.).

''(I) The family preservation and support services program under section 430B of the Social Security Act.

''(J) State initiated programs that are designed to serve the health and developmental needs of children and are approved by the Secretary.

''(3) COORDINATION.—A State may use not to exceed 20 percent of the amount determined under paragraph (1) for the State for a fiscal year to—

''(A) improve linkages and coordination among programs serving children and families, including the provision of funds to outpost outreach workers into Federally funded early childhood programs to ensure effective enrollment in child health initiatives referred to in paragraph (2)(H);

''(B) fund local collaboratives which shall be required to use such funds on needs assessments, planning, and investments to maximize efforts to improve child development; and

''(C) fund innovative demonstrations that address the outstanding needs of children and families as assessed by State and local entities.

''(4) STATE PLAN.—To be eligible to receive funds under this subsection a State shall prepare and submit to the Secretary a State plan, at such time, in such manner, and containing such information as the Secretary may require, including a description of the manner in which the State will use amounts provided under this subsection. Such plan shall demonstrate, based on standards established by the Secretary, that the State will comply with paragraph (6).

''(5) APPLICATION OF REQUIREMENTS.—The requirements of the respective provisions of law described in paragraph (2) shall apply to any funds made available under this subsection through State programs under any such provision of law to the same extent that such requirements would otherwise apply to such programs under such provisions of law.

''(6) SUPPLEMENT NOT SUPPLANT.—Amounts provided to a State under this subsection 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 paragraph (2) shall not be reduced solely as a result of the availability of funds under this section.

''(7) OVERPAYMENTS.—Any amount of the reimbursement of a State under paragraph (1) to which paragraph (2) applies that is not used in accordance with this subsection shall be treated by the Secretary as an overpayment under section 1903 of the Social Security Act (42 U.S.C. 1396b). Any such overpayments may be allotted among other States under this subsection in proportion to the amount that the State originally received under this section.

''SEC. 2812. PUBLIC HEALTH PROGRAMS.

''(a) FUNDING.—There are hereby made available to carry out this section—

''(1) for fiscal year 1998, $2,100,000,000;

''(2) for fiscal year 1999, $2,175,000,000 increased by an amount equal to the increase in the Consumer Price Index for the previous fiscal year for all urban consumers (all items; U.S. city average);

''(3) for fiscal year 2000, $2,200,000,000 increased by an amount equal to the increase in the Consumer Price Index for the 2 previous fiscal years for all urban consumers (all items; U.S. city average);

''(4) for fiscal year 2001, $2,325,000,000 increased by an amount equal to the increase in the Consumer Price Index for the 3 previous fiscal years for all urban consumers (all items; U.S. city average); and

''(5) for fiscal year 2002 and subsequent fiscal years, the amount made available for fiscal year 2001 increased by an amount equal to the increase in the Consumer Price Index for the period encompassing the fiscal years from 1998 to the fiscal year prior to the fiscal year involved for all urban consumers (all items; U.S. city average).

''(b) USE OF FUNDS.—Amounts made available for a fiscal year under subsection (a) shall be distributed in the following manner:

''(1) USE REDUCTION AND ADDICTION PREVENTION RESEARCH.—

''(A) IN GENERAL.—The amount described in subparagraph (B) shall be used by Secretary to carry out Federal tobacco use reduction and addiction prevention research under section 2825(a).

''(B) AMOUNT.—The amount described in this subparagraph is—

''(i) for fiscal year 1998, $100,000,000; and

''(ii) for fiscal year 1999 and each subsequent fiscal year, the amount described in clause (i), increased for each such fiscal year by an amount equal to the increase in the Consumer Price Index for the period encompassing the fiscal years from 1998 to the fiscal year prior to the fiscal year involved for all urban consumers (all items; U.S. city average).

''(2) COUNTER-ADVERTISING.—

''(A) IN GENERAL.—The amount described in subparagraph (B) shall be used by Secretary to carry out the Federal tobacco product counter-advertising campaign under section 2825(b).

''(B) AMOUNT.—The amount described in this subparagraph is—

''(i) for fiscal year 1998, $500,000,000; and

''(ii) for fiscal year 1999 and each subsequent fiscal year, the amount described in clause (i), increased for each such fiscal year by an amount equal to the increase in the Consumer Price Index for the period encompassing the fiscal years from 1998 to the fiscal year prior to the fiscal year involved for all urban consumers (all items; U.S. city average).

''(3) CENTERS FOR DISEASE CONTROL AND PREVENTION PROGRAMS.—

''(A) IN GENERAL.—The amount described in subparagraph (B) shall be used by Secretary, acting through the Centers for Disease Control and Prevention, to carry programs to discourage the initiation of tobacco use, reduce the incidence of tobacco use among current users, and for other activities designed to reduce the risk of dependence and injury from tobacco products under section 2825(c).

''(B) AMOUNT.—The amount described in this subparagraph is—

''(i) for fiscal year 1998, $60,000,000;

''(ii) for each of the fiscal years 1998 and 2000, $60,000,000, increased for each such fiscal year by an amount equal to the increase in the Consumer Price Index for the period encompassing the fiscal years from 1998 to the fiscal year prior to the fiscal year involved for all urban consumers (all items; U.S. city average);

''(iii) for fiscal year 2001, $100,000,000, increased for such fiscal year by an amount equal to the increase in the Consumer Price Index for fiscal years 1998 through 2000 for all urban consumers (all items; U.S. city average); and

''(iv) for fiscal year 2002 and subsequent fiscal years, the amount described in clause (iii), increased for each such fiscal year by an amount equal to the increase in the Consumer Price Index for the period encompassing the fiscal years from 1998 to the fiscal year prior to the fiscal year involved for all urban consumers (all items; U.S. city average).

''(4) FOOD AND DRUG ADMINISTRATION.—

''(A) IN GENERAL.—The amount described in subparagraph (B) shall be used by Secretary to assist in defraying the costs associated with the activities of the Food and Drug Administration relating to tobacco.

''(B) AMOUNT.—The amount described in this subparagraph is—

''(i) for fiscal year 1998, $300,000,000; and

''(ii) for fiscal year 1999 and each subsequent fiscal year, the amount described in clause (i), increased for each such fiscal year by an amount equal to the increase in the Consumer Price Index for the period encompassing the fiscal years from 1998 to the fiscal year prior to the fiscal year involved for all urban consumers (all items; U.S. city average).

''(5) STATE BLOCK GRANTS.—

''(A) IN GENERAL.—The amount described in subparagraph (B) shall be used by Secretary to make block grants to States under the National Tobacco Usage Reduction and Education Block Grant Program under section 2826.

''(B) AMOUNT.—The amount described in this subparagraph is—

''(i) for fiscal year 1998, $1,144,000,000;

''(ii) for fiscal year 1999, $1,215,000,000, increased for such fiscal year by an amount equal to the increase in the Consumer Price Index for the previous fiscal year for all urban consumers (all items; U.S. city average);

''(iii) for fiscal year 2000, $1,240,000,000, increased for such fiscal year by an amount equal to the increase in the Consumer Price Index for fiscal years 1998 through 2000 for all urban consumers (all items; U.S. city average);

''(iv) for fiscal year 2001, $1,325,000,000, increased for such fiscal year by an amount equal to the increase in the Consumer Price Index for fiscal years 1998 through 2000 for all urban consumers (all items; U.S. city average);

''(v) for each of the fiscal years 2002 through 2008, $1,825,000,000, increased for each such fiscal year by an amount equal to the increase in the Consumer Price Index for the period encompassing the fiscal years from 1998 to the fiscal year prior to the fiscal year involved for all urban consumers (all items; U.S. city average); and

''(v) for fiscal year 2009 and subsequent fiscal years, $1,750,000,000, increased for each such fiscal year by an amount equal to the increase in the Consumer Price Index for fiscal years 1998 through the fiscal year previous to the fiscal year for which the determination is being made for all urban consumers (all items; U.S. city average).

''SEC. 2813. BIOMEDICAL RESEARCH AND CHILD DEVELOPMENT INVESTMENTS.

''(a) FUNDING.—There are hereby made available to carry out this section for each fiscal year an amount equal to 57 percent of the net increase in revenues received in the Treasury for such fiscal year attributable to any amendments made to chapter 52 of the Internal Revenue Code of 1986 in the fiscal year in which this title is enacted, as estimated by the Secretary.

''(b) USE OF FUNDS.—Amounts made available for a fiscal year under subsection (a) shall be used to carry out national biomedical and basic scientific research activities and child development and research activities under part 1 of subtitle C.

''SEC. 2814. TOBACCO VICTIMS COMPENSATION FUND.

''(a) FUNDING.—There are hereby made available to carry out this section for each fiscal year an amount equal to 14.2 percent of the net increase in revenues received in the Treasury for such fiscal year attributable to any amendments made to chapter 52 of the Internal Revenue Code of 1986 in the fiscal year in which this title is enacted, as estimated by the Secretary.

''(b) USE OF FUNDS.—Amounts made available for a fiscal year under subsection (a) shall be used to provide assistance and compensation to individuals suffering from tobacco-related illnesses and conditions, under a plan to be developed by the Secretary, not later than 1 year after the date of enactment of this Act, and submitted to Congress for approval.

"SEC. 2815. TOBACCO COMMUNITY TRANSITION ASSISTANCE.

''(a) FUNDING.—There are hereby made available to carry out this section—

''(1) for buyouts of quotas under section 411—

''(A) $3,100,000,000 for each of the fiscal years 1998 and 1999; and

''(B) $3,000,000,000 for fiscal 2000; and

''(2) for block grants under section 431—

''(A) $500,000,000 for each of the fiscal years 1998 and 1999;

''(B) $800,000,000 for each of the fiscal years 2000 through 2002; and

''(C) $400,000,000 for fiscal year 2003.

''(b) USE OF FUNDS.—Amounts made available for a fiscal year under subsection (a) shall remain available until expended (except that with respect to amounts under subsection (a)(1), such amounts shall only be available until September 30, 2001) and shall be used to provide tobacco transition assistance under title IV of the Healthy and Smoke Free Children Act.

"Subtitle B—National Health Initiatives

"PART 1—NATIONAL BASIC AND CHILD DEVELOPMENT RESEARCH

"SEC. 2821. NATIONAL BIOMEDICAL, BASIC AND CHILD DEVELOPMENT RESEARCH BOARD.

''(a) ESTABLISHMENT.—There is established a Federal board to be known as the 'National Biomedical and Basic Scientific Research Board' (referred to in this subpart as the 'Board').

''(b) MEMBERSHIP.—

''(1) COMPOSITION.—The board shall be composed of—

''(A) 9 voting members to be appointed by the President from among individuals with expertise in biomedical research, basic research, child development, and medicine; and

''(B) 3 ex officio (nonvoting) members of which—

''(i) 1 shall be the Secretary;

''(ii) 1 shall be the Secretary of Education; and

''(iii) 1 shall be the Assistant to the President for Science and Technology.

''(2) TERMS.—A member of the Board under paragraph (1)(A) shall be appointed for a term of 6 years, except that of the members first appointed—

''(A) 3 members shall be appointed for terms of 6 years;

''(B) 3 members shall be appointed for terms of 4 years; and

''(C) 3 members shall be appointed for terms of 2 years.

''(3) VACANCIES.—

''(A) IN GENERAL.—A vacancy on the Board shall be filled in the same manner in which the original appointment was made and shall be subject to any conditions which applied with respect to the original appointment.

''(B) FILLING UNEXPIRED TERM.—An individual appointed to fill a vacancy on the Board shall be appointed for the unexpired term of the member replaced.

''(C) EXPIRATION OF TERMS.—The term of any member of the Board shall not expire before the date on which the member's successor takes office.

''(c) CHAIRPERSON.—The President shall designate a member of the Board appointed under subsection (b)(1)(A) as the Chairperson of the Board.

''(d) MEETINGS AND QUORUM.—

''(1) IN GENERAL.—The Commission shall meet at the call of the Chairperson.

''(2) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Board have been appointed, the Board shall hold its first meeting.

''(3) QUORUM.—A majority of the members of the Board appointed under subsection (b)(1)(A) shall constitute a quorum, but a lesser number of members may hold hearings.

''(e) PERSONNEL MATTERS.—

''(1) COMPENSATION.—Each member of the Board who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Board. All members of the Board 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.

''(2) 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.

''(3) STAFF.—

''(A) IN GENERAL.—The Chairperson of the Board may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Board to perform its duties. The employment of an executive director shall be subject to confirmation by the Board.

''(B) COMPENSATION.—The Chairperson of the Board may fix the compensation of the executive director and other personnel 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 the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

''(4) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Board without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

''(5) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Board 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) POWERS.—The Board shall award grants to, and enter into contracts with eligible entities under section 2822 for the expansion of basic and biomedical research and to provide graduate training with respect to such research.

''(g) DELEGATION.—The Board may delegate all or a portion of grant making authority under subsection (f) to the Secretary, the Secretary of Education, the Director of the National Science Foundation, or the head of any other Federal agency determined appropriate by the Board.

''(h) AVAILABILITY OF FUNDS.—

''(1) IN GENERAL.—With respect to a fiscal year, no funds shall be made available under this part for such fiscal year until the Secretary certifies that the amounts appropriated for each of the entities or activities described in subparagraphs (A) and (B) of section 2822(a)(1) or subparagraphs (A), (B) and (F) of section 2823(a)(1) for such fiscal year has increased as compared to the amounts appropriated for the previous fiscal year—

''(A) by not less than the percentage increase in the consumer price index, as determined by the Secretary of Labor; or

''(B) by an amount equal to the percentage increase in the level of overall discretionary spending for such fiscal year as compared to the previous fiscal year;

whichever is greater.

''(2) APPLICATION TO CHILD DEVELOPMENT ACTIVITIES.—With respect to a fiscal year, no funds shall be made available under this part for such fiscal year until the Secretary certifies that the amounts appropriated for each of the entities or activities described in section 2823(a)(1)(F) for such fiscal has increased as compared to the amounts appropriated for the previous fiscal year—

''(A) by not less than the percentage increase in the consumer price index, as determined by the Secretary of Labor; or

''(B) by an amount equal to the percentage increase in the level of overall discretionary spending for such fiscal year as compared to the previous fiscal year;

whichever is less.

''(3) SUPPLEMENT NOT SUPPLANT.—Funds made available for use under this part shall be used to supplement and not supplant other funds appropriated to the entities described in section 2822(a) and 2823(a). Amounts appropriated to such entities under other provisions of law shall not be reduced solely as a result of the availability of funds under this section.

"SEC. 2822. GRANTS FOR BIOMEDICAL AND BASIC RESEARCH.

''(a) ELIGIBLE ENTITIES.—To be eligible to receive a grant or contract under section 2821(f) an entity shall be—

''(1) the National Institutes of Health (including a subdivision or grantee of such Institutes);

''(2) the National Science Foundation (including a subdivision or grantee of such Foundation);

''(3) nationally recognized research hospitals;

''(4) universities with recognized programs of basic and biomedical research;

''(5) research institutes with expertise in the conduct of basic or biomedical research;

''(6) cancer research centers that meet the standards of section 414; and

''(7) entities conducting quality basic or biomedical research as determined by the Board.

''(b) GRADUATE TRAINING.—Support may be provided under section 2821(f) for graduate training, including the following:

''(1) Grants for portable fellowships as defined for purposes of the National Science Foundation Act of 1950 (42 U.S.C. 1861 et seq.).

''(2) Grants to support an additional year of portable fellowship training to enhance the teaching capabilities of fellows seeking careers in academic teaching settings.

''(3) Programs of student loan forgiveness for students in the sciences and biomedical sciences who pursue careers as teachers of science or biomedical science or researchers in such fields in nonprofit institutions. Loans may be forgiven under this paragraph at the rate of—

''(A) 15 percent per year for the first and second fiscal years after the date of enactment of this title;

''(B) 20 percent per year for the third and fourth fiscal years after the date of enactment of this title; and

''(C) 30 percent per year for the fifth fiscal year after the date of enactment of this title.

''(4) Programs of postdoctoral fellowships for individuals qualifying for such fellowships under the authority of the National Science Foundation of National Institutes of Health.

''(5) Programs of grants to universities and other research facilities to assist in the equipping of laboratories for new researchers of exceptional promise during the first 5 years of post-doctoral research.

''(6) Such other programs of grants and contracts as the Board determines will contribute to increasing the supply of high quality scientific and biomedical researchers.

''(c) FUNDING.—The Board shall use 50 percent of the amount made available for a fiscal year under section 2813 to carry out this subpart in such fiscal year.

''SEC. 2823. INVESTMENTS IN HEALTHY CHILD DEVELOPMENT AND RESEARCH –PROJECTS AND TRAINING.

''(a) CHILDREN'S RESEARCH, TRAINING AND DEMONSTRATION PROJECTS.—

''(1) IN GENERAL.—The Secretary shall use not to exceed 10 percent of the funds allocated for use under this section to award grants of contracts for the conduct and support of research, training and demonstration projects relating to child health and development.

''(2) ENTITIES ELIGIBLE FOR RESEARCH PROJECTS.—To be eligible to receive a grant or contract under paragraph (1) for the conduct or support of research an entity shall be—

''(A) the National Institutes of Health (including a subdivision or grantee of such Institutes);

''(B) the National Science Foundation (including a subdivision or grantee of the Foundation);

''(C) a nationally recognized research hospital;

''(D) a university with a recognized program of research or training on children's development and health and childhood disabilities; and

''(E) entities conducting child development research and training; and

''(F) a public or private nonprofit organization, agency, or partnership with the capacity to implement research findings on brain development in the early years of life and for the support of continual physical, intellectual, and social development of young children, including infants and toddlers with disabilities.

''(3) TRAINING PROJECTS.—Support may be provided under subparagraphs (D), (E) and (F) of paragraph (1) for training, including programs to support undergraduate and graduate training programs to expand the early childhood development workforce by recruiting; training students for careers in early childhood development and care, which may include grants to institutions, scholarships, and programs of loan work forgiveness; and preservice and inservice training programs to enhance the quality of the existing child care workforce.

''(4) DEMONSTRATION PROJECTS.—Support may be provided under subparagraphs (D), (E) and (F) of paragraph (1) for demonstration projects including public-private partnerships for paid leave to enable mothers with infants to choose to stay at home.

''(5) EVALUATIONS.—Each project under this subsection shall include an evaluation component to assess the effectiveness of the project in achieving its goals.

''(b) CHILD DEVELOPMENT PROJECTS.—

''(1) IN GENERAL.—The Secretary shall use not less than 90 percent of the funds allocated for use under this section as follows:

''(A) INVESTMENTS FOR EARLY CHILDHOOD DEVELOPMENT.—60 percent of such funds will be used for investments in early childhood development as follows:

''(i) 10 percent to expand the Early Head Start program under section 645A of the Head Start Act (42 U.S.C. 9841).

''(ii) 20 percent to the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 658A et seq.) to provide certificates and grants to increase the availability and affordability of quality child care for children of working families from birth through school age, including children with disabilities.

''(iii) 25 percent to expand the Head Start program under the Head Start Act (42 U.S.C. 9801) to increase enrollment and responsiveness of such program.

''(iv) 5 percent to early childhood development programs under part C and section 619 of the Individuals with Disabilities Education Act.

Not less than 30 percent of amounts made available under clause (ii) shall be set-aside for innovative programs for babies and toddlers, including the development of family child care networks, start-up for infant care programs, the training of providers, or the provision of parent education and support.

''(B) IMPROVEMENT OF THE QUALITY OF CHILD CARE.—20 percent to establish a health and safety fund through the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 658A et seq.), 50 percent of which shall be used to provide incentives to reward States that improve the quality of child care programs in the State by adopting the essential components of the child care program of the armed services or the essential components of other proven child care models. Such components include the provision of training linked to increased wages, improved standards and enforcement, lower child to staff ratios, higher rates for accredited programs, and consumer education including resources referral services.

''(C) PROGRAMS TO PROMOTE HEALTHY BEHAVIOR.—20 percent to the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 658A et seq.) to expand the availability and affordability of quality before- and after-school care, and summer and weekend activities for school age (through 15 years of age) children, including children with disabilities, to promote good health and academic achievement and to help in avoiding high risk behaviors. Eligible entities for grants under this clause shall include elementary and secondary schools, community-based organizations, child care centers, family child care homes, youth centers, or partnerships and should be targeted to communities with high rates of poverty or at-risk children.

''(c) SUPPLEMENT NOT SUPPLANT.—Amounts provided 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.

''(d) FUNDING.—The Board shall use 50 percent of the amount made available for a fiscal year under section 2813 to carry out this subpart in such fiscal year.

''PART 2—PUBLIC HEALTH PROGRAMS

''SEC. 2825. RESEARCH, COUNTER-ADVERTISING, AND CDC PROGRAMS.

''(a) REDUCTION AND ADDICTION PREVENTION RESEARCH.—The Secretary shall provide for the conduct of research concerning the development of methods, drugs, and devices to discourage individuals from using tobacco products and to assist individuals who use such products in quitting such use.

''(b) COUNTER-ADVERTISING.—The Secretary shall carry out programs 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 and to encourage those who use such products to quit.

''(c) CENTERS FOR DISEASE CONTROL AND PREVENTION PROGRAMS.—The Secretary, acting through the Centers for Disease Control and Prevention, shall carry programs to discourage the initiation of tobacco use, reduce the incidence of tobacco use among current users, and for other activities designed to reduce the risk of dependence and injury from tobacco products.

''(d) FUNDING.—

''(1) RESEARCH.—The Secretary shall use amounts available under section 2812(b)(1) to carry out subsection (a).

''(2) COUNTER-ADVERTISING.—The Secretary shall use amounts available under section 2812(b)(2) to carry out subsection (b).

''(3) CDC PROGRAMS.—The Secretary shall use amounts available under section 2812(b)(3) to carry out subsection (c).

''SEC. 2826. NATIONAL TOBACCO USAGE REDUCTION AND EDUCATION BLOCK GRANT PROGRAM.

''(a) BLOCK GRANTS.—The Secretary shall award block grants to States to enable such States to carry out activities for the purpose of planning, carrying out, and evaluating tobacco use reduction and education activities described in subsection (c).

''(b) APPLICATION.—

''(1) IN GENERAL.—A State that desires to receive a grant under subsection (a) shall prepare and submit to the Secretary an application, at such time, in such manner, and accompanied by such information as the Secretary may require.

''(2) CONTENTS.—An application submitted under paragraph (1) shall—

''(A) describe the activities that will be carried out using assistance under this section; and

''(B) provide such assurances as the Secretary determines to be necessary to carry out this section.

''(c) USE OF FUNDS.—A State shall use amounts received under this section to carry out the following activities:

''(1) TOBACCO USE CESSATION.—

''(A) IN GENERAL.—Activities to assist individuals in quitting the use of cigarettes or other tobacco products.

''(B) MODEL STATE PROGRAM.—The Secretary shall establish a model smoking cessation program that may be used by States in the design of State-based smoking cessation programs. Such model program shall provide for the provision of grants and other assistance by such States to eligible entities and individuals in the State for the establishment or administration of tobacco product use cessation programs that are approved in accordance with subparagraph (D).

''(C) USE OF ASSISTANCE.—Under a State smoking cessation program under this paragraph an entity that receives assistance shall use such amounts to establish or administer tobacco product use cessation programs that are approved in accordance with subparagraph (D).

''(D) APPROVAL OF CESSATION PROGRAM OR DEVICES.—Using the best available scientific information, the Secretary shall promulgate regulations to provide for the approval of tobacco product use cessation programs and devices. Such regulations shall be designed to ensure that tobacco product users, if requested, are provided with reasonable access to safe and effective cessation programs and devices. Such regulations shall ensure that such individuals have access to a broad range of cessation options that are tailored to the needs of the individual tobacco user.

''(2) TOBACCO USAGE REDUCTION AND EDUCATION PROGRAM.—Activities—

''(A) 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 who are under 18 years of age and to encourage those who use such products to quit;

''(B) to carry out informational campaigns that are designed to discourage and de-glamorize the use of tobacco products;

''(C) for tobacco use reduction in elementary and secondary schools; or

''(D) for community-based tobacco control efforts that are designed to encourage community involvement in reducing tobacco product use.

''(3) EVENT TRANSITIONAL SPONSORSHIP PROGRAM.—

''(A) IN GENERAL.—Activities for the transitional sponsorship of certain activities, including grants to—

''(i)(I) pay the costs associated with the transitional sponsorship of an event or activity;

''(II) provide for the transitional sponsorship of an individual or team;

''(III) pay the required entry fees associated with the participation of an individual or team in an event or activity;

''(IV) provide financial or technical support to an individual or team in connection with the participation of that individual or team in an activity described in subparagraph (C)(iii); or

''(IV) for any other purposes determined appropriate by the State; and

''(ii) promote images or activities to discourage individuals from using tobacco products or encourage individuals who use such products to quit.

''(B) ELIGIBILITY.—A State program funded under this paragraph shall ensure that to be eligible to receive assistance under this paragraph an entity or individual shall prepare and submit to the State an application at such time, in such manner, and containing such information as the State may require, including—

''(i) a description of the event, activity, team, or entry for which the grant is to be provided;

''(ii) documentation that the event, activity, team, or entry involved was sponsored or otherwise funded by a tobacco manufacturer or distributor prior to the date of the application; and

''(iii) a certification that the applicant is unable to secure funding for the event, activity, team, or entry involved from sources other than those described in clause (ii).

''(C) PERMISSIBLE SPONSORSHIP ACTIVITIES.—Events, activities, teams, or entries for which a grant may be provided under this paragraph include—

''(i) an athletic, musical, artistic, or other social or cultural event or activity that was sponsored in whole or in part by a tobacco manufacturer or distributor prior to the date of enactment of this title;

''(ii) the participation of a team that was sponsored in whole or in part by a tobacco manufacturer or distributor prior to the date of enactment of this title, in an athletic event or activity; and

''(iii) the payment of a portion or all of the entry fees of, or other financial or technical support provided to, an individual or team by a tobacco manufacturer or distributor prior to the date of enactment of this title, for participation of the individual in an athletic, musical, artistic, or other social or cultural event.

''(d) ALLOCATION OF FUNDS.—A State shall ensure that amounts received under a block grant under subsection (a) are used to carry out each of the activities described in subsection (c).

''(e) FUNDING.—The Secretary shall use amounts available under section 2812(b)(4) to carry out this section.

''Subtitle C—Reduction in Underage Tobacco Use

''SEC. 2831. PURPOSE.

''It is the purpose of this subtitle to encourage the achievement of reductions in the number of underage consumers of tobacco products through the imposition of additional financial deterrents relating to tobacco products if certain underage tobacco-use reduction targets are not met.

''SEC. 2832. CHILD TOBACCO USE SURVEYS.

''(a) ANNUAL PERFORMANCE SURVEY.—Not later than 1 year after the date of the enactment of this Act and annually thereafter the Secretary shall conduct a survey to determine the number of children who used each manufacturer's tobacco products within the past 30 days.

''(b) EXCLUSION OF CERTAIN AGES.—The Secretary may exclude from the survey conducted under subsection (a), children under the age of 12 years (or such other lesser age as the Secretary may establish) to strengthen the validity of the survey.

''(c) BASELINE LEVEL.—The baseline level of the child tobacco product use of a manufacturer (referred to in this subtitle as the 'baseline level') is the number of children determined to have used the tobacco products of such manufacturer in the first annual performance survey for 1998.

''(d) 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.

''(e) DEFINITION.—As used in this subtitle, the term 'tobacco product' means cigarettes, smokeless tobacco products, and roll-you-own tobacco products.

''SEC. 2833. REDUCTION IN UNDERAGE TOBACCO PRODUCT USAGE.

''(a) STANDARDS FOR EXISTING MANUFACTURERS.—Each manufacturer which manufactured a tobacco product on or before the date of the enactment of this title shall reduce the number of children who use its tobacco products so that the number of children determined to have used its tobacco products on the basis of—

''(1) the fourth annual performance survey is equal to or less than—

''(A) 60 percent of the manufacturer's baseline level; or

''(B) the de minimis level;

whichever is greater;

''(2) the fifth annual performance survey is equal to or less than—

''(A) 50 percent of the manufacturer's baseline level; or

''(B) the de minimis level;

whichever is greater;

''(3) the sixth annual performance survey is equal to or less than—

''(A) 40 percent of the manufacturer's baseline level; or

''(B) the de minimis level;

whichever is greater;

''(4) the seventh annual performance survey is equal to or less than—

''(A) 35 percent of the manufacturer's baseline level; or

''(B) the de minimis level;

whichever is greater;

''(5) the eighth annual performance survey is equal to or less than—

''(A) 30 percent of the manufacturer's baseline level; or

''(B) the de minimis level;

whichever is greater;

''(6) the ninth annual performance survey is equal to or less than—

''(A) 25 percent of the manufacturer's baseline level; or

''(B) the de minimis level;

whichever is greater; and

''(7) the 10th annual performance survey and each annual performance survey conducted thereafter is equal to or less than—

''(A) 20 percent of the manufacturer's baseline level; or

''(B) the de minimis level;

whichever is greater.

''(b) STANDARDS FOR NEW MANUFACTURERS.—Any manufacturer of a tobacco product which begins to manufacture a tobacco product after the date of the enactment of this title shall ensure that the number of children determined to have used the manufacturer's tobacco products in each annual performance survey conducted after the manufacturer begins to manufacture tobacco products is equal to or less than the de minimis level.

''(c) DE MINIMIS LEVEL.—The de minimis level shall be 0.5 percent of the total number of children determined to have used tobacco products in the first annual performance survey.

''SEC. 2834. NONCOMPLIANCE.

''(a) VIOLATION OF STANDARD.—If, with respect to a year, a manufacturer of a tobacco product fails to comply with the required reduction under section 2833(a), the manufacturer shall pay to the Secretary a noncompliance fee for each unit of tobacco products manufactured by the manufacturer which is distributed for consumer use in the year following the year in which the noncompliance occurs, in the amount specified in subsection (b).

''(b) NONCOMPLIANCE FEE PER UNIT.—

''(1) IN GENERAL.—With respect to a year, a manufacturer of a tobacco product shall be required to pay a noncompliance fee for each unit of tobacco products manufactured by the manufacturer if the noncompliance factor of the manufacturer (as determined under paragraph (3)) for the year is greater than zero.

''(2) AMOUNT OF FEE.—The amount of the noncompliance fee that is required to be paid by a manufacturer under this section for each unit of tobacco products manufactured by the manufacturer for the year involved shall be equal to—

''(A) 2 cents multiplied by so much of the noncompliance factor as does not exceed 5;

''(B) 3 cents multiplied by so much of the noncompliance factor as exceeds 5 but does not exceed 10;

''(C) 4 cents multiplied by so much of the noncompliance factor as exceeds 10 but does not exceed 15;

''(D) 5 cents multiplied by so much of the noncompliance factor as exceeds 15 but does not exceed 20; and

''(E) 6 cents multiplied by so much of the noncompliance factor as exceeds 20 but does not exceed 25.

''(3) NONCOMPLIANCE FACTOR.—The noncompliance factor of a manufacturer shall be equal to 100 multiplied by the noncompliance percentage of the manufacturer (as determined under paragraph (4)).

''(4) NONCOMPLIANCE PERCENTAGE.—The noncompliance percentage (if any) of a manufacturer shall be equal to 1 less the ratio of—

''(A) the actual reduction that is achieved by the manufacturer in the number of children who use the manufacturer's tobacco products in the year involved; and

''(B) the reduction required under section 2833(a) in the number of children who use the manufacturer's tobacco products for the year.

''(c) NONCOMPLIANCE FEES FOR CONSECUTIVE VIOLATIONS.—If a manufacturer of a tobacco product fails to comply with the required reduction under section 2833(a) in 2 or more consecutive years, the noncompliance fee that is required to be paid by the manufacturer under this section for each unit of tobacco products manufactured by such manufacturer which is distributed for consumer use in the year following the year in which the noncompliance occurs, shall be the amount determined under subsection (b) for the year multiplied by the number of consecutive years in which the manufacturer has failed to comply with such required reductions.

''(d) PROHIBITION ON SINGLE-PACK SALES IN CASES OF REPEATED NONCOMPLIANCE.—Not later than 1 year after the date of enactment of this title, the Secretary shall establish regulations to prohibit the sale of single packs of a manufacturer's tobacco products in cases of repeated noncompliance with the reductions required under section 2833(a). Such regulations shall require that, if a manufacturer fails to comply with such reductions in 3 or more consecutive years, the manufacturer's tobacco products may be sold in the following year only in packages containing not less than 10 units of the product per package (200 cigarettes per package in the case of cigarettes, and a corresponding package size for other tobacco products).

''(e) REQUIRED GENERIC PACKAGING IN SEVERE CASES OF REPEATED NONCOMPLIANCE.—Not later than 1 year after the date of enactment of this title, the Secretary shall establish regulations to require units and packages of a manufacturer's tobacco products to have generic packaging in severe cases of repeated noncompliance with the reductions required under section 2833(a). Such regulations shall require that, if a manufacturer fails to comply with such reductions in 4 or more consecutive years, the manufacturer's tobacco products may be sold in the following year only in units and packages whose packaging contains no external images, logos, or text (other than any required labels), except that the brand name and the identifier 'tobacco' may appear on the packaging in block lettering in black type on a white background.

''(f) PAYMENT.—The noncompliance fee to be paid by a manufacturer under this section shall be paid on a quarterly basis, with payments due not later than 30 days after the end of each calendar quarter.

"SEC. 2835. USE OF AMOUNTS.

''Of the amounts received under section 2834—

''(1) 37.5 percent of such amounts shall be made available to the National Biomedical and Basic Scientific Research Board for research, training and demonstration project grants under section 2822;

''(2) 37.5 percent of such amounts shall be made available to the Secretary for healthy child development grants under section 2823; and

''(3) 25 percent of such amounts shall be made available to the Secretary for reduction and addiction prevention research grants and for grants under the national tobacco usage reduction and education program under part 2 of subtitle C.

"SEC. 2836. MISCELLANEOUS PROVISIONS.

''(a) JUDICIAL REVIEW.—A manufacturer of tobacco products may seek judicial review of any action under this subtitle only after a noncompliance fee has been assessed and paid by the manufacturer and only in the United States District Court for the District of Columbia. In an action by a manufacturer seeking judicial review of an annual performance survey, the manufacturer may prevail—

''(1) only if the manufacturer shows that the results of the performance survey were arbitrary and capricious; and

''(2) only to the extent that the manufacturer shows that it would have been required to pay a lesser noncompliance fee if the results of the performance survey were not arbitrary and capricious.

''(b) PASS-THROUGH.—Nothing in this subtitle shall be construed as prohibiting a manufacturer from passing the costs of the amount of any noncompliance fee assessed under this subtitle on to consumers of tobacco products as a further economic deterrent to the use of such products.

''(c) PROHIBITION.—No stay or other injunctive relief may be granted by the Secretary or any court that has the effect of enjoining the imposition and collection of noncompliance fees to be applied under this section.

''(d) CHILD.—As used in this subtitle, the term 'child' means, except as provide in section 2832(b), an individual who is under the age of 18.

"Subtitle D—Miscellaneous Provisions

"SEC. 2841. WHISTLEBLOWER PROTECTIONS.

''(a) PROHIBITION OF REPRISALS.—An employee of any manufacturer, distributor, or retailer of a tobacco product may not be discharged, demoted, or otherwise discriminated against (with respect to compensation, terms, conditions, or privileges of employment) as a reprisal for disclosing to an employee of the Food and Drug Administration, the Department of Health and Human Services, the Department of Justice, or any State or local regulatory or enforcement authority, information relating to a substantial violation of law related to this title or a State or local law enacted to further the purposes of this title.

''(b) ENFORCEMENT.—Any employee or former employee who believes that such employee has been discharged, demoted, or otherwise discriminated against in violation of subsection (a) may file a civil action in the appropriate United States district court before the end of the 2-year period beginning on the date of such discharge, demotion, or discrimination.

''(c) REMEDIES.—If the district court determines that a violation has occurred, the court may order the manufacturer, distributor, or retailer involved to—

''(1) reinstate the employee to the employee's former position;

''(2) pay compensatory damages; or

''(3) take other appropriate actions to remedy any past discrimination.

''(d) LIMITATION.—The protections of this section shall not apply to any employee who—

''(1) deliberately causes or participates in the alleged violation of law or regulation; or

''(2) knowingly or recklessly provides substantially false information to the Food and Drug Administration, the Department of Health and Human Services, the Department of Justice, or any State or local regulatory or enforcement authority.

"SEC. 2842. NATIONAL TOBACCO DOCUMENT DEPOSITORY.

''(a) PURPOSE.—It is the purpose of this section to provide for the disclosure of previously nonpublic or confidential documents by manufacturers of tobacco products, including the results of internal health research, and to provide for a procedure to settle claims of attorney-client privilege, work product, or trade secrets with respect to such documents.

''(b) ESTABLISHMENT.—

''(1) IN GENERAL.—The Secretary shall provide for the establishment, either within the Department of Health and Human Services or through a private nonprofit entity, of a National Tobacco Document Depository (in this section referred to as the 'Depository'). Such Depository shall be located in the Washington, D.C. area and be open to the public.

''(2) DOCUMENTS.—Manufacturers of tobacco products, acting in conjunction with the Tobacco Institute and the Council for Tobacco Research, U.S.A., shall, not later than 30 days after the date of enactment of this title, provide documents to the Depository in accordance with this section.

''(3) FUNDING.—The entities described in paragraph (2) shall bear the sole responsibility for funding the Depository.

''(c) USE OF DEPOSITORY.—The Depository shall be maintained in a manner that permits the Depository to be used as a resource for litigants, public health groups, and any other individuals who have an interest in the corporate records and research of the manufacturers concerning smoking and health, addiction or nicotine dependency, safer or less hazardous cigarettes, and underage tobacco use and marketing.

''(d) CONTENTS.—The Depository shall include (and manufacturers and the Tobacco Institute and the Council for Tobacco Research, U.S.A. shall provide)—

''(1) within 90 days of the date of the establishment of the Depository, all documents provided by such entities to plaintiffs in—

''(A) civil or criminal actions brought by State attorneys general (including all documents selected by plaintiffs from the Guilford Repository of the United Kingdom);

''(B) Philip Morris Companies Inc.'s defamation action against Capital Cities/American Broadcasting Company News;

''(C) the Federal Trade Commission's investigation concerning Joe Camel and underage marketing;

(D) *Haines v. Liggett Group, Inc.* (814 F. Supp. 414 (D.N.J., Jan. 26, 1993)) and *Cippollone v. Liggett Group, Inc.* (822 F. 2d 335, 56 USLW 2028, 7 Fed. R. Serv. 3d 1438 (3rd Cir. (N.J.), Jun. 8, 1987)); and

(E) *Estate of Burl Butler v. Philip Morris, Inc.* (case No. 94–4–53);

''(2) within 90 days after the date of the establishment of the Depository, any exiting documents discussing or referring to health research, addiction or dependency, safer or less hazardous cigarettes, studies of the smoking habits of minors, and the relationship between advertising or promotion and youth smoking, that the entities described in subsection (b) have not completed producing as required in the actions described in paragraph (1);

''(3) within 30 days of the date of the establishment of the Depository, all documents relating to indices (as defined by the court in *State of Minnesota and Blue Cross and Blue Shield of Minnesota v. Philip Morris, Inc., et al*) of documents relating to smoking and health, including all indices identified by the manufacturers in the the *State of Texas v. American Tobacco Company, et al.*;

''(4) upon the settlement of any action referred to in this subsection, and after a good-faith, de novo, document-by-document review of all documents previously withheld from production in any actions on the grounds of attorney-client privilege, all documents determined to be outside of the scope of the privilege;

''(5) all existing or future documents relating to original laboratory research concerning the health or safety of tobacco products, including all laboratory research results relating to methods used to make tobacco products less hazardous to consumers;

''(6) a comprehensive new attorney-client privilege log of all documents, itemized in sufficient detail so as to enable any interested individual to determine whether the

individual will challenge the claim of privilege, that the entities described in subsection (b) (based on the de novo review of such documents by such entities) claim are protected from disclosure under the attorney-client privilege;

''(7) all existing or future documents relating to studies of the smoking habits of minors or documents referring to any relationship between advertising and promotion and underage smoking; and

''(8) all other documents determined appropriate under regulations promulgated by the Secretary.

''(e) DISPUTE RESOLUTION PANEL.—

''(1) ESTABLISHMENT.—The Judicial Conference of the United States shall establish a Tobacco Documents Dispute Resolution Panel, to be composed of 3 Federal judges to be appointed by the Conference, to resolve all disputes involving claims of attorney-client, work product, or trade secrets privilege with respect to documents required to be deposited into the Depository under subsection (d) that may be brought by Federal, State, or local governmental officials or the public or asserted in any action by a manufacturer.

''(2) BASIS FOR DETERMINATIONS.—The determinations of the Panel established under paragraph (1) shall be based on—

''(A) the American Bar Association/American Law Institute Model Rules or the principals of Federal law with respect to attorney-client or work product privilege; and

''(B) the Uniform Trade Secrets Act with respect to trade secrecy.

''(3) DECISION.—Any decision of the Panel established under paragraph (1) shall be final and binding upon all Federal and State courts.

''(4) ASSESSING OF FEES.—As part of a determination under this subsection, the Panel established under paragraph (1) shall determined whether a claimant of the privilege acted in good faith and had a factual and legal basis for asserting the claim. If the Panel determines that the claimant did not act in good faith, the Panel may assess costs against the claimant, including a reasonable attorneys' fee, and may apply such other sanctions as the Panel determines appropriate.

''(5) ACCELERATED REVIEW.—The Panel established under paragraph (1) shall establish procedures for the accelerated review of challenges to a claim of privilege. Such procedures shall include assurances that an individual filing a challenge to such a claim need not make a prima facie showing of any kind as a prerequisite to an in camera review of the documents at issue.

''(6) SPECIAL MASTERS.—The Panel established under paragraph (1) may appoint Special Masters in accordance with Rule 53 of the Federal Rules of Civil Procedure. The cost relating to any Special Master shall be assessed to the manufacturers as part of a fee process to be established under regulations promulgated by the Secretary.

''(f) OTHER PROVISIONS.—

''(1) NO WAIVER OF PRIVILEGE.—Compliance with this section by the entities described in subsection (b) shall not be deemed to be a waiver on behalf of such entities of any applicable privilege or protection.

''(2) AVOIDANCE OF DESTRUCTION.—In establishing the Depository, procedures shall be implemented to protect against the destruction of documents.

''(3) DEEMED PRODUCED.—Any documents contained in the Depository shall be deemed to have been produced for purposes of any tobacco-related litigation in the United States.

''(g) DOCUMENTS.—For purposes of this section, the term 'documents' shall include any paper documents that may be printed using data that is contained in computer files.

''(h) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to interfere in any way with the discovery rights of courts or parties in civil or criminal actions involving tobacco products, or the right of access to such documents under any other provision of law.

''SEC. 2843. TOBACCO OVERSIGHT AND COMPLIANCE BOARD.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—There is established an independent board to be known as the Tobacco Oversight and Compliance Board (referred to in this section as the 'Board').

''(2) MEMBERSHIP.—The Board shall consist of 5 members with expertise relating to tobacco and public health. The members, including the chairperson, shall be appointed by the Secretary. The initial members of the Board shall be appointed by the Secretary within 30 days of the date of the enactment of this title. A member of the Board may be removed by the Secretary only for neglect of duty or malfeasance in office.

''(3) TERMS.—The term of office of a member of the Board shall be 6 years, except that the members first appointed shall have terms of 2, 3, 4, and 5 years, respectively, as determined by the Secretary.

''(b) GENERAL DUTY.—The Board shall oversee and monitor the operations of the tobacco industry to determine whether tobacco product manufacturers are in compliance with this Act.

''(c) DISCLOSURE OF TOBACCO INDUSTRY DOCUMENTS.—

''(1) SUBMISSION BY MANUFACTURERS.—Not later than 3 months after the date of the enactment of this title, and as otherwise required by the Board, each tobacco manufacturer shall submit to the Board a copy of all documents in the manufacturer's possession—

''(A) relating to—

''(i) any health effects, including addiction, caused by the use of tobacco products;

''(ii) the manipulation or control of nicotine in tobacco products; or

''(iii) the sale or marketing of tobacco products to children; or

''(B) produced, or ordered to be produced, by the tobacco manufacturer in the case entitled *State of Minnesota v. Philip Morris, Inc.*, Civ. Action No. C1-94-8565 (Ramsey County, Minn.) including attorney-client and other documents produced or ordered to be produced for in camera inspection.

''(2) DISCLOSURE BY THE BOARD.—Not later than 6 months after the date of the enactment of this title, and otherwise as required by the Board, the Board shall, subject to paragraph (3), make available to the public the documents submitted under paragraph (1).

''(3) PROTECTION OF TRADE SECRETS.—The Board, members of the Board, and staff of the Board shall not disclose information that is entitled to protection as a trade secret unless the Board determines that disclosure of such information is necessary to protect the public health. This paragraph shall not be construed to prevent the disclosure of relevant information to other Federal agencies or to committees of the Congress.

''(d) INVESTIGATION AND ANNUAL REPORTS.—The Board shall investigate all matters relating to the tobacco industry and public health and report annually on the results of the investigation to Congress. Each annual report to Congress shall, at a minimum, disclose—

''(1) whether tobacco manufacturers are in compliance with the provisions of this Act;

''(2) any efforts by tobacco manufacturers to conceal research relating to the adverse health effects or addiction caused by the use of tobacco products;

''(3) any efforts by tobacco manufacturers to mislead the public or any Federal, State, or local elected body, agency, or court about the adverse health effects or addiction caused by the use of tobacco products;

''(4) any efforts by tobacco manufacturers to sell or market tobacco products to children; and

''(5) any efforts by tobacco manufacturers to circumvent, repeal, modify, impede the implementation of, or prevent the adoption of any Federal, State, or local law or regulation intended to reduce the adverse health effects or addiction caused by the use of tobacco products.

''(e) AUTHORITY.—The Board, any member of the Board, or staff designated by the Board may hold hearings, administer oaths, issue subpoena, require the testimony or deposition of witnesses, the production of documents, or the answering of interrogatories, or, upon presentation of the proper credentials, enter and inspect facilities.

''(f) ENFORCEMENT.—Notwithstanding any other provision of law, tobacco manufacturers shall provide any testimony, deposition, documents, or other information, answer any interrogatories, and allow any entry or inspection required pursuant to this section, except to the extent that a constitutional privilege protects the tobacco manufacturer from complying with such requirement.

''(g) ADMINISTRATION.—

''(1) STAFF.—The Chairperson of the Board shall exercise the executive and administrative functions of the Board and shall have the authority to hire such staff as may be necessary for the operation of the Board.

''(2) SALARIES.—The members of the Board shall receive such salary and benefits as the Secretary deems necessary, except that the salary of the Chairperson shall not be less than that provided for under level III of the Executive Schedule in section 5314 of title 5, United States Code.

''SEC. 2844. PRESERVATION OF STATE AND LOCAL AUTHORITY.

''Except as otherwise provided for in this title or the Healthy and Smoke Free Children Act (or an amendment made by such Act), nothing in this title or such Act shall be construed as prohibiting a State from imposing requirements, prohibitions, penalties or other measures to further the purposes of this title or Act that are in addition to the requirements, prohibitions, or penalties required under this title or Act. To the extent not inconsistent with the purposes of this title or Act, State and local governments may impose additional tobacco product control measures to further restrict or limit the use of such products by minors.

''SEC. 2845. REGULATIONS.

''The Secretary may promulgate regulations to enforce the provisions of this title, or to modify, alter, or expand the requirements and protections provided for in this title if the Secretary determines that such modifications, alternations, or expansion is necessary.''.

TITLE II—FDA JURISDICTION OVER TOBACCO PRODUCTS

Subtitle A—Amendments to the Federal Food, Drug and Cosmetic Act

SEC. 201. REFERENCE.

Whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

SEC. 202. STATEMENT OF GENERAL AUTHORITY.

The Secretary of Health and Human Services, acting through the Food and Drug Administration, shall have the authority under

the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.) (above and beyond the existing authority of the Secretary to regulate tobacco products as of the date of enactment of this Act) to regulate the manufacture, labeling, sale, distribution, and advertising of tobacco products.

SEC. 203. TREATMENT OF TOBACCO PRODUCTS AS DRUGS AND DEVICES.

(a) DEFINITIONS.—

(1) DRUG.—Section 201(g)(1) (21 U.S.C. 321(g)(1)) is amended by striking ''; and (D)'' and inserting ''(including nicotine in tobacco products); and (D)''.

(2) DEVICES.—Section 201(h) (21 U.S.C. 321(h)) is amended—

(A) in paragraph (3), by inserting before the comma the following: ''(including tobacco products containing nicotine); and

(B) by adding at the end the following: ''For purposes of this Act a tobacco product shall be classified as a class II device.''.

(3) OTHER DEFINITIONS.—Section 201 (21 U.S.C. 321) is amended by adding at the end thereof the following new paragraphs:

''(ii)(1) The term 'tobacco product' means cigarettes, cigarillos, cigarette tobacco, little cigars, pipe tobacco, and smokeless tobacco, and roll-your-own tobacco.

''(2) The term 'cigarette' means any product which contains nicotine, is intended to be burned under ordinary conditions of use, and consists of—

''(A) any roll of tobacco wrapped in paper or in any substance not containing tobacco; and

''(B) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in subparagraph (A).

''(3) The term 'cigarette tobacco' means any product that consists of loose tobacco that contains or delivers nicotine and is intended for use by persons in a cigarette. Unless otherwise stated, the requirements of this title pertaining to cigarettes shall also apply to cigarette tobacco.

''(4) The term 'smokeless tobacco' means any product that consists of cut, ground, powdered, or leaf tobacco that contains nicotine and that is intended to be placed in the oral or nasal cavity.

''(5) The term 'roll-your-own tobacco' has the meaning given such term by section 5702(p) of the Internal Revenue Code of 1986.

''(6) The term 'little cigars' means any roll of tobacco wrapped in leaf tobacco or any substance containing tobacco (other than any roll of tobacco which is a cigarette within the meaning of this Act) an as to which 1,000 units weigh not more than 3 pounds.

''(7) The term 'cigar' means any roll of tobacco wrapped in leaf tobacco or in any substance containing tobacco (other than any roll of tobacco which is a cigarette or cigarillo within the meaning of paragraph (3) or (4)).

''(8) The term 'cigarillos' means any roll of tobacco wrapped in leaf tobacco or any substance containing tobacco (other than any roll of tobacco which is a cigarette within the meaning of paragraph (3)) and as to which 1,000 units weigh not more than 3 pounds.

''(9) The term 'pipe tobacco' means any loose tobacco that, because of its appearance, type, packaging, or labeling, is likely to be offered to, or purchased by, consumers as a tobacco product to be smoked in a pipe.

''(10) The term 'nicotine' means the chemical substance named 3-(1-Methyl-2-pyrrolidinyl)pyridine or $C_{10}H_{14}N_2$, including any salt or complex of nicotine.''.

''(11) The term 'tobacco additive' means any substance the intended use of which results or may reasonably be expected to result, directly or indirectly, in the substance becoming a component of, or otherwise affecting the characteristics of, any tobacco product, including any substance that may have been removed from the tobacco product and then readded in the substance's original or modified form.

''(12) The term 'tar' means mainstream total articulate matter minus nicotine and water.''.

(b) MISBRANDING.—Section 502(q) (21 U.S.C. 352(q)) is amended—

(1) by striking ''or (2)'' and inserting ''(2)''; and

(2) by inserting before the period the following: ''or (3) in the case of a tobacco product, it is sold, distributed, advertised, labeled, or used in violation of this Act or the regulations prescribed under this Act.''.

(c) REGULATORY AUTHORITY.—Section 503(g)(1) (21 U.S.C. 353(g)(1)) is amended by inserting ''(including any tobacco product)'' after ''products'' the first place such term appears.

(d) CLASS II DEVICES.—Section 513(a)(1)(B) (21 U.S.C. 360c(a)(1)(B)) is amended—

(1) by striking ''A device'' and inserting ''(i) A device''; and

(2) by adding at the end the following: ''Tobacco products shall be categorized as Class II devices.

''(ii) The sale of tobacco products to adults that comply with Performance Standards established for these products pursuant to section 514, title XXVIII of the Public Health Service Act, and this Act, and any regulations prescribed under this Act, shall not be prohibited by the Secretary, notwithstanding sections 502(j), 516, and 518.''.

(e) PERFORMANCE STANDARDS.—Section 514(a) (21 U.S.C. 360d(a)) is amended—

(1) in paragraph (2), by striking ''device—'' and inserting ''non-tobacco product device—'';

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

(3) by adding at the end the following:

''(3)(A) A performance standard established under this section for a tobacco product device—

''(i) shall include provisions to reduce the overall health risks to the public, including the reduction in risk to consumers thereof and the reduction in harm which will result from those who continue to use the product, but less often and from those who stop or do not start using the product, taking into account all factors that the Secretary determines to be relevant;

''(ii) shall, where necessary to provide a reduction in the overall health risks to the public, include—

''(I) provisions regarding the construction, components, constituents, ingredients, and properties of the tobacco product device, including the reduction or elimination of nicotine and the other components, ingredients, and constituents of the tobacco product and its components, based upon the best available technology;

''(II) provisions for the testing of the tobacco product device (on a sample basis or, if necessary, on an individual basis) or, if it determined that no other more practicable means are available to the Secretary to assure the conformity of the tobacco product device to the standard, provision for the testing (on a sample basis or, if necessary, on an individual basis) by the Secretary or by another person at the direction of the Secretary;

''(III) provisions for the measurement of the performance characteristics of the tobacco product device;

''(IV) provisions requiring that the results of each or of certain of the tests of the tobacco product device required to be made under subclause (II) show that the tobacco product device is in conformity with the portions of the standard for which the test or tests were required; and

''(V) a provision that the sale, advertising, and distribution of the tobacco product device be restricted but only to the extent the sale, advertising, and distribution of a tobacco product device may be restricted under this Act or title XXVIII of the Public Health Service Act; and

''(iii) shall, where appropriate, require the use and prescribe the form and content of labeling for use of the tobacco product device.

''(B) The Secretary shall provide for the periodic evaluation of a performance standard established under this paragraph to determine if such standards should be changed to reflect new medical, scientific, or other technological data.

''(C) In carrying out this paragraph, the Secretary shall, to the maximum extent practicable—

''(i) use personnel, facilities, and other technical support available in other Federal agencies;

''(ii) consult with the Scientific Advisory Committee established under section 905 and other Federal agencies concerned with standard-setting and other nationally or internationally recognized standard-setting entities; and

''(iii) 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 judgment of the Secretary can make a significant contribution.''.

(f) RESTRICTED DEVICES.—Section 520(e) (21 U.S.C. 360j(e)) is amended by adding at the end the following:

''(3) A tobacco product is a restricted device.''.

(g) REGULATIONS.—Section 701(a) (21 U.S.C. 371(a)) is amended by inserting before the period the following: '', including the authority to regulate the manufacture, sale, distribution, advertising and marketing of tobacco products''.

SEC. 204. GENERAL HEALTH AND SAFETY REGULATION OF TOBACCO PRODUCTS.

The Act (21 U.S.C. 301 et seq.) is amended—

(1) by redesignating chapter IX as chapter X;

(2) by redesignating sections 901, 902, 903, 904, and 905 as sections 1001, 1002, 1003, 1004, and 1005, respectively; and

(3) by adding after chapter VIII the following new chapter:

''CHAPTER IX—TOBACCO PRODUCTS

''SEC. 901. DEFINITIONS.

''For purposes of this chapter and in addition to the definitions contained in section 201, the definitions under section 2801 of the Public Health Service Act shall apply.

''SEC. 902. PURPOSE.

''It is the purpose of this chapter to impose a regulatory scheme applicable to the development and manufacturing of tobacco products. Such scheme shall include—

''(1) with respect to ingredients contained in such products—

''(A) the immediate and annual reporting, in accordance with section 909(a), of all ingredients contained in such products;

''(B) the performance, in accordance with section 909(b), of safety assessments with respect to ingredients contained in such products; and

''(C) the approval, in accordance with section 909(b), of ingredients contained in such products; and

''(2) the imposition of standards to reduce the level of certain constituents contained in such products, including nicotine.

"SEC. 903. PROMULGATION OF REGULATIONS.

''The Commissioner shall promulgate regulations governing the misbranding, adulteration, and dispensing of tobacco products that are consistent with this chapter and with the manner in which other products that are ingested into the body are regulated under this Act. Such regulations shall be promulgated not later than 12 months after the date of enactment of this chapter.

"SEC. 904. MINIMUM REQUIREMENTS.

''(a) MISBRANDING.—The regulations promulgated under section 903 shall at a minimum require that a tobacco product be deemed to be misbranded if the labeling of the package of such product is not in compliance with the provisions of this chapter, of other applicable provisions of this Act, or of section 910 (as applicable to the type of product involved) of the Public Health Service Act.

''(b) ADULTERATION.—The regulations promulgated under section 903 shall at a minimum require that a tobacco product be deemed to be adulterated if the Commissioner determines that any tobacco additive in such product, regardless of the amount of such tobacco additive, either by itself or in conjunction with any other tobacco additive or ingredient is harmful under the intended conditions of use when used in a specified amount.

"SEC. 905. SCIENTIFIC ADVISORY COMMITTEE.

''(a) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this chapter, the Secretary shall establish an advisory committee, to be known as the 'Scientific Advisory Committee', to assist the Secretary in establishing, amending, or revoking a performance standard under section 512(a)(3).

''(b) MEMBERSHIP.—The Secretary shall appoint as members of the Scientific Advisory Committee any individuals with expertise in the medical, scientific, or other technological data involving the manufacture and use of tobacco products, and of appropriately diversified professional backgrounds. The Secretary may not appoint to the Committee any individual who is in the regular full-time employ of the Federal Government. The Secretary shall designate 1 of the members of each advisory committee to serve as chairperson of the Committee.

''(c) COMPENSATION AND EXPENSES.—

''(1) COMPENSATION.—Members of the Scientific Advisory Committee who are not officers or employees of the United States, while attending conferences or meetings of the Committee or otherwise serving at the request of the Secretary, shall be entitled to receive compensation at rates to be fixed by the Secretary, which rates may not exceed the daily equivalent of the rate of pay for level 4 of the Senior Executive Schedule under section 5382 of title 5, United States Code, for each day (including traveltime) they are so engaged.

''(2) EXPENSES.—While conducting the business of the Scientific Advisory Committee away from their homes or regular places of business, each member may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 of the United States Code for persons in the Government service employed intermittently.

''(d) DUTIES.—The Scientific Advisory Committee shall—

''(1) assist the Secretary in establishing, amending, or revoking performance standards under section 514(a)(3);

''(2) examine and determine the effects of the alteration of the nicotine yield levels in tobacco products;

''(3) examine and determine whether there is a threshold level below which nicotine yields do not produce dependence on the tobacco product involved, and, if so, determine what that level is; and

''(4) review other safety, dependence or health issues relating to tobacco products as determined appropriate by the Secretary.

"SEC. 906. REQUIREMENTS RELATING TO NICOTINE AND OTHER CONSTITUENTS.

''(a) GENERAL RULE.—The Secretary may adopt a performance standard under section 514(a)(3) that requires the modification of a tobacco product in a manner that involves—

''(1) the reduction or elimination of nicotine yields of the product; or

''(2) the reduction or elimination of other constituents or harmful components of the product.

''(b) TOBACCO CONSTITUENTS.—The Secretary shall promulgate regulations for the testing, reporting and disclosure of tobacco smoke constituents that the Secretary determines the public should be informed of to protect public health, including tar, nicotine, and carbon monoxide. Such regulations may require label and advertising disclosures relating to tar and nicotine.

''(c) LIMITATION ON TAR.—Not later than 3 years after the date of enactment of this chapter, the Secretary shall promulgate regulations that limit the amount of tar in a cigarette to no more than 12 milligrams. Nothing in the preceding sentence shall be construed as limiting the authority of the Secretary to promulgate regulations further limiting the amount of tar that may be contained in a cigarette.

"SEC. 907. REDUCED RISK PRODUCTS.

''(a) MISBRANDING.—Except as provided in subsection (b), the regulations promulgated in accordance with section 904(a) shall require that a tobacco product be deemed to be misbranded if the labeling of the package of the product, or the claims of the manufacturer in connection with the product, can reasonably be interpreted by an objective consumer as stating or implying that the product presents a reduced health risk as compared to other similar products.

''(b) EXCEPTION.—

''(1) IN GENERAL.—Subsection (a) shall not apply to the labeling of a tobacco product, or the claims of the manufacturer in connection with the product, if—

''(A) the manufacturer, based on the best available scientific evidence, demonstrates to the Commissioner that the product significantly reduces the risk to the health of the user as compared to other similar tobacco products; and

''(B) the Commissioner approves the specific claim that will be made a part of the labeling of the product, or the specific claims of the manufacturer in connection with the product.

''(2) REDUCTION IN HARM.—The Commissioner shall promulgate regulations to permit the inclusion of scientifically-based specific health claims on the labeling of a tobacco product package, or the making of such claims by the manufacturer in connection with the product, where the Commissioner determines that the inclusion or making of such claims would reduce harm to the public and otherwise promote public health.

''(c) DEVELOPMENT OF REDUCED RISK PRODUCT TECHNOLOGY.—

''(1) NOTIFICATION OF COMMISSIONER.—The manufacturer of a tobacco product shall provide written notice to the Commissioner upon the development or acquisition by the manufacturer of any technology that would reduce the risk of such products to the health of the user.

''(2) CONFIDENTIALITY.—The Commissioner shall promulgate regulations to provide a manufacturer with appropriate confidentiality protections with respect to technology that is the subject of a notification under paragraph (1) that contains evidence that the technology involved is in the early developmental stages.

''(3) LICENSING.—

''(A) IN GENERAL.—With respect to any technology developed or acquired under paragraph (1), the manufacturer shall—

''(i) use such technology in the manufacture of its tobacco products; or

''(ii) permit the use of such technology (for a reasonable fee) by other manufacturers of tobacco products to which this chapter applies.

''(B) FEES.—The Commissioner shall promulgate regulations to provide for the payment of a commercially reasonable fee by each manufacturer that uses the technology described under subparagraph (A) to the manufacturer that submits the notice under paragraph (1) for such technology. Such regulations shall contain procedures for the resolution of fee disputes between manufacturers under this subparagraph.

''(d) REQUIREMENT OF MANUFACTURE AND MARKETING.—

''(1) PURPOSE.—It is the purpose of this subsection to provide for a mechanism to ensure that tobacco products that are designed to be less hazardous to the health of users are developed, tested, and made available to consumers.

''(2) DETERMINATION.—Upon a determination by the Commissioner that the manufacture of a tobacco product that is less hazardous to the health of users is technologically feasible, the Commissioner may, in accordance with this subsection, require that certain manufacturers of such products manufacture and market such less hazardous products.

''(3) MANUFACTURER.—

''(A) REQUIREMENT.—Except as provided in subparagraph (B), the requirement under paragraph (2) shall apply to any manufacturer that provides a notification to the Commissioner under subsection (c)(1) concerning the technology that is the subject of the determination of the Commissioner.

''(B) EXCEPTION.—The requirement under subparagraph (A) shall not apply to a manufacturer if—

''(i) the manufacturer elects not to manufacture such products and provides notice to the Commissioner of such election; and

''(ii) the manufacturer agrees to provide the technology involved, for a commercially reasonable fee, to other manufacturers that enter into agreements to use such technology to manufacture and market tobacco products that are less hazardous to the health of users.

"SEC. 908. GOOD MANUFACTURING PRACTICE STANDARDS.

''(a) AUTHORITY.—

''(1) IN GENERAL.—The Secretary may, in accordance with paragraph (2), 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 ensure that such products will be in compliance with this chapter.

''(2) REQUIREMENTS PRIOR TO REGULATIONS.—Prior to the Secretary promulgating any regulation under paragraph (1) the Secretary shall—

''(A) afford the Scientific Advisory Committee established under section 905 an opportunity (with a reasonable time period) to submit recommendations with respect to the regulations proposed to be promulgated; and

''(B) afford an opportunity for an oral hearing.

''(b) MINIMUM REQUIREMENTS.—The regulations promulgated under subsection (a) shall at a minimum require—

''(1) the implementation of a quality control system by the manufacturer of a tobacco product;

''(2) a process for the inspection, in accordance with this Act, of tobacco product material prior to the packaging of such product;

''(3) procedures for the proper handling and storage of the packaged tobacco product;

''(4) after consultation with the Administrator of the Environmental Protection Agency, the development and adherence to applicable tolerances with respect to pesticide chemical residues in or on commodities used by the manufacturer in the manufacture of the finished tobacco product;

''(5) the inspection of facilities by officials of the Food and Drug Administration as otherwise provided for in this Act; and

''(6) record keeping and the reporting of certain information.

''(c) PETITIONS FOR EXEMPTIONS AND VARIANCES.—

''(1) IN GENERAL.—Any person subject to any requirement prescribed by regulations under subsection (a) may petition the Secretary for an 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—

''(A) 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 ensure that the device is in compliance with this chapter;

''(B) 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 product in lieu of the methods, facilities, and controls prescribed by the requirement; and

''(C) contain such other information as the Secretary shall prescribe.

''(2) SCIENTIFIC ADVISORY COMMITTEE.—The Secretary may refer to the Scientific Advisory Committee established under section 905 any petition submitted under paragraph (1). The Scientific Advisory Committee shall report its recommendations to the Secretary with respect to a petition referred to it within 60 days of the date of the petition's referral. Within 60 days after—

''(A) the date the petition was submitted to the Secretary under paragraph (1); or

''(B) if the petition was referred to the Scientific Advisory Committee, the expiration of the 60-day period beginning on the date the petition was referred to such Committee;

whichever occurs later, the Secretary shall by order either deny the petition or approve it.

''(3) APPROVAL OF PETITION.—

''(A) IN GENERAL.—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 product will comply 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 product in lieu of the methods, controls, and facilities prescribed by the requirement are sufficient to ensure that the product will comply with this chapter.

''(B) CONDITIONS.—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 ensure that the product will comply with this chapter.

''(4) INFORMAL HEARING.—After the issuance of an order under paragraph (2) respecting a petition, the petitioner shall have an opportunity for an informal hearing on such order.

''(d) AGRICULTURAL PRODUCERS.—The Secretary may not promulgate any regulation under this section that has the effect of placing regulatory burdens on tobacco producers (as such term is used for purposes of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) and the Agricultural Act of 1949 (7 U.S.C. 1441 et seq.)) in excess of the regulatory burdens generally placed on other agricultural commodity producers.

''SEC. 909. DISCLOSURE AND REPORTING OF NONTOBACCO INGREDIENTS AND CONSTITUENTS.

''(a) DISCLOSURE OF ALL INGREDIENTS.—

''(1) IMMEDIATE AND ANNUAL DISCLOSURE.—Not later than 30 days after the date of enactment of this chapter, and annually thereafter, each manufacturer of a tobacco product shall submit to the Secretary an ingredient list for all brands of tobacco products that contains the information described in paragraph (2).

''(2) REQUIREMENTS.—The list described in paragraph (1) shall, with respect to each brand of tobacco product of a manufacturer, include

''(A) a list of all ingredients, constituents, substances, and compounds that are added to the tobacco (and the paper or filter of the product if applicable) in the manufacture of the tobacco product, for each brand of tobacco product so manufactured;

''(B) a description of the quantity of the ingredients, constituents, substances, and compounds that are listed under subparagraph (A) with respect to each brand of tobacco product;

''(C) a description of the nicotine content of the product, measured in milligrams of nicotine;

''(D) with respect to cigarettes a description of—

''(i) the filter ventilation percentage (the level of air dilution in the cigarette as provided by the ventilation holes in the filter, described as a percentage);

''(ii) the pH level of the smoke of the cigarette; and

''(iii) the nicotine delivery level under average smoking conditions reported in milligrams of nicotine per cigarette;

''(E) with respect to smokeless tobacco products a description of—

''(i) the pH level of the tobacco;

''(ii) the moisture content of the tobacco expressed as a percentage of the weight of the tobacco; and

''(iii) the nicotine content—

''(I) for each gram of the product, measured in milligrams of nicotine;

''(II) expressed as a percentage of the dry weight of the tobacco; and

''(III) with respect to unionized (free) nicotine, expressed as a percentage per gram of the tobacco and expressed in milligrams per gram of the tobacco; and

''(F) any other information determined appropriate by the Secretary.

''(b) SAFETY ASSESSMENTS.—

''(1) APPLICATION TO NEW INGREDIENTS.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of this chapter, and annually thereafter, each manufacturer shall submit to the Secretary a safety assessment for each new ingredient, constituent, substance, or compound that such manufacturer desires to make a part of a tobacco product. Such new ingredient, constituent, substance, or compound shall not be included in a tobacco product prior to approval of such a safety assessment.

''(B) DEFINITION OF NEW INGREDIENT.—For purposes of subparagraph (A), the term 'new ingredient, constituent, substance, or compound' means an ingredient, constituent substance, or compound listed under subsection (a)(1) that was not used in the brand of tobacco product involved prior to the date of enactment of this chapter.

''(2) APPLICATION TO OTHER INGREDIENTS.—With respect to the application of this section to ingredients, constituents substances, or compounds listed under subsection (a) to which paragraph (1) does not apply, all such ingredients, constituents, substances, or compounds shall be approved through the safety assessment process within the 5-year period beginning on the date of enactment of this chapter. The Secretary shall develop a procedure that staggers the percentage of such ingredients, constituents, substances, or compounds for which safety assessments must be submitted for approval by manufacturers in each year.

''(3) BASIS OF ASSESSMENT.—The safety assessment of an ingredient, constituents, substance, or compound described in paragraphs (1) and (2) shall—

''(A) be based on the best scientific evidence available at the time of the submission of the assessment; and

''(B) result in a finding that there is a reasonable certainty in the minds of competent scientists that the ingredient, constituents, substance, or compound is not harmful in the quantities used under the intended conditions of use.

''(c) PROHIBITION.—

''(1) REGULATIONS.—Not later than 12 months after the date of enactment of this chapter, the Secretary shall promulgate regulations to prohibit the use of any ingredient, constituent, substance, or compound in the tobacco product of a manufacturer—

''(A) if no safety assessment has been submitted by the manufacturer for the ingredient, constituent, substance, or compound as otherwise required under this section;

''(B) if the Secretary disapproves of the safety of the ingredient, constituent, substance, or compound that was the subject of the assessment under paragraph (2); or

''(C) if such ingredient, constituent, substance, or compound is a new ingredient that has not been approved for use by the Secretary.

''(2) REVIEW OF ASSESSMENTS.—

''(A) GENERAL REVIEW.—Not later than 180 days after the receipt of a safety assessment under subsection (b), the Secretary shall review the findings contained in such assessment and approve or disapprove of the safety of the ingredient, constituents, substance, or compound that was the subject of the assessment. The Secretary may, for good cause, extend the period for such approval. The Secretary shall provide notice to the manufacturer of an action under this subparagraph.

''(B) INACTION BY SECRETARY.—If the Secretary fails to act with respect to an assessment of an existing ingredient, constituent, substance, or additive during the period referred to in subparagraph (A), the manufacturer of the tobacco product involved may continue to use the ingredient, constituents, substance, or compound involved until such time as the Secretary makes a determination with respect to the assessment.

''(d) DISCLOSURE OF INGREDIENTS TO THE PUBLIC.—

''(1) INITIAL DISCLOSURE.—The regulations promulgated in accordance with section 904(a) shall, at a minimum, require that a tobacco product be deemed to be misbranded if the labeling of the package of such product

does not disclose all ingredients, constituents, substances, or compounds contained in the product in accordance with regulations promulgated by the Secretary.

''(2) DISCLOSURE OF PERCENTAGE OF DOMESTIC AND FOREIGN TOBACCO.—The regulations referred to in paragraph (1) shall, at a minimum, require that a tobacco product be deemed to be misbranded if the labeling of the package of such product does not disclose, with respect to the tobacco contained in the product—

''(A) the percentage that is domestic tobacco; and

''(B) the percentage that is foreign tobacco.

''(e) CONFIDENTIALITY.—

''(1) PETITION BY MANUFACTURER.—Upon the submission of a list under subsection (a), a manufacturer may petition the Secretary to exempt certain ingredients, constituents, substances, or compounds on such list from public disclosure under subsection (e) on the basis that such information should be considered confidential as a trade secret. Such petition may be accompanied by such data as the manufacturer elects to submit.

''(2) DETERMINATION.—Not later than 60 days after receiving a petition under paragraph (1), the Secretary, in consultation with the Attorney General, shall make a determination with respect to whether the information described in the petition should be exempt from disclosure under paragraph (1) as a trade secret. The Secretary shall provide the manufacturer involved with notice of such determination. but the decision of the Secretary shall be final.

''(3) PROCEDURES FOR CONFIDENTIAL INFORMATION.—The Secretary shall develop procedures to maintain the confidentiality of information that is treated as a trade secret under a determination under paragraph (2). Such procedures shall include—

''(A) a requirement that such information be maintained in a secure facility; and

''(B) a requirement that only the Secretary, or the authorized agents of the Secretary, will have access to the information and shall be instructed to maintain the confidentiality of such information.

''(4) HEALTH DISCLOSURE.—Notwithstanding a determination under paragraph (2), the Secretary may require that any ingredient, constituents, substance, or compound contained in a tobacco product that is determined to be exempt from disclosure as a trade secret be disclosed if the Secretary determines that such ingredient, constituents, substance, or compound is not safe as provided for in subsection (d).

''(5) OTHER DISCLOSURE.—Any information that the Secretary determines is not subject to disclosure to the public under this subsection, shall be exempt from disclosure pursuant to subsection (a) of section 552 of title 5, United States Code, by reason of subsection (b)(4) of such section, and shall be considered confidential and shall not be disclosed, except that such information may be disclosed to other officers or employees as provided for in paragraph (3)(B) or when relevant in any proceeding under this Act.

''SEC. 910. TOBACCO PRODUCT WARNINGS, LABELING AND PACKAGING.

''(a) CIGARETTE WARNINGS.—

''(1) IN GENERAL.—

''(A) PACKAGING.—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 subsection, 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 Nonsmokers.
''WARNING: Quitting Smoking Now Greatly Reduces Serious Risks To Your Health.

''(B) ADVERTISING.—It shall be unlawful for any manufacturer or importer of cigarettes to advertise or cause to be advertised within the United States any cigarette unless the advertising bears, in accordance with the requirements of this subsection, 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 Nonsmokers.
''WARNING: Quitting Smoking Now Greatly Reduces Serious Risks To Your Health.

''(2) REQUIREMENTS FOR LABELING.—

''(A) LOCATION.—Each label statement required by subparagraph (A) of paragraph (1) shall be located on the upper portion of the front panel of the cigarette package (or carton) and occupy not less than 25 percent of such front panel.

''(B) TYPE AND COLOR.—With respect to each label statement required by subparagraph (A) of paragraph (1), the phrase 'WARNING' shall appear in capital letters and the label statement shall be printed in 17 point type with adjustments as determined appropriate by the Secretary to reflect the length of the required statement. All the letters in the label shall appear in conspicuous and legible type, in contrast by typography, layout, or color with all other printed material on the package, and be printed in an alternating black-on-white and white-on-black format as determined appropriate by the Secretary.

''(C) EXCEPTION.—The provisions of subparagraph (A) shall not apply in the case of a flip-top cigarette package (offered for sale on June 1, 1997) where the front portion of the flip-top does not comprise at least 25 percent of the front panel. In the case of such a package, the label statement required by subparagraph (A) of paragraph (1) shall occupy the entire front portion of the flip top.

''(3) REQUIREMENTS FOR ADVERTISING.—

''(A) LOCATION.—Each label statement required by subparagraph (B) of paragraph (1) shall occupy not less than 20 percent of the area of the advertisement involved.

''(B) TYPE AND COLOR.—

''(i) TYPE.—With respect to each label statement required by subparagraph (B) of paragraph (1), the phrase 'WARNING' shall appear in capital letters and the label statement shall be printed in the following types:

''(I) With respect to whole page advertisements on broadsheet newspaper—45 point type.

''(II) With respect to half page advertisements on broadsheet newspaper—39 point type.

''(III) With respect to whole page advertisements on tabloid newspaper—39 point type.

''(IV) With respect to half page advertisements on tabloid newspaper—27 point type.

''(V) With respect to DPS magazine advertisements—31.5 point type.

''(VI) With respect to whole page magazine advertisements—31.5 point type.

''(VII) With respect to 28cm x 3 column advertisements—22.5 point type.

''(VIII) With respect to 20cm x 2 column advertisements—15 point type.

The Secretary may revise the required type sizes as the Secretary determines appropriate within the 20 percent requirement.

''(ii) COLOR.—All the letters in the label under this subparagraph shall appear in conspicuous and legible type, in contrast by typography, layout, or color with all other printed material on the package, and be printed in an alternating black-on-white and white-on-black format as determined appropriate by the Secretary.

''(4) ROTATION OF LABEL STATEMENTS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the label statements specified in subparagraphs (A) and (B) of paragraph (1) shall be rotated by each manufacturer or importer of cigarettes quarterly in alternating sequence on packages of each brand of cigarettes manufactured by the manufacturer or importer and in the advertisements for each such brand of cigarettes in accordance with a plan submitted by the manufacturer or importer and approved by the Secretary. The Secretary shall approve a plan submitted by a manufacturer or importer of cigarettes which will provide the rotation required by this paragraph and which assures that all of the labels required by subparagraphs (A) and (B) will be displayed by the manufacturer or importer at the same time.

''(B) APPLICATION OF OTHER ROTATION REQUIREMENTS.—

''(i) IN GENERAL.—A manufacturer or importer of cigarettes may apply to the Secretary to have the label rotation described in clause (iii) apply with respect to a brand style of cigarettes manufactured or imported by such manufacturer or importer if—

''(I) the number of cigarettes of such brand style sold in the fiscal year of the manufacturer or importer preceding the submission of the application is less than ¼ of 1 percent of all the cigarettes sold in the United States in such year; and

''(II) more than ½ of the cigarettes manufactured or imported by such manufacturer or importer for sale in the United States are packaged into brand styles which meet the requirements of subclause (I).

If an application is approved by the Secretary, the label rotation described in clause (iii) shall apply with respect to the applicant during the 1-year period beginning on the date of the application approval.

''(ii) PLAN.—An applicant under clause (i) shall include in its application a plan under which the label statements specified in subparagraph (A) of paragraph (1) will be rotated by the applicant manufacturer or importer in accordance with the label rotation described in clause (iii).

''(iii) OTHER ROTATION REQUIREMENTS.—Under the label rotation which the manufacturer or importer with an approved application may put into effect, each of the labels specified in subparagraph (A) of paragraph (1) shall appear on the packages of each brand style of cigarettes with respect to which the application was approved an equal number of times within the 12-month period beginning on the date of the approval by the Secretary of the application.

''(5) APPLICATION OF REQUIREMENT.—Paragraph (1) does not apply to a distributor, a retailer of cigarettes who does not manufacture, package, or import cigarettes for sale or distribution within the United States.

''(6) TELEVISION AND RADIO ADVERTISING.—It shall be unlawful to advertise cigarettes and little cigars on any medium of electronic

communications subject to the jurisdiction of the Federal Communications Commission.

''(b) SMOKELESS TOBACCO PRODUCTS.—

''(1) IN GENERAL.—

''(A) PACKAGING.—It shall be unlawful for any person to manufacture, package, or import for sale or distribution within the United States any smokeless tobacco product the package of which fails to bear, in accordance with the requirements of this subsection, one of the following labels:

''WARNING: This Product Can Cause Mouth Cancer.

''WARNING: This Product Can Kill You.

''WARNING: This Product Can Cause Gum Disease And Tooth Loss.

''WARNING: This Product Is Not A Safe Alternative To Cigarettes.

''WARNING: This Product Contains Cancer-Causing Chemicals.

''WARNING: Smokeless Tobacco Is Addictive.

''(B) ADVERTISING.—It shall be unlawful for any manufacturer or importer of smokeless tobacco products to advertise or cause to be advertised within the United States any smokeless tobacco product unless the advertising bears, in accordance with the requirements of this subsection, one of the following labels:

''WARNING: This Product Can Cause Mouth Cancer.

''WARNING: This product Can Kill You.

''WARNING: This Product Can Cause Gum Disease And Tooth Loss.

''WARNING: This Product Is Not A Safe Alternative To Cigarettes.

''WARNING: This Product Contains Cancer-Causing Chemicals.

''WARNING: Smokeless Tobacco Is Addictive.

''(2) REQUIREMENTS FOR LABELING.—

''(A) LOCATION.—Each label statement required by subparagraph (A) of paragraph (1) shall be located on the principal display panel of the product and occupy not less than 25 percent of such panel.

''(B) TYPE AND COLOR.—With respect to each label statement required by subparagraph (A) of paragraph (1), the phrase 'WARNING' shall appear in capital letters and the label statement shall be printed in 17 point type with adjustments as determined appropriate by the Secretary to reflect the length of the required statement. All the letters in the label shall appear in conspicuous and legible type in contrast by typography, layout, or color with all other printed material on the package and be printed in an alternating black on white and white on black format as determined appropriate by the Secretary.

''(3) ADVERTISING AND ROTATION.—The provisions of paragraph (3) and (4)(A) of subsection (a) shall apply to advertisements for smokeless tobacco products and the rotation of the label statements required under paragraph (1)(A) on such products.

''(4) APPLICATION OF REQUIREMENT.—Paragraph (1) does not apply to a distributor or a retailer of smokeless tobacco products who does not manufacture, package, or import such products for sale or distribution within the United States.

''(5) TELEVISION AND RADIO ADVERTISING.—It shall be unlawful to advertise smokeless tobacco on any medium of electronic communications subject to the jurisdiction of the Federal Communications Commission.

''(c) ENFORCEMENT.—Not later than 180 days after the date of the enactment of this title, the Secretary shall promulgate such regulations as may be necessary to enforce subsections (a) and (b).

''(d) INJUNCTIONS.—The several district courts of the United States are vested with jurisdiction, for cause shown, to prevent and restrain violations of this section upon the application of the Secretary in the case of a violation of subsection (a) or (b).

''(e) CONSTRUCTION.—

''(1) IN GENERAL.—Noting in this section shall be construed to limit the ability of the Secretary the change the text or layout of any of the warning statements, or any of the labeling provisions, under subsections (a) and (b), if determined necessary by the Secretary.

''(2) UNFAIR ACTS.—Nothing in this section (other than the requirements of subsections (a) and (b)) shall be construed to limit or restrict the authority of the Secretary with respect to unfair or deceptive acts or practices in the advertising of cigarettes or smokeless tobacco products.

''(f) LIMITED PREEMPTION.—

''(1) STATE AND LOCAL ACTION.—

''(A) LIMITATION.—No warning label with respect to cigarettes or smokeless tobacco products, other than the warning labels required by subsections (a) and (b), shall be required by any State or local statute or regulation to be included on any package or in any advertisement of cigarettes or a smokeless tobacco product.

''(B) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as prohibiting a State or political subdivision of a State from enacting statutes or regulations concerning cigarettes or smokeless tobacco products so long as such statutes or regulations do not conflict with the labeling and advertising requirements of this section or require additional statements on cigarette or smokeless tobacco packages.

''(2) EFFECT ON LIABILITY LAW.—Except as otherwise provided in this section, nothing in this section shall relieve any person from liability at common law or under State statutory law to any other person.

''(g) REPORTS.—.Not later than 1 year after the date of enactment of this chapter, and biennially thereafter, the Secretary shall prepare and submit to Congress a report containing—

''(1) a description of the effects of health education efforts on the use of cigarettes and smokeless tobacco products;

''(2) a description of the use by the public of cigarettes and smokeless tobacco products;

''(3) an evaluation of the health effects of cigarettes and smokeless tobacco products and the identification of areas appropriate for further research; and

''(4) such recommendations for legislation and administrative action as the Secretary considers appropriate.

''(h) EXPORTS.—Packages of cigarettes or smokeless tobacco products manufactured, imported, or packaged—

''(1) for export from the United States; or

''(2) for delivery to a vessel or aircraft, as supplies, for consumption beyond the jurisdiction of the internal revenue laws of the United States;

shall be exempt from the requirements of this chapter, but such exemptions shall not apply to cigarettes or smokeless tobacco products manufactured, imported, or packaged for sale or distribution to members or units of the Armed Forces of the United States located outside of the United States.

''(i) APPLICATION.—The Secretary shall exercise the authority provided for in this section notwithstanding the provisions of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1331 et seq.) and the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4401 et seq.).

''SEC. 911. STATEMENT OF INTENDED USE.

''(a) REQUIREMENT.—Each manufacturer, distributor, and retailer advertising or causing to be advertised, disseminating or causing to be disseminated, advertising concerning cigarettes, cigarette tobacco, or smokeless tobacco products otherwise permitted under this chapter shall include, as provided in section 502, the established name of the product and a statement of the intended use of the product as provided for in subsection (b).

''(b) USE STATEMENTS.—

''(1) CIGARETTES.—A statement of intended use for cigarettes or cigarette tobacco is as follows (whichever is appropriate):

''Cigarettes—A Nicotine-Delivery Device for Persons 18 or Older.

''Cigarette Tobacco—A Nicotine-Delivery Device for Persons 18 or Older.

''(2) SMOKELESS TOBACCO.—A statement of intended use for a smokeless tobacco product is as follows (whichever is appropriate):

''Loose Leaf Chewing Tobacco—A Nicotine-Delivery Device for Persons 18 or Older.

''Plug Chewing Tobacco—A Nicotine-Delivery Device for Persons 18 or Older.

''Twist Chewing Tobacco—A Nicotine-Delivery Device for Persons 18 or Older.

''Moist Snuff—A Nicotine-Delivery Device for Persons 18 or Older.

''Dry Snuff—A Nicotine-Delivery Device for Persons 18 or Older.

''(c) TYPE AND LOCATION.—The Secretary shall promulgate regulations with respect to the type, color, size, and placement of statements required under this section on labels and in advertisements.

''SEC. 912. MISCELLANEOUS PROVISIONS.

''(a) PRESERVATION OF STATE AND LOCAL AUTHORITY.—Except as otherwise provided for in this chapter, nothing in this chapter shall be construed as prohibiting a State from imposing requirements, prohibitions, penalties or other measures to further the purposes of this chapter that are in addition to the requirements, prohibitions, or penalties required under this chapter. To the extent not inconsistent with the purposes of this chapter, State and local governments may impose additional tobacco product control measures to further restrict or limit the use of such products by minors.

''(b) REGULATIONS.—The Secretary may promulgate regulations to enforce the provisions of this chapter, or to modify, alter, or expand the requirements and protections provided for in this chapter if the Secretary determines that such modifications, alternations, or expansion is necessary.''.

TITLE III—STANDARDS TO REDUCE INVOLUNTARY EXPOSURE TO TOBACCO SMOKE

SEC. 301. STANDARDS TO REDUCE INVOLUNTARY EXPOSURE TO TOBACCO SMOKE.

The Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) is amended by adding at the end the following:

''SEC. 35. STANDARDS TO REDUCE INVOLUNTARY EXPOSURE TO TOBACCO SMOKE

''(a) DEFINITIONS.—In this section—

''(1) PUBLIC FACILITY.—

''(A) IN GENERAL.—The term 'public facility' means any building regularly entered by 10 or more individuals at least 1 day per week, including any such building owned by or leased to a Federal, State, or local government entity. Such term shall not include any building or portion thereof regularly used for residential purposes.

''(B) EXCLUSIONS.—The term 'public facility' does not include a portion of a building which is used as a bar, tobacco merchant, a hotel guest room that is designated as a smoking room, or prison.

''(2) 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.

''(b) SMOKE-FREE ENVIRONMENT POLICY.—

''(1) 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 paragraph (2) or (4).

''(2) ELEMENTS OF POLICY.—

''(A) IN GENERAL.—Each smoke-free environment policy for a public facility shall—

''(i) 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

''(ii) post a clear and prominent notice of the smoking prohibition in appropriate and visible locations at the public facility.

''(B) EXCEPTION.—The smoke-free environment policy for a public facility may provide an exception to the prohibition specified in subparagraph (A) for 1 or more specially designated smoking areas within a public facility if such area or areas meet the requirements of paragraph (3).

''(3) SPECIALLY DESIGNATED SMOKING AREAS.—A specially designated smoking area meets the requirements of this subsection if—

''(A) the area is ventilated in accordance with specifications promulgated by the Secretary of Labor 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;

''(B) the area is maintained at negative pressure, as compared to adjoined nonsmoking areas, as determined under regulations promulgated by the Secretary of Labor; and

''(C) nonsmoking individuals do not have to enter the area for any purpose while smoking is occurring in such area.

Cleaning and maintenance work shall be conducted in such area only while no smoking is occurring in the area.

''(4) SPECIAL RULES.—

''(A) SCHOOLS AND OTHER FACILITIES SERVING CHILDREN.—

''(i) IN GENERAL.—With respect to a facility described in clause (ii), the responsible entity for the facility shall adopt and implement at such facility a smoke-free environment policy that—

''(I) prohibits the smoking of cigarettes, cigars, and pipes, and any other combustion of tobacco within the facility and on facility property;

''(II) prohibits the use of smokeless tobacco products within the facility and on facility property; and

''(III) post a clear and prominent notice of the smoking and smokeless tobacco prohibition in appropriate and visible locations at the public facility.

''(ii) FACILITY.—A facility described in this clause is—

''(I) an elementary or secondary school (as such term is defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801);

''(II) any facility at which a Head Start program or project is being carried out under the Head Start Act (42 U.S.C. 9831 et. seq.);

''(III) any facility at which a licensed or certified child care provider provides child care services; and

''(IV) any recreation or other facility maintained primarily to provide services to children as determined by the Secretary or Labor.

''(B) PUBLIC TRANSPORTATION.—With respect to any responsible entity which operates conveyances of public transportation (including bus, rail, aircraft, boat, or any other conveyance determined appropriate by the Secretary of Labor), the responsible entity shall adopt and implement on such conveyances a smoke-free environment policy that—

''(i) prohibits the smoking of cigarettes, cigars, and pipes, and any other combustion of tobacco within the conveyance and on property affiliated with the conveyance; and

''(ii) post a clear and prominent notice of the smoking prohibition in appropriate and visible locations on the conveyance.

''(c) ENFORCEMENT.—To be eligible to receive funds under title XXVIII of the Public Health Service Act, a State shall have in effect laws or procedures to provide for the enforcement of this section within the State. Such laws or procedures shall permit aggrieved individuals to enforce this section through administrative or judicial means.

''(d) PREEMPTION.—Nothing in this section shall preempt or otherwise affect any other Federal, State or local law which provides protection from health hazards from environmental tobacco smoke that are as least as stringent as those provided for in this section.

''(e) REGULATIONS.—The Secretary of Labor is authorized to promulgate such regulations as the Secretary deems necessary to carry out this section.

''(f) EFFECTIVE DATE.—The provisions of this section shall take effect on the date that is 1 year after the date of enactment of this section.''.

TITLE IV—TOBACCO MARKET TRANSITION ASSISTANCE

SEC. 401. DEFINITIONS.

In this title:

(1) BUYOUT PAYMENT.—The term ''buyout payment'' means a payment made under section 411, 412, or 413.

(2) CONTRACT.—The term ''contract'' means a contract entered into under section 411, 412, or 413.

(3) LEASE.—The term ''lease'' means a rental of quota on either a cash rent or crop share basis.

(4) MARKETING YEAR.—The term ''marketing year'' means—

(A) in the case of Flue-cured tobacco, the period beginning July 1 and ending the following June 30; and

(B) in the case of each other kind of tobacco, the period beginning October 1 and ending the following September 30.

(5) QUOTA OWNER.—The term ''quota owner'' means a person that, at the time of entering into a contract, owns quota provided by the Secretary.

(6) PRODUCER OF QUOTA.—The term ''producer of quota'' means a person that during at least 3 of the 1993 through 1997 crops of tobacco (as determined by the Secretary) that were subject to quota—

(A) leased quota;

(B) shared in the risk of producing a crop of tobacco; and

(C) marketed the tobacco subject to quota.

(7) PRODUCER OF NON-TOBACCO QUOTA.—The term ''producer of non-tobacco quota'' means a person that during at least 1 of the crop years 1995 through 1997 grew and marketed tobacco not subject to quota.

(8) QUOTA.—The term ''quota'' means basic marketing quota for tobacco determined by the Secretary under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.).

(9) QUOTA HOLDER.—The term ''quota holder'' means a producer that owns a farm 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.) for any of the 1994, 1995, or 1996 crop years.

(10) 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 1994, 1995, or 1996 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 1994, 1995, or 1996 crop years.

(11) 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 1994, 1995, or 1996 crop years; and

(B) is not a quota holder or quota lessee.

(12) SECRETARY.—In subtitles A and C, the term ''Secretary'' means the Secretary of Agriculture.

(13) STATE.—The term ''State'' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

(14) TOBACCO.—The term ''tobacco'' means any kind of tobacco produced and marketed in the United States.

(15) TOBACCO-GROWING STATE.—The term ''tobacco-growing State'' means Georgia, Kentucky, North Carolina, South Carolina, Tennessee, or Virginia.

(16) TRANSITION PAYMENT.—The term ''transition payment'' means a payment made to a producer under section 411, 412, or 413.

(17) UNITED STATES.—The term ''United States'', when used in a geographical sense, means all of the States.

Subtitle A—Tobacco Quota Buyout Contracts and Producer Transition Payments

SEC. 411. QUOTA OWNER BUYOUT CONTRACTS.

(a) OFFER.—The Secretary shall offer to enter into a quota buyout contract with the quota owner on each farm to which a quota was assigned in 1997.

(b) TERMS.—

(1) RELINQUISHMENT OF QUOTA.—Under the terms of the contract, the owner shall agree, in exchange for a buyout payment, to permanently relinquish the quota.

(2) ELIGIBILITY FOR TOBACCO PROGRAM BENEFITS.—Neither the farm, in its current or future ownership configuration, nor the contracting owner shall be eligible for any tobacco program benefits under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.), or the Agricultural Act of 1949 (7 U.S.C. 1421 et. seq.).

(c) PAYMENT CALCULATION.—The total amount of the buyout payment made to a quota owner shall be determined by multiplying—

(1) $4; by

(2) the average quantity of basic quota assigned to the farm during the period 1995 through 1997.

SEC. 412. PRODUCER TRANSITION PAYMENTS FOR QUOTA TOBACCO.

(a) OFFER.—The Secretary shall offer to producers of quota tobacco that do not own the quota, but were quota lessees or quota tenants in 1997, producer transition payment contracts.

(b) TERMS.—Under the terms of the transition contract, the producer shall agree, in exchange for a payment, to permanently refrain from growing tobacco for which a quota program is in effect.

(c) PAYMENT CALCULATION.—The total amount of the transition payment made to a producer shall be determined by multiplying—

(1) $4; by

(2) the average quantity of quota tobacco leased or rented from quota owners during the period 1995 through 1997.

SEC. 413. PRODUCER TRANSITION PAYMENTS FOR NON-QUOTA TOBACCO.

(a) OFFER.—The Secretary shall offer to producers of nonquota tobacco a producer nonquota transition payment contract.

(b) TERMS.—Under the terms of the transition payment, the producer shall agree, in exchange for a payment, to permanently refrain from growing tobacco for which a quota program is in effect.

(c) PAYMENT CALCULATION.—The total amount of the transition payment made to a producer shall be determined by multiplying—

(1) $4; by

(2) the average annual quantity of nonquota tobacco marketed during the period 1995 through 1997.

SEC. 414. ELEMENTS OF CONTRACTS.

(a) COMMENCEMENT.—To the maximum extent practicable, the Secretary shall commence entering into contracts under this subtitle not later than 90 days after the date of enactment of this Act.

(b) DEADLINE.—The Secretary may not enter into a contract under this subtitle after the date that is 3 years after the date of enactment of this Act.

(c) BEGINNING DATE.—A contract under this subtitle shall take effect and become binding beginning in the tobacco marketing year following the year in which the contract is entered into.

(d) TIME FOR PAYMENT.—A contract payment shall be made not later than the date that is the beginning of the marketing year in which the contract becomes binding, or at any later time selected by the quota owner or producer.

(e) PROHIBITION OF DOUBLE PAYMENTS.—In no case shall a contract holder receive overlapping payments as a quota owner and as a producer on the same tobacco.

Subtitle B—No Net Cost Tobacco Program

SEC. 421. BUDGET DEFICIT ASSESSMENT.

Section 106(g)(1) of the Agricultural Act of 1949 (7 U.S.C. 1445(g)(1)) is amended—

(1) by striking ''only for each of the 1994 through 1998 crops'' and inserting ''for the 1998 and each subsequent crop''; and

(2) by striking ''equal to—'' and all that follows and inserting ''equal to 1 or more amounts determined by the Secretary that are sufficient to cover the costs of the administration of the tobacco quota and price support programs administered by the Secretary.''.

Subtitle C—Tobacco Community Empowerment Block Grants

SEC. 431. TOBACCO COMMUNITY EMPOWERMENT BLOCK GRANTS.

(a) AUTHORITY.—The Secretary shall make grants to tobacco States in accordance with this section to enable the States to—

(1) empower active tobacco producers and tobacco product manufacturing workers by providing economic alternatives to tobacco; and

(2) carry out non-tobacco economic development initiatives in tobacco communities.

(b) APPLICATION.—To be eligible to receive payments under this section, a tobacco 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 tobacco State an amount that bears the same ratio to the amounts available as the total income of the State derived from the production of tobacco and the manufacture of tobacco products during the 1994 through 1996 marketing years (as determined under paragraph (2)) bears to the total income of all tobacco States derived from the production of tobacco and the manufacturing of tobacco products during the 1994 through 1996 marketing years.

(2) TOBACCO INCOME.—For the 1994 through 1996 marketing years, the Secretary shall determine the amount of income derived from the production of tobacco and the manufacture of tobacco products in each tobacco State and in all tobacco States.

(d) PAYMENTS.—

(1) IN GENERAL.—A tobacco 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 tobacco 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 tobacco 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 tobacco States in proportion to the original allotments to the other States.

(e) USE AND DISTRIBUTION OF FUNDS.—

(1) IN GENERAL.—Amounts received by a tobacco 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 active 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) investments in community colleges and trade schools to provide skills training to active tobacco producers and tobacco product manufacturing workers and ensure that the off-farm sector remains vital and robust.

(2) TOBACCO COUNTIES.—Assistance may be provided by a tobacco 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 and the manufacture of tobacco products during 1 or more of the 1994 through 1996 marketing years.

(3) DISTRIBUTION.—

(A) ECONOMIC DEVELOPMENT ACTIVITIES.—Not less than 20 percent of the amounts received by a tobacco 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 tobacco State under this section shall be used to carry out technical assistance activities described in paragraph (1)(G).

(C) TOBACCO COUNTIES.—To be eligible to receive payments under this section, a tobacco State shall demonstrate to the Secretary that funding will be provided, during the 1999 through 2004 fiscal years, 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 and the manufacture of tobacco products, in amounts that are at least equal to the product obtained by multiplying—

(i) the ratio that the tobacco production and tobacco product manufacturing income in the county determined under paragraph (2) bears to the total tobacco production and tobacco product manufacturing income for the State determined under subsection (c); by

(ii) 50 percent of the total amounts received by the State under this section during the 1999 through 2004 fiscal years.

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. SENSE OF THE SENATE.

It is the sense of the Senate that, in order to provide funds to carry out this Act, Congress should enact an increase in the excise taxes on tobacco products of approximately $1.50 per pack of cigarettes (and corresponding increases on taxes on other tobacco products) over a 3-year period, that increases in such tax in future years should be indexed to inflation, and that the payment of such tax should not be considered to be an ordinary and necessary expense in carrying on a trade or business and should not be deductible.

Mr. LAUTENBERG. Mr. President, today I am joining Senators KENNEDY and DURBIN in introducing the Healthy and Smoke-free Children Act of 1997. Likewise, Senators KENNEDY and DURBIN are cosponsoring legislation I introduced last week, the Public Health and Education Resource Act, S. 1343, or PHAER. As we join forces behind comprehensive tobacco legislation to reduce smoking, especially among our young people, and to enhance the public health, we urge Senators of both

parties to unify behind our approach. It is a simple and straightforward but effective model for drastically reducing the 400,000 preventable deaths each year in our country caused by a deadly addiction to nicotine.

Mr. President, it's time for Congress to act. We have the legislative packages to get started. The message we are sending out today is clear: the goal of comprehensive tobacco legislation is to prevent kids from becoming hooked on tobacco—not to get the tobacco companies off the hook.

Our legislation would raise the price of cigarettes by $1.50 per pack in order to reduce teen smoking and fund critical public health programs. It explicitly prohibits the industry from deducting the cost of increased excise taxes from its corporate tax payments. With the proceeds of the tax, states will receive back funds for public health and children's programs, including health, education, and smoking cessation programs aimed at both children, teenagers, and adults. Further, our bill will fund a significant increase in medical research. To increase industry incentives to reduce teen smoking, the legislation we are introducing today will impose penalties on companies which fail to meet teen smoking reduction targets. Finally, recognizing the potential dislocation to tobacco farmers that could flow from a reduction in national smoking rates, our bill provides transitional assistance to farmers and displaced tobacco workers.

Mr. President, of critical importance, our legislation affirms the authority of the Food and Drug Administration to regulate tobacco as a drug and drug delivery device. It gives FDA explicit authority over the advertising, marketing and sale of cigarettes. It also calls for larger and more explicit warning labels on cigarettes and ingredient disclosure, drawing on legislation I introduced earlier this year, and permits states to enact more restrictions on tobacco. It also incorporates the essence of the Smokefree Environment Act which I also introduced earlier this year, to protect non-smokers from secondhand smoke.

The President has called for comprehensive tobacco legislation that gives the Food and Drug Administration authority to regulate nicotine. He has also called for a $1.50 increase in the price of cigarettes to deter teen smoking and help pay for a variety of public health programs. Our legislation accomplishes that.

Mr. President, the tobacco industry has been trying to convince the Congress and the public that the only way to accomplish the President's goals is through its proposed settlement with the state Attorneys General. We know that this is not the case. Our legislation offers a more efficient and effective way of serving the public health. The Congress can move ahead without permission from the tobacco industry and we should do just that.

Mr. President, our proposals embody the goals outlined by the President and embraced by the public health community. In fact, a broad range of groups supported the introduction of S. 1343, the PHAER Act, when I introduced it. These groups include Action on Smoking and Health, the American Academy of Pediatrics, the American Cancer Society, the American College of Physicians, the American College of Preventive Medicine, the American Heart Association, the American Lung Association, the American Medical Association, the American Society of Clinical Oncology, Campaign for Tobacco Free Kids, the National Association of Counties, the National Association of County and City Health Officials, and Partnership for Prevention and Physicians for Social Responsibility.

Mr. President, these bills eliminate the tobacco industry as the middleman in achieving public health goals. We have laid out an ambitious, but achievable, program for reducing smoking and death and illness. Congressional action on comprehensive tobacco legislation should live up to the standards we have established.

Beyond taking strong, preventive steps to reduce smoking domestically, we should also pursue legislation affecting our tobacco companies' commercial activities overseas. If we don't, in the next few decades we will experience a worldwide health epidemic attributable to tobacco. Earlier this year, I introduced S. 1060, the Worldwide Tobacco Disclosure Act, to require warning labels on exported packages of cigarettes and to codify current trade policies that prevent government agencies from promoting tobacco sales overseas and from weakening public health measures undertaken by foreign governments.

I urge my colleagues on both sides of the aisle to join us on the public health side of this fight by endorsing our comprehensive tobacco legislation.

Mr. DURBIN. Mr. President, I am pleased to join Senators KENNEDY and LAUTENBERG in proposing sweeping new legislation that fills in many of the specifics relating to children and the public health that must be included in any future legislation related to the proposed tobacco settlement.

The tobacco companies have made billions of dollars addicting and exploiting our children. Now, they seek to protect themselves from existing and potential lawsuits. This legislation brings us back to the fundamental issues that must stay at the top of the public health agenda. Reducing the devastation and disease caused by tobacco should be our number one goal, not an afterthought.

This legislation is our effort to start filling in the blanks on any tobacco measure. It's time to stop speculating and start laying down markers we feel must be part of any comprehensive agreement.

Under this legislation, the tobacco tax would be raised $1.50 per pack of cigarettes. This kind of increase is a proven deterrent to underage smoking.

Of the additional revenues that would be raised beyond what was proposed by the state attorneys general, one-half would be used to fund medical research into illnesses such as cancer, heart disease and diabetes. The other half of the additional revenues would fund an expansion of the Head Start program, child care grants, and other child and family initiatives.

The legislation seeks to ensure a significant decline in underage smoking by establishing tough performance smoking reduction targets. The reduction targets—modeled on legislation I introduced earlier this year—set a goal of a 40 percent reduction in youth tobacco use in four years, 60 percent in 6 years, and 80 percent in 10 years. If the goal is not met, penalties of up to $1 a pack will be imposed on the sale of tobacco products manufactured by a company whose products are consumed by underage users, with steeper penalties for repeated failure to meet youth tobacco targets.

In addition, we are offering some new incentives for the tobacco companies to meet the targets. If a company fails to comply for three or more consecutive years, the company will be required to stop selling cigarettes in single packs—the size kids buy—and start selling them only in cartons, whose price might cause kids to reconsider their desire to buy cigarettes. If this step was not sufficient to bring a company into compliance, another year violating the performance standard would trigger a requirement that the product be sold using generic packaging, without catchy logos.

As far as kids are concerned, it's time for the tobacco companies to put their profits on the line. Under our legislation, every new child who picks up a cigarette or pockets a can of spit tobacco will become an economic loss to a tobacco company. We must hold each company individually responsible for its sales to minors.

In addition to setting performance standards, the legislation provides for a national tobacco use reduction program which includes smoking cessation programs, media-based advertising about the dangers of tobacco use and aggressive public education.

The bill also compensates states for Medicaid expenditures resulting from tobacco-related illnesses; affirms the authority of the Food and Drug Administration [FDA] to regulate tobacco as a drug and delivery device; mandates strong warning labels and ingredient disclosures; reduces exposure to secondhand smoke; prohibits tobacco companies from deducting any settlement liabilities as a business expense; and provides assistance for tobacco farmers.

I commend this legislation to my colleagues and urge them to support it.

ADDITIONAL COSPONSORS

S. 61

At the request of Mr. LOTT, the name of the Senator from Michigan [Mr.