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. 1476, legislation that I introduced in the 104th Congress. Joining me at these rostrums, 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 Gaze-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 will 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 can use to build that new and brighter future. This legislation represents the Senate's down payment on that future.

Mr. President, I am 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 readdress 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 to the largest market 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 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.

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 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. First telling you how the system is supposed to work. When a catalogue merchant imports a product directly from abroad, as the...
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. The cost to the affected parties can be 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, is currently conducting a 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 detect harmful algal blooms early; and $8 million annually 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) recent outbreaks 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 loss of millions of dollars to the U.S. Treasury on the trousers when they were first imported into the U.S. In that case, properly, is no duty paid on the returned trousers.

(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 pose a threat from unpolluted open waters to coastal waters, shellfish, and manatees, beach closures, and threats to public health and safety;

(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), through its ongoing research, grant, and coastal resource management programs, possesses a full range of capabilities necessary to support short- and long-term comprehensive efforts to control and eradicate harmful algal blooms; and

(10) funding for NOAA’s research and related programs will add 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...
Act of 1997."

This bill makes sure that "Immunosuppressive Drugs Coverage

help ensure that their immune systems
called immunosuppressive drugs—that
been given, it is particularly tragic
precious organs, allowing them to live
transplant waiting list—where they
than 55,000 Americans are on the organ
gans are very scarce, and we work hard
education about transplant issues. Or-
some time to increase awareness and
tissue transplant community, includ-
I have worked with people interested
the product of many conversations I
vent their immune systems from re-
organ transplant recipients maintain
eryone who receives an organ trans-
dreds of thousands of dollars.

If a transplanted organ is rejected,
recipient may die or may need in-
tensive, life-sustaining medical care,
which Medicare often does pay for. And
not, it won't have a way to pay for these
vast majority of Medicare trans-
vent these life-threatening episodes.

For kidney recipients, who make up
the vast majority of Medicare trans-
plant recipients, immune rejection
means an immediate return to renal di-
this is the private insurance plan—and not Medicare—that pays for
immunosuppressive drugs. Someday, immunosuppressive drugs
may not be necessary. We are begin-
ing to see some promising research in
this area. But today's transplant re-
cipients 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 be-
cause the recipient is unable to pay for immunosuppressive drugs. I urge every
Senator to consider cosponsoring and supporting this bill.

By Mr. COATS:
S. 1492. A bill to amend section 223 of the Communications Act of 1934 to es-

material that is harmful to minors, and
for other purposes: to the Com-
mittee on Commerce, Science, and
Transportation.

PORN LEGISLATION
Mr. COATS. Mr. President, during Senate consideration of the Tele-
communications 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 chil-
ren should be shielded from obscene
and indecent pornography. There was spirited debate on the amendment.
However, ultimately the Senate adopt-
ed the CDA by an overwhelming mar-
gin 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 Asso-
ciation, along with America On-Line and other representatives of the com-
puter industry, voiced their opposition against the CDA in District Court. In short, the case ultimately came before the Su-
preme Court, where it was struck down.

Mr. President, however much I dis-
agree with the Court's ruling, the com-
puter industry, and working groups, gathered for a White House
meeting, were clearly not satisfied with the President's comments in the Court's opin-

Well, Mr. President, let me congratulate
Mr. President, I turn now to the February
Communique of U.S. News and World Re-
port. 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—than all the revenue 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 operas, the ballets, 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 many places, 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 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 "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 push 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 pornog- raphy on the Internet. Adult bookstores, 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). PICs, like 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." PICs, the Web the way it does. 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 that even if you expect 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 the right of all libraries to block access that 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 every- thing 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 sex.’

When the library spokesman was asked about parent’s concerns, he dismissed them saying, ‘We do have child- ren’s librarians but we do not have Internet police.’

There 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 moral are em- ployed by opponents of real child pro- tections. 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 pro- gram. 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 hack and sell you this disk for 50 dol- lars. There’s all the hacking stuff you’ll ever need.’

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

Jack describes the various methods by which he defeats the blocking soft- ware 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 software.

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 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 they promote is to sell 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 found a real 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 on-line playground. What next?” the article asks, “Smut linked to the keywords’home schooling’? Don’t look now—for porn purveyors have found their way into 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.”

“Central to the construction of this legislation is the Ginsberg case. This Court ruling upheld the constitutionality of a 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 interpreted the CDA to prohibit the broadcasting of a recording of a monologue entitled ‘Filthy Words.’ The Commission found that the use of certain words referring to excreatory or sexual activities or organs ‘in an afternoon broadcast when children are in the audience was patently offensive’ and thus inappropriate for broadcast.

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 address 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 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 many to mandate 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 precepts 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 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 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 the disconcerting 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.

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 exclusion 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 to the Ginsberg case than the New York statute.

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. 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.”

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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 context of question was 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 radio. 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 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 accountable federal agency and not by bureaucrats.

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 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 speech. As such, the Court found that the CDA imposed 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 protection of First Amendment speech would be, in the Opinion of the Court, that children generally do not have a clearly defined statute, enforced by the Justice Department, as opposed to a regulatory regime, which would be enforced by an accountable federal agency and not by bureaucrats.

As such, this legislation provides the benefit and flexibility of an evolving agency regulation, whereby 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 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 its space 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 concern regarding the spread of 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 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.

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. 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 un-naturally accelerates that development. 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.

As if the psychological threat of pornography does not present a sufficient compelling interest, a recent study by 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 adolescents since the mid-1980’s. One million American teenage girls become pregnant each year. A report entitled “Exposure to Pornography, Character and Sexual Development of Youth” by psychologist Dr. Richard W. Kinsey and Mr. Kenneth J. Kinsey notes that children’s sexual perspectives are rapidly becoming more sophisticated and Precocious, leading to their acquiring sex by age 12. This is a more developed sexual perspective than many college-age adults and is achieved with no knowledge of the physiological and emotional aspects of sex.

It tells in the words of Dr. Kinsey, and as pointed out in Enough is Enough, that exposure to hard-core pornography expands the child’s sexual perspective by providing them information on sexual activity that is harmful to minors.

Mr. President, it is now time that Congress responds.

February 13, 1997
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 a victim, and, as an instruction manual. Further, a W.L. Marshall 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 the home, and, by extension, the sanctity of childhood.

Innocence 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 the Court to support this legislation, and yield the floor.

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


THE BUSINESS OF PORNOGRAPHY

By Eric Schlosser

Most of the huge profits being generated by pornography today are being earned by businesses not traditionally associated with the sex industry. Johanna Storm, the vice president and chief executive, that the only barriers to entry are lack of a good lawyer. The availability of hard-core films is tied to 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.

During 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 movie theaters and brothels into the home. As a result, most of the profits generated by porn today are being earned by businesses not traditionally associated with the sex industry and pop video stores; by long-distance carriers like AT&T; by cable companies like Time Warner and Tele-Com; and by hotel chains like Marriott, Hyatt, and Holiday Inn that now reportedly earn millions of dollars each year supplying adult films to their guests. America’s porn has become one of its most 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 far more whose leading producer of porn, churning out hard-core, has the most prodigious rate of about 150 new titles a week.

Paradise universe. In the San Fernando Valley of Southern California, near Universal City and the Warner Bros. back lot, an X-rated movie factory, with its own studios, talent agencies, and stars, its own fan clubs and film critics. Perhaps three-quarters of the X-rated films that are produced in the United States today come from Los Angeles County.

In 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. Hollywood’s domestic box office receipts and larger than all the revenues generated by rock and country music recordings. 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 is higher than the combined market value of Hollywood’s domestic box office receipts and larger than all the revenues generated by rock and country music recordings. 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 is higher than the combined market value of Hollywood’s domestic box office receipts and larger than all the revenues generated by rock and country music recordings. 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 is higher than the combined market value of Hollywood’s domestic box office receipts and larger than all the revenues generated by rock and country music recordings. 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 is higher than the combined market value of Hollywood’s domestic box office receipts and larger than all the revenues generated by rock and country music recordings. 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 is higher than the combined market value of Hollywood’s domestic box office receipts and larger than all the revenues generated by rock and country music recordings. 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 is higher than the combined market value of Hollywood’s domestic box office receipts and larger than all the revenues generated by rock and country music recordings. 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 is higher than the combined market value of Hollywood’s domestic box office receipts and larger than all the revenues generated by rock and country music recordings. 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 is higher than the combined mark...
core films on home video have 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 video stores has also fallen, though not so precipitously. The bookstores are supported mainly by their peep booths, which at some locations now allow a customer to enter from behind a curtain and view porn 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 adult video market has fueled the growth of national chains like Blockbuster, which has put enormous pressure on mom and pop video stores. Faced with competition from superstores, video stores 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 perhaps $2 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. As the adult video store business grows, it becomes possible for each store to derive a third of their income from porn. According to Paul Fishbein, editor of Adult Video News, there are approximately 25,000 video stores in the United States that will each 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 almost 50 percent. The affordability 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 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 almost 50 percent. The affordability 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 economies of scale.

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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 to the industry. A number of performers insist upon the use of condoms during sex work. People who work doing this could in a matter of days spread the virus to many other performers. Because such an epidemic has not yet struck the porn community, one health official asks, "Is there 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 yet another set of anecdotes, Hartley has published a set of "Health and Hygiene Tips for Adult Performers."

Attempts to form unions 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 business is a "cage of exploitative, dehumanizing labor."

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. These "stars" are paid $1,000 per scene. At the other end of the scale, the vast majority of 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, one shoot is an oversupply of women in the business. Hartley points out that five or six years ago, someone could have been sure of a job in the business. But now, "people are too choosy."

Today, the vast majority of performers earn $8,000 to $15,000 a week. Featured dancers are now paid, for the most part, according to their popularity. Still, "the bulk of the performers earn a living selling their bodies on 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, a captured million on art, makes 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. He has already shot 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 $30 for every tape used, or 50% of 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, and attended prep schools in New Canaan and Kent. Lake and his wife, Alyssa, and heroine, home. They are a couple of the 2,500 of these clubs nationwide, with annual revenues in excess of $2 billion. Stripper magazine, a publication which some 1,000 clubs subscribe to, has a circulation of 50,000.
what they see is real. Flynt may soon cross
the line and make Hustler hard core. His at-
torneys are not pleased with the idea. But
Flynt is beginning to think about his legacy.
The Supreme Court's 1988 decision to re- 
clude in the Ruiz v. Jerry Falwell extended consti-
tutional protection to political satire. The ini-
dee who once cursed the Supreme Court now
seems to be at home in his power. He has tried
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
money I could make would make an end to the
obscenity laws."
Flynt predicts that if the obscenity laws are
repealed, there will be a flood of hard-core
material sold in the United States will sky-
rocket—but not for long. Once the taboo is
lifted, once porn loses the aura of a forbidden
vice, consumer interest in it will fade. In 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
advocate of the National Law Center for Chil-
dren and Families, one of the leading sup-
porters of the Communications Decency Act
and the provision banning information on
abortion from the Internet. Taylor thinks that
if obscenity laws were lifted, there would be
an unmitigated disaster. Taylor opposes
hard-core porn because, he says, it degrades
women and thrives on traditional sub-
classification—hiring people to have sex. He
thinks most soft-core porn should be out-
lawed 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 self-evident as Flynt thinks. 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 In-
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one IE supports. Some might argue that their sites contain
no objectionable content and thus don't need
either the rule, or whatever argument doesn't wash, how-
ever, because to be safe those wishing to limit access to potentially unsuitable pages
will choose the option of having the browser block unsuitable pages. For even the best-be-
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affirmation of core First Amendment principles and held that communications over the Internet deserve the highest level of Constitutional protection; and

Whereas, The most fundamental holding is that communications on the Internet deserve the same level of Constitutional protection as books, magazines, newspapers, and speakers on the podium; and

Whereas, 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 States Constitution and federal law and may lead to legal exposure for the library and its governing authorities; now, therefore, be it

Resolved by the American Library Association 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. 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"? 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 engines and use keywords like "sex" and "XXX." But 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. As one pornographer in-creasingly 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 "SEXESEXEXSEXEX." If a search engine spits out a list with "sex," the searches look 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 to e-mailing cloakroom staff- ers recently deleted porn pages from the index that were labeled with words like "Tyrone, Mars, and home schooling—appar- ently the site's 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.

Nowhere is the competitive model more visible 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 com- petition in the electricity industry. And that's just the beginning 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 com- petition in the electricity industry. And that's just the beginning 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.

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 wit- nesses. 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 utilities 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 ordered. 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 effec- tively 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 retro- actively taxable.

These concerns have been echoed by the FERC. For example, in FERC Order No. 888, the Commission stated that recipro- cation transmission service by a munic- ipal 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 certificate under section 211 of the Federal Power Act.

Mr. President, if consumers and busi- nesses are to maximize the full benefits of open competition in this industry it will be necessary for all electricity pro- viders to interconnect their facilities into the entire electric grid. Unfortunately, this system efficiency is sig- nificantly impaired because of current tax laws that effectively preclude public power entities—entities that fi- nanced their facilities with tax-exempt bonds—from participating in State open access restructuring plans and Federal transmission programs, with- out jeopardizing the exempt status of their bonds.

No one wants to see bonds issued to finance public power become retro- actively taxable because a municipi- ality 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 sub- sidy 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 com- petitive marketplace without severe economic dislocation for municipali- ties and consumers.

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

My bill removes the current law im- pediments to public power's capacity to participate in open access plans if such entities are willing to forego fa- vors of federal subsidized tax-ex- empt financing. If public power entities make this election, and choose to com- pete on a level playing field with other power suppliers, tax-exemption of the interest on their outstanding debt will be required. They would need an extended period during which out- standing 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 genera- tion, transmission, and distribution fa- cilities.
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 discount 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 a 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, and Louise St. Germaine, the Committee on Labor and Human Resources.

By Mr. BINGAMAN: Senate 1941. A bill to increase the number of qualified teachers: the Quality Teacher in Every Classroom ACT OF 1997

Mr. BINGAMAN. Mr. President, I rise today to introduce the Quality Teacher in Every Classroom Act of 1997.
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 I meet teachers, an enthusiastic 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 is much higher, and in other States over half the math teachers lack even a minor in math.

This next chart 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 can learn as much as possible. That’s why it’s so 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 teaching 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.

Second, 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 unlicensurees, teachers as well as school 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 to teaching candidates, including graduating more students who will pass their 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 country’s 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 initiatives of agencies that are promoting for many years: rigorous standards, constructive support for those who
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 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 trained 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 IV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 881 et seq.) is amended by adding at the end the following:

SEC. 500A. MINIMUM TEACHER TRAINING STANDARDS.
(a) GENERAL REQUIREMENT.—Any institution of higher education that receives, directly or indirectly, any funds appropriated under 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
(2)B demonstrate to the Secretary that at least 90 percent of the graduates of such institution who enter the field of teaching and complete their first attempt, the State teacher certification or licensure examination with standards required by the State for 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 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. 1071) is amended—
(1) in the section heading, by striking the period at the end of the heading and inserting a colon and “LOAN FORGIVENESS FOR TEACHING.”;
(2) by amending the heading for subsection (c) to read as follows—“SUBJECT TO SCHOOL CLOSURE OR FALSE CERTIFICATION.”;
(3) by adding at the end thereof the following new subsection:
(4) in paragraph (1), by striking “cancellation of loans for teaching” and inserting “cancellation of loans for teaching”.
(5) in paragraph (2), by striking “(B) any teacher who meets the standards set forth in paragraph (1)” and inserting “(B) any teacher who meets the standards set forth in paragraph (1)”.
(6) in paragraph (3), by striking “a loan” and inserting “a loan”.
(7) by amending paragraph (4) to read as follows—“Attorney General.—The Secretary shall—
(1) notify the borrower—
(A) of the amount owed on the loan, to the extent specified in paragraph (3); and
(B) of the manner in which the borrower may discharge the loan by applying due and satisfaction.
(8) by amending paragraph (5) to read as follows—“To be eligible to receive funds under this Act, each State shall ensure that—
(1) the minimum qualifications required by the State for teacher certification or licensure examination; and
(2) the minimum qualifications required by the State for teacher certification or licensure examination.”.
(9) in subsection (d), by amending the heading for paragraph (1) to read as follows—“AMOUNT OWED ON THE LOAN.”
(10) by amending paragraph (2), by striking “ concludes a bona fide commitment to demonstrate measurable progress toward, meeting the requirements of subsection (a)” and inserting “ concludes a bona fide commitment to demonstrate measurable progress toward, meeting the requirements of subsection (a)”.

SEC. 500. 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 under 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
(2)B demonstrate to the Secretary that at least 90 percent of the graduates of such institution who enter the field of teaching and complete their first attempt, the State teacher certification or licensure examination with standards required by the State for teacher certification or licensure.

SEC. 201. ENSURING A QUALIFIED TEACHER IN EVERY CLASSROOM.
Part E of title IV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 881 et seq.) is amended by adding at the end the following:

 SEC. 14515. TEACHER QUALIFICATIONS.
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 demonstrate measurable progress toward, meeting the requirements of subsection (a)."
the National Board for Professional Teaching Standards, Advanced Placement Institutions 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 complete academic year of such service, which amount shall not exceed $7,500; and

(ii) 25 percent for the third complete year of such service, which amount shall not exceed $10,000; 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 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 CANCELLED 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 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 this section, the term 'year' where applied to the academic year 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

(i) 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; or

(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

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

PART G—BEGINNING TEACHER RECRUITMENT AND SUPPORT

TITLE V—BEGINNING TEACHER RECRUITMENT AND SUPPORT

SEC. 501. PROGRAM ESTABLISHED.

Title V of the Higher Education Act of 1965 (20 U.S.C. 1191 et seq.) is amended by adding at the end the following:

"PART G—BEGINNING TEACHER RECRUITMENT AND SUPPORT

SEC. 500A. 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—

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

(ii) one or more nonprofit organizations, including institutions of higher education—

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

(ii) that has expertise and a demonstrated record of success, either collectively or individually, in providing teachers who meet the requirements of section 500A (as added by section 301 of the Quality Teacher in Every Classroom Act) 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

(iv) that are 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; and

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

(b) Establishment of Grants.—In order to receive funds under this part, a partnership shall submit—

(1) a proposal to the Secretary that—

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

(B) 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 to 12th grade students; and

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

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

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

(c) Criteria.—

(1) In General.—The partnership shall select a participant according to criteria described to—

(A) attract highly qualified individuals to teach in those schools; 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—

(A) the number of beginning participants who have completed at least one year of 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.

(d) 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 participants 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) 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 teaching skills necessary to teach effectively in the school district where the participants are assigned to teach; and

(4) 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.

(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.

(c) General.—In order to receive funds under this part, a partnership shall submit—

(1) a proposal to the Secretary that—

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

(2) are not subject to a waiver under section 599A(a)(2)(B).

(d) 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 NON-RECIPIENT NON-BILINGUAL SCHOOLS.

Nothing in this Act or any amendment made by this Act shall be construed to permit, allow, encourage, or authorize any Federal financial assistance, or 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., 6601 et seq.), to—

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

(b) 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.

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 preservation of 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 Suzzallo, 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 contributions that make it ideal—attributes, the construction and the like, needed to consolidate the Library’s collection in a single, efficient facility for preservation, storage, and access. That facility in Culpepper, VA, is accessible and it is accessible 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 way 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 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, the gift might not be available at the time the Congress works on this 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. And so, 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 Aleut 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 the Pacific command 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, the harsh realities of 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 Aleutians, although stark and desolate to some, are the central home to the shareholders of the Aleut Corp. This legislation will allow Adak’s natural constituencies, the Aleut people, to rehabit 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 islands closest to the islands near 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 good 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. 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 transshipment, refining and reproduction 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 examination 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 examination of this legislation and 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. 1499. 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, especially those who seek the 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 use outfitted services and quality professional services will be available 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, the bill seeks to enhance policies and 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 traditions of service are continued and enhanced.

When I introduced similar legislation, S. 2194, at the conclusion of the 104th Congress, I did 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 outfitter and guiding services. S. 2194 provided an 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 continued 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 I look forward to working 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 a result, 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 is not 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 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 Tribal 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 child care centers. In the decade since the Tribal 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 and adequate 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 provider 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 agencies requiring 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 been difficulties with Federal facilities ignoring 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 enforcing?

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—with, 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 accreditation 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 centers 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.
The Act may be cited as the “Quality Child Care for Federal Employees Act”.

SEC. 2. DEFINITIONS.
In this Act:
(1) **ACREDITED 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 to provide such a center to children in the State (except children who by a tribal organization elects to serve through a center described in subparagraph (B));
(B) a center, 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 178(b)(1) of title 10, United States Code).

(2) **CHILD CARE CREDENTIALING OR ACCREDITATION ENTITY.**—The term “child care credentialing or accreditation entity” means—
(a) a nonprofit private organization or public agency that—
(i) is recognized by a State agency or tribal organization; and
(ii) accredits a center or credits 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 658(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) 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
(iv) criteria that provide assurances of—
(I) compliance with health and safety standards at the center or by the individual;
(II) use of age-appropriate educational and 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 skill-based testing.

(3) **ACREDITED CHILD CARE PROFESSIONAL.**—The term “accredited child care professional” means—
(A) an individual who 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 by a tribal organization elects to serve through an individual described in subparagraph (B)); and
(B) an individual who 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.

(4) **STATE.**—The term “State” has the meaning given in the section in title 15, 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” means—
(A) a facility that is owned or leased by an Executive agency; and
(B) includes a facility that is owned or leased by an Executive agency (other than a facility that is also a facility described in paragraph (4)(B)).

(5) **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)).

(6) **JUDICIAL OFFICE.**—The term “judicial office” means an entity of the judicial branch of the Federal Government.

(7) **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 local government does not license executive facilities, comply with the standards issued by 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 center shall include a condition that the child care be provided by an entity that complies with the applicable State and local licensing requirements related to the provision of child care.

(8) **HEALTH, SAFETY, AND FACILITY STANDARDS.**—The Administrator shall by regulation establish standards relating to health, safety, and facility requirements related to the provision of child care.

(9) **EFFECT OF NONCOMPLIANCE.**—Not later than 6 months after the date of 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; and
(II) develop and provide to the Administrator a plan to correct any other deficiencies that are determined by the Administrator to be life threatening or to present a risk of serious bodily harm; and
(ii) if the entity operating the child care center is a contractor or licensee of the Executive 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; and
(II) develop and provide to the Administrator a plan to correct any other deficiencies that are determined by the Administrator to be life threatening or to present a risk of serious bodily harm; and
(iii) notify 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
(iv) 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 the closure and
(v) if the entity operating the child care center is a contractor or licensee of the Executive 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; and
(II) require the contractor or licensee to develop and provide to the head of the agency to correct any deficiencies in the operation of the center and bring the center and entity into compliance with the

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

(a) DEFINITION.—In this section:

(1) **CONTRACTOR.**—The term “contractor” 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 provide child care for children who are in—
(III) a facility that is owned or leased by an Executive agency; and
(IV) a facility that is owned or leased by a judicial office.

(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).

(i) **EXECUTIVE FACILITY.**—The term “executive facility” means—
(A) a facility that is owned or leased by an Executive agency; and
(B) includes a facility that is owned or leased by an Executive agency (other than a facility that is also a facility described in paragraph (4)(B)).

(ii) **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)).

(iii) **JUDICIAL OFFICE.**—The term “judicial office” means an entity of the judicial branch of the Federal Government.

(iv) **STATE AND LOCAL LICENSING REQUIREMENTS.**—
(A) **IN GENERAL.**—Any entity sponsoring an executive facility shall—
(i) obtain the appropriate State and local licenses for the center; and
(ii) in a location where the State or local government does not license executive facilities, comply with the standards issued by 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 center shall include a condition that the child care be provided by an entity that complies with the applicable State and local licensing requirements related to the provision of child care.

(C) **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.

(D) **ACCREDITATION STANDARDS.**—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.

(E) **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 in-
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 written 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 with the requirements; and

(V) in the event that deficiencies determined by the Administrator to be life threatening or to present a risk of serious bodily harm are not corrected within 3 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.

(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 agency using an executive agency, and otherwise using a reimbursement similar to reimbursement 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.

(d) 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 described in paragraphs (1), (2), (3), and (4), respectively, of section 2201 of the Act. The Architect of the Capitol shall, in consultation with the House Oversight Committee, develop and coordinate policy, regarding the provision of child care in the Federal Government.

(2) EVALUATION AND COMPLIANCE.—

(A) DIRECTORIAL OFFICE OF THE UNITED STATES COURTS.—The Director of the Administrative Office of the United States Courts shall include regulations in the policies and procedures of the Federal Judiciary to provide for the implementation of the requirements and standards described in paragraphs (2), (3), and (4) of subparagraph (b) 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 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.

(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 head of the Executive agency, in consultation with the head of the Architect of the Capitol, shall provide that a modification of such regulations would be more effective for the implementation of the requirements and standards described in paragraphs (1), (2), (3), and (4), respectively, of section 2201 of the Act. The Architect of the Capitol shall, in consultation with the House Oversight Committee, develop and coordinate policy, regarding the provision of child care in the Federal Government.

(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, for Executive agencies, and entities sponsoring child care centers in legislative facilities, respectively, on a reimbursable basis, in order to assist the entities in complying with this section. The Administrator shall establish procedures for the provision of such technical assistance, and conduct and provide the results of such studies and reviews, for Executive agencies, and entities sponsoring child care centers in judicial facilities, respectively, on a reimbursable basis, in order to assist the entities in complying with this section.

(g) COUNCIL.—The Administrator shall establish a council, comprised of all Executive agencies described in subsection (e), a representative of the Office of the Architect of the Capitol, and a representative 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 Service 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 Government, 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 designed to provide a 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 consequences for 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 this increased Federal tobacco tax will 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 percent 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 biomedi research to solve the scientific mysteries of the most severe diseases and disorders. If we stand on the threshold of extraordinary medical breakthroughs 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 unique 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 the taxes 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. 201. Definitions.

Subtitle A—Public Health and Education Programs

Sec. 211. Payments to States.
Sec. 212. Public health programs.
Sec. 213. Biomedical research and child development investments.
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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;
TITLE I—AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT RELATING TO TOBACCO

SEC. 101. PUBLIC HEALTH AND EDUCATION PROGRAMS AND TOBACCO CONTROL

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.**

(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 paper 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 or between any State and 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 C5H5N (1-Methyl-2-pyrrolidinyl)pyridine, C8H8N2O, 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 a 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(b) 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 is composed of a tobacco product that contains tobacco 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 territory or possession of the United States.

(22) Tobacco.—The term ‘tobacco’ means tobacco in its unmanufactured form.

(23) 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) 3 percent of the net increase in revenue 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) for 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 cases of smoking, 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 fiscal year in which the amount determined under subsection (a)(i) exceeds the limitation under subsection (a)(ii), 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 defined in section 1904(d)(3) of the Social Security Act (42 U.S.C. 1396a(b)) expeditures by the State for the preceding fiscal year.

(2) Required Use.—With respect to the amount determined under paragraph (1) 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 one or more of the following programs:

(A) An Early 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. 170a).

(F) The special supplemental food program under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1701).

(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. 1515 et seq.).

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

(J) State initiatives 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 out-
post outreach workers into Federally funded early intervention and assistance programs to ensure 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;

(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) Federal requirements.—The requirements of the respective provisions of law described in paragraph (2) shall apply to any funds made available under this subsection and any program or project under 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 in addition and not to replace 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 as an overpayment under section 1903 of the Social Security Act (42 U.S.C. 1396b). Any such overpay-ments shall be recovered from the State under subsection (a)(2) in proportion to the amount the State originally received under this section.

SEC. 2825. 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 previous fiscal year 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 previous fiscal year for all urban consumers (all items; U.S. city average);

(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 programs.—

(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 and prevention 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 1999, $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 2000, $100,000,000, 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);

(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 Public Health Service to carry out block grants under title II of the Public Health Service Act and to develop and evaluate strategies to prevent the initiation of tobacco use and assist States in providing prevention activities to infants and young children.

(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.—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, $215,000,000, increased for each 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, $240,000,000, increased for each such fiscal year by an amount equal to the increase in the Consumer Price Index for fiscal years 1998 through 2000 for all urban consumers (all items; U.S. city average);

(iv) for fiscal year 2001, $325,000,000, 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 each of the fiscal years 2002 through 2008, $825,000,000, 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 prior to the fiscal year for which the determination is being made for all urban consumers (all items; U.S. city average).

SEC. 2823. 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 5 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 10 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—

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

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

(C) $300,000,000 for fiscal years 2001 through 2002.

(b) Amendments.—With respect to amounts under subsection (a), 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 year has increased as compared to the amount appropriated for such fiscal year in the previous fiscal year.

(c) 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, or development, and medicine; and

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

(i) 1 shall be the Secretary; and

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

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

(c) Vacancies.—

(1) FILLING UNEXPIRED TERM.—An individual appointed to 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.

(2) PROCURATION OF TEMPORARY AND INTERMITTENT SERVICES.—The Board may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, for any Federal employee or employee of the United States on leave without pay who is performing services for the Board.

(3) POWERS.—The Board shall have the power to enter into contracts with eligible entities under section 2802 for the expansion of basic and biomedical research and to provide training for graduate students with respect to such research.

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

(e) Meetings and Quorum.—

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

(2) Quorum.—A quorum of the members of the Board shall be comprised by the Chairperson and any other members of the Board present.

(f) DELEGATION.—The Board, with the consent of the Chairperson, may delegate any or all of its functions and powers to the Director of the National Institutes of Health, or to the head of any other Federal department or agency.

"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 the National Cancer Institute, National Heart, Lung, and Blood Institute, and the National Institute of Neurological Disorders and Stroke);

(2) the National Science Foundation (including the National Institutes of Health and the National Institute of General Medical Sciences);

(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 Director of the National Institutes of Health.

(b) Eligible Activities.—Grants may be made for the following purposes:

(1) Programs of postdoctoral fellowships for individuals in the fields of the biological sciences and medical sciences;

(2) Programs of student loan forgiveness for individuals in the fields of the biological sciences and medical sciences;

(3) Programs of career development awards for individuals in the fields of the biological sciences and medical sciences; and

(4) Programs of postdoctoral fellowships for individuals who do not possess a doctoral degree but whose training experience is deemed to be at least equivalent to that of a doctoral graduate.

(c) Amounts Available.—The sums available for grants or contracts under this section shall be—

(1) $15,000,000 for the fiscal year 1999;

(2) $25,000,000 for each of the fiscal years 2000 and 2001;

(3) $30,000,000 for each of the fiscal years 2002 through 2007; and

(4) $35,000,000 for each of the fiscal years 2008 through 2012.

(d) Term.—The term of the Board shall be 6 years; and

(e) Vacancies.—

(1) IN GENERAL.—A vacancy on the Board shall be filled by the President, by and with the advice and consent of the Senate, by a member of the Board designated by the President, and by appointment by any other person who shall hold office until the expiration of the term of the person so designated or until the person so designated shall cease to hold office.

(2) FILLING VACANCIES.—Not later than 30 days after the date on which the President is notified that a member has vacated the position of such member, the President shall appoint a member of the Board to fill the vacancy for the unexpired term of such member.

(f) Term of Members.—

(1) IN GENERAL.—A member of the Board shall hold office until the expiration of the term for which such member was appointed or until a successor shall have been appointed and qualified or until such member shall resign or be removed from office.

(2) REMOVAL.—Any member of the Board may be removed by the President with the advice and consent of the Senate or, with respect to any member appointed as a member of the Board by the President, with the advice and consent of the Senate or the House of Representatives if such member shall fail to perform the duties of such member.

(3) COMPENSATION.—Each member of the Board shall be paid such compensation as is prescribed by law, but no member of the Board shall receive any compensation for serving as a member of the Board.

(4) AVAILABILITY OF FUNDS.—The amounts made available by this section shall be available in an amount equal to the amount appropriated to the Board under subsection (a) of section 2821(f) for the performance of services for the Board.

(5) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Board may fix the compensation of the Chairperson and other personnel without regard to the provisions 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 5313 of title 5.

(6) FUNDS.—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.

(7) 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, for any Federal employee or employee of the United States on leave without pay who is performing services for the Board.

(8) POWERS.—The Board shall have the power to enter into contracts with eligible entities under section 2802 for the expansion of basic and biomedical research and to provide training for graduate students with respect to such research.

(9) DELEGATION.—The Board may delegate all or a portion of grant making authority under subsection (f) to the Secretary, the Director of the National Institutes of Health, or such other person or entity as the President may designate.

(10) AVAILABILITY OF FUNDS.—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 such fiscal year are—

(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.

(11) AVAILABILITY OF FUNDS.—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 year shall be—

(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.

(12) AVAILABILITY OF FUNDS.—Funds made available for use under this part shall be used to supplement and not supplant other funds appropriated to the entities described in subsection (b). 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.

(13) BUDGET AND APPROPRIATIONS.—The sums made available under this section shall be available to carry out this section.
“(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 the program.

“(6) Such other grants of programs and contracts as the Board determines will contribute to increasing the supply of high-quality health and educational researchers.

“(c) FUNDING.—The Board shall use 50 percent of the amount made available for a fiscal year under section 2812 to carry out this subpart in each 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) 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, and placing students in early childhood development and care, which may include grants to institutions, scholarships, and programs of loan work forgiveness; and preserving and inservices 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 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 50 percent of the funds allocated for use under this section as follows:

“(i) 10 percent to expand the Early Head Start program under section 695A of the Head Start Act (42 U.S.C. 9801) to increase the availability and responsiveness of quality child care for children of working families from birth through the school age, including children with disabilities.

“(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 the 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 the availability 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.

“(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. 658B 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 national voluntary standards for child care and developmental 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 children's health and academic achievement and to help in avoiding high risk behaviors. Eligible entities for grants under this clause shall include early childhood development programs to support undergraduate and graduate training programs to expand the early childhood development workforce by recruiting, training, and placing students in early childhood development and care, which may include grants to institutions, scholarships, and programs of loan work forgiveness; and preserving and inservices training programs to enhance the quality of the existing child care workforce.

“(d) FUNDING.—The Board shall use 50 percent of the amount made available for a fiscal year under section 2812 to carry out this subpart in each fiscal year.

**PART 2—PUBLIC HEALTH PROGRAMS**

**SEC. 2825. RESEARCH, COUNTER-ADVERTISING, AND CDC PROGRAMS.**

“(a) RESEARCH.—The Secretary shall establish a research program to prevent tobacco product use cessation options that are tailored to the demographic, behavioral, and physical characteristics of tobacco users, if requested, are provided with reasonable access to safe and effective cessation programs and devices. Such programs 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 programs shall be designed to ensure that such individuals have access to a broad range of cessation options that are tailored to the needs of the individuals.

“(b) COUNTER-ADVERTISING.—The Secretary shall establish a national tobacco usage reduction and education program 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) to increase 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) 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)(i); or

"(V) for any other purposes determined appropriate by the State; and

"(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) the 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 shall include—

"(1) 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;

"(2) 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

"(3) 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 in an 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 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 tobacco products through the imposition of additional financial deterrents relating to tobacco products if certain underage tobacco use reductions are achieved.

"SEC. 2832. CHILD TOBACCO USE SURVEYS.

"(a) ANNUAL PERFORMANCE SURVEY.—Not later than 1 year after the date of enactment of this title, the Secretary shall conduct a survey to determine the number of children who use 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 use of tobacco products, the Secretary may, for informational purposes only, add additional measures to the survey conducted 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-your-own tobacco products.

"SEC. 2833. REDUCTION IN UNDERAGE TOBACCO PRODUCTS 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 the tobacco products manufactured by that manufacturer is equal to or less than the de minimis level.

"(b) ADDITIONAL MEASURES.—In order to increase the use of tobacco products, the Secretary may, for informational purposes only, add additional measures to the survey conducted 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.

"(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 for 1998.

"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 and distributed for consumer use in the following 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 Sever 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 for 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 payable 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 cancer 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) Enforcement.—Nothing in this subtitle shall be construed as prohibiting a manufacturer from using the imposition and collection of noncompliance fees to be applied under this section.

(c) Remedies.—If any employee or former employee who believes that he has been discharged, demoted, or otherwise discriminated against in violation of section 7805(a) of title 29, or 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—

(1) may institute a civil suit in the term ‘child’ means, except as provided in section 2323(b), an individual who is under the age of 18 years;

Subtitle D—Miscellaneous Provisions

SEC. 2841. WHISTLEBLOWER PROTECTIONS.

(a) Prohibition of Retaliation.—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 bring 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) with knowledge or reckless disregard 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 establish 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 of the National Tobacco Document Depository in a manner designed to provide a public facility to which 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 Gulf Repository of the United Kingdom); and

(B) public health organizations; and

(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, studies of the smoking habits of minors, and the relationship between advertising and promotion and smoking, that are described in subsection (b) have not completed producing as required in the actions described in paragraph (1).

(2) Within 90 days after the date of the establishment of the Depository, any exiting documents discussing or referring to health research, addiction or dependence, safer or less hazardous cigarettes, studies of the smoking habits of minors, and the relationship between advertising and promotion and smoking, that are described in subsection (b) have not completed producing as required in the actions described in paragraph (1).

(d) Contents.—The Depository shall include (and manufacturers and the Tobacco Institute and the Council for Tobacco Research, U.S.A. shall provide)

(1) all existing and future documents relating to indices (as defined by the court in the cases 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 or dependency, safer or less hazardous cigarettes, studies of the smoking habits of minors, and the relationship between advertising and promotion and smoking, that are described in subsection (b) have not completed producing as required in the actions described in paragraph (1));

(2) within 30 days of the date of the establishment of the Depository, all documents relating to indices (as defined by the court in the cases 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 or dependency, safer or less hazardous cigarettes, studies of the smoking habits of minors, and the relationship between advertising and promotion and smoking, that are described in subsection (b) have not completed producing as required in the actions described in paragraph (1)).

(3) all existing and future documents relating to original laboratory research concerning the health or safety of tobacco products, including all documents produced in 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.

(e) 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 6 months after the date of enactment of this title, provide documents to the Depository in accordance with this section.

(f) Finding.—The entities described in paragraph (2) 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, studies of the smoking habits of minors, and the relationship between advertising and promotion and smoking, that are described in subsection (b) have not completed producing as required in the actions described in paragraph (1).
individual will challenge the claim of privilege, that the entities described in section (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 adults referring to any relationship between advertising and promotion and underage smoking; and

“(8) all other documents determined appropriate by 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 determination of the Panel established under paragraph (1) shall be based on—

“(A) the American Bar Association/American Law Institute Model Rules or the principles 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 determine 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 preserve to the individual filing a challenge to such a claim need not make a prima facie showing of any 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.

“(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, 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 the tobacco industry and shall be construed as not establishing any 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 provide to the Board a copy of all documents in the manufacturer’s possession:

“(A) relating to tobacco advertising, marketing, and trade activities; or

“(B) revealing the cause or consequence of any adverse health effects, including addiction, caused by the use of tobacco products; or

“(C) disclosing the manufacture or control of nicotine in tobacco products; or

“(D) the sale or marketing of tobacco products to children; or

“(E) produced, or ordered to be produced, by the tobacco manufacturer in the case enlisting the provisions of the American Bar Association/American Bar Association/American Law Institute, Inc., Civil Action No. CI-94-8565 (Ramsey County, Minn.) including attorney-client and other documents produced or ordered to be produced for the Board.

“(2) Disclosure by the Board.—Not later than 6 months after the date of the enactment of this title, and as otherwise required by the Board, the Board shall disclose to the public the documents submitted under paragraph (1).

“(d) 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.

“(e) Investigation and Annual Reports.—The Board shall investigate all matters relating to the tobacco industry and shall submit an annual report to Congress 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 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.

“(f) Authority.—The Board, any member of the Board, or staff member of the Board by the Board may hold hearings, administer oaths, issue subpoenas, 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.

“(g) 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 for such investigation, except to the extent that a constitutional privilege protects the tobacco manufacturer from complying with such requirement.

“(h) 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.**

“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, penalties or other measures required by 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 consumption taxes or impose tax limitations or tax credits to 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 or Act if the Secretary determines that such modifications, alternatives, 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 of this Act, or an amendment to, or repeal of, a section or other provision of any other 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, penalties or other measures required by this title or Act.
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). The Act would regulate the manufacture, labeling, sale, distribution, and advertising of tobacco products.

SEC. 203. TREATMENT OF TOBACCO PRODUCTS AND DEVICES.

(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:

“(11) The term ‘nicotine’ means the chemical substance containing nicotine (other than any salt or complex of nicotine.”.

“(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 509(g)(1) (21 U.S.C. 359(g)(1)) is amended by inserting “(including any tobacco product)” after “products” the first place such term appears.

(d) CLASS II DEVICES.—Section 515(a)(1)(B) (21 U.S.C. 360c(a)(1)(B)) is amended—

(1) by striking “(1) A device” and inserting “(1) A device and”;

(2) by adding at the end the following: “Tobacco products shall be categorized as Class II devices.”.

“(i) The sale of tobacco products to adults that comply with Performance Standards established for tobacco 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. 354(a)) is amended—

(1) in paragraph “(A)” and inserting “(A)”; and

(2) by redesigning 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 health risks to consumers 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 smoking into account all factors that the Secretary determines to be relevant;

“(ii) shall, where necessary to provide a re- duction in the overall health risks to the public, include—

“(D) the level of certain contaminants contained in such products.”.

SEC. 204. GENERAL HEALTH AND SAFETY REGULATION OF TOBACCO PRODUCTS.

The Act (21 U.S.C. 381 et seq.) is amended—

(1) by redesignating chapter IX as chapter X;

(2) by redesigning sections 901, 902, 903, 905, 936 as sections 901, 902, 903, 904, and 905, respectively; and

(3) by adding after chapter VIII the following new chapter:

“CHAPTER IX—TOBACCO PRODUCTS

SEC. 901. DEFINITIONS.

The 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.

The purpose of this chapter is to impose a regulatory scheme applicable to the development and manufacturing of tobacco products. Such scheme shall include—

(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 imposition of standards to reduce the level of certain contaminants contained in such products, including nicotine.
SEC. 903. PROMULGATION OF REGULATIONS.

(1) The Commissioner shall promulgate regulations governing the misbranding, adulteration, and dispensing of tobacco products that are covered by this chapter and 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 32 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 product is not in compliance with the provisions of this chapter.

(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 product or 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 Committee, 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 V of the Executive Schedule under section 5302 of title 5, United States Code, for each day (including travel time) 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); and

(2) examine and determine the effects of the alteration of the nicotine yield levels in tobacco products, the manner in which reduction levels are determined, and the manner in which such reductions are determined.

(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 risk of tobacco products as determined appropriate by the Secretary.

SEC. 906. REQUIREMENTS RELATING TO NICOTINE AND OTHER CONSTITUENTS.

(a) General Authority.—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 will serve in furtherance of its duties and responsibilities under this chapter.

(c) DEVELOPMENT OF REDUCED RISK TOBACCO PRODUCTS.—Prior to the Secretary promulgating any regulation under subsection (a), the Secretary shall—

(1) adopt a performance standard under section 514(a)(3); and

(2) review other safety, dependence or health risk of tobacco products as determined appropriate by the Secretary.

(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 manufacturer of a tobacco product that is 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 Secretary shall promulgate regulations to provide for the pay-
"(b) MINIMUM REQUIREMENTS.—The regulations promulgated under subsection (a) shall at a minimum require—

(1) the implementation of a quality control program by the manufacturer of a tobacco product;

(2) a process for the inspection, in accordance with this Act, of tobacco product material used by the manufacturer in the manufacture of the finished tobacco 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 manufactured in 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 to grant 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 tobacco product to be granted the variance under the petition as may be necessary to meet the terms of the proposed variance and to ensure that the product will comply with this chapter.

(2) REQUIREMENTS.—The list described in paragraph (1) 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 product (and the paper or filter of the product if applicable) in the manufacture of the tobacco product, for each brand of tobacco product manufactured by the manufacturer, and

(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; and

(ii) for each tobacco product, measured in milligrams of nicotine—

(1) expressed as a percentage of the weight of the tobacco; and

(2) with respect to unprocessed (free) nicotine, expressed as a percentage per gram of the tobacco expressed in milligrams per gram of the tobacco; and

(F) a description of the nicotine content determined appropriate by the Secretary.

(b) SAFETY ASSESSMENTS.—

(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 each tobacco product in the possession of the Administrator of Agriculture of the Agriculture Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) and the Agricultural Act of 1949 (7 U.S.C. 1411 et seq.) in excess of the regulatory burdens generally placed on agricultural commodity producers.

SEC. 909. DISCLOSURE AND REPORTING OF NON-INGREDIENTS AND CONSTITUENTS.

(a) DISCLOSURE OF ALL INGREDIENTS AND CONSTITUENTS.

(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 include—

(A) a list of all ingredients, constituents, substances, and compounds that are added to the tobacco product (and the paper or filter of the product if applicable) in the manufacture of the tobacco product, for each brand of tobacco product manufactured by the manufacturer, and

(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; and

(ii) for each tobacco product, measured in milligrams of nicotine—

(1) expressed as a percentage of the weight of the tobacco; and

(2) with respect to unprocessed (free) nicotine, expressed as a percentage per gram of the tobacco expressed in milligrams per gram of the tobacco; and

(F) a description of the nicotine content 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 of a tobacco product shall submit to the Secretary a safety assessment of new ingredients, constituents, substances, or compounds 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) SAFETY ASSESSMENTS.—For purposes of subparagraph (A), the term ‘new ingredient, constituent, substance, or compound’ means an ingredient, constituent, substance, or compound that was the subject of a petition for variance (a)(1) that was not used in the brand of tobacco product involved prior to the date of enactment of this chapter.

(c) P ETITIONS FOR EXEMPTIONS AND VARIANCES.

(1) IN GENERAL.—Any person subject to any requirement prescribed by regulations under subsection (a) may petition the Secretary to grant 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 tobacco product to be granted the variance under the petition as may be necessary to meet the terms of the proposed variance and to ensure that the product will comply with this chapter.

(b) SAFETY ASSESSMENTS.—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—

(1) the date the petition was submitted to the Secretary under paragraph (1); or

(2) 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 a petition—

(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 determined appropriate by the Secretary are sufficient to ensure that the product will comply with this chapter.

(b) SAFETY ASSESSMENTS.—In the case of a petition under subsection (a) the Secretary 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 meet the terms of the variance and to ensure that the product will comply with this chapter.

(d) INFORMAL HEARING.—After the issuance of an order under paragraph (2) requiring the manufacturer to cease using a tobacco product, the petitioner shall have an opportunity for an informal hearing on such order.

(e) DISCLOSURE OF INFORMATION.—The Secretary, within 60 days after—

(1) the date on which the petition described in paragraph (1) is received; or

(2) if the petition was referred to the Scientific Advisory Committee, the expiration of the 60-day period beginning on the date of receipt of the petition, the petition shall be published in the Federal Register.

(f) RECORD KEEPING.—The Secretary shall maintain a record of all information submitted to the Secretary under this section and shall make such record available to the public upon request.

(g) OPEN MEETINGS.—The Secretary shall provide notice to the public of all meetings held under this section and shall provide opportunity for public participation in such meetings.

(h) DISCLOSURE OF INGREDIENTS TO THE PUBLIC.—

(1) INITIAL DISCLOSURE.—The regulations promulgated in accordance with section 909 shall provide 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) 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 in accordance with such regulations when the labeling of the package of such product does not disclose, with respect to the tobacco contained in the product, 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 the date of the 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, constituent, 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, constituent, 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 in paragraph (3)(B) or other 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 tobacco products 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.

"(B) DISTRIBUTION.—Any person who distributes, transports, sells, or imports any tobacco product or components thereof within the United States shall be deemed to be in violation of this subsection if the product is not accompanied by the required warning labels as provided in subsection (a).

"(C) WITH RESPECT TO ADVERTISING.—The requirements of this subsection shall be considered to be the requirements of the Federal Trade Commission Act (15 U.S.C. 41-64).

"(2) REQUIREMENTS FOR ADVERTISING.—

"(A) LOCATION.—Each label statement required by subparagraph (B) of paragraph (1) 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 with adequate spiciness and legibility. Each label statement shall be displayed on the front panel of the cigar package in accordance with the requirements of the Federal Trade Commission Act (15 U.S.C. 41-64).

"(B) TYPE AND COLOR.—With respect to each label statement required by subparagraph (B) of paragraph (1), the Secretary shall by order or through notice in the Federal Register, determine the type of type and color, and size of type and color, to be included in each required label statement.

"(C) EXCEPTION.—The provisions of subparagraph (A) shall not apply in the case of a cigar that is identified by the Secretary 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 Secretary shall by order or through notice in the Federal Register, determine the type of type and color, and size of type and color, to be included in each required label statement.

"(ii) COLOR.—All the letters in the label statement 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 with adequate spiciness and legibility. Each label statement shall be displayed on the front panel of 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 for the rotation required by subsection (a) 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 required by this paragraph.

"(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 (ii) apply with respect to a brand style of cigarettes manufactured or imported by such manufacturer or importer.

"(ii) PLAN.—An applicant under clause (i) shall include in its application a plan under which the brand style 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) LABEL ROTATION REQUIREMENTS.—Under the label rotation which the manufacturer or importer with an approved application may put into effect, each of the labels described 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 REQUIREMENTS.—Paragraphs (4) and (5) do 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.
communications subject to the jurisdiction of the Federal Communications Commission.

"(b) SMOKELESS TOBACCO PRODUCTS.—

"(1) IN GENERAL.—

"(A) EXCLUSIONS.—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 label of which fails to bear, in accordance with the requirements of this subsection, one of the following labels:

"(i) WARNING: This Product Can Cause Mouth Cancer.

"(ii) WARNING: This Product Can Kill You.

"(iii) WARNING: This Product Can Cause Gums Disease And Tooth Loss.

"(iv) WARNING: This Product Is Not A Safe Alternative To Cigarettes.

"(v) WARNING: Smokeless Tobacco Is Addictive.

"(B) ADVERTISING.—It shall be unlawful for any manufacturer or importer of smokeless tobacco products, other than the warning labels required by subsections (a) and (b), to be included on any package or in any advertisement of cigarettes or smokeless tobacco products.

"(B) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as prohibiting a State or political subdivision of a State from imposing requirements, prohibitions, penalties or other measures to further the health and safety purposes of this chapter; provided, however, that such additional requirements or measures 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 chapter, nothing in this section shall relieve any person from liability at common law or under State statutory law to any other person.

"(3) R EQUIRED REGULATIONS.—

"(A) IN GENERAL.—Not later than 1 year after the date of enactment of this chapter, the Secretary shall prepare and submit to Congress a report containing—

"(i) a description of the effects of health education efforts on the use of cigarettes and smokeless tobacco products;

"(ii) a description of the use by the public of cigarettes and smokeless tobacco products;

"(iii) an evaluation of the health effects of cigarettes and smokeless tobacco products and the identification of areas appropriate for further research; and

"(iv) such recommendations for legislation and administrative action as the Secretary considers appropriate.

"(B) EXEMPTIONS.—

"(i) PACKAGES.—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 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 the United States.

"(ii) APPLICATION.—The Secretary shall exercise the authority provided for in this section notwithstanding the provisions of the Federal Communications Act and the Federal Communications Act (2 U.S.C. 331 et seq.) and the Comprehensive Smokescreen Tobacco Health Education Act of 1986 and 1990 (5 U.S.C. 410 et seq.).

"SEC. 911. STATEMENT OF INTENDED USE.—

"(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 an individual or group of individuals regularly used for residential purposes.

"(B) EXCLUSIONS.—The term public facility does not include a portion of a building regularly used as 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

"(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 term "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 conspicuous and legible in 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.—

"(A) GENERAL REGULATIONS.—Paragraph (2) shall 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.

"(B) TELEVISION AND RADIO ADVERTISING.—It shall be unlawful to advertise smokeless tobacco on any medium of electronic communication 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) INJURIES.—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) VIOLATION.—Noting in this section shall be construed to limit the authority of the Secretary to amend the text or layout of any of the warning statements, or any of the other statements provided for under subsections (a) and (b), if determined necessary by the Secretary.

"(2) UNFAIR ACTS.—Nothing in this section or any other provisions 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 the United States.

"(f) REPORTS.—Not later than 1 year after the date of enactment of this chapter, the Secretary shall promulgate regulations with respect to the type, color, size, and placement of statements required under this section on labels used in advertisements.

"SEC. 912. MISCELLANEOUS PROVISIONS. —

"(a) PRESERVATION OF STATE AND LOCAL AUTHORITY.—Except as otherwise provided in this chapter, nothing in this section shall be construed as prohibiting a State from imposing requirements, prohibitions, penalties or other measures to further the health and safety purposes of this chapter, 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, as the Secretary determines that such modifications, alternations, or expansion is necessary.

TITLE III—STANDARDS TO REDUCE IN- Voluntary Exposure to Tobacco Smoke

SEC. 301. STANDARDS TO REDUCE IN- Voluntary 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 IN- Voluntary 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 an individual or group of individuals regularly used for residential purposes.

"(B) EXCLUSIONS.—The term public facility does not include a portion of a building regularly used as 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
(2) 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, no responsible entity for each public facility shall adopt and implement at such facility a smoke-free environment policy which meets the requirements of paragraph (b) or (c)." "

(3) S PECIALLY 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 non-smoking areas; and

(C) the area is directly exhausted to the outside and does not recirculate or drift to other areas within the public facility.

"(4) SPECIAL RULES.—

(A) SCHOOLS AND OTHER FACILITIES SERVING CHILDREN.—

(i) ELEMENTS OF POLICY.—The smoke-free environment policy for a public facility shall—

(1) 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

(2) post a clear and prominent notice of the smoking prohibition in appropriate and visible locations at the public facility.

(ii) EXCEPTION.—The smoke-free environment policy for a public facility may provide an exception to the prohibition specified in subparagraph (A) for one or more specially designated smoking areas within a public facility if such area or areas meet the requirements of paragraph (3).

(5) S PECIALLY 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 non-smoking areas; and

(C) the area is directly exhausted to the outside and does not recirculate or drift to other areas within the public facility.

"(6) 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, no responsible entity for each public facility shall adopt and implement at such facility a smoke-free environment policy which—

(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.

"(7) 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 through administrative or judicial means.

"(8) 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 stringent as those provided for in this section.

"(9) REGULATIONS.—The Secretary of Labor is authorized to promulgate such regulations as the Secretary deems necessary to carry out this section.

"(10) 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 5 years through 1997 (or through 1996 if tobacco is not subject to quota) produced tobacco pursuant to a lease and transferred such tobacco pursuant to a contract for quota 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.) or under the Farm Security and Rural Investment Act of 1996 (7 U.S.C. 7001 et seq.) or under the Farm Security and Rural Investment Act of 1998 (7 U.S.C. 12316 et seq.) for any of the 1994, 1995, or 1996 crop years.

(7) PRODUCER OF NON-TOBACCO QUOTA.—The term "producer of non-tobacco quota" means a person that during any of the 5 years through 1997 (or through 1996 if tobacco is not subject to quota) marketed tobacco not subject to quota.

(8) TRANSITION PAYMENT.—The term "transition payment" means a payment made to a producer under section 411, 412, or 413.

(9) UNITED STATES.—The term "United States" 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 for 5 years from the date of execution of the contract.

(3) PAYMENT CALCULATION.—The total amount of the buyout payment made to a quota owner shall be determined by multiplying—

(A) $4; by

(B) the average quantity of basic and non-basic quota ascertained to the farm during the period 1995 through 1997.
(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. 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 midpoint 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. 1445g(1)) is amended—
(1) by striking “only for each of the 1994 through 1996 crops” and inserting “for the 1994 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—
(1) develop a State tobacco community empowerment plan that includes—
(A) rural business enterprise activities described in subsection (b), (c), and (e) of section 310B of the Consolidated Farm and Rural Development Act of 1972 (7 U.S.C. 310B);
(B) down payment loan assistance programs described in section 310E of the Consolidated Farm and Rural Development Act (7 U.S.C. 310E);
(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 income earning standards, and contributions by rural individuals to the economic and social development of tobacco communities;
(D) programs 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 or managed 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 of the Trade Act of 1974 (49 U.S.C. 2392, 2393); and

(H) investments in community colleges and trade schools to provide skills training to tobacco producers and tobacco product manufacturing workers and ensure that the off-farm sector remains vital and robust.

To be eligible to receive payments under this section, a tobacco State shall demonstrate to the Secretary to other tobacco States in proportion to the ratio that the tobacco production and the manufacture of tobacco products, in amounts that are at least equal to the product obtained by multiplying—
(1) 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
(2) 50 percent of the total amounts received by the State under this section during the 1995 through 2001 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 Youth Tobacco-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 PHAE. 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
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 billions of dollars addicting and exploiting our children. Now, they seek 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 pockeets 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 payments or court awards for repeat sale of cigarettes to minors.

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