

NLWJC - Kagan

DPC - Box 050 - Folder-002

Tobacco-Settlement: New

Legislation-McCain: Amendments

[3]

LUGAR 1

S.L.C.

12:20 p.m.
Alvin Lugar

AMENDMENT NO. _____

Calendar No. _____

Purpose: To clarify the treatment of payments made to tobacco owners and producers and tobacco-dependent States.

IN THE SENATE OF THE UNITED STATES—105th Cong., 2d Sess.

S. 1415

T

AMENDMENT N^o 2501

ch tobacco distributed, minors, to use, and

By Lugar - McConnell

Bill/Res. No. _____

R

4 Page(s)

CPO: 1996 25-891 (mac)

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. LUGAR (for himself and Mr. McCONNELL)

Viz:

1 Strike title X in the Committee amendment and insert the following:

3 **TITLE X—PAYMENTS TO**
4 **TOBACCO FARMERS**

5 SEC. 1001. BUDGETARY TREATMENT.

6 Subtitle A of title XV constitutes budget authority
7 in advance of appropriations Acts and represents the obligation of the Federal Government to provide payments to

1 States and eligible persons in accordance with subtitle A
2 of title XV.

3 **SEC. 1002. BUYOUT PAYMENTS TO OWNERS.**

4 (a) **IN GENERAL.**—Notwithstanding, and in lieu of,
5 section 1514, the Secretary of Agriculture shall make
6 buyout payments for each of the 1999 through 2001 mar-
7 keting years for each kind of tobacco involved to an owner
8 that owns quota at the time of entering into a tobacco
9 transition contract.

10 (b) **ALLOCATION.**—Of the total amount of buyout
11 payments made under subsection (a)—

12 (1) 46 percent shall be made for the 1999 mar-
13 keting year;

14 (2) 27 percent shall be made for the 2000 mar-
15 keting year; and

16 (3) 27 percent shall be made for the 2001 mar-
17 keting year.

18 (c) **COMPENSATION FOR LOST VALUE.**—The pay-
19 ment shall constitute compensation for the lost value to
20 the owner of the quota.

21 (d) **PAYMENT CALCULATION.**—Under this section,
22 the total amount of the buyout payment made to an owner
23 shall be determined by multiplying—

24 (1) \$8.00; by

1 (2) the average annual quantity of quota owned
2 by the owner during the 1995 through 1997 crop
3 years.

4 **SEC. 1003. TRANSITION PAYMENTS TO PRODUCERS.**

5 (a) **IN GENERAL.**—Notwithstanding, and in lieu of,
6 section 1515, the Secretary of Agriculture shall make
7 transition payments for each of the 1999 through 2001
8 marketing years for each kind of tobacco produced, to a
9 producer that—

10 (1) produced the kind of tobacco for each of the
11 1995 through 1997 crops; and

12 (2) entered into a tobacco transition contract.

13 (b) **ALLOCATION.**—Of the total amount of transition
14 payments made under subsection (a)—

15 (1) 46 percent shall be made for the 1999 mar-
16 keting year;

17 (2) 27 percent shall be made for the 2000 mar-
18 keting year; and

19 (3) 27 percent shall be made for the 2001 mar-
20 keting year.

21 (c) **TRANSITION PAYMENTS LIMITED TO LEASED**
22 **QUOTA.**—A producer shall be eligible for transition pay-
23 ments only for the portion of the production of the pro-
24 ducer that is subject to quota that is leased (as defined

1 in section 1503(5) of this Act) during the 3 crop years
2 described in subsection (a)(1).

3 (d) COMPENSATION FOR LOST REVENUE.—The pay-
4 ments shall constitute compensation for the lost revenue
5 incurred by a tobacco producer for a kind of tobacco.

6 (e) PRODUCTION HISTORY; PRODUCTION.—

7 (1) PRODUCTION HISTORY.—The Secretary
8 shall base a transition payment made to a producer
9 on the average quantity of tobacco subject to a mar-
10 keting quota that is produced by the producer for
11 each of the 1995 through 1997 crops.

12 (2) PRODUCTION.—The producer shall have the
13 burden of demonstrating to the Secretary the pro-
14 duction of tobacco for each of the 1995 through
15 1997 crops.

16 (f) PAYMENT CALCULATION.—Under this section,
17 the total amount of the transition payment made to a pro-
18 ducer shall be determined by multiplying—

19 (1) \$4.00; by

20 (2) the average quantity of the kind of tobacco
21 produced by the producer for each of the 1995
22 through 1997 crops.

23 **SEC. 1004. EFFECTIVE DATE.**

24 This title takes effect on the day after the date of
25 enactment of this Act.

LUGAR 2

S.L.C.
Alvin Lujan 12:20 p.m.

AMENDMENT NO. _____ Calendar No. _____

Purpose: To make a perfecting amendment.

IN THE SENATE OF THE UNITED STATES—105th Cong., 2d Sess.

S. 1415

To refer: **AMENDMENT N^o 2502** received,
prod to p By *Lujan - McConnell* ted,
to p redn Bill/Res. No. _____ to
for c _____ and

Referred 4 Page(s) _____
GPO: 1996 25-691 (mac)

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. LUGAR (for himself and Mr. MCCONNELL)

Viz:

1 In lieu of the matter proposed to be inserted for title

2 X, insert the following:

3 **TITLE X—PAYMENTS TO**
4 **TOBACCO FARMERS**

5 **SEC. 1001. BUDGETARY TREATMENT.**

6 Subtitle A of title XV constitutes budget authority

7 in advance of appropriations Acts and represents the obli-

8 gation of the Federal Government to provide payments to

1 States and eligible persons in accordance with subtitle A
2 of title XV.

3 **SEC. 1002. BUYOUT PAYMENTS TO OWNERS.**

4 (a) **IN GENERAL.**—Notwithstanding, and in lieu of,
5 section 1514, the Secretary of Agriculture shall make
6 buyout payments for each of the 1999 through 2001 mar-
7 keting years for each kind of tobacco involved to an owner
8 that owns quota at the time of entering into a tobacco
9 transition contract.

10 (b) **ALLOCATION.**—Of the total amount of buyout
11 payments made under subsection (a)—

12 (1) 46 percent shall be made for the 1999 mar-
13 keting year;

14 (2) 27 percent shall be made for the 2000 mar-
15 keting year; and

16 (3) 27 percent shall be made for the 2001 mar-
17 keting year.

18 (c) **COMPENSATION FOR LOST VALUE.**—The pay-
19 ment shall constitute compensation for the lost value to
20 the owner of the quota.

21 (d) **PAYMENT CALCULATION.**—Under this section,
22 the total amount of the buyout payment made to an owner
23 shall be determined by multiplying—

24 (1) \$8.00; by

1 (2) the average annual quantity of quota owned
2 by the owner during the 1995 through 1997 crop
3 years.

4 **SEC. 1003. TRANSITION PAYMENTS TO PRODUCERS.**

5 (a) **IN GENERAL.**—Notwithstanding, and in lieu of,
6 section 1515, the Secretary of Agriculture shall make
7 transition payments for each of the 1999 through 2001
8 marketing years for each kind of tobacco produced, to a
9 producer that—

10 (1) produced the kind of tobacco for each of the
11 1995 through 1997 crops; and

12 (2) entered into a tobacco transition contract.

13 (b) **ALLOCATION.**—Of the total amount of transition
14 payments made under subsection (a)—

15 (1) 46 percent shall be made for the 1999 mar-
16 keting year;

17 (2) 27 percent shall be made for the 2000 mar-
18 keting year; and

19 (3) 27 percent shall be made for the 2001 mar-
20 keting year.

21 (c) **TRANSITION PAYMENTS LIMITED TO LEASED**
22 **QUOTA.**—A producer shall be eligible for transition pay-
23 ments only for the portion of the production of the pro-
24 ducer that is subject to quota that is leased (as defined

1 in section 1503(5) of this Act) during the 3 crop years
2 described in subsection (a)(1).

3 (d) COMPENSATION FOR LOST REVENUE.—The pay-
4 ments shall constitute compensation for the lost revenue
5 incurred by a tobacco producer for a kind of tobacco.

6 (e) PRODUCTION HISTORY; PRODUCTION.—

7 (1) PRODUCTION HISTORY.—The Secretary
8 shall base a transition payment made to a producer
9 on the average quantity of tobacco subject to a mar-
10 keting quota that is produced by the producer for
11 each of the 1995 through 1997 crops.

12 (2) PRODUCTION.—The producer shall have the
13 burden of demonstrating to the Secretary the pro-
14 duction of tobacco for each of the 1995 through
15 1997 crops.

16 (f) PAYMENT CALCULATION.—Under this section,
17 the total amount of the transition payment made to a pro-
18 ducer shall be determined by multiplying—

19 (1) \$4.00; by

20 (2) the average quantity of the kind of tobacco
21 produced by the producer for each of the 1995
22 through 1997 crops.

MACK 1

1 “(3) annually recommend to Congress the allo-
2 cation of anti-tobacco research funds among the na-
3 tional research institutes; and

4 “(4) establish a clearinghouse for information
5 about tobacco-related research conducted by govern-
6 mental and non-governmental bodies.

7 “(f) TRIGGER.—No expenditure shall be made under
8 subsection (a) during any fiscal year in which the annual
9 amount appropriated for the National Institutes of Health
10 is less than the amount so appropriated for the prior fiscal
11 year; *exclusive of contributions from the tobacco reserve fund.*

*Josh Gotlib
says fine*

12 “(g) REPORT.—The Director of the NIH shall every
13 2 years prepare and submit to the Congress a report
14 ——— research activities, including funding levels, for
15 research made available under subsection (c).

16 (b) MEDICAID COVERAGE OF OUTPATIENT SMOKING
17 CESSATION AGENTS.—Paragraph (2) of section 1927(d)
18 of the Public Health Service Act (42 U.S.C. 1396r-8(d))
19 is amended—

- 20 (1) by striking subparagraph (E) and redesign-
21 ating subparagraphs (F) through (J) as subpara-
22 graphs (E) through (I); and

23 (2) by striking “drugs.” in subparagraph (F),
24 as redesignated, and inserting “drugs, except agents,

MACK 2

S.L.C.

1:00 p.m.

Consume Mack

AMENDMENT NO. _____

Calendar No. _____

Purpose: To ensure that funds received by States under State settlements with tobacco product manufacturers are not considered as reimbursements for medicaid expenditures or medicaid overpayments.

IN THE SENATE OF THE UNITED STATES—105th Cong., 2d Sess.

S. 1415

To re: AMENDMENT N^o 2557 tobacco
p buted,
to By Mack rs, to
re Bill/Res. No. e, and
fc

Referr

2
Page(s)

GPO: 1996 25-891 (mac)

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. Mack
(for himself and himself)

Viz:

- 1 On page 210, between lines 18 and 19, insert the fol-
2 lowing:
3 SEC. 456. STATE SETTLEMENTS.
4 (a) IN GENERAL.—Notwithstanding any other provi-
5 sion of law, or of this Act, amounts received by a State
6 as a result of the resolution by such State of tobacco-relat-
7 ed civil actions through settlement or court judgment with

1 tobacco product manufacturers shall not be available to
2 the Secretary as reimbursement of Medicaid expenditures
3 or considered as Medicaid overpayments for purposes of
4 recoupment.

McCain 1

John McCain
1:00 p.m.

AMENDMENT NO.

CAL. NO.

Purpose: To respond to criticisms of the pending substitute amendment by ensuring that the consumer pass-through will not drive the price-per-pack of cigarettes above the intended increase, providing for the review of the survey methodology used to assess look-back penalties, and to address other concerns.

IN THE SENATE OF THE

AMENDMENT N^o 2554

S. 1415, 105

By McCain

Bill/Res. No. _____

JUN

() Referred to the order

3
Page(s)

() Ordered to lie _____

GPC: 1996 25-691 (mec)

INTENDED to be proposed by Mr. MCCAIN

Viz:

- 1 On page 106, strike lines 7 through 11, and insert
- 2 the following:
- 3 (3) SURVEY METHODOLOGY SCOPE OF RE-
- 4 VIEW.—A survey using the methodology required by
- 5 this subsection shall be subject to judicial review
- 6 only by the United States Court of Appeals for the
- 7 District of Columbia Circuit, based on the standard
- 8 set forth in section 706(2)(A) of title 5, United
- 9 States Code.

1 On page 188, line 4, strike "**ADJUSTMENTS.**"
2 and insert "**ADJUSTMENTS; LIMITATIONS.**".

3 On page 188, line 5, strike "The" and insert "(a)
4 IN GENERAL.—The".

5 On page 188, strike line 8.

6 On page 188, move the matter appearing in lines 9
7 through 22 2 ems to the left.

8 On page 188, line 9, strike "(A) IN GENERAL.—Be-
9 ginning" and insert "(1) ADJUSTMENT.—Beginning".

10 On page 188, beginning in line 15, strike "CPI, ad-
11 justed (for calendar year 2002 and later years) by the vol-
12 ume adjustment under paragraph (2)." and insert "CPI."

13 On page 188, line 18, strike "(B)" and insert "(2)".

14 On page 188, beginning in line 18, strike "subpara-
15 graph (A)," and insert "paragraph (1),".

16 On page 188, beginning with line 23, strike through
17 line 16 on page 189 and insert the following:

18 (b) LIMITATION BASED ON ANNUAL INCREASE IN
19 PRICE-PER-PACK.—Notwithstanding the amount set forth
20 in paragraph (1), (2), (3), (4) or (5) of section 402(b)
21 and the amount determined under paragraph (6) of that
22 section, the amount of the payment required under section
23 402(b) for any calendar year from cigarette manufactur-
24 ers shall not exceed an amount which, when divided by

1 the number of packs of cigarettes sold during the calendar
2 year, will be equal to—

- 3 (1) 65 cents in year 1;
- 4 (2) 70 cents in year 2;
- 5 (3) 80 cents in year 3;
- 6 (4) \$1.00 in year 4; or
- 7 (5) \$1.10 in year 5 and thereafter.

8 (c) PRICE-PER-PACK LIMITATION APPLIES TO
9 SMOKELESS TOBACCO PRODUCTS.—Under regulations
10 prescribed by the Secretary, the price-per-pack limitation
11 set forth in subsection (b) shall be applied to units of
12 smokeless tobacco at equivalent per-unit prices, taking
13 into account applicable ad valorem taxes.

14 (d) ADJUSTMENT.—Beginning with the second cal-
15 endar year after the date of enactment of this Act, the
16 amounts set forth in subsection (b) shall be adjusted as
17 provided in subsection (a)(1).

○

Murkowski 1

Frank W. Tompkins S.L.C.

12:20 p.m.

AMENDMENT NO. _____ Calendar No. _____

Purpose: To ensure the collection of State tobacco excise and sales taxes from Indian tribes and the uniformity of tobacco product retail prices whether the seller or buyer is Indian or non-Indian.

IN THE SENATE OF THE UNITED STATES—105th Cong., 2d Sess.

S. 1415

To re	AMENDMENT N^o 2503	tobacco
F	By <u>Murkowski</u>	distributed,
t	Bill/Res. No. _____	ors, to
r	_____	se, and
f	_____	
	5	
	Page(s)	
Refer		

GPO: 1998 25-891 (mac)

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. MURKOWSKI

Viz:

- 1 At the end of title VI, add the following:
- 2 **SEC. ____ COLLECTION OF STATE TOBACCO EXCISE AND**
- 3 **SALES TAXES FROM INDIAN TRIBES.**
- 4 (a) IN GENERAL.—An Indian tribe, tribal corpora-
- 5 tion, or individual member of an Indian tribe engaged in
- 6 tobacco retailing shall collect all lawfully-imposed, non-dis-
- 7 criminatory tobacco excise and sales taxes imposed by a
- 8 State, within the exterior borders of which the purchase

1 occurs, on nonmembers of the Indian tribe as a con-
2 sequence of the purchase of tobacco products by the non-
3 member from the Indian tribe, tribal corporation, or indi-
4 vidual member of an Indian tribe.

5 (b) ENFORCEMENT.—

6 (1) IN GENERAL.—To that extent that all such
7 taxes are not collected and remitted to the appro-
8 priate State by the Indian tribe, tribal corporation,
9 or individual member of an Indian tribe (or, in the
10 manner provided by State law, by any other person),
11 such tribe, corporation, or individual shall remit
12 such taxes to the Treasury of the United States,
13 which shall, in turn, remit such taxes to the State
14 in which the purchase by the nonmember took place.

15 (2) AUTHORITY OF SECRETARY OF THE TREAS-
16 URY.—The Secretary of the Treasury of the United
17 States shall—

18 (A) have the authority to enforce the re-
19 quirements of subsection (a) and to administer
20 the collection of tobacco excise and sales taxes
21 under subsection (b)(1);

22 (B) issue regulations to implement sub-
23 section (b)(1) within 180 days of enactment;
24 and

1 occurs, on nonmembers of the Indian tribe as a con-
2 sequence of the purchase of tobacco products by the non-
3 member from the Indian tribe, tribal corporation, or indi-
4 vidual member of an Indian tribe.

5 (b) ENFORCEMENT.—

6 (1) IN GENERAL.—To that extent that all such
7 taxes are not collected and remitted to the appro-
8 priate State by the Indian tribe, tribal corporation,
9 or individual member of an Indian tribe (or, in the
10 manner provided by State law, by any other person),
11 such tribe, corporation, or individual shall remit
12 such taxes to the Treasury of the United States,
13 which shall, in turn, remit such taxes to the State
14 in which the purchase by the nonmember took place.

15 (2) AUTHORITY OF SECRETARY OF THE TREAS-
16 URY.—The Secretary of the Treasury of the United
17 States shall—

18 (A) have the authority to enforce the re-
19 quirements of subsection (a) and to administer
20 the collection of tobacco excise and sales taxes
21 under subsection (b)(1);

22 (B) issue regulations to implement sub-
23 section (b)(1) within 180 days of enactment;
24 and

1 (C) specify in such regulations such return
2 information to accompany remittance of the
3 taxes due under subsection (b)(1) and the time
4 period (not to exceed 180 days) for return of
5 such taxes to the appropriate State.

6 (c) PRESERVATION OF STATE LAW AND TRIBAL-
7 STATE AGREEMENTS.—Subsections (a) and (b) shall not
8 apply to Indian tribes or tribal corporations if—

9 (1) the law of a State provides that Indian
10 tribes or tribal corporations are not obligated to col-
11 lect and remit such State's tobacco excise and sales
12 taxes to the State provided that the tribe or tribal
13 corporation imposes and collects tobacco excise and
14 sales taxes on the purchase of tobacco products by
15 nonmembers that are equal to or greater than the
16 tobacco excise and sales taxes imposed by the State
17 on the sale of tobacco products within the State's ex-
18 terior borders; or

19 (2) the Indian tribe or tribal corporation has
20 entered into an agreement with a State, within
21 which the purchase of tobacco products by an non-
22 member occurs, on the collection and allocation of
23 the State's tobacco excise and sales taxes on the
24 purchase of tobacco products by nonmembers from
25 the Indian tribe or tribal corporation, and such

1 agreement provides that the Indian tribe or tribal
2 corporation imposes and collects tobacco excise and
3 sales taxes on the purchase of tobacco products by
4 nonmembers that are equal to or greater than the
5 tobacco excise and sales taxes imposed by the State
6 on the sale of tobacco products within the State's ex-
7 terior borders.

8 (d) EFFECTIVE DATE.—This section shall apply to
9 sales occurring after the date of enactment of this Act.

10 **SEC. ____ . UNIFORMITY OF TOBACCO PRODUCT SALES**
11 **PRICES.**

12 (a) IN GENERAL.—Notwithstanding any other provi-
13 sion of law, if with respect to the sale by an Indian tribe,
14 tribal corporation, or individual member of an Indian tribe
15 of any tobacco product on Indian lands, the price at which
16 such product is sold to a non-Indian exceeds such price
17 to an Indian, there is imposed a fee equal to such excess
18 on such sale to an Indian.

19 (b) DETERMINATION OF EXCESS.—For purposes of
20 subsection (a), the excess shall be determined without re-
21 gard to any State tax on the sale of tobacco products if
22 such tax is collected and remitted to the State by such
23 tribe, tribal corporation, or individual member.

24 (c) ENFORCEMENT THROUGH REMITTANCE OF
25 FEE.—The fee imposed under this section shall be remit-

1 ted at least quarterly by such tribe, tribal corporation, or
2 individual member to the Treasury of the United States,
3 unless such tribe or tribal corporation has provided the
4 Secretary with proper certification that such fee shall not
5 be used to provide a refund or rebate to Indians who pur-
6 chase tobacco products on such Indian lands.

7 (d) EFFECTIVE DATE.—This section shall apply to
8 sales occurring after the date of enactment of this Act.

Purpose: To ensure the collection of State tobacco excise and sales taxes from Indian tribes and the uniformity of tobacco product retail prices whether the seller or buyer is Indian or non-Indian.

12:20 p.m

Frank W. Marshall

IN THE SENATE OF THE UNITED STATES—105th Cong., 2d Sess.

S. 1415

AMENDMENT N^o 2504

By Murkowski ed, to and

Bill/Res. No. _____

2
Page(s)

GPO: 1996 25-891 (mac)

AMENDMENT intended to be proposed by Mr. MURKOWSKI

Viz:

1 At the end of title VI, add the following:
10 SEC. ____ UNIFORMITY OF TOBACCO PRODUCT SALES

11 PRICES.

12 (a) IN GENERAL.—Notwithstanding any other provi-
13 sion of law, if with respect to the sale by an Indian tribe,
14 tribal corporation, or individual member of an Indian tribe
15 of any tobacco product on Indian lands, the price at which
16 such product is sold to a non-Indian exceeds such price
17 to an Indian, there is imposed a fee equal to such excess
18 on such sale to an Indian.

19 (b) DETERMINATION OF EXCESS.—For purposes of
20 subsection (a), the excess shall be determined without re-
21 gard to any State tax on the sale of tobacco products if
22 such tax is collected and remitted to the State by such
23 tribe, tribal corporation, or individual member.

24 (c) ENFORCEMENT THROUGH REMITTANCE OF
25 FEE.—The fee imposed under this section shall be remit-

2.

1 ted at least quarterly by such tribe, tribal corporation, or
2 individual member to the Treasury of the United States,
3 unless such tribe or tribal corporation has provided the
4 Secretary with proper certification that such fee shall not
5 be used to provide a refund or rebate to Indians who pur-
6 chase tobacco products on such Indian lands.

7 (d) EFFECTIVE DATE.—This section shall apply to
8 sales occurring after the date of enactment of this Act.

MURRAY 1

Patty Murray

12:42 p.m.
✓

AMENDMENT NO. _____ Calendar No. _____

Purpose: To include licensed or certified child care providers in the definition of public facilities for purposes of applying the requirements regarding involuntary exposure to tobacco smoke.

IN THE SENATE OF THE UNITED STATES—105th Cong., 2d Sess.

S. 1415

To ref AMENDMENT N^o 2526 tobacco
pl By Murray bated,
to rs, to
re Bill/Res. No. , and
fo

Referr Page(s) _____
GPO: 1998 25-691 (mac)

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mrs. MURRAY

Viz:

- 1 At the end of section 501(2), add the following:
- 2 (D) CHILD CARE PROVIDERS.—The term
- 3 “public facility” includes any residence or facil-
- 4 ity at which a licensed or certified child care
- 5 provider provides child care services, regardless
- 6 of whether the residence or facility serves 10 or
- 7 more individuals each day.

ROTH 1 S.L.C. WNA 12:41 p.m.

AMENDMENT NO. _____ Calendar No. _____

Purpose: To modify the provisions relating to payments to States and medicaid coverage of smoking cessation agents.

IN THE SENATE OF THE UNITED STATES—105th Cong., 2d Sess.

S. 1415

To refer AMENDMENT N^o 2512 acco-
pro- uted,
to By ROTH s, to
rec Bill/Res. No. and
for

Referre 7 Page(s)

GPO: 1996 25-891 (mac)

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by
ROTH

Viz:

1 Beginning on page 161, strike line 16 and all that
2 follows through page 162, line 2.

3 On page 162, after line 23, add the following:

4 (b) ELIMINATION OF LIMITATION ON MEDICAID
5 COVERAGE OF SMOKING CESSATION AGENTS.—Section
6 1927(d)(2) of the Social Security Act (42 U.S.C. 1396r-
7 8(d)(2)) is amended by striking subparagraph (E) and re-

1 designating subparagraphs (F) through (J) as subpara-
2 graphs (E) through (I), respectively.

3 On page 192, beginning with line 15, strike "Such"
4 and all that follows through the period on line 19.

5 On page 193, strike lines 7 through 25 and insert
6 the following:

7 (3) DISTRIBUTION FORMULA.—

8 (A) IN GENERAL.—Except as provided in
9 paragraph (5), amounts in the State Litigation
10 Settlement Account shall be available, without
11 further appropriations, to make payments to
12 each State in the amount determined under
13 subparagraph (B). The Secretary shall transfer
14 amounts available under this subsection to each
15 State as amounts are credited to the State Liti-
16 gation Settlement Account without undue delay.

17 (B) AMOUNT.—Except as provided in
18 paragraph (4), the amount of any payment to
19 a State under subparagraph (A) for any cal-
20 endar year shall be equal to the percentage of
21 the amounts transferred to the State Litigation
22 Settlement Account for such calendar year de-
23 termined in accordance with the following table:

"States:	Percentage:
Alabama	1.231000
Alaska	0.400000
American Samoa	0.007850
Arizona	1.701000
Arkansas	0.949000
California	8.653000
Colorado	0.985000
Connecticut	1.541000
Delaware	0.400000
District of Columbia	0.472000
Florida	4.745000
Georgia	2.722000
Guam	0.005704
Hawaii	0.800000
Idaho	0.400000
Illinois	3.911000
Indiana	1.483000
Iowa	0.928000
Kansas	0.800000
Kentucky	1.656000
Louisiana	1.715000
Maine	0.800000
Maryland	1.418000
Massachusetts	3.783000
Michigan	3.569000
Minnesota	1.240000
Mississippi	1.693000
Missouri	1.693000
Montana	0.400000
Nebraska	0.400000
Nevada	0.400000
New Hampshire	0.400000
New Jersey	3.737000
New Mexico	0.800000
New York	12.751000
North Carolina	1.967000
North Dakota	0.400000
Northern Mariana Islands	0.001270
Ohio	4.185000
Oklahoma	0.800000
Oregon	1.346000
Pennsylvania	4.400000
Puerto Rico	0.416015
Rhode Island	0.800000
South Carolina	1.085000
South Dakota	0.400000
Tennessee	2.837000
Texas	5.901000
United States Virgin Islands	0.004413
Utah	0.400000
Vermont	0.400000
Virginia	1.342000
Washington	1.718000
West Virginia	0.778000

Wisconsin	1.832000
Wyoming	0.400000.

1 (C) APPLICATION OF MEDICAID COST RE-
 2 COVERY RULES.—Subject to section 1903(d)(7)
 3 of the Social Security Act, a State may use
 4 amounts received under this paragraph as the
 5 State determines appropriate.

6 (4) MINIMUM PAYMENTS TO SETTLEMENT
 7 STATES.—

8 (A) IN GENERAL.—In the case of the State
 9 of Florida, Minnesota, Mississippi, or Texas,
 10 the payment under paragraph (3)(A) for any
 11 calendar year shall be equal to the greater of—

12 (i) the amount of the payment deter-
 13 mined under paragraph (3)(B), or

14 (ii) the aggregate payments which,
 15 but for paragraph (5), would have been re-
 16 ceived by such State for such calendar year
 17 under the settlement, judgment, or other
 18 agreement with respect to which payments
 19 were waived under paragraph (5).

20 (B) REALLOCATION OF AMOUNTS FOR
 21 OTHER STATES.—If the amount determined
 22 under subparagraph (A)(ii) exceeds the amount
 23 determined under subparagraph (A)(i) for 1 or
 24 more States for any calendar year, the amount

1 of the payments under paragraph (3)(A) to all
2 States to which subparagraph (A) does not
3 apply shall be ratably reduced by the aggregate
4 amount of such excess for all 4 States.

5 (5) WAIVER OF PAYMENTS FROM STATE LITI-
6 GATION.—

7 (A) IN GENERAL.—No payment shall be
8 made from the State Litigation Settlement Ac-
9 count to any State unless such State agrees to
10 waive its rights to receive funds after the date
11 of the enactment of this Act under any settle-
12 ment, entry of a court judgment, or other
13 agreement, that resolves litigation by the State
14 against a tobacco manufacturer or a group of
15 tobacco manufacturers for expenditures of the
16 State for tobacco-related diseases or conditions.

17 (B) REDISTRIBUTION OF WAIVED PAY-
18 MENTS.—If a waiver is not in effect under this
19 paragraph with respect to a State for a cal-
20 endar year, any payments out of the State Liti-
21 gation Settlement Account which would other-
22 wise have been made to such State shall be re-
23 allocated to all other States receiving such pay-
24 ments for such calendar year in the same pro-

1 portion as the payments received by any State
2 bear to all such payments.

3 (C) WAIVER.—Any waiver under subpara-
4 graph (A) shall be made before the date which
5 is 1 year after the date of the enactment of this
6 section and, once made, is irrevocable.

7 (6) BUDGETARY TREATMENT.—This subsection
8 constitutes budget authority in advance of appro-
9 priations Acts and represents the obligation of the
10 Federal Government to provide payments to States
11 in accordance with the provisions described in para-
12 graph (3).

13 (7) DEFINITION OF STATE.—In this subsection,
14 the term “State” means each of the 50 States, the
15 District of Columbia, Puerto Rico, Guam, American
16 Samoa, the United States Virgin Islands, and the
17 Northern Mariana Islands.

18 (8) APPLICATION OF MEDICAID COST RECOVERY
19 RULES.—Section 1903(d) of the Social Security Act
20 (42 U.S.C. 1396b(d)) is amended by adding at the
21 end the following:

22 “(7)(A) Except as provided under subparagraph (B),
23 the provisions of this subsection relating to the treatment
24 of overpayments, and any other cost recovery rules appli-
25 cable to payments made under this title, shall apply to

1 the portion of any of the following amounts that is used
2 for expenditures under or related to the State plan (or
3 a waiver of such plan) under this title:

4 “(i) Payments from the State Litigation Settle-
5 ment Account established under section 9512(d) of
6 the Internal Revenue Code of 1986.

7 “(ii) Payments received as a result of litigation
8 by the State against a tobacco manufacturer or a
9 group of tobacco manufacturers based on expendi-
10 tures of the State for tobacco-related diseases or
11 conditions that is resolved through a settlement,
12 entry of a court judgment, or otherwise.

13 “(B) Upon receipt of certification by the chief execu-
14 tive officer of a State that the State shall not use pay-
15 ments described in clauses (i) or (ii) of subparagraph (A)
16 for expenditures under or related to the State plan (or
17 a waiver of such plan) under this title, the Secretary shall
18 waive the application of the provisions of this subsection
19 relating to the treatment of overpayments, and any other
20 cost recovery rules applicable to payments made under this
21 title, to such payments.”

22 Beginning on page 200, strike line 1 and all that fol-
23 lows through page 206, line 19.

ROTH 2

WR

12:41 p.m.
✓

AMENDMENT NO. _____ Calendar No. _____

Purpose: To replace the provisions relating to options for children's health outreach with a provision that allows for increased expenditures for outreach under title XXI of the Social Security Act.

IN THE SENATE OF THE UNITED STATES—105th Cong., 2d Sess.

S. 1415

To reform **AMENDMENT N^o 2513** 30
produ d,
to pre By *Roth* to
redres Bill/Res. No. _____ id
for otl _____

Referred to _____ Page(s) _____

GPO: 1996 25-831 (mac)

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by
ROTH

Viz:

- 1 Beginning on page 203, strike line 21 and all that
- 2 follows through page 206, line 15, and insert the following:
- 3 (f) INCREASE IN LIMITATION ON EXPENDITURES
- 4 UNDER CHILDREN'S HEALTH INSURANCE PROGRAM.—
- 5 Section 2105(c)(2)(A) of the Social Security Act (42
- 6 U.S.C. 1397ee(c)(2)(A)) is amended by striking "10" and
- 7 inserting "15".

Roth 3

WR

12:41 p.m.

AMENDMENT NO. _____ Calendar No. _____

Purpose: To repeal reductions in block grants for social services.

IN THE SENATE OF THE UNITED STATES—105th Cong., 2d Sess.

S. 1415

To reform	AMENDMENT N ^o	2514)
product	By <u>Roth</u>)
to prev	Bill/Res. No. <u>S. 1415</u>)
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Referred to _____ Page(s) 2

GPO: 1996 25-891 (mac)

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Roth

Viz:

- 1 On page 210, between lines 18 and 19, insert the fol-
- 2 lowing:
- 3 **SEC. 456. REPEAL.**
- 4 (a) **REPEAL.**—Section 8401 of the Transportation
- 5 Equity Act for the 21st Century is repealed.
- 6 (b) **EFFECTIVE DATE.**—The repeal made by sub-
- 7 section (a) shall take effect as if included in the enactment
- 8 of the Transportation Equity Act for the 21st Century.

1 (c) OFFSET.—The amount in the Trust Fund estab-
2 lished under section 401 that is in excess of the amount
3 that is required to offset the direct spending in this Act
4 shall be reduced by an amount equal to the amount nec-
5 essary to fund the increase in the amounts specified for
6 allocation under section 2003(c) of the Social Security Act
7 (42 U.S.C. 1397b(c)) as a result of the repeal made by
8 subsection (a).

Roth 4

12:41 p.m.

WRT

AMENDMENT NO. _____

Calendar No. _____

Purpose: To allow State innovation in the determination of presumptive eligibility for children under the medicaid program.

IN THE SENATE OF THE UNITED STATES—105th Cong., 2d Sess.

S. 1415

To re AMENDMENT N^o 2515 tobacco
 I By Roth ibuted,
 t _____ ors, to
 l Bill/Res. No. _____ se, and
 f _____

 Refer Page(s) 2 _____

GPO: 1996 25-691 (mac)

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by
ROTH

Viz:

- 1 On page 210, between lines 18 and 19, insert the fol-
- 2 lowing:
- 3 **SEC. 456. AUTHORITY FOR STATE INNOVATION UNDER THE**
- 4 **MEDICAID PROGRAM.**
- 5 Section 1902(a) of the Social Security Act (42 U.S.C.
- 6 1396a(a)) is amended by adding at the end the following:
- 7 “(aa)(1) Notwithstanding any other provision of this
- 8 title, a State may, subject to paragraph (2), contract with

1 1 or more private entities to administer and integrate the
2 procedures for determining eligibility for medical assist-
3 ance (including presumptive eligibility for such assistance,
4 in the case of pregnant women and children, in accordance
5 with sections 1920 and 1920A) under the State plan (or
6 a waiver of such plan).

7 “(2) A contract entered into under the authority of
8 paragraph (1) shall provide that appeals of eligibility de-
9 terminations shall be heard and decided in accordance
10 with the requirements of the State plan (or a waiver of
11 such plan) and this title.”

12:41 p.m.

Roth HS

AMENDMENT NO. _____ Calendar No. _____

Purpose: To provide a deduction for health insurance costs for individuals not eligible to participate in employer-subsidized health plans.

IN THE SENATE OF THE UNITED STATES—105th Cong., 2d Sess.

S. 1415

To refer AMENDMENT N^o 2516
proc ited,
to 1 By Roth + others , to
redr Bill/Res. No. and
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Referred Page(s) _____
GPO: 1998 25-891 (mac)

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. ROTH, Mrs. BOYER, Mr. GRASSLEY, Mr. DOMENICI, Mr. NICKLES, Mr. GRAMM, Mr. COATES, Mr. BOND, Mr. ALLARD AND Mr. ABRAHAM
Viz:

1 At the appropriate place, insert:

2 SEC. ____ DEDUCTION FOR HEALTH INSURANCE COSTS
3 FOR INDIVIDUALS NOT ELIGIBLE TO PAR-
4 TICIPATE IN EMPLOYER-SUBSIDIZED HEALTH
5 PLANS.

6 (a) IN GENERAL.—Part VII of subchapter B of chap-
7 ter 1 of the Internal Revenue Code of 1986 (relating to
8 additional itemized deductions) is amended by redesignat-

1 ing section 222 as section 223 and by inserting after sec-
2 tion 221 the following new section:

3 **“SEC. 222. HEALTH INSURANCE COSTS.**

4 “(a) IN GENERAL.—In the case of an individual,
5 there shall be allowed as a deduction an amount equal to
6 100 percent of the amount paid during the taxable year
7 for insurance which constitutes medical care for the tax-
8 payer, his spouse, and dependents.

9 “(b) LIMITATIONS.—

10 “(1) OTHER COVERAGE.—Subsection (a) shall
11 not apply to any taxpayer for any calendar month
12 for which the taxpayer is eligible to participate in
13 any subsidized health plan maintained by any em-
14 ployer (or former employer) of the taxpayer or of the
15 spouse of the taxpayer. The preceding sentence shall
16 be applied separately with respect to—

17 “(A) plans which include coverage for
18 qualified long-term care services (as defined in
19 section 7702B(c)) or are qualified long-term
20 care insurance contracts (as defined in section
21 7702B(b)), and

22 “(B) plans which do not include such cov-
23 erage and are not such contracts.

24 “(2) LONG-TERM CARE PREMIUMS.—In the
25 case of a qualified long-term care insurance contract

1 (as defined in section 7702B(b)), only eligible long-
2 term care premiums (as defined in section
3 213(d)(10)) shall be taken into account under sub-
4 section (a).

5 “(3) MEDICARE PREMIUMS.—Subsection (a)
6 shall not apply to amounts paid as premiums under
7 part B of title XVIII of the Social Security Act.

8 “(c) SPECIAL RULES.—For purposes of this sec-
9 tion—

10 “(1) COORDINATION WITH MEDICAL DEDUC-
11 TION, ETC.—Any amount paid by a taxpayer for in-
12 surance to which subsection (a) applies shall not be
13 taken into account in computing the amount allow-
14 able to the taxpayer as a deduction under section
15 213(a).

16 “(2) DEDUCTION NOT ALLOWED FOR SELF-EM-
17 PLOYMENT TAX PURPOSES.—The deduction allow-
18 able by reason of this section shall not be taken into
19 account in determining an individual’s net earnings
20 from self-employment (within the meaning of section
21 1402(a)) for purposes of chapter 2.

22 “(3) CONTINUATION COVERAGE.—Coverage
23 shall not be treated as subsidized for purposes of
24 subsection (b)(1) if—

1 “(A) such coverage is continuation cov-
2 erage (within the meaning of section 4980B(f))
3 required to be provided by the employer, and

4 “(B) the taxpayer or the taxpayer’s spouse
5 is required to pay a premium for such coverage
6 in an amount not less than 100 percent of the
7 applicable premium (within the meaning of sec-
8 tion 4980B(f)(4)) for the period of such cov-
9 erage.”

10 (b) CONFORMING AMENDMENTS.—

11 (1) Subsection (l) of section 162 of such Code
12 is hereby repealed.

13 (2) Subsection (a) of section 62 of such Code
14 is amended by inserting after paragraph (17) the
15 following new paragraph:

16 “(18) HEALTH INSURANCE COSTS OF CERTAIN
17 INDIVIDUALS.—The deduction allowed by section
18 222.”

19 (3) The table of sections for part VII of sub-
20 chapter B of chapter 1 of such Code is amended by
21 striking the last item and inserting the following
22 new items:

 “Sec. 222. Health insurance costs.

 “Sec. 223. Cross reference.”

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 1998.

SHELBY 1

Richard Shelby

S.L.C.

12:51 P.M.

AMENDMENT NO. _____

Calendar No. _____

Purpose: To modify provisions relating awards by arbitration panels.

IN THE SENATE OF THE UNITED STATES—105th Cong., 2d Sess.

S. 1415

To re AMENDMENT N^o 2533 tobacco
 I By Shelby tributed,
 t nors, to
 r Bill/Res. No ise, and
 f

 Page(s) 1

Refer

GPO: 1996 25-691 (mac)

and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by

Viz:

- 1 On page 441, line 5, insert before the period the fol-
- 2 lowing: “, including the success of the claimant in prior
- 3 related litigation that contributed materially and directly
- 4 to the result obtained”.

SHELBY 2

Richard Shelby

12:51 p.m.

AMENDMENT NO. _____

Calendar No. _____

Purpose: To modify provisions relating awards by arbitration panels.

IN THE SENATE OF THE UNITED STATES—105th Cong., 2d Sess.

S. 1415

To ref	AMENDMENT N ^o	2534	tobacco
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Page(s) 1

GPO: 1996 25-891 (mac)

and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by

Viz:

1 On page 440, line 25, insert before the period the
2 following: “, both in the litigation in which the award is
3 sought, and to the extent, if any, that the result of such
4 litigation has the effect of making available documentary
5 evidence that materially and directly contributes to a suc-
6 cessful result in other pending or subsequent litigation in-
7 volving the same or similar issues involving different liti-
8 gants”.

Snowe 1

AMENDMENT NO. _____

Calendar No. _____

Purpose: To ensure that certain funds are used for State-based smoking cessation and prevention programs.

IN THE SENATE OF THE UNITED STATES—105th Cong., 2d Sess.

S. 1415

To reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes.

Referred to the Committee on _____
and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by

Viz:

- 1 On page 180, after line 10, after the period add the
- 2 following: "In addition to other amounts made available
- 3 to States for smoking cessation and prevention activities,
- 4 there shall be made available an amount equal to 20 per-
- 5 cent of the amount credited to the Trust Fund under sub-
- 6 section (b)(3) for each fiscal year to States for State-based
- 7 smoking cessation and prevention programs under the for-
- 8 mula under section 1981A of the Public Health Service
- 9 Act."

SNOWE 2

AMENDMENT NO. _____

Calendar No. _____

Purpose: To provide for the application of certain penalties for minors who purchase or otherwise possess tobacco products.

IN THE SENATE OF THE UNITED STATES—105th Cong., 2d Sess.

S. 1415

To reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes.

Referred to the Committee on _____
and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by

Viz:

1 On page 121, strike lines 7 through 13, and insert
2 the following:

3 (III) OTHER.—Other programs

4 including—

5 (aa) the required completion

6 by individuals under 18 years of

7 age of a mandatory, State ap-

8 proved anti-smoking, anti-drug

1 and anti-alcohol class, prior to
2 such individual receiving a driv-
3 ers permit or license;

4 (bb) the mandatory suspen-
5 sion of the drivers permit or li-
6 cense of an individual under 18
7 years for the possession of, pur-
8 chase of, or attempting to pur-
9 chase tobacco products; and

10 (cc) the imposition of fines,
11 community service requirements,
12 or other programs as determined
13 appropriate by the State.

STEVENS 1

Red Stevens

AMENDMENT NO. _____

Ex. _____

Calendar No. 1:00 p.m.

Purpose: To modify provisions relating to funding of Indian programs under the Act and for other purposes

AMENDMENT N^o 2555

IN THE SENATE OF 1

S. 1

By Stevens

Bill/Res. No. _____

() Referred to the ()
And ordered to lie on the table

() Ordered to lie on the table

2
Page(s)

GPO: 1998 25-891 (mac)

INTENDED to be proposed by Mr. STEVENS (for himself and Mr. _____)

PROPOSED AMENDMENT TO AMENDMENT NO. 2420 to S.1415

1 Viz:

2 On page 20, line 21, strike "and includes" and insert in lieu thereof "and, except for the
3 purposes of carrying out this Act in Alaska, also includes".

4 On page 220, strike lines 16 and 17 and insert in lieu thereof, "modifying it to address
5 population factors, land base factors, and, except in Alaska, jurisdiction factors."

6 On page 224, line 8, immediately after the word "Act" insert ", except that regional health
7 entities (as that term is used in section 325 of Public Law 105-83) shall be the only entities
8 eligible to receive such grants in Alaska under this paragraph."

9 On page 224, line 13, insert immediately before the period "and, in Alaska, such regional
10 health entities shall be required to utilize such grants, to the maximum extent possible, to support
11 programs operated by community health aides within the service populations of such entities".

12 On page 224, line 18, strike "smoking" and insert in lieu thereof "tobacco use".

13 On page 225, strike lines 14-22 and insert in lieu thereof:

14 (C) USE OF HEALTH CARE FUNDS.--Amounts made available to the Indian

①

1 Health Service under this paragraph shall be--

2 (I) made available to Indian tribes pursuant to the provisions of the Indian
3 Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.), except
4 in Alaska where such amounts shall, notwithstanding any other provision of law,
5 be made available pursuant to such Act only to the Consortium (as that term is
6 used in section 325 of Public Law 105-83) which shall be eligible to enter into
7 contracts, compacts, or other funding agreements under such Act without further
8 resolutions of the Regional Corporations, Village Corporations, tribes and/or
9 villages represented by the members of the Consortium; and

10 (II) used to reduce tobacco consumption, promote smoking cessation, and
11 to fund health care activities, including--

12 On page 225, line 23, strike "(i)" and insert in lieu thereof "(I)".

13 On page 226, line 1, strike "(ii)" and insert in lieu thereof "(II)".

14 On page 226, line 3, strike "(iii)" and insert in lieu thereof "(III)".

15 On page 226, line 6, strike "(iv)" and insert in lieu thereof "(IV)".

16 On page 226, line 8, strike "(v)" and insert in lieu thereof "(V)".

RL

1:00 p.m.

Top 1

AMENDMENT NO. _____ Calendar No. _____

Purpose: To require the Administrator of the Agency for Toxic Substances and Disease Registry to conduct a study of the high rate of cancer among children in Dover Township, New Jersey.

IN THE SENATE OF THE UNITED STATES—105th Cong., 2d Sess.

AMENDMENT N^o 2562

By *Toricelli*

S. 1415

(title) Bill/Res. No. _____

3

Page(s)

GPO: 1996 25-891 (mac)

Referred to the Committee on _____
and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. TORRICELLI

Viz:

- 1 At the appropriate place, insert the following:
- 2 SEC. ____ MICHAEL GILLICK CHILDHOOD CANCER RE-
- 3 SEARCH STUDY.
- 4 (a) FINDINGS.—Congress finds that—
- 5 (1) during the period from 1979 to 1995,
- 6 Ocean County, New Jersey, had a significantly high-
- 7 er rate of childhood brain cancer than the rest of the

1 United States, including a rate of brain and central
2 nervous system cancer that was nearly 75 percent
3 above the rate of other States;

4 (2) during the period from 1979 to 1995—

5 (A) there were 350 cases of childhood can-
6 cer in Ocean County, of which 90 cases were in
7 Dover Township, and of those 24 were in Toms
8 River alone;

9 (B) the rate of brain and central nervous
10 system cancer of children under 20 in Toms
11 River was nearly 3 times higher than expected,
12 and among children under 5 was 7 times higher
13 than expected; and

14 (C) Dover Township, which would have
15 had a nearly normal cancer rate if Toms River
16 were excluded, had a 1.3 times higher cancer
17 rate than the rest of the State and an 1.5 times
18 higher leukemia rate than the rest of the State;
19 and

20 (3)(A) according to New Jersey State cancer
21 registry data from 1979 to 1995, a population the
22 size of Toms River should have 14 children under
23 age 20 with cancer; and

24 (B) Toms River currently has 24 children
25 under the age of 20 with cancer..

1 (b) STUDY.—Section 104(i) of the Comprehensive
2 Environmental Response, Compensation, and Liability Act
3 of 1980 (42 U.S.C. 9604(i)) is amended by adding at the
4 end the following:

5 “(19) MICHAEL GILLICK CHILDHOOD CANCER
6 RESEARCH STUDY.—

7 “(A) IN GENERAL.—The Administrator of
8 ATSDR shall conduct dose-reconstruction mod-
9 eling and an epidemiological study of childhood
10 cancer in Dover Township, New Jersey.

11 “(B) GRANT TO THE STATE OF NEW JER-
12 SEY.—The Administrator of ATSDR may make
13 1 or more grants to the State of New Jersey to
14 carry out paragraph (1).

15 “(C) AUTHORIZATION OF APPROPRIA-
16 TIONS.—There are authorized to be appro-
17 priated to carry out this paragraph—

18 “(i) \$2,000,000 for fiscal year 1999;
19 and
20 “(ii) \$1,000,000 for fiscal year
21 2000.”

TORICELLI 2

S.L.C. 1:00 p.m.
17 Toni

AMENDMENT NO. _____ Calendar No. _____

Purpose: To provide health care for America's children.

IN THE SENATE OF THE UNITED STATES—105th Cong., 2d Sess.

S. 1415

To ref AMENDMENT N^o 2563 tobacco
pr outed,
to By Toricelli rs, to
re Bill/Res. No. _____ ; and
fo _____

Referr _____
Page(s) 7

GPO: 1996 25-891 (mac)

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. TORRICELLI

Viz:

1 On page 201, between lines 19 and 20, insert the fol-
2 lowing:

3 (3) MEDICAID CHILDREN'S ENROLLMENT PER-
4 FORMANCE BONUS.—

5 (A) SET ASIDE OF FUNDS.—Notwithstand-
6 ing the preceding paragraphs of this subsection,
7 8 percent of the amount received under this
8 section in a fiscal year shall not be used by a
9 State unless the State satisfies the require-
10 ments of subparagraphs (B) and (C).

1 (B) DEMONSTRATION OF IMPLEMENTA-
2 TION OF OUTREACH STRATEGIES.—A State
3 shall demonstrate to the satisfaction of the Sec-
4 retary that the State has a commitment to
5 reach and enroll children who are eligible for
6 but not enrolled under the State plan through
7 effective implementation of each of the follow-
8 ing outreach activities:

9 (i) STREAMLINED ELIGIBILITY PROCE-
10 DURES.—

11 (I) IN GENERAL.—The State
12 uses streamlined procedures described
13 in subclause (II) for determining the
14 eligibility for medical assistance of,
15 and enrollment in the State plan
16 under title XIX of the Social Security
17 Act (42 U.S.C. 1396 et seq.) of—

18 (aa) children in families with
19 incomes that do not exceed the
20 effective income level (expressed
21 as a percent of the poverty line)
22 that has been specified under
23 such State plan (including under
24 a waiver authorized by the Sec-
25 retary or under section

1 1902(r)(2) of such Act (42
2 U.S.C. 1396a(r)(2))) for the
3 child to be eligible for medical as-
4 sistance under section 1902(l)(2)
5 or 1905(n)(2) (as selected by a
6 State) of such Act (42 U.S.C.
7 1396a(l)(2), 1396d(n)(2)) for the
8 age of such child; and

9 (bb) children determined eli-
10 gible for such assistance, and en-
11 rolled in the State plan under
12 title XIX of the Social Security
13 Act, in accordance with the re-
14 quirements of paragraphs (1)
15 and (2) of section 1931(b) of
16 such Act (42 U.S.C. 1396u-
17 1(b)).

18 (II) PROCEDURES DESCRIBED.—
19 The streamlined procedures described
20 in this subclause include—

21 (aa) using shortened and
22 simplified applications for the
23 children described in subelause
24 (I);

1 (bb) eliminating the assets
2 test for determining the eligibility
3 of such children; and

4 (cc) allowing applications for
5 such children to be submitted by
6 mail or telephone.

7 (ii) CONTINUOUS ELIGIBILITY FOR
8 CHILDREN.—The State provides (or dem-
9 onstrates to the satisfaction of the Sec-
10 retary that, not later than fiscal year
11 2001, the State shall provide) for 12-
12 months of continuous eligibility for chil-
13 dren in accordance with section
14 1902(e)(12) of the Social Security Act (42
15 U.S.C. 1396a(e)(12)).

16 (iii) PRESUMPTIVE ELIGIBILITY FOR
17 CHILDREN.—The State provides (or dem-
18 onstrates to the satisfaction of the Sec-
19 retary that, not later than fiscal year
20 2001, the State shall provide) for making
21 medical assistance available to children
22 during a presumptive eligibility period in
23 accordance with section 1920A of the So-
24 cial Security Act (42 U.S.C. 1396r-1a).

1 (iv) OUTSTATIONING AND ALTER-
2 NATIVE APPLICATIONS.—The State com-
3 plies with the requirements of section
4 1902(a)(55) of the Social Security Act (42
5 U.S.C. 1396a(a)(55)) (relating to
6 outstationing of eligibility workers for the
7 receipt and initial processing of applica-
8 tions for medical assistance and the use of
9 alternative application forms).

10 (v) SIMPLIFIED VERIFICATION OF ELI-
11 GIBILITY REQUIREMENTS.—The State
12 demonstrates to the satisfaction of the Sec-
13 retary that the State uses only the mini-
14 mum level of verification requirements as
15 are necessary for the State to ensure accu-
16 rate eligibility determinations under the
17 State plan under title XIX of the Social
18 Security Act (42 U.S.C. 1396 et seq.).

19 (C) REPORT ON NUMBER OF ENROLL-
20 MENTS RESULTING FROM OUTREACH.—A State
21 shall annually report to the Secretary on the
22 number of full year equivalent children that are
23 determined to be eligible for medical assistance
24 under the State plan under title XIX of the So-

1 cial Security Act and are enrolled under the
2 plan as a result of—

3 (i) having been provided presumptive
4 eligibility in accordance with section 1920A
5 of such Act (42 U.S.C. 1396r-1a);

6 (ii) having submitted an application
7 for such assistance through an
8 outstationed eligibility worker; and

9 (iii) having submitted an application
10 for such assistance by mail or telephone.

11 (D) PROCEDURE FOR REDISTRIBUTION OF
12 UNUSED SET ASIDES.—The Secretary shall de-
13 termine an appropriate procedure for the redis-
14 tribution of funds set aside under this para-
15 graph for a State for a fiscal year that are not
16 used by the State during that fiscal year be-
17 cause the State did not satisfy the requirements
18 of subparagraphs (B) and (C) to States that
19 have satisfied such requirements for such fiscal
20 year and have fully expended the amount of
21 State funds so set aside.

22 (E) OFFSET OF FEDERAL EXPENDI-
23 TURES.—The amount allocated to the State
24 Litigation Settlement Account for a fiscal year
25 shall, in addition to any reductions required

1 under the third sentence of section 451(a), be
2 further reduced by the additional estimated
3 Federal expenditures that will be incurred as a
4 result of increased State expenditures resulting
5 from the application of this paragraph.

6 (F) APPLICATION OF RESTRICTION ON
7 SUBSTITUTION OF SPENDING.—The provisions
8 of subsection (c) of this section apply to this
9 paragraph in the same manner and to the same
10 extent as such provisions apply to the program
11 described in paragraph (2)(G) of this sub-
12 section.

WARNER 1

1:04 p.m.

AMENDMENT NO. _____ Ex. _____ Calendar No. _____

Purpose: To provide for services to dislocated
workers negatively impacted by the implementation
of the Act

IN THE SENATE OF THE UNITED STATES— _____ Cong., _____ Sess.

S. 1415

H.R. _____ (or Treaty _____ SHORT TITLE _____)

(title) _____

- () Referred to the Committee on _____ and ordered to be printed
- () Ordered to lie on the table and to be printed

John Warner

INTENDED to be proposed by WARNER

Viz:

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Strike ~~1031~~ Sec. 1031.

AMENDMENT N^o 2564

By Warner

Bill/Res. No. S. 1415

S. 1415

Page(s) 1

WARNER 2

1:04 p.m.

AMENDMENT NO. _____ Ex. _____ Calendar No. _____

Purpose: To ensure the equitable distribution between
States of funds designated to reduce underage
Tabacco use

IN THE SENATE OF THE UNITED STATES— _____ Cong., _____ Sess.

S. 1415
H.R. _____ (or Treaty _____)
SHORT TITLE _____

(title) _____

- () Referred to the Committee on _____
and ordered to be printed
- () Ordered to lie on the table and to be printed

John Warner

INTENDED to be proposed by WARNER

Viz:

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Strike Title II

AMENDMENT N^o 2565

By Warner

Bill/Res. No. _____

S. 1415

Page(s) 1

Warner 3

7:04 p.m.

AMENDMENT NO. _____ Ex. _____ Calendar No. _____

Purpose: To reduce youth smoking

IN THE SENATE OF THE

S. 1415

AMENDMENT N^o 2566

H.R. _____

By Warner

(title) _____

Bill/Res. No. _____

Page(s) 1

- () Referred to the Committee on _____ and ordered to be printed
- () Ordered to lie on the table and to be printed

GPO: 1996 25-891 (mac)

John Warner

INTENDED to be proposed by WARNER

Viz:

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Strike Subtitle A of Title XI

~~and insert~~

AMENDMENTS TO S. 1415

Amendment	Actively Oppose	Oppose	Neutral	Support	Comments
Ashcroft 1 Strike prescribed activities for states	OMB HHS				
Ashcroft 2 Strike funding trigger for NIH	HHS	OMB →	← OMB		
Ashcroft 3 Strike the funding trigger for CDC	HHS	OMB			
Ashcroft 4 Strike the funding trigger for FDA	OMB HHS				
Ashcroft 5 Strike international tobacco control awareness	HHS	OMB			
Ashcroft 6 Strike authorization for international programs	HHS	OMB			
Ashcroft 7 Strike the tax deductibility of tobacco company payments	TREAS (KS)		HHS OMB DOJ		
Ashcroft 8 To authorize state spending against illegal drugs		HHS	OMB		
Ashcroft 9 Increase penalties for trafficking methamphetamine		HHS	DOJ OMB (?)		
Ashcroft 10 Modify state law provisions regarding sale of tobacco products to minors		OMB (?)	HHS DOJ		
Bingaman 1 To provide funding for a VA Compensation Account	OMB HHS				
Bond 1 Sanctions for underage possession of tobacco			OMB HHS		
Bond 2 Specifies \$100 million in block grants be provided to States and local law enforcement agencies		HHS	OMB	DOJ	Treasury is neutral to supportive
Chafee 1 To prohibit smoking on airline flights				OMB HHS	OMB: Support, but with State Dep't revisions; USTR concurs.
Conrad 1 Technical correction: Non-compliance with State retail and licensing laws		X		OMB	
Conrad 2 To provide funds for counter-advertising programs		OMB	← OMB HHS		
Conrad 3 Permit States to enact laws more stringent than FDA-related provisions of this Act			HHS OMB		FINZ w/c.

AMENDMENTS TO S. 1415

Amendment	Actively Oppose	Oppose	Neutral	Support	Comments
Conrad 4 Permit sting operations to ensure compliance with State retail licensing laws			HHS DOJ	OMB	FINE w/ WJ
Conrad 5 Permits follow-up inspections of certain tobacco sales & distributions outlets			HHS	OMB	FINE w/ WJ
Conrad 6 Technical Correction: noncompliance with State retail and licensing laws	X		HHS	OMB	
Conrad 7 Modify definition of addiction and dependence claim			OMB HHS DOJ		
Conrad 8 Clarifies definition of tobacco claim			HHS DOJ		
Conrad 9 Provide funds for counter-advertising		OMB → HHS	← OMB		
Conrad 10 Technical Correction: State retail and licensing			HHS		
Conrad 11 Technical Correction: State retail and licensing			HHS	OMB	OMB defers to HHS
Craig 1 Increase funds available to States	OMB HHS TREAS (NW) DOJ				
Craig 2 Limit trust fund to take account of added federal spending and reimburse states for lost revenue	HHS OMB DOJ				
Dodd Floor for child care			OMB HHS		
Domenici 1 R&D tax credits	TREAS (KS)	OMB HHS			
Domenici 2 Dedicate revenues to Medicare trust fund after fy2008	HHS TREAS (NW)	OMB			
Durbin 1 Clarify advertising for mass transit vehicles			OMB HHS		FINE
Durbin 2 substitute provisions for reductions in under-age usage			OMB HHS DOJ		Similar to last week's Durbin
Durbin 3 Clarify definition of tobacco products <i>Ways for cessation</i>			OMB → HHS	← OMB	FINE
Durbin 4 clarify application to legislative branch for certain for certain tobacco act requirements			OMB HHS		Defer to Congress
Hatch 1 Banning a class of products or elimination of nicotine	OMB HHS				

FINE, IF NEEDED

AMENDMENTS TO S. 1415

Amendment	Actively Oppose	Oppose	Neutral	Support	Comments
Hatch 2 Modify provisions relating to the rule of the FDA	HHS DOJ				
Hatch 3 Strikes pre-market review of tobacco products	OMB HHS				
Hatch 4 Strike provisions relating to reporting of substantially equivalent products	TREAS ??? (KS) HHS OMB →	← OMB			
Hatch 5 Clarify provisions: Requires FDA promulgation of performance standards for tobacco products	HHS	OMB			
Hutchison 1 Maintain State funding for those States that have separate settlements w/ tobacco manufacturers			OMB (?) HHS DOJ		
Hutchison 2 State opt-in with respect to receipt of funds under this Act			OMB (?) HHS DOJ		
Hutchison 3 Funds received under state settlements are not considered as reimbursements for Medicaid expenditures or overpayments	DOJ		OMB HHS		
Hutchison 4 Requires that the determination of attorneys fees under this act offset any State liability for attorney fees			HHS DOJ		
Inouye 1 Any required asbestos payment can be taken from Trust fund		HHS	OMB		
Jeffords 1 Funding floor for AHCPR		OMB	HHS		
Jeffords 2 Earmark for research activities at NIH	HHS	OMB			
Jeffords 3 Congressional oversight for public health allocation account activities	HHS TREAS (NW)		OMB		
Kennedy 1 Non-tax deductibility of industry payments	TREAS (KS)		OMB HHS		
Kennedy 2 Non-tax deductibility of industry payments: duplicate of Kennedy 1 above.	TREAS (KS)		OMB HHS		
Kerrey 1 Only funds deposited in the tobacco trust fund may be used for activities under the bill	HHS TREAS (NW)	OMB			
Kerrey 2 Requires creation of tobacco scholar program	HHS	OMB			
Kerrey 3 Tobacco farmer transition provisions		OMB →	← OMB HHS		

AMENDMENTS TO S. 1415

Amendment	Actively Oppose	Oppose	Neutral	Support	Comments
Kerry + Others Floor for CCDBG			OMB HHS		
Landrieu 1 Increase industry payments			OMB HHS		
Landrieu 2 Assist individuals suffering from tobacco related illnesses		DOJ OMB HHS			
Landrieu 3 Factors considered in State distribution formula			OMB HHS		
Landrieu 4 Child-care for federal employees		OMB	HHS		
Lautenberg/ Smith 1 Local government authority relating to protection from health hazards-ETS			OMB → DOJ	← OMB HHS	FINE - w/ us
Lieberman 1 Compensatory damage awards			OMB HHS	DOJ	
Lugar 1 Treatment of payments to tobacco owners and producers and tobacco dependent states	HHS	OMB			
Lugar 2 Front-loads payments to farmers	HHS	OMB			
Mack 1 Clarifies NIH trigger			HHS	OMB	FINE w/ us
Mack 2 Treatment of state settlement not considered reimbursements for Medicaid		DOJ	HHS OMB		
McCain 1 Review of Survey Methodology for look back and other concerns		½ HHS- ACTION ON VOLUME REDUCTION		½ HHS- SURVEY METHOD OMB	
Murkowski 1 State tobacco excise and sales taxes from Indian tribes	TREAS (NW) DOJ	OMB	HHS		
Murkowski 2 Collection of state tobacco excise and sales taxes from Indian Tribes	TREAS (NW) DOJ	OMB	HHS		
Murray 1 Include child care providers in definition of public facilities-ETS			HHS	OMB	FINE
Roth 1 Payments to States and Medicaid coverage of smoking cessation agents	OMB	HHS			
Roth 2 Strikes Children's health outreach	TREAS (JG)	OMB HHS			
Roth 3 Repeal reduction in SSBG block grants for social services			← HHS OMB		

Revised
Guth
amendments

AMENDMENTS TO S. 1415

Amendment	Actively Oppose	Oppose	Neutral	Support	Comments
Roth 4 Privatization of eligibility for children under Medicaid	OMB HHS				
Roth 5 Deduction for health insurance costs	HHS TREAS (KS)	OMB			
Shelby 1 Awards by arbitration panels			HHS DOJ		
Shelby 2 Awards by arbitration panels			HHS DOJ		
Snowe 1 Priority funding for state based smoking cessation <i>+ prevent - 20 → 100 while pub health</i>		OMB	HHS		
Snowe 2 Penalties for minors purchasing and possessing tobacco		OMB →	← OMB HHS		
Stevens 1 Provisions relating to funding of Indian programs		OMB HHS			
Torricelli 1 Investigate high rate of cancer in Dover township, NJ			OMB HHS		
Torricelli 2 Health care for America's children – presumptive outreach		OMB	HHS		
Warner 1 Strikes dislocated worker provision in LEAF		OMB HHS			
Warner 2 Strike Title II – Reductions in underage tobacco use	HHS TREAS (NW)	OMB			
Warner 3 Strike International provisions: Title XI	HHS	OMB			

Agenda
Meeting on Tobacco Amendments - June 12, 1998

Health

- *Roth 2 Strikes Children's Health Outreach
- *Roth 4 Privatization of eligibility for children under Medicaid
- Roth 5 Deduction for health insurance costs

Industry Payments/Look back

- *Ashcroft 7 Strike the tax deductibility of tobacco company payments
- *Kennedy 1/2 Non-tax deductibility of industry payments
- Landrieu 1 Increase industry payments
- Warner 2 Strike Title II --Reductions in underage tobacco use

Spending

- *Ashcroft 1 Strike prescribed activities for states
- *Ashcroft 2 Strike funding trigger for NIH
- *Ashcroft 3 Strike the funding trigger for CDC
- *Ashcroft 4 Strike the funding trigger for FDA
- *Domenici 2 Dedicate revenues to Medicare trust fund after fy2008
- *Jeffords 2 Earmark for research activities at NIH
- *Jeffords 3 Congressional oversight for public health allocation account activities
- *Kerrey 1 Only funds deposited in the tobacco trust fund may be used for activities under the bill

- *Roth 1 Payments to States and Medicaid coverage of smoking cessation agents

- *Roth 3 Repeal reduction in SSBG block grants for social services
- *Craig 1 Increase funds available to states
- *Craig 2 Limit trust fund to take account of added federal spending and reimburse states for lost revenue

- Bingaman 1 To provide funding for the VA Compensation Account
- Conrad 2 To provide funds for counter-advertising programs
- Conrad 9 Provide funds for counter-advertising
- Inouye 1 Any required asbestos payment can be taken from Trust fund
- Jeffords 1 Funding floor for AHCPR
- Kerrey 2 Requires creation of tobacco scholar program
- Landrieu 2 Assist individuals suffering from tobacco related illnesses
- Landrieu 4 Child-care for federal employees

FDA

- *Hatch 1 Banning a class of products or elimination of nicotine
- *Hatch 2 Modify provisions relating to the rule of the FDA
- *Hatch 3 Strikes pre-market review of tobacco products
- *Hatch 4 Strike provision relating to reporting of substantially equivalent products

*Hatch 5 Clarify provisions: Requires FDA promulgation of performance standards for tobacco products

Retailers/Underage Purchase/Enforcement

*Bond 2 Specifies \$100 million in block grants be provided to States and local law enforcement agencies

*Conrad 1 Technical correction: Non-compliance with State retail and licensing laws

*Conrad 6 Technical correction: Non-compliance with State retail and licensing laws

*Conrad 10 Technical correction: State retail and licensing

*Conrad 11 Technical correction: State retail and licensing

Drugs

*Ashcroft 8 To authorize state spending against illegal drugs

*Ashcroft 9 Increasing penalties for trafficking methamphetamine

International

Ashcroft 5 Strike international tobacco control awareness

Ashcroft 6 Strike authorization for international programs

Warner 3 Strike international provisions: Title XI

ETS

Chafee 1 To prohibit smoking on airline flights

Durbin 4 Clarify application to legislative branch for certain tobacco act requirements

Murray 1 Include child-care providers in definition of public facilities--ETS

Lawsuits

Conrad 7 Modify definition of addiction and dependence claim

Conrad 8 Clarifies definition of tobacco claim

Tribes

Murkowski 1 State tobacco excise and sales taxes from Indian tribes

Murkowski 2 Collection of state tobacco excise and sales taxes from Indian tribes

Taxes

Domenici 1 R & D tax credits

GUIDE TO ACCEPTING AMENDMENTS BY UC (June 16, 1998)

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McCain - amend -
ments

Amendment	Oppose	Neutral	Support
Amendment 2569 (Abraham): Authorizes anti-drug activities that may be included in the section that deals with counter-advertising			
Amendment 2480 (Allard): Specifies that each State legislature appropriates amounts made available to the States.			
Amendment 2457 (Chafee): Creates in EPA a national education and outreach campaign for the effects of second hand smoke and allocates \$55 million annually			
Amendment 2468 (Chafee): Provides grants for minority medical schools for endowments and establishes public health programs regarding tobacco products			
Amendment 2469 (Chafee): Replaces section 402(b) with a section that requires tobacco manufacturers to annual base payments. Section 403 deleted. Adjusts the applicable base amount for changes in volume of domestic sales.			
Amendment 2463 (Coats): Deletes section 1161 -- Improving Child Care and Early Childhood Development			
Amendment 2464 (Coats): Adds Section 231(h) -- No HHS or State authority to establish a licensing program or conduct inspections of retailers on Federal military bases			
Amendment 2465 (Coats): Prohibits the diversion of FDA resources			
Amendment 2466 (Coats): Establishes a Center for Tobacco Product Regulation at FDA			
Amendment 2467 (Coats): Defines and gives guidelines for "Nonprofit Private Entities"			
Amendment 2472 (Coats): Limits attorneys fees			
Amendment 2441 (Craig): Creates a Black Lung Allocation Account			
Amendment 2571 (D'Amato): [2nd degree to #2443 (Feinstein)] Limits local governments that are eligible for assistance to those who supply Medicaid services or direct indigent care			
Amendment 2461-2462 (Domenici): Delete section 401(e) -- Budgetary Treatment			
Amendment 2481 (Domenici): Allows a State to use funds for anti-teen smoking and anti-drug use programs and to administer a limitation on attorneys' fees.			
Amendment 2482 (Domenici): Limits attorneys' fees to \$2000/hr spent in productive time.			

GUIDE TO ACCEPTING AMENDMENTS BY UC (June 16, 1998)

Amendment	Oppose	Neutral	Support
Amendment 2483 (Domenici): Establishes a trust fund in a separate account called the Veterans Account and specifies that amounts in Veterans Account shall be available in the amounts provided in advance appropriation acts.			
Amendment 2484 (Domenici): Eliminates restrictions on State allocations			
Amendment 2485 (Domenici): Permits expedited judicial review			
Amendment 2486 (Domenici): Deletes the State Allocation Accounts and adds section 451 -- Allocation Accounts and Section 451(a) Reduction of 15 and 28 Percent Rates			
Amendment 2487 (Domenici): Increases and simplifies the Dependent Care Tax Credit.			
Amendment 2488 (Domenici): Adds "Termination of Accounts." in which selected accounts that are established shall terminate in 10 years			
Amendment 2489 (Domenici): Adds "Windfall Profit Excise Tax on Certain Excessive Attorneys' Fee"			
Amendment 2571 (Durbin): Requires Congress to comply with the ETS regulations by January 1, 1999.			
Amendment 2636 (Durbin): Reduces attainment goals for underage tobacco use and reduces by half surcharges on tobacco products for non-attainment of goals.			
Amendment 2470 (Enzi): Allocates amounts contained in the National Tobacco Settlement Trust Fund			
Amendment 2471 (Enzi): [2nd degree to #2470 (Enzi)] Limits expenditures on obligations involving National Tobacco Settlement Trust Fund			
Amendment 2701 (Faircloth): Establishes criteria and jurisdiction for attorneys' fees, and establishes a limit of \$1,000 an hour plus 200% of expenses.			
Amendment 2443 (Feinstein): Provides payment to local governments that had initiated litigation against tobacco companies on or before June 20, 1997			
Amendment 2460 (Feinstein): Creates a formula for the allocation of State Litigation Settlement Account			
Amendment 2576 (Ford): Defines Black Market Tobacco Product			
Amendment 2577 (Ford): Requires that the Secretary notify Congress if pipe and cigar smoking is increasing "materially"			
Amendment 2578 (Ford): Increases the minimum period for public comment on document disclosure actions from 60 days to 90 days			

GUIDE TO ACCEPTING AMENDMENTS BY UC (June 16, 1998)

Amendment	Oppose	Neutral	Support
Amendment 2579 (Ford): Increases the maximum period for public comment on document disclosure actions from 90 days to 120 days			
Amendment 2580 (Ford): Prohibits FDA from issuing regulations affecting the manufacturing of tobacco products if the regulation adversely affects agricultural employment or manufacturing employment in the U.S.			
Amendment 2581 (Ford): Requires 120 days notice to manufacturer of hearings and allows for the manufacturer to participate in an oral hearing regarding the violation of these regulations			
Amendment 2582 (Ford): Requires FDA Advisory Committee review of any petition for an exemption to manufacturing practices regulation			
Amendment 2583 (Ford): Requires that FDA consult with USTR and USDA prior to issuing any performance standards regulations and that FDA, USTR and USDA certify that the regulations do not violate any treaty or adversely affect domestic or international competitiveness of tobacco growers in the U.S.			
Amendment 2584 (Ford): Increases the period for public comment on performance standards regulations from 60 days to 180 days			
Amendment 2585 (Ford): Increases the Congressional review period for regulations affecting classes of products from 2 years to 5 years			
Amendment 2586 (Ford): Requires Congressional review of FDA regulation that reduces nicotine by 50 percent or more (rather than only when proposing to eliminate nicotine altogether)			
Amendment 2587 (Ford): Eliminates FDA's ability to accelerate the effective date of a performance standard			
Amendment 2588 (Ford): Changes the standard that FDA would use to notify a manufacturer of a product's immediate (rather than substantial) harm			
Amendment 2588 (Ford): Changes the standard that FDA would use to notify a manufacturer of a product's immediate (rather than substantial) harm			
Amendment 2590 (Ford): Shortens the time that FDA has to act on an application for premarket approval from 180 days to 90 days			
Amendment 2591 (Ford): Requires a 120-day public comment period for the issuance of FDA's regulations governing postmarket surveillance			
Amendment 2591 (Ford): Requires a 120-day public comment period for the issuance of FDA's regulations governing postmarket surveillance			
Amendment 2594 (Ford): Requires a determination of underage use of black market tobacco products			

GUIDE TO ACCEPTING AMENDMENTS BY UC (June 16, 1998)

Amendment	Oppose	Neutral	Support
Amendment 2595 (Ford): Requires a report on the extent to which underage youth are using black market tobacco products			
Amendment 2596 (Ford): Requires a state to collect data from participants in cessation programs their use of black market tobacco products			
Amendment 2597 (Ford): Changes the effective date for labelling of flip top cigarette boxes from January 1, 2000 to January 1, 2002			
Amendment 2598 (Ford): Requires a 180-day period for public comments on any change in the warning labels for cigarettes			
Amendment 2599 (Ford): Requires a 180-day period for public comments on any change in the warning lables for smokeless tobacco products			
Amendment 2600 (Ford): Requires a 180-day period for public comments on any change in content disclosure requirements			
Amendment 2601 (Ford): Changes the maximum period of 24 months for FDA's promulgation of regulations for testing and content reporting to a minimum of 36 months			
Amendment 2602 (Ford): Requires a 180-day period for public comments on any promulgation of a regulation for testing and content reporting			
Amendment 2603 (Ford): Allows for an adjustment of prior year's payment if the maufactuer's payment was based on an incorrect annual apportionment			
Amendment 2604 (Ford): Changes the title of the section dealing with the right of an individual to bring suit against someone violating smoke-free policies from "Citizen Actions" to "Enforcement and Penalties"			
Amendment 2605 (Ford): Removes individuals from the list of those with standing to sue for violations of smoke-free policies			
Amendment 2606 (Ford): Changes the definition of "public facility" for purposes of smoke-free policy from a building regularly entered by 10 or more individuals at least 1 day a week to 50 or more individuals at least 4 days a week			
Amendment 2607 (Ford): Changes the definition of "public facility" for purposes of smoke-free policy from a building regularly entered by 10 or more individuals at least 1 day a week to 10 or more individuals at least 4 days a week			
Amendment 2608 (Ford): Requires notice to be served on someone violating a smoke-free policy at least 180 days before begining adverse action, rather than 60 days notice			
Amendment 2609 (Ford): Extends the period in which a smoke-free policy must be brought into compliance from 60 days to 180 days			

GUIDE TO ACCEPTING AMENDMENTS BY UC (June 16, 1998)

Amendment	Oppose	Neutral	Support
Amendment 2610 (Ford): Eliminates awarding of costs of litigation to an individual bringing suit against someone found guilty of violating the smoke-free policy			
Amendment 2611 (Ford): Requires a 180-day period for public comment on any regulation issued under the authority of the section governing environmental tobacco smoke			
Amendment 2612 (Ford): Exempts any state that has its own ETS laws from the application of the federal law			
Amendment 2613 (Ford): Includes a finding in the section dealing with the application to Indian Tribes that there is significant potential for the creation of a black market on lands under Indian jurisdiction			
Amendment 2614 (Ford): Requires Indian Tribes to establish a program to monitor the manufacture, distribution and use of black market tobacco products on lands under their jurisdiction			
Amendment 2615 (Ford): Provides immunity from tobacco claims to tobacco growers, cooperatives or warehouses			
Amendments 2616-20 (Ford): Provide slightly different versions of a substitute bill			
Amendment 2621 (Ford): [2nd degree amendment to #2501 (Lugar)] Substitutes Senator Ford's title X on the economic assistance to farmers and their communities			
Amendment 2627 (Ford): Strikes the Lugar Tobacco Assistance Title			
Amendment 2628 (Ford): [2nd degree amendment to #2497 (Lugar)] Substitutes the Ford Tobacco Assistance Title			
Amendment 2629 (Ford): Strikes the Lugar Tobacco Assistance Title			
Amendment 2630 (Ford): Strikes the elimination of the tobacco quota system in the Lugar Tobacco Assistance Title			
Amendment 2631 (Ford): [2nd degree amendment to #2435 (Ford)] Strikes the Lugar Tobacco Assistance Title			
Amendment 2632 (Ford): [2nd degree amendment to #2435 (Ford)] Strikes the Lugar Tobacco Assistance Title			
Amendment 2638 (Ford): Strikes all of Title 1, except definitions.			
Amendment 2639 (Ford): A second degree amendment to 2638 (Ford), striking all of Title 1, except definitions.			

GUIDE TO ACCEPTING AMENDMENTS BY UC (June 16, 1998)

Amendment	Oppose	Neutral	Support
Amendment 2640 (Ford): Doubles surcharges for non-attainment, and replaces p107 line 5-p182, line 21.			
Amendment 2641 (Ford): A second degree amendment to 2640 (Ford) that doubles surcharges for non-attainment, and replaces p107 line 5-p182, line 21.			
Amendments 2642-2681 (Ford): Same as Amendments 2577-2615.			
Amendment 2684 (Ford): A substitute.			
Amendment 2691 (Ford): Strikes bill after page 444 (the Lugar provisions)			
Amendment 2692 (Ford): Eliminates the Lugar provisions.			
Amendment 2693 (Ford): Substitutes Title X; Long Term Economic Assistance to Farmers.			
Amendment 2694 (Ford): Second degree amendment to 2501 (Lugar); Substitutes Title X; Long Term Economic Assistance to Farmers.			
Amendment 2695 (Ford): Second degree amendment to 2498 (Lugar); Substitutes Title X; Long Term Economic Assistance to Farmers.			
Amendment 2696 and 2697 (Ford): Second degree amendment to 2493 (Lugar); Substitutes Title X; Long Term Economic Assistance to Farmers;			
Amendment 2490 (Gorton): Adds section 604 - "State Tobacco Tax Compliance"			
Amendment 2491 (Gorton): Adds section 604 - "State Tobacco Tax Compliance"			
Amendment 2473 (Hollings): Deletes section 907(3) -- The Secretary may not ban a class of products or eliminate nicotine content without Congressional authority.			
Amendment 2474 (Hollings): Deletes section 506, lines 11-18 and adds "This title shall not apply to any State that, by law, provides it shall not apply to that State."			
Amendment 2475 (Hollings): Restricts importation of tobacco products.			
Amendment 2682-2683 (Hollings): Second degree to Amendment 2492 (Lugar): Flue-cured tobacco production permits.			
Amendment 2442 (Kerrey): Reallocates the funding in the state accounts based on the need for smoking cessation and it allows states to use all of the restricted state grants for smoking cessation			

GUIDE TO ACCEPTING AMENDMENTS BY UC (June 16, 1998)

Amendment	Oppose	Neutral	Support
Amendment 2699 (Kerry): Establishes Tobacco Producers Marketing Corporation.			
Amendment 2700 (Kerry): Provides for payments for lost value of tobacco crops (30% of value for farmers, 15% for producers), economic assistance block grants (\$200,000,000 from the Trust Fund 1999-2003), termination of the tobacco price supports, and termination of tobacco production adjustment programs.			
Amendment 2635 (Kohl): Limits court orders and agreements restricting the disclosure of information arising from discovery in tobacco litigation.			
Amendment 2637 (Leahy and Dewine): Provides for Treasury Department to include in regulations "structured transactions" of illegal tobacco trafficking, permitting the cumulative consideration of small transactions. Further Provides for U.S. Sentencing Commission to review and amend its guidelines for punishment of tobacco offenses.			
Amendment 2492 (Lugar): Deletes section 1024 which are the flue cured tobacco production permits			
Amendment 2493 (Lugar): Deletes Title X			
Amendment 2494 (Lugar): Deletes Section 1021(d)(4)(E) which is the Special Rule for Tenant of Leased Tobacco			
Amendment 2495 (Lugar):			
Amendment 2496 (Lugar): Deletes Title X			
Amendment 2497 (Lugar): Deletes Title X and adds section 1001 -- Budgetary Treatment; section 1002 -- Buy out Payments to Owners; section 1003 - Transition Payments to Producers; Section 1004 - Effective Date			
Amendment 2498 (Lugar): Changes payment system of farmers			
Amendment 2499 (Lugar): Makes additional changes to payment system of farmers			
Amendment 2500 (Lugar): Makes additional changes to payment system of farmers			
Amendment 2502 (Lugar): Makes additional changes to payment system of farmers			
Amendment 2459 (Sessions): Establish a national tobacco compensation program			
Amendment 2702 (Reed): Second degree to Amendment 2437; disallowance of tax deduction for tobacco advertising expenses not in conformity with part 897 of CFR title 21.			

GUIDE TO ACCEPTING AMENDMENTS BY UC (June 16, 1998)

Amendment	Oppose	Neutral	Support
Amendment 2435 (G. Smith): Ties the annual payments of the tobacco companies to the total number of units of tobacco products that were sold in the previous year in the U.S. It also changes the spending allocations -- 10 percent unrestricted to states; 10 percent to health and health research; 10 percent to farmers; 70 percent to Medicare Trust Fund			
Amendment 2572 (G. Smith): [2nd degree to #2435 (G. Smith)] Eliminates the section of the previous amendment that connects industry payments to the number of units sold			
Amendment 2476 (Snowe): Adds "Subtitle A -- Provisions Relating to the Protocol and Liability" and "Subtitle B -- Codification of Marketing and Advertising Restrictions" and section 1421 -- Finding; section 1422 -- Advertising Provisions; section 1423 -- Point-of-Sale Restrictions; and section 1424 -- Statutory Advertising Restrictions			
Amendment 2477 (Snowe): Adds "Subtitle A -- Provisions Relating to the Protocol and Liability" and "Subtitle B -- Codification of Marketing and Advertising Restrictions" and section 1421-- Finding; section 1422 -- Advertising Provisions; section 1423 -- Point-of-Sale Restrictions; section 1424 -- Statutory Advertising Restrictions; section 1425 - Effective Date; and section 1426 -- Sunset Provision			
Amendment 2690 (Toricelli and Wellstone): Provides for Medicaid children's bonus. Sets aside 15% of funding for states not conducting outreach efforts for Medicaid children enrollment, and for streamlined procedures for determining eligibility and enrollment.			
Amendment 2573 (Wellstone): [2nd degree to #2508 (Craig)] Requires that payments to states that have settled with tobacco companies must be made from the State Account until the state actually receives payment from the companies			
Amendment 2574 (Wellstone): [2nd degree to #2512 (Roth)] Requires that payments to states that have settled with tobacco companies must be made from the State Account until the state actually receives payment from the companies			
Amendment 2687(Wellstone): Second degree to 2512 (Roth) to modify payments to states, including set-off payments from litigation.			

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ABRAHAM (AND COVERDELL) AMENDMENT NO. 2569 (Senate - June 09, 1998)

[Page: S5800]

(Ordered to lie on the table.)

Mr. ABRAHAM (for himself and Mr. Coverdell) submitted an amendment intended to be proposed by them to the bill (S. 1415) to reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes; as follows:

On page 154, between lines 5 and 6, insert the following:

Subpart III--Anti-drug Counter-advertising, Education, and Prevention Programs.

SEC. 1983. ANTI-DRUG ACTIVITIES UNDER SUBPARTS I AND II.

In carrying out the programs authorized by subparts I and II of this part, the Secretary shall incorporate, or carry out parallel programs, with respect to the illicit use of drugs.

On page 195, strike lines 5 through 9, and insert the following:

- (i) smoking prevention activities under subpart I, and anti-drug activities authorized by subpart III, of part D of title XIX of the Public Health Service Act, as added by section 261 of this Act;
- (ii) counter-advertising under subpart II, and anti-drug activities authorized by subpart III, of such part as so added;

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ALLARD AMENDMENT NO. 2480 (Senate - June 05, 1998)

[Page: S5709]

(Ordered to lie on the table.)

Mr. **ALLARD** submitted an amendment intended to be proposed by him to the bill, S. 1415, supra; as follows:

On page 210, between lines 18 and 19, insert the following:

SEC. 456. ACTION BY STATE LEGISLATURE.

Amounts made available to a State under this Act shall be subject to appropriation by the State legislature, consistent with the terms and conditions required under this Act.

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CHAFEE AMENDMENT NO. 2457 (Senate - June 04, 1998)

[Page: S5652]

Mr. CHAFEE submitted an amendment intended to be proposed by him to the bill, S. 1415, supra; as follows:

At the appropriate place in title V, insert the following:

SEC. XXX. EDUCATION AND OUTREACH.

(a) **National Education and Outreach Campaign:** The Administrator shall use amounts made available under subsection (c)(1) in each fiscal year to establish a national education and outreach campaign relating to the effect on individuals of exposure to tobacco smoke and ways to minimize such exposure. In establishing such campaign, the Administrator shall--

- (1) focus on children's exposure to environmental tobacco smoke in the home; and
 - (2) coordinate activities with the Secretary of Health and Human Services and other Federal agencies as determined appropriate by the Administrator.
- (b) **Peer Review:** The Administrator shall use amounts made available under subsection (c)(2) in each fiscal year to carry out research, and provide for peer review studies of research, related to the exposure of individuals to environmental tobacco smoke.
- (c) **Funding:** There shall be made available from the Public Health Allocation Account established under section 451(b) to the Administrator--

- (1) \$50,000,000 for each of the fiscal years 1999 through 2003 to carry out subsection (a); and
- (2) \$5,000,000 for each of the fiscal years 1999 through 2003 to carry out subsection (b).

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CHAFEE (AND STEVENS) AMENDMENT NO. 2468 (Senate - June 05, 1998)

[Page: S5704]

(Ordered to lie on the table.)

Mr. CHAFEE (for himself and Mr. **Stevens**) submitted an amendment intended to be proposed by them to the bill, S. 1415, supra; as follows:

On page 130, after line 25, add the following:

`(3) For each of the first 5 fiscal years following the date of enactment of this part, a percentage of the amount available for any fiscal year under subsection (a) shall be made available to the Secretary to make grants under section 1981F.'.

On page 147, between lines 5 and 6, insert the following:

[Page: S5705]

'SEC. 1981F. GRANTS TO MINORITY MEDICAL SCHOOLS FOR ENDOWMENTS; PUBLIC HEALTH PROGRAMS REGARDING TOBACCO PRODUCTS.

'(a) **In General:** From the amount made available under section 1981(b)(3) for the fiscal year, the Secretary shall make grants to schools specified in subsection (b) for the purpose of establishing at the schools endowments each of whose income is used exclusively to carry out--

'(1) public health programs; and

'(2) programs of biomedical research on diseases for which the consumption of tobacco products is a principal causal factor.

'(b) **Relevant Schools:**

'(1) **In general:** The schools referred to in subsection (a) are the following medical schools (schools of medicine or osteopathic medicine) and nursing school that are located in a State or the District of Columbia:

'(A) The 4 medical schools in the United States whose enrollment for academic year 1998 of Black individuals constituted a higher percentage of such individuals than other medical schools in the United States.

'(B) The 4 medical schools in the United States whose enrollment for academic year 1998 of Hispanic individuals constituted a higher percentage of such individuals than other medical schools in the United States.

'(C) The medical school in the United States whose enrollment for academic year 1998 of Native American individuals constituted a higher percentage of such individuals than other medical schools in the United States.

'(D) The school of nursing in the United States whose enrollment for academic year 1998 of Alaska

Natives constituted a higher percentage of such individuals than other schools of nursing in the United States.

(2) Payments to different schools: The Secretary may modify the requirements of paragraph (1) only for purposes of ensuring that 10 different schools receive grants under this section.

(c) Distribution of Funds:

(1) In general: Subject to paragraph (2), of the funds made available for grants under this section for a fiscal year each school described in subsection (b) shall receive \$5,000,000.

(2) Pro rata reductions: If the funds made available for grants under this section for a fiscal year are not sufficient to pay each school described in subsection (b) the amount described in paragraph (1), the Secretary shall pay each such school an amount equal to the pro rata share of the amount made available.

(d) Accountability: Any school that receives a grant under this section shall file an annual report with the Department of Education and the Department of Health and Human Services on the use of the funds received by the school under a grant made under this section.'

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CHAFEE (AND OTHERS) AMENDMENT NO. 2469 (Senate - June 05, 1998)

[Page: S5705]

(Ordered to lie on the table.)

Mr. CHAFEE (for himself, Mr. **Harkin**, and Mr. **Graham**) submitted an amendment intended to be proposed by them to the bill, S. 1415, supra; as follows:

In section 402, strike subsection (b), and insert the following:

(b) **Annual Base Payments:** Each calendar year beginning after the required payment date under subsection (a)(3), the tobacco product manufacturers shall make total payments into the Fund for each calendar year in the following applicable base amounts, subject to adjustment as provided in section 403:

(1) For year 1--\$14,400,000,000.

(2) For year 2--\$21,600,000,000.

(3) For year 3, and each subsequent year, an amount equal to the amount of the annual base payment for the preceding year, prior to any adjustment as provided for in section 403, increased by the greater of 3 percent or the annual increase in the CPI.

For purposes of this subsection, the CPI for any calendar year is the average of the Consumer Price Index for all urban consumers published by the Department of Labor. If any increase determined under this subsection is not a multiple of \$1,000, the increase shall be rounded to the nearest multiple of \$1,000.

Strike section 403 and insert the following:

SEC. 403. VOLUME ADJUSTMENT.

Beginning with calendar year 2000, the applicable base amount shall be adjusted for changes in volume of domestic sales by multiplying the applicable base amount by the ratio of the actual volume for the calendar year to the base volume. For purposes of this subsection, the term 'base volume' means 80 percent of the number of units of taxable domestic removals and taxed imports of cigarettes in calendar year 1997, as reported to the Secretary of the Treasury. For purposes of this section, the term 'actual volume' means the number of adjusted units as defined in section 402(d)(3)(A).

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COATS AMENDMENTS NOS. 2463-2467 (Senate - June 05, 1998)

[Page: S5704]

(Ordered to lie on the table.)

Mr. COATS submitted five amendments intended to be proposed by him to the bill, S. 1415, supra; as follows:

Amendment No. 2463

Beginning on page 385, strike line 10 and all that follows through line 20 on page 386.

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Amendment No. 2464

On page 127, after line 24, add the following:

(h) **Military Base Exclusions:** Nothing in this section shall be construed to provide authority to the Secretary or to a State to establish a retail licensing program for, or conduct inspections of the sale of tobacco on, Federal military bases.

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Amendment No. 2465

At the appropriate place in title I, insert the following:

SEC. XX. PROHIBITION ON DIVERSION OF FDA RESOURCES.

Notwithstanding any other provision of this Act, or an amendment made by this Act, the Secretary shall ensure that the tobacco-related authority provided to the Food and Drug Administration under this Act and the amendments made by this Act will not result in the diversion of resources from the Center for Biologics Evaluation and Research, the Center for Drug Evaluation and Research, the Center for Devices and Radiological Health, the Center for Food Safety and Applied Nutrition, the Center for Veterinary Medicine, the National Center for Toxicological Research, or from any of the other activities of such Administration, including the review, approval process and other activities required with respect to drugs, devices, cosmetics, and foods.

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Amendment No. 2466

At the appropriate place in title IV, insert the following:

SEC. XX. CENTER FOR TOBACCO PRODUCT REGULATION.

(a) **Establishment:** The Secretary may establish within the Food and Drug Administration a Center for Tobacco Product Regulation (referred to in this section as the 'Center').

(b) **Jurisdiction:** The Center shall have sole jurisdiction to regulate tobacco products under chapter IX of the Federal Food, Drug and Cosmetic Act.

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Amendment No. 2467

On page 23, after line 22, add the following:

(20) **Nonprofit private entity:** The terms 'nonprofit private entity' or 'private nonprofit entity' include faith-based organizations, and the provisions of section 1981F shall apply with respect to such organizations. With respect to amendments made by this Act, the terms 'nonprofit private entity' or 'private nonprofit entity' shall have the meaning given in this paragraph.

On page 147, between lines 5 and 6, insert the following:

'SEC. 1981F. CHARITABLE CHOICE.

'(a) **Faith-Based Organizations Included as Nongovernmental Providers:** For any program carried out by the Federal Government, or by a State or local government under this subpart, the government shall consider, on the same basis as other nongovernmental organizations, faith-based organizations to provide the assistance under the program, so long as the program is implemented in a manner consistent with the Establishment Clause of the first amendment to the Constitution. Neither the Federal Government nor a State or local government receiving funds under this subpart shall discriminate against an organization that provides assistance under, or applies to provide assistance under, this subpart, on the basis that the organization has a faith-based character.

'(b) **Exclusions:** As used in subsection (a), the term 'program' means activities carried out under this subpart.

'(c) **Faith-Based Character and Independence:**

'(1) **In general:** A faith-based organization that provides assistance under a program described in subsection (a) shall retain its independence from Federal, State, and local governments, including such organization's control over the definition, development, practice, and expression of its faith-based beliefs.

'(2) **Additional safeguards:** Neither the Federal Government nor a State or local government shall require a faith-based organization--

'(A) to alter its form of internal governance; or

'(B) to remove faith-based art, icons, scripture, or other symbols;

in order to be eligible to provide assistance under a program described in subsection (a).

'(d) **Employment Practices:** The exemption of a faith-based organization provided under section 702 or

703(e)(2) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-1, 2000e-2(e)(2)) regarding employment practices shall not be affected by the faith-based organization's provision of assistance under, or receipt of funds from, programs described in subsection (a).

(e) Rights of Beneficiaries of Assistance:

(1) **In general:** If an individual described in paragraph (3) has an objection to the faith-based character of the organization from which the individual receives, or would receive, assistance funded under any program described in subsection (a), the appropriate Federal, State, or local governmental entity shall provide to such individual (if otherwise eligible for such assistance) within a reasonable period of time after the date of such objection, assistance that--

(A) is from an alternative organization that is accessible to the individual; and

(B) has a value that is not less than the value of the assistance that the individual would have received from such organization.

(2) **Notice:** The appropriate Federal, State, or local governmental entity shall ensure that notice is provided to individuals described in paragraph (3) of the right of such individuals to make the objection described in paragraph (1).

(3) **Individual described:** An individual described in this paragraph is an individual who receives or applies for assistance under a program described in subsection (a).

(f) **Nondiscrimination Against Beneficiaries:** A faith-based organization shall not discriminate against an individual described in subsection (e)(3) in regard to--

(1) rendering assistance funded under any program described in subsection (a) on the basis of religion, a faith-based belief, or refusal to hold a faith-based belief; or

(2) rendering assistance funded through a grant or contract under such program on the basis of refusal to actively participate in a faith-based practice.

(g) Fiscal Accountability:

(1) **In general:** Except as provided in paragraph (2), any faith-based organization providing assistance under any program described in subsection (a) shall be subject to the same regulations as other nongovernmental organizations to account in accord with generally accepted accounting principles for the use of such funds provided under such program.

(2) **Limited audit:** Such organization shall segregate government funds provided under such program into a separate account. Only the government funds shall be subject to audit by the government.

(h) **Compliance:** A party alleging that the rights of the party under this section have been violated by a State or local government may bring a civil action pursuant to section 1979 of the Revised Statutes (42 U.S.C. 1983) against the official or government agency that has allegedly committed such violation. A party alleging that the rights of the party under this section have been violated by the Federal Government may bring a civil action for appropriate relief in an appropriate Federal district court against the official or government agency that has allegedly committed such violation.

(i) **Limitations on Use of Funds for Certain Purposes:** No funds provided through a grant or contract to a faith-based organization to provide assistance under any program described in subsection (a) shall be expended for sectarian worship, instruction, or proselytization.

(j) Effect on State and Local Laws:

(1) **In general:** If a State or local government contributes State or local funds to carry out a program described in subsection (a), the government may--

(A) segregate the State or local funds from the Federal funds provided to carry out the program; or

(B) commingle the State or local funds with the Federal funds.

(2) **Segregated funds:** If the State or local government segregates the State or local funds, the

provisions of State law relating to the expenditure of public funds in or by sectarian institutions shall apply only to the segregated State or local funds.

(3) **Commingled funds:** If the State or local government commingles the State or local funds, the provisions of this section shall apply to the commingled funds in the same manner, and to the same extent, as the provisions apply to the Federal funds, and the provisions of State law described in paragraph (2) shall not apply to the commingled funds.

(k) **Treatment of Intermediate Contractors:** If a nongovernmental organization (referred to in this subsection as an 'intermediate organization'), acting under a contract or other agreement with the Federal Government or a State or local government, is given the authority under the contract or agreement to select nongovernmental organizations to provide assistance under the programs described in subsection (a), the intermediate organization shall have the same duties under this section as the government.

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COATS AMENDMENT NO. 2472 (Senate - June 05, 1998)

[Page: S5705]

(Ordered to lie on the table.)

Mr. COATS submitted an amendment intended to be proposed by him to the bill, S. 1415, supra; as follows:

At the appropriate place in title XIV, insert the following:

SEC. XX. LIMIT ON ATTORNEYS' FEES.

(a) **Fee Arrangements:** Subsection (f) shall apply to attorneys' fees provided for or in connection with action of the type described in subsection (c) under any--

- (1) court order;
- (2) settlement agreement;
- (3) contingency fee arrangement;
- (4) arbitration procedure;
- (5) alternative dispute resolution procedure (including mediation);
- (6) retainer agreements; or
- (7) other arrangement providing for the payment of attorneys' fees.

(b) **Requirements:** No award of attorneys' fees under any action to which this Act applies shall be made under this Act until the attorneys involved have--

(1) provided to the Congress a detailed time accounting with respect to the work performed in relation to the legal action involved; and

(2) made public disclosure of the time accounting under paragraph (1) and any fee arrangements entered into, or fee arrangements made, with respect to the legal action involved.

(c) **Application:** This section shall apply to fees paid or to be paid, under any arrangement described in subsection (a), to attorneys--

(1) who acted on behalf of a State or political subdivision of a State in connection with any past litigation of an action maintained by a State against one or more tobacco companies to recover tobacco-related medicaid expenditures;

(2) who acted on behalf of a State or political subdivision of a State in connection with any future litigation of an action maintained by a State against one or more tobacco compares to recover tobacco-related medicaid expenditures;

(3) who act at some future time on behalf of a State or political subdivision of a State in connection with any past litigation of an action maintained by a State against one or more tobacco companies to recover tobacco-related medicaid expenditures;

(4) who act at some future time on behalf of a State or political subdivision of a State in connection with any future litigation of an action maintained by a State against one or more tobacco companies to recover tobacco-related medicaid expenditures;

(5) who acted on behalf of a plaintiff class in civil actions to which this Act applies that are brought against participating or nonparticipating tobacco manufacturers;

(6) who act at some future time on behalf of a plaintiff class in civil actions to which this Act applies that are brought against participating or nonparticipating tobacco manufacturers;

(7) who acted on behalf of a plaintiff in civil actions to which this Act applies that are brought against participating or nonparticipating tobacco manufacturers;

(8) who act at some future time on behalf of a plaintiff in civil actions to which this Act applies that are brought against participating or nonparticipating tobacco manufacturers;

(9) who expended efforts that in whole or in part resulted in or created a model for programs in this Act;

(10) who acted on behalf of a defendant in any of the matters set forth in paragraphs (1) through (9); or

(11) who act at some future time on behalf of a defendant in any of the matters set forth in paragraphs (1) through (9).

(d) Report:

(1) In general: Each attorney whose fees for services already rendered are subject to subsection (a) shall, within 60 days of the date of the enactment of this Act, submit to Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a comprehensive record of the time and expenses for which the fees are to be paid. Such record shall be subject to section 1001(a) of title 18, United States Code.

(2) Future action: Each attorney whose fees for services rendered in the future are subject to subsection (a) shall, within 60 days of the completion of the attorney's services, submit to Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a comprehensive record of the time and expenses for which the fees are to be paid. Such record shall be subject to section 1001(a) of title 18, United States Code.

(e) Severability: If any provision of this section or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this section and the application of the provisions of such to any person or circumstance shall not be affected thereby.

(f) General Limitation: Notwithstanding any other provision of law, for each hour spent productively and at risk, separate from the reimbursement of actual out-of-pocket expenses as approved by the court in any action to which this section applies, any attorneys' fees or expenses paid to attorneys for matters described in subsection (c) shall not exceed \$XXXX per hour.

(g) Effective Date and Use of Funds:

(1) Effective date: This section shall take effect on the date on which the Secretary makes use of amounts appropriated under section 1161.

(2) Use of funds: Any funds remaining in the National Tobacco Trust Fund as a result of the implementation of this section shall be used as provided for in section 1161.

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CRAIG AMENDMENT NO. 2441 (Senate - May 21, 1998)

[Page: S5341]

(Ordered to lie on the table.)

Mr. CRAIG submitted an **amendment** intended to be proposed by him to the bill, S. 1415, supra; as follows:

On page 210, line 19, insert the following:

Sec. 456--Black Lung Allocation Account: There is hereby established within the trust fund a separate account, to be known as the Black Lung Allocation Account, which shall be eligible to receive funds made available under Sec. 401(a) to make transfers to the Black Lung Disability Trust Fund.

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D'AMATO AMENDMENT NO. 2571 (Senate - June 09, 1998)

[Page: S5800]

(Ordered to lie on the table.)

Mr. D'AMATO submitted an amendment intended to be proposed by him to amendment No. 2443 proposed by Mrs. **Feinstein** to the bill, S. 1415, supra; as follows:
In lieu of the matter proposed to be inserted, insert the following:

(4) **Funds for local governmental entities:** To be eligible to receive funds under this subsection, a State shall have adopted procedures to provide an equitable portion of such funds to local governmental entities within the State that can demonstrate that such entities incurred tobacco-related health costs through--

(A) contributions to the program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.); or

(B) the provision of indigent care.

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DOMENICI AMENDMENTS NOS. 2461-2462 (Senate - June 05, 1998)

[Page: S5703]

(Ordered to lie on the table.)

Mr. DOMENICI submitted two amendments intended to be proposed by him to the bill, S. 1415, supra; as follows:

Amendment No. 2461

At the appropriate place, insert the following:

Notwithstanding any other provision of this Act, section 401(e) is null and void.

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[Page: S5704]

Amendment No. 2462

Strike section 401(e).

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DOMENICI AMENDMENTS NOS. 2481-2489 (Senate - June 05, 1998)

[Page: S5709]

(Ordered to lie on the table.)

Mr. Domenici submitted nine amendments intended to be proposed by him to the bill, S. 1415, supra; as follows:

Amendment No. 2481

Beginning on page 200, strike line 6 and all that follows through line 19 on page 201, and insert the following:

(b) **Use of Funds:** A State may use amounts received under this section as the State determines appropriate to support an effective anti-teen smoking and anti-drug use program.

SEC. XX. LIMITATION ON ATTORNEYS FEES.

Notwithstanding any other provision of this Act, amounts paid by a State to attorneys acting on behalf of the State or political subdivision of the State in connection with the past or future settlement of an action maintained by the State against 1 or more tobacco companies to recover tobacco-related medicaid expenditures, or for efforts that in whole or in part resulted in or created a model for programs in this Act, or for other causes of action to which the settlement agreement dated June 20, 1997 would apply, shall not exceed the lesser of--

- (1) an amount equal to \$2,000 per hour for each hour spent productively and at risk; or
- (2) an amount equal to 10 percent of the amount which the State receives under section 451(a) for the fiscal year involved.

--

Amendment No. 2482

At the appropriate place in title XIV, insert the following:

SEC. XX. LIMITATION ON ATTORNEYS FEES.

Notwithstanding any other provision of this Act, amounts paid by a State to attorneys acting on behalf of the State or political subdivision of the State in connection with the past or future settlement of an action maintained by the State against 1 or more tobacco companies to recover tobacco-related medicaid expenditures, or for efforts that in whole or in part resulted in or created a model for programs in this Act, or for other causes of action to which the settlement agreement dated June 20, 1997 would apply, shall not exceed the lesser of--

- (1) an amount equal to \$2,000 per hour for each hour spent productively and at risk; or
- (2) an amount equal to 10 percent of the amount which the State receives under section 451(a) for the fiscal year involved.

--

Amendment No. 2483

On page 199, after line 23, add the following:
(f) **Veterans Account:**

(1) **In general:** There is established within the trust fund a separate account, to be known as the Veterans Account. Of the net revenues credited to the trust fund under section 401(b)(1), \$1,000,000,000 for each fiscal year shall be allocated to the Veterans Account.

(2) **Authorization of appropriations:** Amounts in the Veterans Account shall be available to the extent and in the amounts provided in advance in appropriations acts, to remain available until expended, only for purposes of enabling the Department of Veterans Affairs to provide care and services under chapter 17 of title 38, United States Code.

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[Page: S5710]

On page 199, after line 23, add the following:
(f) **Veterans Account:**

(1) **In general:** There is established within the trust fund a separate account, to be known as the Veterans Account. Of the net revenues credited to the trust fund under section 401(b)(1), \$1,000,000,000 for each fiscal year shall be allocated to the Veterans Account.

(2) **Authorization of appropriations:** Amounts in the Veterans Account shall be available to the extent and in the amounts provided in advance in appropriations acts, to remain available until expended, only for purposes of enabling the Department of Veterans Affairs to provide care and services under chapter 17 of title 38, United States Code.

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Amendment No. 2484

Beginning on page 192, line 6, strike all through page 199, line 23, and insert the following:

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DOMENICI AMENDMENTS NOS. 2481-2489 (Senate - June 05, 1998)

SEC. 451. ALLOCATION ACCOUNTS.

(a) State Litigation Settlement Account:

(1) In general: There is established within the Trust Fund a separate account, to be known as the State Litigation Settlement Account. Of the net revenues credited to the Trust Fund under section 401(b)(1) for each fiscal year, 20 percent of the amounts designated for allocation under the settlement payments shall be allocated to this account. Such amounts shall be reduced by the additional estimated Federal expenditures that will be incurred as a result of State expenditures under section 452, which amounts shall be transferred to the miscellaneous receipts of the Treasury. If, after 10 years, the estimated 25-year total amount projected to received in this account will be different than amount than \$196,500,000,000, then beginning with the eleventh year the 20 percent share will be adjusted as necessary, to a percentage not in excess of 25 percent and not less than 15 percent, to achieve that 25-year total amount.

(2) Authorization of appropriations: Amounts in the State Litigation Settlement Account shall be available to the extent and only in the amounts provided in advance in appropriations Acts, to remain available until expended.

(3) Distribution formula: The Secretary of the Treasury shall consult with the National Governors Association, the National Association of Attorneys General, and the National Conference of State Legislators on a formula for the distribution of amounts in the State Litigation Settlement Account and report to the Congress within 90 days after the date of enactment of this Act with recommendations for implementing a distribution formula.

(4) Use of funds: A State may use amounts received under this subsection as the State determines appropriate, consistent with the other provisions of this Act.

(5) Funds not available as Medicaid reimbursement: Funds in the account shall not be available to the Secretary as reimbursement of Medicaid expenditures or considered as Medicaid overpayments for purposes of recoupment.

(b) Public Health Allocation Account:

(1) In general: There is established within the trust fund a separate account, to be known as the Public Health Account. Eleven percent of the net revenues credited to the trust fund under section 401(b)(1) and 50 percent of the net revenues credited to the trust fund under section 401(b)(3) shall be allocated to this account.

(2) Authorization of appropriations: Amounts in the Public Health Account shall be available to the extent and only in the amounts provided in advance in appropriations Acts, to remain available until expended, only for the purposes of:

(A) Cessation and other treatments: Of the total amounts allocated to this account, not less than 25 percent, but not more than 35 percent are to be used to carry out smoking cessation activities under part D of title XIX of the Public Health Service Act, as added by title II of this Act.

(B) Indian health service: Of the total amounts allocated to this account, not less than 3 percent, but not

more than 7 percent are to be used to carry out activities under section 453.

(C) Education and prevention: Of the total amounts allocated to this account, not less than 50 percent, but not more than 65 percent are to be used to carry out--

(i) counter-advertising activities under section 1982 of the Public Health Service Act as amended by this Act;

(ii) smoking prevention activities under section 223;

(iii) surveys under section 1991C of the Public Health Service Act, as added by this Act (but, in no fiscal year may the amounts used to carry out such surveys be less than 10 percent of the amounts available under this subsection); and

(iv) international activities under section 1132.

(D) Enforcement: Of the total amounts allocated to this account, not less than 17.5 percent nor more than 22.5 percent are to be used to carry out the following:

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DOMENICI AMENDMENTS NOS. 2481-2489 (Senate - June 05, 1998)

(i) Food and Drug Administration activities.

(I) The Food and Drug Administration shall receive not less than 15 percent of the funds provided in subparagraph (D) in the first fiscal year beginning after the date of enactment of this Act, 35 percent of such funds in the second year beginning after the date of enactment, and 50 percent of such funds for each fiscal year beginning after the date of enactment, as reimbursements for the costs incurred by the Food and Drug Administration in implementing and enforcing requirements relating to tobacco products.

(II) No expenditures shall be made under subparagraph (D) during any fiscal year in which the annual amount appropriated for the Food and Drug Administration is less than the amount so appropriated for the prior fiscal year.

(ii) State retail licensing activities under section 251.

(iii) Anti-Smuggling activities under section 1141.

(c) Health and Health-related Research Allocation Account:

(1) **In general:** There is established within the trust fund a separate account, to be known as the Health and Health-Related Research Account. Of the net revenues credited to the trust fund under section 401(b)(1), 11 percent shall be allocated to this account.

(2) **Authorization of appropriations:** Amounts in the Health and Health-Related Research Account shall be available to the extent and in the amounts provided in advance in appropriations acts, to remain available until expended, only for the following purposes:

(A) \$750,000 shall be made available in fiscal year 1999 for the study to be conducted under section 1991 of the Public Health Service Act.

(B) National Institutes of Health Research under section 1991D of the Public Health Service Act, as added by this Act. Of the total amounts allocated to this account, not less than 75 percent, but not more than 80 percent shall be used for this purpose.

(C) Centers for Disease Control under section 1991C of the Public Health Service Act, as added by this Act, and Agency for Health Care Policy and Research under section 1991E of the Public Health Service Act, as added by this Act, authorized under sections 2803 of that Act, as so added. Of the total amounts allocated to this account, not less than 12 percent, but not more than 18 percent shall be used for this purpose.

(D) National Science Foundation Research under section 454. Of the total amounts allocated to this account, not less than 1 percent, but not more than 1 percent shall be used for this purpose.

(E) Cancer Clinical Trials under section 455. Of the total amounts allocated to this account, \$750,000,000 shall be used for the first 3 fiscal years for this purpose.

(d) Farmers Assistance Allocation Account:

(1) **In general:** There is established within the trust fund a separate account, to be known as the Farmers Assistance Account. Of the net revenues credited to the trust fund under section 401(b)(1) in each fiscal year--

(A) 8 percent shall be allocated to this account for the first 10 years after the date of enactment of this Act; and

(B) 2 percent shall be allocated to this account for each subsequent year until the account has received a total of \$28,500,000,000.

(2) **Authorization of appropriations:** Amounts in the Farmers Assistance Account shall be available to the extent and in the amounts provided in advance in appropriations acts, to remain available until expended for the purposes of section 1012.

(e) **Medicare Preservation Account:** There is established within the trust fund a separate account, to be known as the Medicare Preservation Account. Amounts in the trust fund shall be allocated to this account as follows:

(1) 50 percent of the net revenues credited to the trust fund under section 401(b).

(2) In any year, the net amounts credited to the trust fund for payments under section 402(b) are greater than the net revenues originally estimated under section 401(b), 50 percent of the amount of any such excess.

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(3) Beginning in the eleventh year beginning after the date of enactment of this Act, 6 percent of the net revenues credited to the trust fund under section 401(b)(1).

(f) **Transfer of Revenues to Federal Hospital Insurance Trust Fund:** Section 1817(a) of the Social Security Act (42 U.S.C. 1395i(a)) is amended by striking 'and' at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting '; and', and by inserting after paragraph (2) the following:

'(3) the amounts allocated to the Medicare Preservation Account of the National Tobacco Trust Fund.'

--

Amendment No. 2485

At the appropriate place, insert the following:

SEC. XX. EXPEDITED JUDICIAL REVIEW.

(a) Expedited Review:

(1) **In general:** Any individual adversely affected by--

(A) a penalty for a violation of the lookback provisions of subtitle A of title II;

(B) an assessment for an initial or annual payment under section 403;

(C) any restrictions on marketing and labeling under this Act (or an amendment made by this Act) either foreign or domestic; or

(D) any licensing fee under section 1121;

may bring an action, in the United States District Court for the District of Columbia, for declaratory judgment and injunctive relief on the ground that such provision or its application to such individual violates the Constitution.

(2) **Delivery of copy:** A copy of any complaint in an action brought under paragraph (1) shall be promptly delivered to the Secretary of the Senate and the Clerk of the House of Representatives, and each House of Congress shall have the right to intervene in such action.

(3) **Right of intervention:** Nothing in this section or in any other law shall infringe upon the right of the House of Representatives to intervene in an action brought under paragraph (1) without the necessity of adopting a resolution to authorize such intervention.

(b) **Appeal to Supreme Court:** Notwithstanding any other provision of law, any order of the United States District Court for the District of Columbia which is issued pursuant to an action brought under paragraph (1) of subsection (a) shall be reviewable by appeal directly to the Supreme Court of the United States.

States. Any such appeal shall be taken by a notice of appeal filed within 10 calendar days after such order is entered; and the jurisdictional statement shall be filed within 30 calendar days after such order is entered. No stay of an order issued pursuant to an action brought under paragraph (1) of subsection (a) shall be issued by a single Justice of the Supreme Court.

(c) **Expedited Consideration:** It shall be the duty of the District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter brought under subsection (a).

(d) **Adjustment of Industry Payments:**

(1) **In general:** Except as provided in paragraph (2) and notwithstanding section 402(b), the amount of the annual payments required of a manufacturer under such section for a fiscal year shall be equal to the product of \$0.75 and the number of packages of cigarettes sold in the previous year by such manufacturer.

(2) **Increase in amount:** Paragraph (1) shall cease to apply on the earlier of--

(A) the date on which a final ruling has been made as to the constitutionality of all of the provisions described in subsection (a)(1); or

(B) the date that is 3 years after the date of enactment of this Act.

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[Page: S5711]

Amendment No. 2486

Beginning on page 192, line 6, strike all through page 199, line 23, and insert the following:

SEC. 451. ALLOCATION ACCOUNTS.

(a) State Litigation Settlement Account:

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DOMENICI AMENDMENTS NOS. 2481-2489 (Senate - June 05, 1998)

(1) **In general:** There is established within the Trust Fund a separate account, to be known as the State Litigation Settlement Account. Of the net revenues credited to the Trust Fund under section 401(b)(1) for each fiscal year, 20 percent of the amounts designated for allocation under the settlement payments shall be allocated to this account. Such amounts shall be reduced by the additional estimated Federal expenditures that will be incurred as a result of State expenditures under section 452, which amounts shall be transferred to the miscellaneous receipts of the Treasury. If, after 10 years, the estimated 25-year total amount projected to received in this account will be different than amount than \$196,500,000,000, then beginning with the eleventh year the 20 percent share will be adjusted as necessary, to a percentage not in excess of 25 percent and not less than 15 percent, to achieve that 25-year total amount.

(2) **Authorization of appropriations:** Amounts in the State Litigation Settlement Account shall be available to the extent and only in the amounts provided in advance in appropriations Acts, to remain available until expended.

(3) **Distribution formula:** The Secretary of the Treasury shall consult with the National Governors Association, the National Association of Attorneys General, and the National Conference of State Legislators on a formula for the distribution of amounts in the State Litigation Settlement Account and report to the Congress within 90 days after the date of enactment of this Act with recommendations for implementing a distribution formula.

(4) **Use of funds:** A State may use amounts received under this subsection as the State determines appropriate, consistent with the other provisions of this Act.

(5) **Funds not available as Medicaid reimbursement:** Funds in the account shall not be available to the Secretary as reimbursement of Medicaid expenditures or considered as Medicaid overpayments for purposes of recoupment.

(b) **Public Health Allocation Account:**

(1) **In general:** There is established within the trust fund a separate account, to be known as the Public Health Account. Eleven percent of the net revenues credited to the trust fund under section 401(b)(1) and 50 percent of the net revenues credited to the trust fund under section 401(b)(3) shall be allocated to this account.

(2) **Authorization of appropriations:** Amounts in the Public Health Account shall be available to the extent and only in the amounts provided in advance in appropriations Acts, to remain available until expended, only for the purposes of:

(A) **Cessation and other treatments:** Of the total amounts allocated to this account, not less than 25 percent, but not more than 35 percent are to be used to carry out smoking cessation activities under part D of title XIX of the Public Health Service Act, as added by title II of this Act.

(B) **Indian health service:** Of the total amounts allocated to this account, not less than 3 percent, but not more than 7 percent are to be used to carry out activities under section 453.

(C) **Education and prevention:** Of the total amounts allocated to this account, not less than 50 percent,

but not more than 65 percent are to be used to carry out--

- (i) counter-advertising activities under section 1982 of the Public Health Service Act as amended by this Act;
- (ii) smoking prevention activities under section 223;
- (iii) surveys under section 1991C of the Public Health Service Act, as added by this Act (but, in no fiscal year may the amounts used to carry out such surveys be less than 10 percent of the amounts available under this subsection); and
- (iv) international activities under section 1132.

(D) **Enforcement:** Of the total amounts allocated to this account, not less than 17.5 percent nor more than 22.5 percent are to be used to carry out the following:

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DOMENICI AMENDMENTS NOS. 2481-2489 (Senate - June 05, 1998)

(i) Food and Drug Administration activities.

(I) The Food and Drug Administration shall receive not less than 15 percent of the funds provided in subparagraph (D) in the first fiscal year beginning after the date of enactment of this Act, 35 percent of such funds in the second year beginning after the date of enactment, and 50 percent of such funds for each fiscal year beginning after the date of enactment, as reimbursements for the costs incurred by the Food and Drug Administration in implementing and enforcing requirements relating to tobacco products.

(II) No expenditures shall be made under subparagraph (D) during any fiscal year in which the annual amount appropriated for the Food and Drug Administration is less than the amount so appropriated for the prior fiscal year.

(ii) State retail licensing activities under section 251.

(iii) Anti-Smuggling activities under section 1141.

(c) Health and Health-related Research Allocation Account:

(1) **In general:** There is established within the trust fund a separate account, to be known as the Health and Health-Related Research Account. Of the net revenues credited to the trust fund under section 401(b)(1), 11 percent shall be allocated to this account.

(2) **Authorization of appropriations:** Amounts in the Health and Health-Related Research Account shall be available to the extent and in the amounts provided in advance in appropriations acts, to remain available until expended, only for the following purposes:

(A) \$750,000 shall be made available in fiscal year 1999 for the study to be conducted under section 1991 of the Public Health Service Act.

(B) National Institutes of Health Research under section 1991D of the Public Health Service Act, as added by this Act. Of the total amounts allocated to this account, not less than 75 percent, but not more than 80 percent shall be used for this purpose.

(C) Centers for Disease Control under section 1991C of the Public Health Service Act, as added by this Act, and Agency for Health Care Policy and Research under section 1991E of the Public Health Service Act, as added by this Act, authorized under sections 2803 of that Act, as so added. Of the total amounts allocated to this account, not less than 12 percent, but not more than 18 percent shall be used for this purpose.

(D) National Science Foundation Research under section 454. Of the total amounts allocated to this account, not less than 1 percent, but not more than 1 percent shall be used for this purpose.

(E) Cancer Clinical Trials under section 455. Of the total amounts allocated to this account, \$750,000,000 shall be used for the first 3 fiscal years for this purpose.

(d) Farmers Assistance Allocation Account:

(1) **In general:** There is established within the trust fund a separate account, to be known as the Farmers Assistance Account. Of the net revenues credited to the trust fund under section 401(b)(1) in each fiscal year--

(A) 8 percent shall be allocated to this account for the first 10 years after the date of enactment of this Act; and

(B) 2 percent shall be allocated to this account for each subsequent year until the account has received a total of \$28,500,000,000.

(2) **Authorization of appropriations:** Amounts in the Farmers Assistance Account shall be available to the extent and in the amounts provided in advance in appropriations acts, to remain available until expended for the purposes of section 1012.

(e) **Medicare Preservation Account:** There is established within the trust fund a separate account, to be known as the Medicare Preservation Account. If, in any year, the net amounts credited to the trust fund for payments under section 402(b) are greater than the net revenues originally estimated under section 401(b), 50 percent of the amount of any such excess shall be credited to the Medicare Preservation Account. Beginning in the eleventh year beginning after the date of enactment of this Act, 6 percent of the net revenues credited to the trust fund under section 401(b)(1) shall be allocated to this account. Funds credited to this account shall be transferred to the Medicare Hospital Insurance Trust Fund.

(f) **Rate Reduction Account:**

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DOMENICI AMENDMENTS NOS. 2481-2489 (Senate - June 05, 1998)

(1) **In general:** There is established within the trust fund a separate account, to be known as the Rate Reduction Account. Fifty percent of the net revenues credited to the trust fund under section 401(b) shall be allocated to this account.

(2) **Appropriation:** Amounts so allocated are hereby appropriated to the general fund of the Treasury for the purposes of providing the revenue offset for the amendments made by section 451A of this Act.

[Page: S5712]

SEC. 451A. REDUCTION OF 15 AND 28 PERCENT RATES.

(a) **In General:** The tables contained subsections (a) through (e) of section 1 of the Internal Revenue Code of 1986 (relating to tax imposed) are amended by striking '15%' and '28%' each place they appear and insert '14.8%' and '27.65%', respectively.

(b) **Effective Date:** The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

--

Amendment No. 2487

At the appropriate place insert the following:

SEC. XX. INCREASE AND SIMPLIFICATION OF DEPENDENT CARE TAX CREDIT.

(a) **Increase in Maximum Credit Rate:** Section 21(a)(2) of the Internal Revenue Code of 1986 (defining applicable percentage) is amended to read as follows:

'(2) **Applicable percentage defined:** For purposes of paragraph (1), the term 'applicable percentage' means 50 percent reduced (but not below 20 percent) by 1 percentage point for each \$1,000, or fraction thereof, by which the taxpayers's adjusted gross income for the taxable year exceeds \$30,000.'

(b) **Elimination of Household Maintenance Test:** Paragraph (1) of section 21(e) of the Internal Revenue Code of 1986 (relating to special rules) is repealed.

(c) **Inflation Adjustment for Certain Amounts:** Section 21(e) of the Internal Revenue Code of 1986 (relating to special rules), as amended by subsection (c), is amended by adding at the end the following:

'(12) **Inflation adjustments:**

'(A) **In general:** In the case of any taxable year beginning after 1999, the \$30,000 amount referred to in subsection (a)(2) and the dollar amounts referred to in subsection (c) and paragraph (11) of this subsection shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting 'calendar year 1998' for 'calendar year 1992' in subparagraph (B) thereof.

'(B) **Rounding:** If any dollar amount after being increased under subparagraph (A) is not a multiple of \$10, such dollar amount shall be rounded to the nearest multiple of \$10.'

(d) **Effective Date:** The amendments made by this section apply to taxable years beginning after December 31, 1998.

(e) **Appropriation:** Notwithstanding any other provision of this Act, from amounts credited to the National Tobacco Trust Fund but not appropriated by this Act, there is appropriated to the general fund in the Treasury an amount equal to the reduction in revenues to the Treasury resulting from the amendments made by this section.

--

Amendment No. 2488

On page 199, after line 23, add the following:

(f) **Termination of Accounts:**

(1) **In general:** The accounts established under subsections (a), (b), (c), and (d) shall terminate on the date that is 10 years after the date of enactment of this Act.

(2) **Use of funds:** Any amounts in the accounts terminated under paragraph (1) that remain unobligated on the termination date described in such paragraph, and any amounts contained in the trust fund in a fiscal year after the termination of such accounts, shall be used as follows:

(A) 50 percent of such amounts shall be used to offset tax cuts.

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(B) 50 percent of such amounts shall be transferred to the Medicare Preservation Account established under subsection (e).

--

Amendment No. 2489

At the appropriate place in the bill, insert the follows:

SEC. . WINDFALL PROFIT EXCISE TAX ON CERTAIN EXCESSIVE ATTORNEY FEES.

(a) **In General.**--Subtitle D of the Internal Revenue Code of 1986 (relating to miscellaneous excise taxes) is amended by inserting after chapter 44 the following:

SEC. 4986. IMPOSITION OF TAX.

(a) **In General:** There is hereby imposed on any taxpayer who receives a windfall profit on any taxable award of attorney fees a tax equal to the applicable percentage of such windfall profit.

(b) **Definitions:** For purposes of this section--

(1) **Taxable award of attorney fees:** The term 'taxable award of attorney fees' means that portion of the award of attorney fees with respect to a judgment in or settlement of any litigation by a State or class-action plaintiffs against a tobacco manufacturer or a group of tobacco manufacturers for damages relating to tobacco-related diseases, conditions, or addiction which exceeds any court approved expenses relating to such litigation.

(2) **Windfall profit:** The term 'windfall profit' means that portion of a taxable award of attorney fees which exceeds 5 percent of the amount any such judgment or settlement or which exceeds \$1,000 per hour.

(3) **Applicable percentage:** The applicable percentage is--

(A) 20 percent with respect to that portion of the windfall profit exceeding 5 percent but not 10 percent of the amount of such judgment or settlement or which excced \$1,000 per hour but not \$1,500 per hour, and

(B) 40 percent with respect to that portion of such windfall profit exceeding 10 percent of such amount or which exceed \$1,500 per hour.

(c) **Administrative Provisions:**

(1) **Withholding:** In the case of any windfall profit which is wages (within the meaning of section 3401) the amount deducted and withheld under section 3402 shall be increased by the amount of the tax imposed by this section on such windfall profit.

(2) **Other administrative provisions:** For purposes of subtitle F, any tax imposed by this section shall

be treated as a tax imposed by subtitle A.'

(b) **Conforming Amendment:** The table of chapters of subtitle D of such Code is amended by inserting after the item relating to chapter 44 the following:

Chapter 45. Windfall profit tax on certain attorney fees.'

(c) **Effective Date:** The amendments made by this section shall apply to awards received after December 31, 1997.

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DURBIN AMENDMENT NO. 2571 (Senate - June 09, 1998)

[Page: S5800]

(Ordered to lie on the table.)

[Page: S5801]

Mr. DURBIN submitted an amendment intended to be proposed by him to the bill, S. 1415, supra; as follows:

On page 216, line 9, insert before the period the following: ',except that, with respect to public facilities owned by or leased to an entity of the legislative branch of the United States Government, the provisions of this title shall take effect on January 1, 1999'.

DURBIN AMENDMENT NO. 2636 (Senate - June 10, 1998)

[Page: S6054]

(Ordered to lie on the table.)

Mr. DURBIN submitted an amendment intended to be proposed by him to the bill, S. 1415, supra; as follows:

[Page: S6055]

In title II, strike subtitle A and insert the following:

Subtitle A--Underage Use

SEC. 201. FINDINGS.

The Congress finds the following:

- (1) Reductions in the underage use of tobacco products are critically important to the public health.
- (2) Achieving this critical public health goal can be substantially furthered by increasing the price of tobacco products to discourage underage use if reduction targets are not achieved and by creating financial incentives for manufacturers to discourage youth from using their tobacco products.
- (3) When reduction targets in underage use are not achieved on an industry-wide basis, the price increases that will result from an industry-wide assessment will provide an additional deterrence to youth tobacco use.
- (4) Manufacturer-specific incentives that will be imposed if reduction targets are not met by a manufacturer provide a strong incentive for each manufacturer to make all efforts to discourage youth use of its brands and ensure the effectiveness of the industry-wide assessments.

SEC. 202. PURPOSE.

This title is intended to ensure that, in the event that other measures contained in this Act prove to be inadequate to produce substantial reductions in tobacco use by minors, tobacco companies will pay additional assessments. These additional assessments are designed to lower youth tobacco consumption in a variety of ways: by triggering further increases in the price of tobacco products, by encouraging tobacco companies to work to meet statutory targets for reductions in youth tobacco consumption, and by providing support for further reduction efforts.

SEC. 203. GOALS FOR REDUCING UNDERAGE TOBACCO USE.

(a) **Goals:** As part of a comprehensive national tobacco control policy, the Secretary, working in cooperation with State, Tribal, and local governments and the private sector, shall take all actions under this Act necessary to ensure that the required percentage reductions in underage use of tobacco products set forth in this title are achieved.

(b) **Required Reductions for Cigarettes:** With respect to cigarettes, the required percentage reduction in underage use, as set forth in section 204, means--

Calendar Year After Date of Enactment Required Percentage Reduction as a Percentage

Years 3 and 4

Years 5 and 6

Years 7, 8, and 9

Year 10 and thereafter

(c) Required Reductions for Smokeless Tobacco: With respect to smokeless tobacco products, the required percentage reduction in underage use, as set forth in section 204, means--

Calendar Year After Date of Enactment Required Percentage Reduction as a Percentage

Years 3 and 4

Years 5 and 6

Years 7, 8, and 9

Year 10 and thereafter

SEC. 204. LOOK-BACK ASSESSMENT.

(a) Annual Performance Survey: Beginning no later than 1999 and annually thereafter the Secretary shall conduct a survey, in accordance with the methodology in subsection (d)(1), to determine--

(1) the percentage of all young individuals who used a type of tobacco product within the past 30 days; and

(2) the percentage of young individuals who identify each brand of each type of tobacco product as the usual brand of that type smoked or used within the past 30 days.

(b) Annual Determination: The Secretary shall make an annual determination, based on the annual performance survey conducted under subsection (a), of whether the required percentage reductions in underage use of tobacco products for a year have been achieved for the year involved. The determination shall be based on the annual percent prevalence of the use of tobacco products, for the industry as a whole and of particular manufacturers, by young individuals (as determined by the surveys conducted by the Secretary) for the year involved as compared to the base incidence percentages.

(c) Confidentiality of Data: The Secretary may conduct a survey relating to tobacco use involving minors. If the information collected in the course of conducting the annual performance survey results in the individual supplying the information or described in it to be identifiable, the information may not be used for any purpose other than the purpose for which it was supplied unless that individual (or that individual's guardian) consents to its use for such other purpose. The information may not be published or released in any other form if the individual supplying the information or described in it is identifiable unless that individual (or that individual's guardian) consents to its publication or release in other form.

(d) Methodolgy:

(1) **In general:** The survey required by subsection (a) shall--

(A) be based on a nationally representative sample of young individuals;

(B) measure use of each type of tobacco product within the past 30 days;

(C) identify the usual brand of each type of tobacco product used within the past 30 days; and

(D) permit the calculation of the actual percentage reductions in underage use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of tobacco product of a manufacturer) based on the point estimates of the percentage of young individuals reporting use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of tobacco product of a manufacturer) from the annual performance survey.

(2) **Criteria for deeming point estimates correct:** Point estimates under paragraph (1)(D) are deemed conclusively to be correct and accurate for calculating actual percentage reductions in underage use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of tobacco product of a particular manufacturer) for the purpose of measuring compliance with percent reduction targets and calculating surcharges provided that the precision of estimates (based on sampling error) of the percentage of young individuals reporting use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of tobacco product of a manufacturer) is such that the 95-percent confidence interval around such point estimates is no more than plus or minus 1 percent.

(3) **Survey deemed correct, proper, and accurate:** A survey using the methodology required by this subsection is deemed conclusively to be proper, correct, and accurate for purposes of this Act.

(4) **Secretary may adopt different methodology:** The Secretary by notice and comment rulemaking may adopt a survey methodology that is different than the methodology described in paragraph (1) if the different methodology is at least as statistically precise as that methodology.

(e) Industry-wide Non-attainment Surcharges:

(1) **Secretary to determine industry-wide non-attainment percentage:** The Secretary shall determine the industry-wide non-attainment percentage for cigarettes and for smokeless tobacco for each calendar year.

(2) **Non-attainment surcharge for cigarettes:** For each calendar year in which the percentage reduction in underage use required by section 203(b) is not attained, the Secretary shall assess a surcharge on cigarette manufacturers as follows:

If the non-attainment percentage is:

Not more than 5 percentage points

More than 5 but not more than 20 percentage points \$200,000,000, plus \$120,000,000 m

More than 20 percentage points

(3) **Non-attainment surcharge for smokeless tobacco:** For each year in which the percentage reduction in underage use required by section 203(c) is not attained, the Secretary shall assess a surcharge on smokeless tobacco product manufacturers as follows:

If the non-attainment percentage is:

Not more than 5 percentage points

More than 5 but not more than 20 percentage points \$20,000,000, plus \$12,000,000 mul

More than 20 percentage points

DURBIN AMENDMENT NO. 2636 (Senate - June 10, 1998)

[Page: S6054]

(Ordered to lie on the table.)

Mr. DURBIN submitted an amendment intended to be proposed by him to the bill, S. 1415, supra; as follows:

[Page: S6055]

In title II, strike subtitle A and insert the following:

Subtitle A--Underage Use

SEC. 201. FINDINGS.

The Congress finds the following:

- (1) Reductions in the underage use of tobacco products are critically important to the public health.
- (2) Achieving this critical public health goal can be substantially furthered by increasing the price of tobacco products to discourage underage use if reduction targets are not achieved and by creating financial incentives for manufacturers to discourage youth from using their tobacco products.
- (3) When reduction targets in underage use are not achieved on an industry-wide basis, the price increases that will result from an industry-wide assessment will provide an additional deterrence to youth tobacco use.
- (4) Manufacturer-specific incentives that will be imposed if reduction targets are not met by a manufacturer provide a strong incentive for each manufacturer to make all efforts to discourage youth use of its brands and ensure the effectiveness of the industry-wide assessments.

SEC. 202. PURPOSE.

This title is intended to ensure that, in the event that other measures contained in this Act prove to be inadequate to produce substantial reductions in tobacco use by minors, tobacco companies will pay additional assessments. These additional assessments are designed to lower youth tobacco consumption in a variety of ways: by triggering further increases in the price of tobacco products, by encouraging tobacco companies to work to meet statutory targets for reductions in youth tobacco consumption, and by providing support for further reduction efforts.

SEC. 203. GOALS FOR REDUCING UNDERAGE TOBACCO USE.

(a) **Goals:** As part of a comprehensive national tobacco control policy, the Secretary, working in cooperation with State, Tribal, and local governments and the private sector, shall take all actions under this Act necessary to ensure that the required percentage reductions in underage use of tobacco products set forth in this title are achieved.

(b) **Required Reductions for Cigarettes:** With respect to cigarettes, the required percentage reduction in underage use, as set forth in section 204, means--

 Calendar Year After Date of Enactment Required Percentage Reduction as a Percentage

Years 3 and 4

Years 5 and 6

(4) Strict liability; joint and several liability: Liability for any surcharge imposed under subsection (e) shall be--

(A) strict liability; and

(B) joint and several liability--

(i) among all cigarette manufacturers for surcharges imposed under subsection (e)(2); and

(ii) among all smokeless tobacco manufacturers for surcharges imposed under subsection (e)(3).

(5) Surcharge liability among manufacturers: A tobacco product manufacturer shall be liable under this subsection to one or more other manufacturers if the plaintiff tobacco product manufacturer establishes by a preponderance of the evidence that the defendant tobacco product manufacturer, through its acts or omissions, was responsible for a disproportionate share of the non-attainment surcharge as compared to the responsibility of the plaintiff manufacturer.

(6) Exemptions for small manufacturers:

(A) Allocation by market share: The Secretary shall make such allocations according to each manufacturer's share of the domestic cigarette or domestic smokeless tobacco market, as appropriate, in the year for which the surcharge is being assessed, based on actual Federal excise tax payments.

(B) Exemption: In any year in which a surcharge is being assessed, the Secretary shall exempt from payment any tobacco product manufacturer with less than 1 percent of the domestic market share for a specific category of tobacco product unless the Secretary finds that the manufacturer's products are used by underage individuals at a rate equal to or greater than the manufacturer's total market share for the type of tobacco product.

(f) Manufacturer-specific Surcharges:

(1) Required percentage reductions: Each manufacturer which manufactured a brand or brands of tobacco product on or before the date of the enactment of this Act shall reduce the percentage of young individuals who use such manufacturer's brand or brands as their usual brand in accordance with the required percentage reductions described under subsections (b) (with respect to cigarettes) and (c) (with respect to smokeless tobacco).

(2) Application to less popular brands: Each manufacturer which manufactured a brand or brands of tobacco product on or before the date of the enactment of this Act for which the base incidence percentage is equal to or less than the *de minimis* level shall ensure that the percent prevalence of young individuals who use the manufacturer's tobacco products as their usual brand remains equal to or less than the *de minimis* level described in paragraph (4).

(3) New entrants: Each manufacturer of a tobacco product which begins to manufacture a tobacco product after the date of the enactment of this Act shall ensure that the percent prevalence of young individuals who use the manufacturer's tobacco products as their usual brand is equal to or less than the *de minimis* level.

(4) De minimis level defined: The *de minimis* level is equal to 1 percent prevalence of the use of each manufacturer's brands of tobacco product by young individuals (as determined on the basis of the annual performance survey conducted by the Secretary) for a year.

(5) Target reduction levels:

(A) Existing manufacturers: For purposes of this section, the target reduction level for each type of tobacco product for a year for a manufacturer is the product of the required percentage reduction for a

type of tobacco product for a year and the manufacturers base incidence percentage for such tobacco product.

(B) New manufacturers; manufacturers with low base incidence percentages: With respect to a manufacturer which begins to manufacture a tobacco product after the date of the enactment of this Act or a manufacturer for which the baseline level as measured by the annual performance survey is equal to or less than the *de minimis* level described in paragraph (4), the base incidence percentage is the *de minimis* level, and the required percentage reduction in underage use for a type of tobacco product with respect to a manufacturer for a year shall be deemed to be the percentage reduction necessary to reduce the actual percent prevalence of young individuals identifying a brand of such tobacco product of such manufacturer as the usual brand smoked or used for such year to the *de minimis* level.

(6) Surcharge amount:

(A) In general: If the Secretary determines that the required percentage reduction in use of a type of tobacco product has not been achieved by such manufacturer for a year, the Secretary shall impose a surcharge on such manufacturer under this paragraph.

(B) Cigarettes: For a cigarette manufacturer, the amount of the manufacturer-specific surcharge shall be an amount equal to the manufacturer's share of youth incidence for cigarettes multiplied by the following surcharge level:

If the non-attainment percentage for the manufacturer is:

Not more than 5 percentage points

More than 5 but not more than 24.1 percentage points \$400,000,000, plus \$240,0

More than 24.1 percentage points

(C) Smokeless tobacco: For a smokeless tobacco product manufacturer, the amount of the manufacturer-specific surcharge shall be an amount equal to the manufacturer's share of youth incidence for smokeless tobacco products multiplied by the following surcharge level:

If the non-attainment percentage for the manufacturer is:

Not more than 5 percentage points

More than 5 but not more than 24.1 percentage points \$40,000,000, plus \$24,000

More than 24.1 percentage points

(D) Manufacturer's share of youth incidence: For purposes of this subsection, the term 'manufacturer's share of youth incidence' means--

(i) for cigarettes, the percentage of all youth smokers determined to have used that manufacturer's cigarettes; and

(ii) for smokeless tobacco products, the percentage of all youth users of smokeless tobacco products

determined to have used that manufacturer's smokeless tobacco products.

(E) **De minimis levels:** If a manufacturer begins to manufacture a tobacco product after the date of enactment of this Act or the manufacturer's baseline level for a type of tobacco product is less than the de minimis level, the non-attainment percentage (for purposes of subparagraph (B) or (C)) shall be equal to the number of percentage points yielded from the percentage by which the percentage of children who used the manufacturer's tobacco products of the applicable type exceeds the de minimis level.

(g) **Surcharges To Be Adjusted for Inflation:**

(1) **In general:** Beginning with the fourth calendar year after the date of enactment of this Act, each dollar amount in the tables in subsections (e)(2), (e)(3), (f)(6)(B), and (f)(6)(C) shall be increased by the inflation adjustment.

(2) **Inflation adjustment:** For purposes of paragraph (1), the inflation adjustment for any calendar year is the percentage (if any) by which--

(A) the CPI for the preceding calendar year, exceeds

(B) the CPI for the calendar year 1998.

(3) **CPI:** For purposes of paragraph (2), the CPI for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor.

(4) **Rounding:** If any increase determined under paragraph (1) is not a multiple of \$1,000, the increase shall be rounded to the nearest multiple of \$1,000.

(h) **Method of Surcharge Assessment:** The Secretary shall assess a surcharge for a specific calendar year on or before May 1 of the subsequent calendar year. Surcharge payments shall be paid on or before July 1 of the year in which they are assessed. The Secretary may establish, by regulation, interest at a rate up to 3 times the prevailing prime rate at the time the surcharge is assessed, and additional charges in an amount up to 3 times the surcharge, for late payment of the surcharge.

(i) **Business Expense Deduction:** Any surcharge paid by a tobacco product manufacturer under this section shall not be deductible as an ordinary and necessary business expense or otherwise under the Internal Revenue Code of 1986.

(j) **Appeal Rights:** The amount of any surcharge is committed to the sound discretion of the Secretary and shall be subject to judicial review by the United States Court of Appeals for the District of Columbia Circuit, based on the arbitrary and capricious standard of section 706(2)(A) of title 5, United States Code. Notwithstanding any other provisions of law, no court shall have authority to stay any surcharge payments due the Secretary under this Act pending judicial review.

(k) **Responsibility for Agents:** In any action brought under this subsection, a tobacco product manufacturer shall be held responsible for any act or omission of its attorneys, advertising agencies, or other agents that contributed to that manufacturer's responsibility for the surcharge assessed under this section.

[Page: S6056]

SEC. 205. DEFINITIONS.

In this subtitle:

(1) **Base incidence percentage:** The term 'base incidence percentage' means, with respect to each type of tobacco product, the percentage of young individuals determined to have used such tobacco product in the first annual performance survey for 1999.

(2) **Manufacturers base incidence percentage:** The term 'manufacturers base incidence percentage' is, with respect to each type of tobacco product, the percentage of young individuals determined to have identified a brand of such tobacco product of such manufacturer as the usual brand smoked or used in the first annual performance survey for 1999.

(3) **Young individuals:** The term 'young individuals' means individuals who are over 11 years of age

and under 18 years of age.

(4) Cigarette manufacturers: The term 'cigarette manufacturers' means manufacturers of cigarettes sold in the United States.

(5) Non-attainment percentage for cigarettes: The term 'non-attainment percentage for cigarettes' means the number of percentage points yielded--

(A) for a calendar year in which the percent incidence of underage use of cigarettes is less than the base incidence percentage, by subtracting--

(i) the percentage by which the percent incidence of underage use of cigarettes in that year is less than the base incidence percentage, from

(ii) the required percentage reduction applicable in that year; and

(B) for a calendar year in which the percent incidence of underage use of cigarettes is greater than the base incidence percentage, adding--

(i) the percentage by which the percent incidence of underage use of cigarettes in that year is greater than the base incidence percentage; and

(ii) the required percentage reduction applicable in that year.

(6) Non-attainment percentage for smokeless tobacco products: The term 'non-attainment percentage for smokeless tobacco products' means the number of percentage points yielded--

(A) for a calendar year in which the percent incidence of underage use of smokeless tobacco products is less than the base incidence percentage, by subtracting--

(i) the percentage by which the percent incidence of underage use of smokeless tobacco products in that year is less than the base incidence percentage, from

(ii) the required percentage reduction applicable in that year; and

(B) for a calendar year in which the percent incidence of underage use of smokeless tobacco products is greater than the base incidence percentage, by adding--

(i) the percentage by which the percent incidence of underage use of smokeless tobacco products in that year is greater than the base incidence percentage; and

(ii) the required percentage reduction applicable in that year.

(7) Smokeless tobacco product manufacturers: The term 'smokeless tobacco product manufacturers' means manufacturers of smokeless tobacco products sold in the United States.

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ENZI AMENDMENTS NOS. 2470-2471 (Senate - June 05, 1998)

[Page: S5705]

(Ordered to lie on the table.)

Mr. ENZI submitted an amendment intended to be proposed by him to the bill, S. 1415, supra; as follows:

Amendment No. 2470

Strike subtitle B of title IV, and insert the following:

Subtitle B--Use of Funds

SEC. 451. USE OF FUNDS.

Notwithstanding any other provision of this Act, amounts contained in the National Tobacco Settlement Trust Fund in a fiscal year shall be made available as follows:

- (1) 50 percent of such amounts shall be transferred in such fiscal year to the Federal Hospital Insurance Trust Fund established under section 1817 of the Social Security Act (42 U.S.C. 1395i).
- (2) 25 percent of such amounts shall be transferred in such fiscal year to the States through the medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).
- (3) 25 percent of such amounts shall be provided to the States in such fiscal year through block grants for the development and administration of programs to restrict youth access to tobacco products and illegal drugs as provided for in regulations promulgated by the Secretary.

Amendment No. 2471

At the end of the amendment, add the following:

SEC. XX. LIMITATIONS ON EXPENDITURES AND OBLIGATIONS.

Notwithstanding any other provision of this Act--

- (1) any expenditure required by this Act shall be made from the National Tobacco Trust Fund;
- (2) the Federal Government shall only be obligated to make expenditures as authorized by this Act, including any payment to any person or government, as provided in advance in appropriations Acts;

(3) amounts appropriated to make expenditures authorized by this Act in a fiscal year may not exceed the amounts deposited in the National Tobacco Trust Fund in the preceding fiscal year; and

(4) amounts provided in a fiscal year authorized by this Act shall be reduced on a pro rata basis in that fiscal year to offset any excess in those amounts over amounts deposited in the National Tobacco Trust Fund in the preceding fiscal year.

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FAIRCLOTH (AND OTHERS) AMENDMENT NO. 2701 (Senate - June 11, 1998)

[Page: S6256]

(Ordered to lie on the table.)

Mr. FAIRCLOTH (for himself, Mr. Sessions, Mr. McConnell, and Mr. Gramm) proposed an amendment to amendment No. 2437 proposed by Mr. Durbin to the bill, S. 1415, as follows:

At the appropriate place, insert the following:

SEC. . ATTORNEYS' FEES AND EXPENSES.

(a) **Fee Arrangements.**--Subsection (c) shall apply to attorneys' fees provided for or in connection with an action of the type described in such subsection under any--

- (1) court order;
- (2) settlement agreement;
- (3) contingency fee arrangement;
- (4) arbitration procedure;
- (5) alternative dispute resolution procedure (including mediation);
- (6) retainer agreements; or
- (7) other arrangement providing for the payment of attorneys' fees.

(b) **Application.**--This section shall apply to all fees paid or to be paid to attorneys under any arrangement described in subsection (a)--

- (1) who acted on behalf of a State or political subdivision of a State in connection with any past litigation of an action maintained by a State against one or more tobacco companies to recover tobacco-related expenditures;
- (2) who acted on behalf of a State or political subdivision of a State in connection with any future litigation of an action maintained by a State against one or more tobacco companies to recover tobacco-related expenditures;
- (3) who act at some future time on behalf of a State or political subdivision of a State in connection with any past litigation of an action maintained by a State against one or more tobacco companies to recover tobacco-related expenditures;
- (4) who act at some future time on behalf of a State or political subdivision of a State in connection with any future litigation of an action maintained by a State against one or more tobacco companies to recover tobacco-related expenditures;
- (5) who acted on behalf of a plaintiff class in civil actions to which this Act applies that are brought against participating or nonparticipating tobacco manufacturers;
- (6) who act at some future time on behalf of a plaintiff class in civil actions to which this Act applies that are brought against participating or nonparticipating tobacco manufacturers;
- (7) who acted on behalf of a plaintiff in civil actions to which this Act applies that are brought against participating or nonparticipating tobacco manufacturers;

(8) who act at some future time on behalf of a plaintiff in civil actions to which this Act applies that are brought against participating or nonparticipating tobacco manufacturers;

(9) who expended efforts that in whole or in part resulted in or created a model for programs in this Act;

(10) who acted on behalf of a defendant in any of the matters set forth in paragraphs (1) through (9) of this subsection; or

(11) who act at some future time on behalf of a defendant in any of the matters set forth in paragraphs (1) through (9) of this subsection.

(c) Attorneys' Fees:

(1) **Jurisdiction.**--The determination of attorneys' fees for compensation subject to this section shall be within the jurisdiction of--

(A) the court in which the action for which the claimant attorney is making a claim is pending; or

(B) an arbitration panel selected by the parties or otherwise selected by law.

(2) **Criteria.**--In the determination of attorneys' fees subject to this section, the court or arbitration panel shall consider--

(A) The likelihood at the commencement of the representation that the claimant attorney would secure a favorable judgment, a substantial settlement, or a successful negotiation towards a global settlement agreement for submission to the Congress;

(B) The amount of time and labor that the claimant attorney reasonably believed at the commencement of the representation that he was likely to expend on the claim;

(C) The amount of productive time and labor that the claimant attorney actually invested in the representation as determined through an examination of contemporaneous and reconstructed time records;

(D) The obligations undertaken by the claimant attorney at the commencement of the representation including--

(i) whether the claimant attorney was obligated to proceed with the representation through its conclusion or was permitted to withdraw from the representation; and

(ii) whether the claimant attorney assumed an unconditional commitment for expenses incurred pursuant to the representation;

(E) The expenses actually incurred by the claimant attorney pursuant to the representation including--

(i) whether those expenses were reimbursable; and

(ii) the likelihood on each occasion that expenses were advanced that the claimant attorney would secure a favorable judgment or substantial settlement;

(F) The novelty of the legal issues before the claimant attorney and whether the legal work was innovative or modeled after the work of others or prior work of the claimant attorney;

(G) The skill required for proper performance of the legal services rendered;

(H) The results obtained and whether those results were or are appreciably better than the results obtained by other lawyers representing comparable clients or similar claims;

(I) Whether the original fee arrangement includes a fixed or a percentage fee;

(J) The reduced degree of risk borne by the claimant attorney in the representation and the increased likelihood that the claimant attorney would secure a favorable judgment or substantial settlement based on a chronological progression of relevant developments from the 1994 Williams document disclosures to the settlement negotiations and the subsequent Federal legislative process; and

(K) Whether this Act or related changes to State laws increase the likelihood of success in representations subject to this section.

(3) **Limitation.**--Notwithstanding any other provision of law, any attorney's fees or expenses paid to attorneys for matters subject to this section shall not exceed a per hour rate of \$1,000 in addition to 200 percent of actual out-of-pocket expenses for which detailed documentation has been provided and which have been approved by the court or arbitration panel in such action.

(4) **Records Requirement.**--All records submitted to a court or arbitration panel pursuant to this section shall be available for public inspection and reproduction for a period of one year from the date of adjudication of the attorneys' fees.

(d) **Severability.**--If any provision of this section or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this section and the application of the provisions of such section to any person or circumstance shall not be affected thereby.

END

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FEINSTEIN (AND OTHERS) AMENDMENT NO. 2443 (Senate - May 21, 1998)

[Page: S5342]

(Ordered to lie on the table.)

Mrs. FEINSTEIN (for herself, Mrs. **Boxer**, Mr. **Durbin**, Mr. **D'Amato**, and Ms. **Moseley-Braun**) submitted an **amendment** intended to be proposed by them to the bill, S. 1415, supra; as follows: On page 193, between lines 16 and 17, insert the following:

(4) Eligibility:

(A) In general: To be eligible to receive amounts under this subsection, a State shall, through agreements entered into with local government entities described in subparagraph (B), provide such entities with a portion of the amounts received by the State under this subsection as consideration for the resolution or termination of civil actions under title XIV.

(B) Local government entities: A local government entity described in this subparagraph is a city or county that commenced a health or smoking-related civil action against one or more participating tobacco product manufacturers, distributors, or retailers on or before June 20, 1997 (including actions by the City and County of San Francisco and related cities and counties, Los Angeles County, New York City, Erie County, Cook County, and the City of Birmingham).

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FEINSTEIN AMENDMENT NO. 2460 (Senate - June 05, 1998)

[Page: S5703]

(Ordered to lie on the table.)

Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill, S. 1415, supra; as follows:

In section 451(a), strike paragraph (3) and insert the following:

(3) Distribution to states: From the amounts in the State Litigation Settlement Account for a fiscal year, the Secretary of the Treasury shall make available to each State the applicable percentage of such amount in accordance with the following table which shall represent the share of each State of the total number of individuals in the United States under 18 years of age (as determined by the United States Census Bureau in its data table compilation entitled 'Population Estimates for States and Outlying Areas: July 1, 1996):

Applicable Percentage

Alabama

1.559

Alaska

0.2670

Arizona

1.666

Arkansas

0.955

California

12.841

Colorado

1.445

Connecticut

1.156

Delaware

0.255

District of Columbia

0.159

Florida

4.957

Georgia

2.828

Hawaii

0.444

Idaho

0.505

Illinois

4.571

Indiana

2.170

Iowa

1.042

Kansas

0.995

Kentucky

1.403

Louisiana

1.786

Maine

0.434

Maryland

1.863

Massachusetts

2.059

Michigan

3.674

Minnesota

1.806

Mississippi

1.110

Missouri

2.019

Montana

0.337

Nebraska

0.640

Nevada

0.604

New Hampshire

0.428

New Jersey

2.878

New Mexico

0.726

New York

6.576

North Carolina

2.656

North Dakota

0.244

Ohio

4.124

Oklahoma

1.276

Oregon

1.170

Pennsylvania

4.192

Rhode Island

0.341

South Carolina

1.358

South Dakota

0.296

Tennessee

1.915

Texas

7.896

Utah

0.983

Vermont

0.212

Virginia

2.363

Washington

2.081

West Virginia

0.611

Wisconsin

1.945

Wyoming

1.456

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FORD (AND OTHERS) AMENDMENT NO. 2627 (Senate - June 09, 1998)

[Page: S5971]

(Ordered to lie on the table.)

Mr. FORD (for himself, Mr. **Hollings**, and Mr. **Robb**) submitted an amendment intended to be proposed by them to the bill, S. 1415, supra; as follows:

On page 444, beginning with line 12, strike through the end of the bill, and insert the following:

(E) **Secretary.**--The term 'Secretary' means the Secretary of the Treasury, except where the context otherwise requires.

END

FORD (AND OTHERS) AMENDMENT NO. 2628 (Senate - June 09, 1998)

[Page: S5971]

(Ordered to lie on the table.)

Mr. FORD (for himself, Mr. **Hollings**, and Mr. **Robb**) submitted an amendment intended to be proposed by them to amendment No. 2497 proposed by Mr. **Lugar** to the bill, S. 1415, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

TITLE X--LONG-TERM ECONOMIC ASSISTANCE FOR FARMERS

SEC. 1001. SHORT TITLE.

This title may be cited as the 'Long-Term Economic Assistance for Farmers Act' or the 'LEAF Act'.

SEC. 1002. DEFINITIONS.

In this title:

(1) **Participating tobacco producer:** The term 'participating tobacco producer' means a quota holder, quota lessee, or quota tenant.

(2) **Quota holder:** The term 'quota holder' means an owner of a farm on January 1, 1998, for which a tobacco farm marketing quota or farm acreage allotment was established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.).

(3) **Quota lessee:** The term 'quota lessee' means--

(A) a producer that owns a farm that produced tobacco pursuant to a lease and transfer to that farm of all or part of a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years; or

(B) a producer that rented land from a farm operator to produce tobacco under a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years.

(4) **Quota tenant:** The term 'quota tenant' means a producer that--

(A) is the principal producer, as determined by the Secretary, of tobacco on a farm where tobacco is produced pursuant to a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years; and

(B) is not a quota holder or quota lessee.

(5) **Secretary:** The term 'Secretary' means--

(A) in subtitles A and B, the Secretary of Agriculture; and

(B) in section 1031, the Secretary of Labor.

(6) **Tobacco product importer:** The term 'tobacco product importer' has the meaning given the term 'importer' in section 5702 of the Internal Revenue Code of 1986.

(7) **Tobacco product manufacturer:**

(A) **In general:** The term 'tobacco product manufacturer' has the meaning given the term 'manufacturer

of tobacco products' in section 5702 of the Internal Revenue Code of 1986.

(B) **Exclusion:** The term 'tobacco product manufacturer' does not include a person that manufactures cigars or pipe tobacco.

(8) **Tobacco warehouse owner:** The term 'tobacco warehouse owner' means a warehouseman that participated in an auction market (as defined in the first section of the Tobacco Inspection Act (7 U.S.C. 511)) during the 1998 marketing year.

(9) **Flue-cured tobacco:** The term 'flue-cured tobacco' includes type 21 and type 37 tobacco.

[Page: S5972]

Subtitle A--Tobacco Community Revitalization

SEC. 1011. AUTHORIZATION OF APPROPRIATIONS.

There are appropriated and transferred to the Secretary for each fiscal year such amounts from the National Tobacco Trust Fund established by section 401, other than from amounts in the State Litigation Settlement Account, as may be necessary to carry out the provisions of this title.

SEC. 1012. EXPENDITURES.

The Secretary is authorized, subject to appropriations, to make payments under--

(1) section 1021 for payments for lost tobacco quota for each of fiscal years 1999 through 2023, but not to exceed \$1,650,000,000 for any fiscal year except to the extent the payments are made in accordance with subsection (d)(12) or (e)(9) of section 1021;

(2) section 1022 for industry payments for all costs of the Department of Agriculture associated with the production of tobacco;

(3) section 1023 for tobacco community economic development grants, but not to exceed--

(A) \$375,000,000 for each of fiscal years 1999 through 2008, less any amount required to be paid under section 1022 for the fiscal year; and

(B) \$450,000,000 for each of fiscal year 2009 through 2023, less any amount required to be paid under section 1022 during the fiscal year;

(4) section 1031 for assistance provided under the tobacco worker transition program, but not to exceed \$25,000,000 for any fiscal year; and

(5) subpart 9 of part A of title IV of the Higher Education Act of 1965 for farmer opportunity grants, but not to exceed--

(A) \$42,500,000 for each of the academic years 1999-2000 through 2003-2004;

(B) \$50,000,000 for each of the academic years 2004-2005 through 2008-2009;

(C) \$57,500,000 for each of the academic years 2009-2010 through 2013-2014;

(D) \$65,000,000 for each of the academic years 2014-2015 through 2018-2019; and

(E) \$72,500,000 for each of the academic years 2019-2020 through 2023-2024.

SEC. 1013. BUDGETARY TREATMENT.

This subtitle constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide payments to States and eligible persons in accordance with this title.

Subtitle B--Tobacco Market Transition Assistance

SEC. 1021. PAYMENTS FOR LOST TOBACCO QUOTA.

(a) **In General:** Beginning with the 1999 marketing year, the Secretary shall make payments for lost tobacco quota to eligible quota holders, quota lessees, and quota tenants as reimbursement for lost tobacco quota.

(b) **Eligibility:** To be eligible to receive payments under this section, a quota holder, quota lessee, or quota tenant shall--

(1) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including information sufficient to make the demonstration required under paragraph (2); and

(2) demonstrate to the satisfaction of the Secretary that, with respect to the 1997 marketing year--

(A) the producer was a quota holder and realized income (or would have realized income, as determined by the Secretary, but for a medical hardship or crop disaster during the 1997 marketing year) from the production of tobacco through--

(i) the active production of tobacco;

(ii) the lease and transfer of tobacco quota to another farm;

(iii) the rental of all or part of the farm of the quota holder, including the right to produce tobacco, to another tobacco producer; or

(iv) the hiring of a quota tenant to produce tobacco;

(B) the producer was a quota lessee; or

(C) the producer was a quota tenant.

(c) **Base Quota Level:**

(1) **In general:** The Secretary shall determine, for each quota holder, quota lessee, and quota tenant, the base quota level for the 1995 through 1997 marketing years.

(2) **Quota holders:** The base quota level for a quota holder shall be equal to the average tobacco farm marketing quota established for the farm owned by the quota holder for the 1995 through 1997 marketing years.

(3) **Quota lessees:** The base quota level for a quota lessee shall be equal to--

(A) 50 percent of the average number of pounds of tobacco quota established for the farm for the 1995 through 1997 marketing years--

(i) that was leased and transferred to a farm owned by the quota lessee; or

(ii) that was rented to the quota lessee for the right to produce the tobacco; less

(B) 25 percent of the average number of pounds of tobacco quota described in subparagraph (A) for which a quota tenant was the principal producer of the tobacco quota.

(4) **Quota tenants:** The base quota level for a quota tenant shall be equal to the sum of--

(A) 50 percent of the average number of pounds of tobacco quota established for a farm for the 1995 through 1997 marketing years--

(i) that was owned by a quota holder; and

(ii) for which the quota tenant was the principal producer of the tobacco on the farm; and

(B) 25 percent of the average number of pounds of tobacco quota for the 1995 through 1997 marketing years--

(i)(I) that was leased and transferred to a farm owned by the quota lessee; or

(II) for which the rights to produce the tobacco were rented to the quota lessee; and

(ii) for which the quota tenant was the principal producer of the tobacco on the farm.

(5) Marketing quotas other than poundage quotas:

(A) In general: For each type of tobacco for which there is a marketing quota or allotment (on an acreage basis), the base quota level for each quota holder, quota lessee, or quota tenant shall be determined in accordance with this subsection (based on a poundage conversion) by multiplying--

(i) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; and

(ii) the average yield per acre for the farm for the type of tobacco for the marketing years.

(B) Yields not available: If the average yield per acre is not available for a farm, the Secretary shall calculate the base quota for the quota holder, quota lessee, or quota tenant (based on a poundage conversion) by determining the amount equal to the product obtained by multiplying--

(i) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; and

(ii) the average county yield per acre for the county in which the farm is located for the type of tobacco for the marketing years.

(d) Payments for Lost Tobacco Quota for Types of Tobacco Other Than Flue-Cured Tobacco:

(1) Allocation of funds: Of the amounts made available under section 1011(d)(1) for payments for lost tobacco quota, the Secretary shall make available for payments under this subsection an amount that bears the same ratio to the amounts made available as--

(A) the sum of all national marketing quotas for all types of tobacco other than flue-cured tobacco during the 1995 through 1997 marketing years; bears to

(B) the sum of all national marketing quotas for all types of tobacco during the 1995 through 1997 marketing years.

(2) Option to relinquish quota:

(A) In general: Each quota holder, for types of tobacco other than flue-cured tobacco, shall be given the option to relinquish the farm marketing quota or farm acreage allotment of the quota holder in exchange for a payment made under paragraph (3).

(B) Notification: A quota holder shall give notification of the intention of the quota holder to exercise the option at such time and in such manner as the Secretary may require, but not later than January 15, 1999.

(3) Payments for lost tobacco quota to quota holders exercising options to relinquish quota:

(A) In general: Subject to subparagraph (E), for each of fiscal years 1999 through 2008, the Secretary

shall make annual payments for lost tobacco quota to each quota holder that has relinquished the farm marketing quota or farm acreage allotment of the quota holder under paragraph (2).

(B) Amount: The amount of a payment made to a quota holder described in subparagraph (A) for a marketing year shall equal 1/10 of the lifetime limitation established under subparagraph (E).

(C) Timing: The Secretary shall begin making annual payments under this paragraph for the marketing year in which the farm marketing quota or farm acreage allotment is relinquished.

(D) Additional payments: The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(E) Lifetime limitation on payments: The total amount of payments made under this paragraph to a quota holder shall not exceed the product obtained by multiplying the base quota level for the quota holder by \$8 per pound.

(4) Reissuance of quota:

(A) Reallocation to lessee or tenant: If a quota holder exercises an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), a quota lessee or quota tenant that was the primary producer during the 1997 marketing year of tobacco pursuant to the farm marketing quota or farm acreage allotment, as determined by the Secretary, shall be given the option of having an allotment of the farm marketing quota or farm acreage allotment reallocated to a farm owned by the quota lessee or quota tenant.

(B) Conditions for reallocation:

(i) Timing: A quota lessee or quota tenant that is given the option of having an allotment of a farm marketing quota or farm acreage allotment reallocated to a farm owned by the quota lessee or quota tenant under subparagraph (A) shall have 1 year from the date on which a farm marketing quota or farm acreage allotment is relinquished under paragraph (2) to exercise the option.

(ii) Limitation on acreage allotment: In the case of a farm acreage allotment, the acreage allotment determined for any farm subsequent to any reallocation under subparagraph (A) shall not exceed 50 percent of the acreage of cropland of the farm owned by the quota lessee or quota tenant.

(iii) Limitation on marketing quota: In the case of a farm marketing quota, the marketing quota determined for any farm subsequent to any reallocation under subparagraph (A) shall not exceed an amount determined by multiplying--

(I) the average county farm yield, as determined by the Secretary; and

(II) 50 percent of the acreage of cropland of the farm owned by the quota lessee or quota tenant.

(C) Eligibility of lessee or tenant for payments: If a farm marketing quota or farm acreage allotment is reallocated to a quota lessee or quota tenant under subparagraph (A)--

(i) the quota lessee or quota tenant shall not be eligible for any additional payments under paragraph (5) or (6) as a result of the reallocation; and

(ii) the base quota level for the quota lessee or quota tenant shall not be increased as a result of the reallocation.

(D) Reallocation to quota holders within same county or state:

(i) In general: Except as provided in clause (ii), if there was no quota lessee or quota tenant for the farm marketing quota or farm acreage allotment for a type of tobacco, or if no quota lessee or quota tenant exercises an option of having an allotment of the farm marketing quota or farm acreage allotment for a

type of tobacco reallocated, the Secretary shall reapportion the farm marketing quota or farm acreage allotment among the remaining quota holders for the type of tobacco within the same county.

(ii) **Cross-county leasing:** In a State in which cross-county leasing is authorized pursuant to section 319(l) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(l)), the Secretary shall reapportion the farm marketing quota among the remaining quota holders for the type of tobacco within the same State.

(iii) **Eligibility of quota holder for payments:** If a farm marketing quota is reapportioned to a quota holder under this subparagraph--

(I) the quota holder shall not be eligible for any additional payments under paragraph (5) or (6) as a result of the reapportionment; and

(II) the base quota level for the quota holder shall not be increased as a result of the reapportionment.

(E) **Special rule for tenant of leased tobacco:** If a quota holder exercises an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), the farm marketing quota or farm acreage allotment shall be divided evenly between, and the option of reallocating the farm marketing quota or farm acreage allotment shall be offered in equal portions to, the quota lessee and to the quota tenant, if--

(i) during the 1997 marketing year, the farm marketing quota or farm acreage allotment was leased and transferred to a farm owned by the quota lessee; and

(ii) the quota tenant was the primary producer, as determined by the Secretary, of tobacco pursuant to the farm marketing quota or farm acreage allotment.

(5) Payments for lost tobacco quota to quota holders:

(A) **In general:** Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for a type of tobacco is less than the average national marketing quota for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota holder, for types of tobacco other than flue-cured tobacco, that is eligible under subsection (b), and has not exercised an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), in an amount that is equal to the product obtained by multiplying--

(i) the number of pounds by which the basic farm marketing quota (or poundage conversion) is less than the base quota level for the quota holder; and

(ii) \$4 per pound.

(B) Poundage conversion for marketing quotas other than poundage quotas:

(i) **In general:** For each type of tobacco for which there is a marketing quota or allotment (on an acreage basis), the poundage conversion for each quota holder during a marketing year shall be determined by multiplying--

(I) the basic farm acreage allotment for the farm for the marketing year; and

(II) the average yield per acre for the farm for the type of tobacco.

(ii) **Yield not available:** If the average yield per acre is not available for a farm, the Secretary shall calculate the poundage conversion for each quota holder during a marketing year by multiplying--

(I) the basic farm acreage allotment for the farm for the marketing year; and

(II) the average county yield per acre for the county in which the farm is located for the type of tobacco.

(6) Payments for lost tobacco quota to quota lessees and quota tenants: Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for a type of tobacco is less than the average national marketing quota for the type of tobacco for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota lessee and quota tenant, for types of tobacco other than flue-cured tobacco, that is eligible under subsection (b) in an amount that is equal to the product obtained by multiplying--

(A) the percentage by which the national marketing quota for the type of tobacco is less than the average national marketing quota for the type of tobacco for the 1995 through 1997 marketing years;

(B) the base quota level for the quota lessee or quota tenant; and

(C) \$4 per pound.

(7) Lifetime limitation on payments: Except as otherwise provided in this subsection, the total amount of payments made under this subsection to a quota holder, quota lessee, or quota tenant during the lifetime of the quota holder, quota lessee, or quota tenant shall not exceed the product obtained by multiplying--

(A) the base quota level for the quota holder, quota lessee, or quota tenant; and

(B) \$8 per pound.

(8) Limitations on aggregate annual payments:

(A) **In general:** Except as otherwise provided in this paragraph, the total amount payable under this subsection for any marketing year shall not exceed the amount made available under paragraph (1).

(B) **Accelerated payments:** Paragraph (1) shall not apply if accelerated payments for lost tobacco quota are made in accordance with paragraph (12).

(C) **Reductions:** If the sum of the amounts determined under paragraphs (3), (5), and (6) for a marketing year exceeds the amount made available under paragraph (1), the Secretary shall make a pro rata reduction in the amounts payable under paragraphs (5) and (6) to quota holders, quota lessees, and quota tenants under this subsection to ensure that the total amount of payments for lost tobacco quota does not exceed the amount made available under paragraph (1).

(D) **Rollover of payments for lost tobacco quota:** Subject to subparagraph (A), if the Secretary makes a reduction in accordance with subparagraph (C), the amount of the reduction shall be applied to the next marketing year and added to the payments for lost tobacco quota for the marketing year.

(E) **Additional payments to quota holders exercising option to relinquish quota:** If the amount made available under paragraph (1) exceeds the sum of the amounts determined under paragraphs (3), (5), and (6) for a marketing year, the Secretary shall distribute the amount of the excess pro rata to quota holders that have exercised an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2) by increasing the amount payable to each such holder under paragraph (3).

(9) Subsequent sale and transfer of quota: Effective beginning with the 1999 marketing year, on the sale and transfer of a farm marketing quota or farm acreage allotment under section 316(g) or 319(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(g), 1314e(g))--

(A) the person that sold and transferred the quota or allotment shall have--

(i) the base quota level attributable to the person reduced by the base quota level attributable to the quota that is sold and transferred; and

(ii) the lifetime limitation on payments established under paragraph (7) attributable to the person reduced

by the product obtained by multiplying--

(I) the base quota level attributable to the quota; and

(II) \$8 per pound; and

(B) if the quota or allotment has never been relinquished by a previous quota holder under paragraph (2), the person that acquired the quota shall have--

(i) the base quota level attributable to the person increased by the base quota level attributable to the quota that is sold and transferred; and

(ii) the lifetime limitation on payments established under paragraph (7) attributable to the person--

(I) increased by the product obtained by multiplying--

(aa) the base quota level attributable to the quota; and

(bb) \$8 per pound; but

(II) decreased by any payments under paragraph (5) for lost tobacco quota previously made that are attributable to the quota that is sold and transferred.

(10) **Sale or transfer of farm:** On the sale or transfer of ownership of a farm that is owned by a quota holder, the base quota level established under subsection (c), the right to payments under paragraph (5), and the lifetime limitation on payments established under paragraph (7) shall transfer to the new owner of the farm to the same extent and in the same manner as those provisions applied to the previous quota holder.

(11) **Death of quota lessee or quota tenant:** If a quota lessee or quota tenant that is entitled to payments under this subsection dies and is survived by a spouse or 1 or more dependents, the right to receive the payments shall transfer to the surviving spouse or, if there is no surviving spouse, to the surviving dependents in equal shares.

(12) **Acceleration of payments:**

(A) **In general:** On the occurrence of any of the events described in subparagraph (B), the Secretary shall make an accelerated lump sum payment for lost tobacco quota as established under paragraphs (5) and (6) to each quota holder, quota lessee, and quota tenant for any affected type of tobacco in accordance with subparagraph (C).

(B) **Triggering events:** The Secretary shall make accelerated payments under subparagraph (A) if after the date of enactment of this Act--

(i) subject to subparagraph (D), for 3 consecutive marketing years, the national marketing quota or national acreage allotment for a type of tobacco is less than 50 percent of the national marketing quota or national acreage allotment for the type of tobacco for the 1998 marketing year; or

(ii) Congress repeals or makes ineffective, directly or indirectly, any provision of--

(I) section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b);

(II) section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e);

(III) section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445);

(IV) section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445-1); or

(V) section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445-2).

(C) **Amount:** The amount of the accelerated payments made to each quota holder, quota lessee, and quota tenant under this subsection shall be equal to--

(i) the amount of the lifetime limitation established for the quota holder, quota lessee, or quota tenant under paragraph (7); less

(ii) any payments for lost tobacco quota received by the quota holder, quota lessee, or quota tenant before the occurrence of any of the events described in subparagraph (B).

(D) **Referendum vote not a triggering event:** A referendum vote of producers for any type of tobacco that results in the national marketing quota or national acreage allotment not being in effect for the type of tobacco shall not be considered a triggering event under this paragraph.

(13) **Ban on subsequent sale or leasing of farm marketing quota or farm acreage allotment to quota holders exercising option to relinquish quota:** No quota holder that exercises the option to relinquish a farm marketing quota or farm acreage allotment for any type of tobacco under paragraph (2) shall be eligible to acquire a farm marketing quota or farm acreage allotment for the type of tobacco, or to obtain the lease or transfer of a farm marketing quota or farm acreage allotment for the type of tobacco, for a period of 25 crop years after the date on which the quota or allotment was relinquished.

(e) **Payments for Lost Tobacco Quota for Flue-Cured Tobacco:**

(1) **Allocation of funds:** Of the amounts made available under section 1011(d)(1) for payments for lost tobacco quota, the Secretary shall make available for payments under this subsection an amount that bears the same ratio to the amounts made available as--

(A) the sum of all national marketing quotas for flue-cured tobacco during the 1995 through 1997 marketing years; bears to

(B) the sum of all national marketing quotas for all types of tobacco during the 1995 through 1997 marketing years.

(2) **Relinquishment of quota:**

(A) **In general:** Each quota holder of flue-cured tobacco shall relinquish the farm marketing quota or farm acreage allotment in exchange for a payment made under paragraph (3) due to the transition from farm marketing quotas as provided under section 317 of the Agricultural Adjustment Act of 1938 for flue-cured tobacco to individual tobacco production permits as provided under section 317A of the Agricultural Adjustment Act of 1938 for flue-cured tobacco.

(B) **Notification:** The Secretary shall notify the quota holders of the relinquishment of their quota or allotment at such time and in such manner as the Secretary may require, but not later than November 15, 1998.

(3) **Payments for lost flue-cured tobacco quota to quota holders that relinquish quota:**

(A) **In general:** For each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost flue-cured tobacco to each quota holder that has relinquished the farm marketing quota or farm acreage allotment of the quota holder under paragraph (2).

(B) **Amount:** The amount of a payment made to a quota holder described in subparagraph (A) for a marketing year shall equal 1/10 of the lifetime limitation established under paragraph (6).

(C) **Timing:** The Secretary shall begin making annual payments under this paragraph for the marketing year in which the farm marketing quota or farm acreage allotment is relinquished.

(D) **Additional payments:** The Secretary may increase annual payments under this paragraph in

accordance with paragraph (7)(E) to the extent that funding is available.

(4) Payments for lost flue-cured tobacco quota to quota lessees and quota tenants that have not relinquished permits:

(A) In general: Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for flue-cured tobacco is less than the average national marketing quota for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota lessee or quota tenant that--

(i) is eligible under subsection (b);

(ii) has been issued an individual tobacco production permit under section 317A(b) of the Agricultural Adjustment Act of 1938; and

(iii) has not exercised an option to relinquish the permit.

(B) Amount: The amount of a payment made to a quota lessee or quota tenant described in subparagraph (A) for a marketing year shall be equal to the product obtained by multiplying--

(i) the number of pounds by which the individual marketing limitation established for the permit is less than twice the base quota level for the quota lessee or quota tenant; and

(ii) \$2 per pound.

(5) Payments for lost flue-cured tobacco quota to quota lessees and quota tenants that have relinquished permits:

(A) In general: For each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost flue-cured tobacco quota to each quota lessee and quota tenant that has relinquished an individual tobacco production permit under section 317A(b)(5) of the Agricultural Adjustment Act of 1938.

(B) Amount: The amount of a payment made to a quota lessee or quota tenant described in subparagraph (A) for a marketing year shall be equal to 1/10 of the lifetime limitation established under paragraph (6).

(C) Timing: The Secretary shall begin making annual payments under this paragraph for the marketing year in which the individual tobacco production permit is relinquished.

(D) Additional payments: The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(E) Prohibition against permit expansion: A quota lessee or quota tenant that receives a payment under this paragraph shall be ineligible to receive any new or increased tobacco production permit from the county production pool established under section 317A(b)(8) of the Agricultural Adjustment Act of 1938.

(6) Lifetime limitation on payments: Except as otherwise provided in this subsection, the total amount of payments made under this subsection to a quota holder, quota lessee, or quota tenant during the lifetime of the quota holder, quota lessee, or quota tenant shall not exceed the product obtained by multiplying--

(A) the base quota level for the quota holder, quota lessee, or quota tenant; and

(B) \$8 per pound.

(7) Limitations on aggregate annual payments:

(A) **In general:** Except as otherwise provided in this paragraph, the total amount payable under this subsection for any marketing year shall not exceed the amount made available under paragraph (1).

(B) **Accelerated payments:** Paragraph (1) shall not apply if accelerated payments for lost flue-cured tobacco quota are made in accordance with paragraph (9).

(C) **Reductions:** If the sum of the amounts determined under paragraphs (3), (4), and (5) for a marketing year exceeds the amount made available under paragraph (1), the Secretary shall make a pro rata reduction in the amounts payable under paragraph (4) to quota lessees and quota tenants under this subsection to ensure that the total amount of payments for lost flue-cured tobacco quota does not exceed the amount made available under paragraph (1).

(D) **Rollover of payments for lost flue-cured tobacco quota:** Subject to subparagraph (A), if the Secretary makes a reduction in accordance with subparagraph (C), the amount of the reduction shall be applied to the next marketing year and added to the payments for lost flue-cured tobacco quota for the marketing year.

(E) **Additional payments to quota holders exercising option to relinquish quotas or permits, or to quota lessees or quota tenants relinquishing permits:** If the amount made available under paragraph (1) exceeds the sum of the amounts determined under paragraphs (3), (4), and (5) for a marketing year, the Secretary shall distribute the amount of the excess pro rata to quota holders by increasing the amount payable to each such holder under paragraphs (3) and (5).

(8) **Death of quota holder, quota lessee, or quota tenant:** If a quota holder, quota lessee or quota tenant that is entitled to payments under paragraph (4) or (5) dies and is survived by a spouse or 1 or more descendants, the right to receive the payments shall transfer to the surviving spouse or, if there is no surviving spouse, to the surviving descendants in equal shares.

(9) **Acceleration of payments:**

(A) **In general:** On the occurrence of any of the events described in subparagraph (B), the Secretary shall make an accelerated lump sum payment for lost flue-cured tobacco quota as established under paragraphs (3), (4), and (5) to each quota holder, quota lessee, and quota tenant for flue-cured tobacco in accordance with subparagraph (C).

(B) **Triggering events:** The Secretary shall make accelerated payments under subparagraph (A) if after the date of enactment of this Act--

(i) subject to subparagraph (D), for 3 consecutive marketing years, the national marketing quota or national acreage allotment for flue-cured tobacco is less than 50 percent of the national marketing quota or national acreage allotment for flue-cured tobacco for the 1998 marketing year; or

(ii) Congress repeals or makes ineffective, directly or indirectly, any provision of--

(I) section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b);

(II) section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e);

(III) section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445);

(IV) section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445-1);

(V) section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445-2); or

(VI) section 317A of the Agricultural Adjustment Act of 1938.

(C) **Amount:** The amount of the accelerated payments made to each quota holder, quota lessee, and

quota tenant under this subsection shall be equal to--

(i) the amount of the lifetime limitation established for the quota holder, quota lessee, or quota tenant under paragraph (6); less

(ii) any payments for lost flue-cured tobacco quota received by the quota holder, quota lessee, or quota tenant before the occurrence of any of the events described in subparagraph (B).

(D) Referendum vote not a triggering event: A referendum vote of producers for flue-cured tobacco that results in the national marketing quota or national acreage allotment not being in effect for flue-cured tobacco shall not be considered a triggering event under this paragraph.

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SEC. 1022. INDUSTRY PAYMENTS FOR ALL DEPARTMENT COSTS ASSOCIATED WITH TOBACCO PRODUCTION.

(a) In General: The Secretary shall use such amounts remaining unspent and obligated at the end of each fiscal year to reimburse the Secretary for--

(1) costs associated with the administration of programs established under this title and amendments made by this title;

(2) costs associated with the administration of the tobacco quota and price support programs administered by the Secretary;

(3) costs to the Federal Government of carrying out crop insurance programs for tobacco;

(4) costs associated with all agricultural research, extension, or education activities associated with tobacco;

(5) costs associated with the administration of loan association and cooperative programs for tobacco producers, as approved by the Secretary; and

(6) any other costs incurred by the Department of Agriculture associated with the production of tobacco.

(b) Limitations: Amounts made available under subsection (a) may not be used--

(1) to provide direct benefits to quota holders, quota lessees, or quota tenants; or

(2) in a manner that results in a decrease, or an increase relative to other crops, in the amount of the crop insurance premiums assessed to participating tobacco producers under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(c) Determinations: Not later than September 30, 1998, and each fiscal year thereafter, the Secretary shall determine--

(1) the amount of costs described in subsection (a); and

(2) the amount that will be provided under this section as reimbursement for the costs.

SEC. 1023. TOBACCO COMMUNITY ECONOMIC DEVELOPMENT GRANTS.

(a) Authority: The Secretary shall make grants to tobacco-growing States in accordance with this section to enable the States to carry out economic development initiatives in tobacco-growing communities.

(b) Application: To be eligible to receive payments under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including--

(1) a description of the activities that the State will carry out using amounts received under the grant;

(2) a designation of an appropriate State agency to administer amounts received under the grant; and

(3) a description of the steps to be taken to ensure that the funds are distributed in accordance with subsection (e).

(c) Amount of Grant:

(1) **In general:** From the amounts available to carry out this section for a fiscal year, the Secretary shall allot to each State an amount that bears the same ratio to the amounts available as the total farm income of the State derived from the production of tobacco during the 1995 through 1997 marketing years (as determined under paragraph (2)) bears to the total farm income of all States derived from the production of tobacco during the 1995 through 1997 marketing years.

(2) **Tobacco income:** For the 1995 through 1997 marketing years, the Secretary shall determine the amount of farm income derived from the production of tobacco in each State and in all States.

(d) Payments:

(1) **In general:** A State that has an application approved by the Secretary under subsection (b) shall be entitled to a payment under this section in an amount that is equal to its allotment under subsection (c).

(2) **Form of payments:** The Secretary may make payments under this section to a State in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(3) **Reallotments:** Any portion of the allotment of a State under subsection (c) that the Secretary determines will not be used to carry out this section in accordance with an approved State application required under subsection (b), shall be reallotted by the Secretary to other States in proportion to the original allotments to the other States.

(e) Use and Distribution of Funds:

(1) **In general:** Amounts received by a State under this section shall be used to carry out economic development activities, including--

(A) rural business enterprise activities described in subsections (c) and (e) of section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932);

(B) down payment loan assistance programs that are similar to the program described in section 310E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1935);

(C) activities designed to help create productive farm or off-farm employment in rural areas to provide a more viable economic base and enhance opportunities for improved incomes, living standards, and contributions by rural individuals to the economic and social development of tobacco communities;

(D) activities that expand existing infrastructure, facilities, and services to capitalize on opportunities to diversify economies in tobacco communities and that support the development of new industries or commercial ventures;

(E) activities by agricultural organizations that provide assistance directly to participating tobacco producers to assist in developing other agricultural activities that supplement tobacco-producing activities;

(F) initiatives designed to create or expand locally owned value-added processing and marketing operations in tobacco communities;

(G) technical assistance activities by persons to support farmer-owned enterprises, or agriculture-based rural development enterprises, of the type described in section 252 or 253 of the Trade Act of 1974 (19 U.S.C. 2342, 2343); and

(H) initiatives designed to partially compensate tobacco warehouse owners for lost revenues and assist

the tobacco warehouse owners in establishing successful business enterprises.

(2) **Tobacco-growing counties:** Assistance may be provided by a State under this section only to assist a county in the State that has been determined by the Secretary to have in excess of \$100,000 in income derived from the production of tobacco during 1 or more of the 1995 through 1997 marketing years. For purposes of this section, the term 'tobacco-growing county' includes a political subdivision surrounded within a State by a county that has been determined by the Secretary to have in excess of \$100,000 in income derived from the production of tobacco during 1 or more of the 1995 through 1997 marketing years.

(3) **Distribution:**

(A) **Economic development activities:** Not less than 20 percent of the amounts received by a State under this section shall be used to carry out--

- (i) economic development activities described in subparagraph (E) or (F) of paragraph (1); or
- (ii) agriculture-based rural development activities described in paragraph (1)(G).

(B) **Technical assistance activities:** Not less than 4 percent of the amounts received by a State under this section shall be used to carry out technical assistance activities described in paragraph (1)(G).

(C) **Tobacco warehouse owner initiatives:** Not less than 6 percent of the amounts received by a State under this section during each of fiscal years 1999 through 2008 shall be used to carry out initiatives described in paragraph (1)(H).

(D) **Tobacco-growing counties:** To be eligible to receive payments under this section, a State shall demonstrate to the Secretary that funding will be provided, during each 5-year period for which funding is provided under this section, for activities in each county in the State that has been determined under paragraph (2) to have in excess of \$100,000 in income derived from the production of tobacco, in amounts that are at least equal to the product obtained by multiplying--

- (i) the ratio that the tobacco production income in the county determined under paragraph (2) bears to the total tobacco production income for the State determined under subsection (c); and
 - (ii) 50 percent of the total amounts received by a State under this section during the 5-year period.
- (f) **Preferences in Hiring:** A State may require recipients of funds under this section to provide a preference in employment to--

(1) an individual who--

(A) during the 1998 calendar year, was employed in the manufacture, processing, or warehousing of tobacco or tobacco products, or resided, in a county described in subsection (e)(2); and

(B) is eligible for assistance under the tobacco worker transition program established under section 1031; or

(2) an individual who--

(A) during the 1998 marketing year, carried out tobacco quota or relevant tobacco production activities in a county described in subsection (e)(2);

(B) is eligible for a farmer opportunity grant under subpart 9 of part A of title IV of the Higher Education Act of 1965; and

(C) has successfully completed a course of study at an institution of higher education.

(g) **Maintenance of Effort:**

(1) **In general:** Subject to paragraph (2), a State shall provide an assurance to the Secretary that the amount of funds expended by the State and all counties in the State described in subsection (e)(2) for any activities funded under this section for a fiscal year is not less than 90 percent of the amount of funds expended by the State and counties for the activities for the preceding fiscal year.

(2) **Reduction of grant amount:** If a State does not provide an assurance described in paragraph (1), the Secretary shall reduce the amount of the grant determined under subsection (c) by an amount equal to the amount by which the amount of funds expended by the State and counties for the activities is less than 90 percent of the amount of funds expended by the State and counties for the activities for the preceding fiscal year, as determined by the Secretary.

(3) **Federal funds:** For purposes of this subsection, the amount of funds expended by a State or county shall not include any amounts made available by the Federal Government.

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SEC. 1024. FLUE-CURED TOBACCO PRODUCTION PERMITS.

The Agricultural Adjustment Act of 1938 is amended by inserting after section 317 (7 U.S.C. 1314c) the following:

SEC. 317A. FLUE-CURED TOBACCO PRODUCTION PERMITS.

(a) **Definitions:** In this section:

(1) **Individual acreage limitation:** The term 'individual acreage limitation' means the number of acres of flue-cured tobacco that may be planted by the holder of a permit during a marketing year, calculated--

(A) prior to--

(i) any increase or decrease in the number due to undermarketings or overmarketings; and

(ii) any reduction under subsection (i); and

(B) in a manner that ensures that--

(i) the total of all individual acreage limitations is equal to the national acreage allotment, less the reserve provided under subsection (h); and

(ii) the individual acreage limitation for a marketing year bears the same ratio to the individual acreage limitation for the previous marketing year as the ratio that the national acreage allotment for the marketing year bears to the national acreage allotment for the previous marketing year, subject to adjustments by the Secretary to account for any reserve provided under subsection (h).

(2) **Individual marketing limitation:** The term 'individual marketing limitation' means the number of pounds of flue-cured tobacco that may be marketed by the holder of a permit during a marketing year, calculated--

(A) prior to--

(i) any increase or decrease in the number due to undermarketings or overmarketings; and

(ii) any reduction under subsection (i); and

(B) in a manner that ensures that--

(i) the total of all individual marketing limitations is equal to the national marketing quota, less the reserve provided under subsection (h); and

(ii) the individual marketing limitation for a marketing year is obtained by multiplying the individual

acreage limitation by the permit yield, prior to any adjustment for undermarketings or overmarketings.

`(3) **Individual tobacco production permit:** The term 'individual tobacco production permit' means a permit issued by the Secretary to a person authorizing the production of flue-cured tobacco for any marketing year during which this section is effective.

`(4) **National acreage allotment:** The term 'national acreage allotment' means the quantity determined by dividing--

`(A) the national marketing quota; by

`(B) the national average yield goal.

`(5) **National average yield goal:** The term 'national average yield goal' means the national average yield for flue-cured tobacco during the 5 marketing years immediately preceding the marketing year for which the determination is being made.

`(6) **National marketing quota:** For the 1999 and each subsequent crop of flue-cured tobacco, the term 'national marketing quota' for a marketing year means the quantity of flue-cured tobacco, as determined by the Secretary, that is not more than 103 percent nor less than 97 percent of the total of--

`(A) the aggregate of the quantities of flue-cured tobacco that domestic manufacturers of cigarettes estimate that the manufacturers intend to purchase on the United States auction markets or from producers during the marketing year, as compiled and determined under section 320A;

`(B) the average annual quantity of flue-cured tobacco exported from the United States during the 3 marketing years immediately preceding the marketing year for which the determination is being made; and

`(C) the quantity, if any, of flue-cured tobacco that the Secretary, in the discretion of the Secretary, determines is necessary to increase or decrease the inventory of the producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of flue-cured tobacco to establish or maintain the inventory at the reserve stock level for flue-cured tobacco.

`(7) **Permit yield:** The term 'permit yield' means the yield of tobacco per acre for an individual tobacco production permit holder that is--

`(A) based on a preliminary permit yield that is equal to the average yield during the 5 marketing years immediately preceding the marketing year for which the determination is made in the county where the holder of the permit is authorized to plant flue-cured tobacco, as determined by the Secretary, on the basis of actual yields of farms in the county; and

`(B) adjusted by a weighted national yield factor calculated by--

`(i) multiplying each preliminary permit yield by the individual acreage limitation, prior to adjustments for overmarketings, undermarketings, or reductions required under subsection (i); and

`(ii) dividing the sum of the products under clause (i) for all flue-cured individual tobacco production permit holders by the national acreage allotment.

`(b) **Initial Issuance of Permits:**

`(1) **Termination of flue-cured marketing quotas:** On the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act, farm marketing quotas as provided under section 317 shall no longer be in effect for flue-cured tobacco.

`(2) **Issuance of permits to quota holders that were principal producers:**

(A) In general: By January 15, 1999, each individual quota holder under section 317 that was a principal producer of flue-cured tobacco during the 1998 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

(B) Notification: The Secretary shall notify the holder of each permit of the individual acreage limitation and the individual marketing limitation applicable to the holder for each marketing year.

(C) Individual acreage limitation for 1999 marketing year: In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

(D) Individual marketing limitation for 1999 marketing year: In establishing the individual marketing limitation for the 1999 marketing year under this section, the farm marketing quota that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual marketing limitation for the previous marketing year.

(3) Quota holders that were not principal producers:

(A) In general: Except as provided in subparagraph (B), on approval through a referendum under subsection (c)--

(i) each person that was a quota holder under section 317 but that was not a principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall not be eligible to own a permit; and

(ii) the Secretary shall not issue any permit during the 25-year period beginning on the date of enactment of this Act to any person that was a quota holder and was not the principal producer of flue-cured tobacco during the 1997 marketing year.

(B) Medical hardships and crop disasters: Subparagraph (A) shall not apply to a person that would have been the principal producer of flue-cured tobacco during the 1997 marketing year but for a medical hardship or crop disaster that occurred during the 1997 marketing year.

(C) Administration: The Secretary shall issue regulations--

(i) defining the term 'person' for the purpose of this paragraph; and

(ii) prescribing such rules as the Secretary determines are necessary to ensure a fair and reasonable application of the prohibition established under this paragraph.

(4) Issuance of permits to principal producers of flue-cured tobacco:

(A) In general: By January 15, 1999, each individual quota lessee or quota tenant (as defined in section 1002 of the LEAF Act) that was the principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

(B) Individual acreage limitations: In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by a quota holder for whom the quota lessee or quota tenant was the principal producer of flue-cured tobacco during the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

(C) Individual marketing limitations: In establishing the individual marketing limitation for the 1999 marketing year under this section, the individual marketing limitation for the previous year for an individual described in this paragraph shall be calculated by multiplying--

`(i) the farm marketing quota that was allotted to a farm owned by a quota holder for whom the quota lessee or quota holder was the principal producer of flue-cured tobacco during the 1997 marketing year, by

`(ii) the ratio that--

`(I) the sum of all flue-cured tobacco farm marketing quotas for the 1997 marketing year prior to adjusting for undermarketing and overmarketing; bears to

`(II) the sum of all flue-cured tobacco farm marketing quotas for the 1998 marketing year, after adjusting for undermarketing and overmarketing.

`(D) **Special rule for tenant of leased flue-cured tobacco:** If the farm marketing quota or farm acreage allotment of a quota holder was produced pursuant to an agreement under which a quota lessee rented land from a quota holder and a quota tenant was the primary producer, as determined by the Secretary, of flue-cured tobacco pursuant to the farm marketing quota or farm acreage allotment, the farm marketing quota or farm acreage allotment shall be divided proportionately between the quota lessee and quota tenant for purposes of issuing individual tobacco production permits under this paragraph.

`(5) **Option of quota lessee or quota tenant to relinquish permit:**

`(A) **In general:** Each quota lessee or quota tenant that is issued an individual tobacco production permit under paragraph (4) shall be given the option of relinquishing the permit in exchange for payments made under section 1021(e)(5) of the LEAF Act.

`(B) **Notification:** A quota lessee or quota tenant that is issued an individual tobacco production permit shall give notification of the intention to exercise the option at such time and in such manner as the Secretary may require, but not later than 45 days after the permit is issued.

`(C) **Reallocation of permit:** The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit relinquished under this paragraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

`(6) **Active producer requirement:**

`(A) **Requirement for sharing risk:** No individual tobacco production permit shall be issued to, or maintained by, a person that does not fully share in the risk of producing a crop of flue-cured tobacco.

`(B) **Criteria for sharing risk:** For purposes of this paragraph, a person shall be considered to have fully shared in the risk of production of a crop if--

`(i) the investment of the person in the production of the crop is not less than 100 percent of the costs of production associated with the crop;

`(ii) the amount of the person's return on the investment is dependent solely on the sale price of the crop; and

`(iii) the person may not receive any of the return before the sale of the crop.

`(C) **Persons not sharing risk:**

`(i) **Forfeiture:** Any person that fails to fully share in the risks of production under this paragraph shall forfeit an individual tobacco production permit if, after notice and opportunity for a hearing, the appropriate county committee determines that the conditions for forfeiture exist.

`(ii) **Reallocation:** The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit forfeited under this subparagraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

`(D) **Notice:** Notice of any determination made by a county committee under subparagraph (C) shall be mailed, as soon as practicable, to the person involved.

`(E) **Review:** If the person is dissatisfied with the determination, the person may request, not later than 15 days after notice of the determination is received, a review of the determination by a local review committee under the procedures established under section 363 for farm marketing quotas.

`(7) **County of origin requirement:** For the 1999 and each subsequent crop of flue-cured tobacco, all tobacco produced pursuant to an individual tobacco production permit shall be produced in the same county in which was produced the tobacco produced during the 1997 marketing year pursuant to the farm marketing quota or farm acreage allotment on which the individual tobacco production permit is based.

`(8) **County production pool:**

`(A) **In general:** The authority to produce flue-cured tobacco under an individual tobacco production permit that is forfeited, relinquished, or surrendered within a county may be reallocated by the appropriate county committee to tobacco producers located in the same county that apply to the committee to produce flue-cured tobacco under the authority.

`(B) **Priority:** In reallocating individual tobacco production permits under this paragraph, a county committee shall provide a priority to--

`(i) an active tobacco producer that controls the authority to produce a quantity of flue-cured tobacco under an individual tobacco production permit that is equal to or less than the average number of pounds of flue-cured tobacco that was produced by the producer during each of the 1995 through 1997 marketing years, as determined by the Secretary; and

`(ii) a new tobacco producer.

`(C) **Criteria:** Individual tobacco production permits shall be reallocated by the appropriate county committee under this paragraph in a fair and equitable manner after taking into consideration--

`(i) the experience of the producer;

`(ii) the availability of land, labor, and equipment for the production of tobacco;

`(iii) crop rotation practices; and

`(iv) the soil and other physical factors affecting the production of tobacco.

`(D) **Medical hardships and crop disasters:** Notwithstanding any other provision of this Act, the Secretary may issue an individual tobacco production permit under this paragraph to a producer that is otherwise ineligible for the permit due to a medical hardship or crop disaster that occurred during the 1997 marketing year.

`(c) **Referendum:**

`(1) **Announcement of quota and allotment:** Not later than December 15, 1998, the Secretary pursuant to subsection (b) shall determine and announce--

`(A) the quantity of the national marketing quota for flue-cured tobacco for the 1999 marketing year; and

`(B) the national acreage allotment and national average yield goal for the 1999 crop of flue-cured tobacco.

`(2) **Special referendum:** Not later than 30 days after the announcement of the quantity of the national marketing quota in 2001, the Secretary shall conduct a special referendum of the tobacco production

permit holders that were the principal producers of flue-cured tobacco of the 1997 crop to determine whether the producers approve or oppose the continuation of individual tobacco production permits on an acreage-poundage basis as provided in this section for the 2002 through 2004 marketing years.

`(3) **Approval of permits:** If the Secretary determines that more than 66 2/3 percent of the producers voting in the special referendum approve the establishment of individual tobacco production permits on an acreage-poundage basis--

`(A) individual tobacco production permits on an acreage-poundage basis as provided in this section shall be in effect for the 2002 through 2004 marketing years; and

`(B) marketing quotas on an acreage-poundage basis shall cease to be in effect for the 2002 through 2004 marketing years.

`(4) **Disapproval of permits:** If individual tobacco production permits on an acreage-poundage basis are not approved by more than 66 2/3 percent of the producers voting in the referendum, no marketing quotas on an acreage-poundage basis shall continue in effect that were proclaimed under section 317 prior to the referendum.

`(5) **Applicable marketing years:** If individual tobacco production permits have been made effective for flue-cured tobacco on an acreage-poundage basis pursuant to this subsection, the Secretary shall, not later than December 15 of any future marketing year, announce a national marketing quota for that type of tobacco for the next 3 succeeding marketing years if the marketing year is the last year of 3 consecutive years for which individual tobacco production permits previously proclaimed will be in effect.

`(d) **Annual Announcement of National Marketing Quota:** The Secretary shall determine and announce the national marketing quota, national acreage allotment, and national average yield goal for the second and third marketing years of any 3-year period for which individual tobacco production permits are in effect on or before the December 15 immediately preceding the beginning of the marketing year to which the quota, allotment, and goal apply.

`(e) **Annual Announcement of Individual Tobacco Production Permits:** If a national marketing quota, national acreage allotment, and national average yield goal are determined and announced, the Secretary shall provide for the determination of individual tobacco production permits, individual acreage limitations, and individual marketing limitations under this section for the crop and marketing year covered by the determinations.

`(f) **Assignment of Tobacco Production Permits:**

`(1) **Limitation to same county:** Each individual tobacco production permit holder shall assign the individual acreage limitation and individual marketing limitation to 1 or more farms located within the county of origin of the individual tobacco production permit.

`(2) **Filing with county committee:** The assignment of an individual acreage limitation and individual marketing limitation shall not be effective until evidence of the assignment, in such form as required by the Secretary, is filed with and determined by the county committee for the county in which the farm involved is located.

`(3) **Limitation on tillable cropland:** The total acreage assigned to any farm under this subsection shall not exceed the acreage of cropland on the farm.

`(g) **Prohibition on Sale or Leasing of Individual Tobacco Production Permits:**

`(1) **In general:** Except as provided in paragraphs (2) and (3), the Secretary shall not permit the sale and transfer, or lease and transfer, of an individual tobacco production permit issued under this section.

`(2) **Transfer to descendants:**

`(A) **Death:** In the case of the death of a person to whom an individual tobacco production permit has been issued under this section, the permit shall transfer to the surviving spouse of the person or, if there is no surviving spouse, to surviving direct descendants of the person.

`(B) **Temporary inability to farm:** In the case of the death of a person to whom an individual tobacco production permit has been issued under this section and whose descendants are temporarily unable to produce a crop of tobacco, the Secretary may hold the license in the name of the descendants for a period of not more than 18 months.

`(3) **Voluntary transfers:** A person that is eligible to obtain an individual tobacco production permit under this section may at any time transfer all or part of the permit to the person's spouse or direct descendants that are actively engaged in the production of tobacco.

`(h) **Reserve:**

`(1) **In general:** For each marketing year for which individual tobacco production permits are in effect under this section, the Secretary may establish a reserve from the national marketing quota in a quantity equal to not more than 1 percent of the national marketing quota to be available for--

`(A) making corrections of errors in individual acreage limitations and individual marketing limitations;

`(B) adjusting inequities; and

`(C) establishing individual tobacco production permits for new tobacco producers (except that not less than two-thirds of the reserve shall be for establishing such permits for new tobacco producers).

`(2) **Eligible persons:** To be eligible for a new individual tobacco production permit, a producer must not have been the principal producer of tobacco during the immediately preceding 5 years.

`(3) **Apportionment for new producers:** The part of the reserve held for apportionment to new individual tobacco producers shall be allotted on the basis of--

`(A) land, labor, and equipment available for the production of tobacco;

`(B) crop rotation practices;

`(C) soil and other physical factors affecting the production of tobacco; and

`(D) the past tobacco-producing experience of the producer.

`(4) **Permit yield:** The permit yield for any producer for which a new individual tobacco production permit is established shall be determined on the basis of available productivity data for the land involved and yields for similar farms in the same county.

`(i) **Penalties:**

`(1) **Production on other farms:** If any quantity of tobacco is marketed as having been produced under an individual acreage limitation or individual marketing limitation assigned to a farm but was produced on a different farm, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

`(2) **False report:** If a person to which an individual tobacco production permit is issued files, or aids or acquiesces in the filing of, a false report with respect to the assignment of an individual acreage limitation or individual marketing limitation for a quantity of tobacco, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

`(j) **Marketing Penalties:**

`(1) **In general:** When individual tobacco production permits under this section are in effect, provisions with respect to penalties for the marketing of excess tobacco and the other provisions contained in section 314 shall apply in the same manner and to the same extent as they would apply under section 317(g) if farm marketing quotas were in effect.

`(2) **Production on other farms:** If a producer falsely identifies tobacco as having been produced on or

marketed from a farm to which an individual acreage limitation or individual marketing limitation has been assigned, future individual acreage limitations and individual marketing limitations shall be forfeited.'

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SEC. 1025. MODIFICATIONS IN FEDERAL TOBACCO PROGRAMS.

(a) **Program Referenda:** Section 312(c) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1312(c)) is amended--

(1) by striking '(c) Within thirty' and inserting the following:

'(c) **Referenda on Quotas:**

'(1) **In general:** Not later than 30'; and

(2) by adding at the end the following:

'(2) **Referenda on program changes:**

'(A) **In general:** In the case of any type of tobacco for which marketing quotas are in effect, on the receipt of a petition from more than 5 percent of the producers of that type of tobacco in a State, the Secretary shall conduct a statewide referendum on any proposal related to the lease and transfer of tobacco quota within a State requested by the petition that is authorized under this part.

'(B) **Approval of proposals:** If a majority of producers of the type of tobacco in the State approve a proposal in a referendum conducted under subparagraph (A), the Secretary shall implement the proposal in a manner that applies to all producers and quota holders of that type of tobacco in the State.'

(b) **Purchase Requirements:** Section 320B of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314h) is amended--

(1) in subsection (c)--

(A) by striking '(c) The amount' and inserting '(c) **Amount of Penalty:** For the 1998 and subsequent marketing years, the amount'; and

(B) by striking paragraph (1) and inserting the following:

'(1) 105 percent of the average market price for the type of tobacco involved during the preceding marketing year; and'

(c) **Elimination of Tobacco Marketing Assessment:**

(1) **In general:** Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by striking subsection (g).

(2) **Conforming amendment:** Section 422(c) of the Uruguay Round Agreements Act (Public Law 103-465; 7 U.S.C. 1445 note) is amended by striking 'section 106(g), 106A, or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445(g), 1445-1, or 1445-2)' and inserting 'section 106A or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445-1, 1445-2)'

(d) **Adjustment for Land Rental Costs:** Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by adding at the end the following:

'(h) **Adjustment for Land Rental Costs:** For each of the 1999 and 2000 marketing years for flue-cured tobacco, after consultation with producers, State farm organizations and cooperative associations, the Secretary shall make an adjustment in the price support level for flue-cured tobacco equal to the annual change in the average cost per pound to flue-cured producers, as determined by the Secretary, under agreements through which producers rent land to produce flue-cured tobacco.'

(e) **Fire-Cured and Dark Air-Cured Tobacco Programs:**

(1) **Limitation on transfers:** Section 318(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C.

1314d(g)) is amended--

(A) by striking 'ten' and inserting '30'; and

(B) by inserting 'during any crop year' after 'transferred to any farm'.

(2) Loss of allotment or quota through underplanting: Section 318 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d) is amended by adding at the end the following:

'(k) Loss of Allotment or Quota Through Underplanting: Effective for the 1999 and subsequent marketing years, no acreage allotment or acreage-poundage quota, other than a new marketing quota, shall be established for a farm on which no fire-cured or dark air-cured tobacco was planted or considered planted during at least 2 of the 3 crop years immediately preceding the crop year for which the acreage allotment or acreage-poundage quota would otherwise be established.'

(f) Expansion of Types of Tobacco Subject to No Net Cost Assessment:

(1) No net cost tobacco fund: Section 106A(d)(1)(A) of the Agricultural Act of 1949 (7 U.S.C. 1445-1(d)(1)(A)) is amended--

(A) in clause (ii), by inserting after 'Burley quota tobacco' the following: 'and fire-cured and dark air-cured quota tobacco'; and

(B) in clause (iii)--

(i) in the matter preceding subclause (I), by striking 'Flue-cured or Burley tobacco' and inserting 'each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,'; and

(ii) by striking subclause (II) and inserting the following:

'(II) the sum of the amount of the per pound producer contribution and purchaser assessment (if any) for the kind of tobacco payable under clauses (i) and (ii); and'.

(2) No net cost tobacco account: Section 106B(d)(1) of the Agricultural Act of 1949 (7 U.S.C. 1445-2(d)(1)) is amended--

(A) in subparagraph (B), by inserting after 'Burley quota tobacco' the following: 'and fire-cured and dark air-cured tobacco'; and

(B) in subparagraph (C), by striking 'Flue-cured and Burley tobacco' and inserting 'each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,'.

Subtitle C--Farmer and Worker Transition Assistance

SEC. 1031. TOBACCO WORKER TRANSITION PROGRAM.

(a) Group Eligibility Requirements:

(1) Criteria: A group of workers (including workers in any firm or subdivision of a firm involved in the manufacture, processing, or warehousing of tobacco or tobacco products) shall be certified as eligible to apply for adjustment assistance under this section pursuant to a petition filed under subsection (b) if the Secretary of Labor determines that a significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated, and--

(A) the sales or production, or both, of the firm or subdivision have decreased absolutely; and

(B) the implementation of the national tobacco settlement contributed importantly to the workers' separation or threat of separation and to the decline in the sales or production of the firm or subdivision.

(2) **Definition of contributed importantly:** In paragraph (1)(B), the term `contributed importantly' means a cause that is important but not necessarily more important than any other cause.

(3) **Regulations:** The Secretary shall issue regulations relating to the application of the criteria described in paragraph (1) in making preliminary findings under subsection (b) and determinations under subsection (c).

(b) **Preliminary Findings and Basic Assistance:**

(1) **Filing of petitions:** A petition for certification of eligibility to apply for adjustment assistance under this section may be filed by a group of workers (including workers in any firm or subdivision of a firm involved in the manufacture, processing, or warehousing of tobacco or tobacco products) or by their certified or recognized union or other duly authorized representative with the Governor of the State in which the workers' firm or subdivision thereof is located.

(2) **Findings and assistance:** On receipt of a petition under paragraph (1), the Governor shall--

(A) notify the Secretary that the Governor has received the petition;

(B) within 10 days after receiving the petition--

(i) make a preliminary finding as to whether the petition meets the criteria described in subsection (a)(1); and

(ii) transmit the petition, together with a statement of the finding under clause (i) and reasons for the finding, to the Secretary for action under subsection (c); and

(C) if the preliminary finding under subparagraph (B)(i) is affirmative, ensure that rapid response and basic readjustment services authorized under other Federal laws are made available to the workers.

(c) **Review of Petitions by Secretary; Certifications:**

(1) **In general:** The Secretary, within 30 days after receiving a petition under subsection (b)(2)(B)(ii), shall determine whether the petition meets the criteria described in subsection (a)(1). On a determination that the petition meets the criteria, the Secretary shall issue to workers covered by the petition a certification of eligibility to apply for the assistance described in subsection (d).

(2) **Denial of certification:** On the denial of a certification with respect to a petition under paragraph (1), the Secretary shall review the petition in accordance with the requirements of other applicable assistance programs to determine if the workers may be certified under the other programs.

(d) **Comprehensive Assistance:**

(1) **In general:** Workers covered by a certification issued by the Secretary under subsection (c)(1) shall be provided with benefits and services described in paragraph (2) in the same manner and to the same extent as workers covered under a certification under subchapter A of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.), except that the total amount of payments under this section for any fiscal year shall not exceed \$25,000,000.

(2) **Benefits and services:** The benefits and services described in this paragraph are the following:

(A) Employment services of the type described in section 235 of the Trade Act of 1974 (19 U.S.C. 2295).

(B) Training described in section 236 of the Trade Act of 1974 (19 U.S.C. 2296), except that notwithstanding the provisions of section 236(a)(2)(A) of that Act, the total amount of payments for training under this section for any fiscal year shall not exceed \$12,500,000.

(C) Tobacco worker readjustment allowances, which shall be provided in the same manner as trade readjustment allowances are provided under part I of subchapter B of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2291 et seq.), except that--

(i) the provisions of sections 231(a)(5)(C) and 231(c) of that Act (19 U.S.C. 2291(a)(5)(C), 2291(c)), authorizing the payment of trade readjustment allowances on a finding that it is not feasible or appropriate to approve a training program for a worker, shall not be applicable to payment of allowances under this section; and

(ii) notwithstanding the provisions of section 233(b) of that Act (19 U.S.C. 2293(b)), in order for a worker to qualify for tobacco readjustment allowances under this section, the worker shall be enrolled in a training program approved by the Secretary of the type described in section 236(a) of that Act (19 U.S.C. 2296(a)) by the later of--

(I) the last day of the 16th week of the worker's initial unemployment compensation benefit period; or

(II) the last day of the 6th week after the week in which the Secretary issues a certification covering the worker.

In cases of extenuating circumstances relating to enrollment of a worker in a training program under this section, the Secretary may extend the time for enrollment for a period of not to exceed 30 days.

(D) Job search allowances of the type described in section 237 of the Trade Act of 1974 (19 U.S.C. 2297).

(E) Relocation allowances of the type described in section 238 of the Trade Act of 1974 (19 U.S.C. 2298).

(e) **Ineligibility of Individuals Receiving Payments for Lost Tobacco Quota:** No benefits or services may be provided under this section to any individual who has received payments for lost tobacco quota under section 1021.

(f) **Funding:** Of the amounts appropriated to carry out this title, the Secretary may use not to exceed \$25,000,000 for each of fiscal years 1999 through 2008 to provide assistance under this section.

(g) **Effective Date:** This section shall take effect on the date that is the later of--

(1) October 1, 1998; or

(2) the date of enactment of this Act.

(h) **Termination Date:** No assistance, vouchers, allowances, or other payments may be provided under this section after the date that is the earlier of--

(1) the date that is 10 years after the effective date of this section under subsection (g); or

(2) the date on which legislation establishing a program providing dislocated workers with comprehensive assistance substantially similar to the assistance provided by this section becomes effective.

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SEC. 1032. FARMER OPPORTUNITY GRANTS.

Part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) is amended by adding at the end the following:

'Subpart 9--Farmer Opportunity Grants

'SEC. 420D. STATEMENT OF PURPOSE.

'It is the purpose of this subpart to assist in making available the benefits of postsecondary education to eligible students (determined in accordance with section 420F) in institutions of higher education by providing farmer opportunity grants to all eligible students.

'SEC. 420E. PROGRAM AUTHORITY; AMOUNT AND DETERMINATIONS; APPLICATIONS.

'(a) Program Authority and Method of Distribution:

`(1) **Program authority:** From amounts made available under section 1011(d)(5) of the LEAF Act, the Secretary, during the period beginning July 1, 1999, and ending September 30, 2024, shall pay to each eligible institution such sums as may be necessary to pay to each eligible student (determined in accordance with section 420F) for each academic year during which that student is in attendance at an institution of higher education, as an undergraduate, a farmer opportunity grant in the amount for which that student is eligible, as determined pursuant to subsection (b). Not less than 85 percent of the sums shall be advanced to eligible institutions prior to the start of each payment period and shall be based on an amount requested by the institution as needed to pay eligible students, except that this sentence shall not be construed to limit the authority of the Secretary to place an institution on a reimbursement system of payment.

`(2) **Construction:** Nothing in this section shall be construed to prohibit the Secretary from paying directly to students, in advance of the beginning of the academic term, an amount for which the students are eligible, in cases where the eligible institution elects not to participate in the disbursement system required by paragraph (1).

`(3) **Designation:** Grants made under this subpart shall be known as 'farmer opportunity grants'.

`(b) **Amount of Grants:**

`(1) **Amounts:**

`(A) **In general:** The amount of the grant for a student eligible under this subpart shall be--

`(i) \$1,700 for each of the academic years 1999-2000 through 2003-2004;

`(ii) \$2,000 for each of the academic years 2004-2005 through 2008-2009;

`(iii) \$2,300 for each of the academic years 2009-2010 through 2013-2014;

`(iv) \$2,600 for each of the academic years 2014-2015 through 2018-2019; and

`(v) \$2,900 for each of the academic years 2019-2020 through 2023-2024.

`(B) **Part-time rule:** In any case where a student attends an institution of higher education on less than a full-time basis (including a student who attends an institution of higher education on less than a half-time basis) during any academic year, the amount of the grant for which that student is eligible shall be reduced in proportion to the degree to which that student is not so attending on a full-time basis, in accordance with a schedule of reductions established by the Secretary for the purposes of this subparagraph, computed in accordance with this subpart. The schedule of reductions shall be established by regulation and published in the Federal Register.

`(2) **Maximum:** No grant under this subpart shall exceed the cost of attendance (as described in section 472) at the institution at which that student is in attendance. If, with respect to any student, it is determined that the amount of a grant exceeds the cost of attendance for that year, the amount of the grant shall be reduced to an amount equal to the cost of attendance at the institution.

`(3) **Prohibition:** No grant shall be awarded under this subpart to any individual who is incarcerated in any Federal, State, or local penal institution.

`(c) **Period of Eligibility for Grants:**

`(1) **In general:** The period during which a student may receive grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student at the institution at which the student is in attendance, except that any period during which the student is enrolled in a noncredit or remedial course of study as described in paragraph (2) shall not be counted for the purpose of this paragraph.

`(2) **Construction:** Nothing in this section shall be construed to--

`(A) exclude from eligibility courses of study that are noncredit or remedial in nature and that are determined by the institution to be necessary to help the student be prepared for the pursuit of a first undergraduate baccalaureate degree or certificate or, in the case of courses in English language instruction, to be necessary to enable the student to utilize already existing knowledge, training, or skills; and

`(B) exclude from eligibility programs of study abroad that are approved for credit by the home institution at which the student is enrolled.

`(3) **Prohibition:** No student is entitled to receive farmer opportunity grant payments concurrently from more than 1 institution or from the Secretary and an institution.

`(d) **Applications for Grants:**

`(1) **In general:** The Secretary shall from time to time set dates by which students shall file applications for grants under this subpart. The filing of applications under this subpart shall be coordinated with the filing of applications under section 401(c).

`(2) **Information and assurances:** Each student desiring a grant for any year shall file with the Secretary an application for the grant containing such information and assurances as the Secretary may deem necessary to enable the Secretary to carry out the Secretary's functions and responsibilities under this subpart.

`(e) **Distribution of Grants to Students:** Payments under this section shall be made in accordance with regulations promulgated by the Secretary for such purpose, in such manner as will best accomplish the purpose of this section. Any disbursement allowed to be made by crediting the student's account shall be limited to tuition and fees and, in the case of institutionally owned housing, room and board. The student may elect to have the institution provide other such goods and services by crediting the student's account.

`(f) **Insufficient Funding:** If, for any fiscal year, the funds made available to carry out this subpart are insufficient to satisfy fully all grants for students determined to be eligible under section 420F, the amount of the grant provided under subsection (b) shall be reduced on a pro rata basis among all eligible students.

`(g) **Treatment of Institutions and Students Under Other Laws:** Any institution of higher education that enters into an agreement with the Secretary to disburse to students attending that institution the amounts those students are eligible to receive under this subpart shall not be deemed, by virtue of the agreement, to be a contractor maintaining a system of records to accomplish a function of the Secretary. Recipients of farmer opportunity grants shall not be considered to be individual grantees for purposes of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq.).

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`SEC. 420F. STUDENT ELIGIBILITY.

`(a) **In General:** In order to receive any grant under this subpart, a student shall--

`(1) be a member of a tobacco farm family in accordance with subsection (b);

`(2) be enrolled or accepted for enrollment in a degree, certificate, or other program (including a program of study abroad approved for credit by the eligible institution at which the student is enrolled) leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with section 487, and not be enrolled in an elementary or secondary school;

`(3) if the student is presently enrolled at an institution of higher education, be maintaining satisfactory progress in the course of study the student is pursuing in accordance with subsection (c);

`(4) not owe a refund on grants previously received at any institution of higher education under this title, or be in default on any loan from a student loan fund at any institution provided for in part D, or a loan made, insured, or guaranteed by the Secretary under this title for attendance at any institution;

`(5) file with the institution of higher education that the student intends to attend, or is attending, a document, that need not be notarized, but that shall include--

`(A) a statement of educational purpose stating that the money attributable to the grant will be used solely for expenses related to attendance or continued attendance at the institution; and

`(B) the student's social security number; and

`(6) be a citizen of the United States.

`(b) **Tobacco Farm Families:**

`(1) **In general:** For the purpose of subsection (a)(1), a student is a member of a tobacco farm family if during calendar year 1998 the student was--

`(A) an individual who--

`(i) is a participating tobacco producer (as defined in section 1002 of the LEAF Act) who is a principal producer of tobacco on a farm; or

`(ii) is otherwise actively engaged in the production of tobacco;

`(B) a spouse, son, daughter, stepson, or stepdaughter of an individual described in subparagraph (A);

`(C) an individual who was a dependent (within the meaning of section 152 of the Internal Revenue Code of 1986) of an individual described in subparagraph (A).

`(2) **Administration:** On request, the Secretary of Agriculture shall provide to the Secretary such information as is necessary to carry out this subsection.

`(c) **Satisfactory Progress:**

`(1) **In general:** For the purpose of subsection (a)(3), a student is maintaining satisfactory progress if--

`(A) the institution at which the student is in attendance reviews the progress of the student at the end of each academic year, or its equivalent, as determined by the institution; and

`(B) the student has at least a cumulative C average or its equivalent, or academic standing consistent with the requirements for graduation, as determined by the institution, at the end of the second such academic year.

`(2) **Special rule:** Whenever a student fails to meet the eligibility requirements of subsection (a)(3) as a result of the application of this subsection and subsequent to that failure the student has academic standing consistent with the requirements for graduation, as determined by the institution, for any grading period, the student may, subject to this subsection, again be eligible under subsection (a)(3) for a grant under this subpart.

`(3) **Waiver:** Any institution of higher education at which the student is in attendance may waive paragraph (1) or (2) for undue hardship based on--

`(A) the death of a relative of the student;

`(B) the personal injury or illness of the student; or

`(C) special circumstances as determined by the institution.

`(d) **Students Who Are Not Secondary School Graduates:** In order for a student who does not have a certificate of graduation from a school providing secondary education, or the recognized equivalent of the certificate, to be eligible for any assistance under this subpart, the student shall meet either 1 of the following standards:

(1) Examination: The student shall take an independently administered examination and shall achieve a score, specified by the Secretary, demonstrating that the student can benefit from the education or training being offered. The examination shall be approved by the Secretary on the basis of compliance with such standards for development, administration, and scoring as the Secretary may prescribe in regulations.

(2) Determination: The student shall be determined as having the ability to benefit from the education or training in accordance with such process as the State shall prescribe. Any such process described or approved by a State for the purposes of this section shall be effective 6 months after the date of submission to the Secretary unless the Secretary disapproves the process. In determining whether to approve or disapprove the process, the Secretary shall take into account the effectiveness of the process in enabling students without secondary school diplomas or the recognized equivalent to benefit from the instruction offered by institutions utilizing the process, and shall also take into account the cultural diversity, economic circumstances, and educational preparation of the populations served by the institutions.

(e) Special Rule for Correspondence Courses: A student shall not be eligible to receive a grant under this subpart for a correspondence course unless the course is part of a program leading to an associate, bachelor, or graduate degree.

(f) Courses Offered Through Telecommunications:

(1) Relation to correspondence courses: A student enrolled in a course of instruction at an eligible institution of higher education (other than an institute or school that meets the definition in section 521(4)(C) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471(4)(C))) that is offered in whole or in part through telecommunications and leads to a recognized associate, bachelor, or graduate degree conferred by the institution shall not be considered to be enrolled in correspondence courses unless the total amount of telecommunications and correspondence courses at the institution equals or exceeds 50 percent of the courses.

(2) Restriction or reductions of financial aid: A student's eligibility to receive a grant under this subpart may be reduced if a financial aid officer determines under the discretionary authority provided in section 479A that telecommunications instruction results in a substantially reduced cost of attendance to the student.

(3) Definition: For the purposes of this subsection, the term 'telecommunications' means the use of television, audio, or computer transmission, including open broadcast, closed circuit, cable, microwave, or satellite, audio conferencing, computer conferencing, or video cassettes or discs, except that the term does not include a course that is delivered using video cassette or disc recordings at the institution and that is not delivered in person to other students of that institution.

(g) Study Abroad: Nothing in this subpart shall be construed to limit or otherwise prohibit access to study abroad programs approved by the home institution at which a student is enrolled. An otherwise eligible student who is engaged in a program of study abroad approved for academic credit by the home institution at which the student is enrolled shall be eligible to receive a grant under this subpart, without regard to whether the study abroad program is required as part of the student's degree program.

(h) Verification of Social Security Number: The Secretary, in cooperation with the Commissioner of Social Security, shall verify any social security number provided by a student to an eligible institution under subsection (a)(5)(B) and shall enforce the following conditions:

(1) Pending verification: Except as provided in paragraphs (2) and (3), an institution shall not deny, reduce, delay, or terminate a student's eligibility for assistance under this subpart because social security number verification is pending.

(2) Denial or termination: If there is a determination by the Secretary that the social security number provided to an eligible institution by a student is incorrect, the institution shall deny or terminate the student's eligibility for any grant under this subpart until such time as the student provides documented evidence of a social security number that is determined by the institution to be correct.

(3) Construction: Nothing in this subsection shall be construed to permit the Secretary to take any compliance, disallowance, penalty, or other regulatory action against--

'(A) any institution of higher education with respect to any error in a social security number, unless the error was a result of fraud on the part of the institution; or

'(B) any student with respect to any error in a social security number, unless the error was a result of fraud on the part of the student.'

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Subtitle D--Immunity

SEC. 1041. GENERAL IMMUNITY FOR TOBACCO PRODUCERS AND TOBACCO WAREHOUSE OWNERS.

Notwithstanding any other provision of this title, a participating tobacco producer, tobacco-related growers association, or tobacco warehouse owner or employee may not be subject to liability in any Federal or State court for any cause of action resulting from the failure of any tobacco product manufacturer, distributor, or retailer to comply with the National Tobacco Policy and Youth Smoking Reduction Act.

Subtitle E--Applicability

SEC. 1051. APPLICABILITY OF TITLE XV.

Notwithstanding any other provision of this Act, title XV of this Act shall have no force or effect.

END