

AMENDMENTS SUBMITTED

NATIONAL TOBACCO POLICY AND
YOUTH SMOKING REDUCTION ACT

WELLSTONE AMENDMENT NO. 2458

(Ordered to lie on the table.)

Mr. Wellstone submitted an amendment intended to be proposed by him 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:

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

SEC. ____. SALE, DISTRIBUTION, AND ADVERTISING OF TOBACCO PRODUCTS IN FOREIGN COUNTRIES.

(a) AMENDMENT TO CHAPTER VIII.—Chapter VIII of the Federal Food, Drug, and Cosmetic Act is amended by adding at the end the following:

"SEC. 804. SALE, DISTRIBUTION, AND ADVERTISING OF TOBACCO PRODUCTS IN FOREIGN COUNTRIES.

"(a) REGULATIONS.—Not later than 2 years after the date of the enactment of this section, the Secretary shall promulgate regulations to—

"(1) prohibit domestic concerns from—

"(A) selling or distributing tobacco products in a foreign country to children; or

"(B) advertising or promoting tobacco products in a foreign country in a manner that appeals to children;

"(2) require domestic concerns to ensure that any person under the control of a domestic concern does not engage in conduct that would be prohibited under this section if engaged in by the domestic concern; and

"(3) require domestic concerns to take all feasible measures to ensure that tobacco products bearing a brand name controlled or used by a domestic concern are not sold, distributed, advertised, or promoted in a manner that would be prohibited under this section if engaged in by a domestic concern.

"(b) INTERPRETATION.—For purposes of this section, advertising or promoting tobacco products in a manner that would not be lawful under this Act if it occurred in the United States shall be deemed to be advertising or promotion that appeals to children.

"(c) DEFINITION.—The term 'domestic concern' means—

"(1) any individual who is a citizen, national, or resident of the United States; and

"(2) any corporation, partnership, association, joint-stock company, business trust, unincorporated organization, or sole proprietorship which has its principal place of business in the United States or which is organized under the laws of a State of the United States or a territory, possession, or commonwealth of the United States."

(b) ENFORCEMENT.—Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amended by adding at the end the following:

"(bb) The violation of any requirement under section 804."

SESSIONS (AND OTHERS)
AMENDMENT NO. 2459

(Ordered to lie on the table.)

Mr. SESSIONS (for himself, Mr. JEFFORDS, Mr. ENZI, and Mr. FAIRCLOTH) submitted an amendment intended to

be proposed by them to the bill, S. 1415, supra; as follows:

Beginning on page 435, strike line 12 and all that follows through line 4 on page 442, and insert the following:

SEC. 1413. NATIONAL TOBACCO COMPENSATION PROGRAM.

(a) ADMINISTRATION BY SECRETARY.—The Secretary of Health and Human Services (referred to in this section as the "Secretary") shall administer the Voluntary National Tobacco Compensation Program (referred to in this section as the "Program") established under this section.

(b) VOLUNTARY PAYMENTS BY INDUSTRY.—

(1) CERTAIN TOBACCO PRODUCT MANUFACTURERS.—The amount of the voluntary contributions described in this subsection for each year during which the Program is in existence shall equal, in the aggregate, \$8,000,000,000, to be apportioned as follows:

(A) Phillip Morris Incorporated—65.8 percent.

(B) Brown and Williamson Tobacco Corporation—17.3 percent.

(C) Lorillard Tobacco Company—7.1 percent.

(D) R.J. Reynolds Tobacco Company—6.6 percent.

(E) United States Tobacco Company—3.2 percent.

(2) CONTRIBUTIONS IN FUTURE YEARS.—If contributions under paragraph (1) result in amounts in the fund exceeding \$25,000,000,000 in any fiscal year, any such excess amount shall be made available to the States as provided for in section 452.

(3) NO CONTRIBUTION FROM OTHER TOBACCO PRODUCT MANUFACTURERS.—No other tobacco product manufacturer may make contributions under this subsection unless such manufacturer is the successor or assign of one or more of the manufacturers described in paragraph (1).

(4) COMMENCEMENT OF PROGRAM.—The Program shall commence operations on the date on which at least 1 manufacturer has paid the full share of its contribution under this subsection. The Program shall only be available to those manufacturers that have contributed their full shares under this subsection.

(c) RESPONSIBILITY OF SECRETARY.—The Secretary shall administer the Program pursuant to the guidelines established by the National Tobacco Compensation Commission established under subsection (d).

(d) NATIONAL TOBACCO COMPENSATION COMMISSION.—

(1) ESTABLISHMENT.—There is hereby established a commission to be known as the "National Tobacco Compensation Commission" (referred to in this subsection as the "Commission").

(2) COMPOSITION.—The Commission shall be composed of 7 members, of which—

(A) 1 member shall be appointed by the President;

(B) 2 members shall be appointed by the Majority Leader of the Senate;

(C) 1 member shall be appointed by the Minority Leader of the Senate;

(D) 2 members shall be appointed by the Speaker of the House of Representatives; and

(E) 1 member shall be appointed by the Minority Leader of the House of Representatives.

(3) TIME FOR APPOINTMENT, TERMS AND VACANCIES.—The members of the Commission shall be appointed not later than 90 days after the date of enactment of this Act. A vacancy in the Commission shall not affect the powers of the Commission and shall be filled in the same manner in which the original appointment was made.

(4) COMPENSATION AND EXPENSES.—Members of the Commission may not receive com-

ensation for service on the Commission. Such members may, in accordance with chapter 57 of title 5, United States Code, be reimbursed for reasonable travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Commission, notwithstanding the limitations contained in sections 5701 through 5733 of such title 5.

(5) ESTABLISHMENT OF PROGRAM.—Not later than 90 days after the expiration of the period described in paragraph (3), the Commission, in consultation with the Secretary and the Congress, shall establish a Voluntary National Tobacco Compensation Program to provide compensation to claimants who have a total disability or terminal disease, as classified under the list developed under subsection (e)(2), that is directly attributable to the use of a tobacco product in accordance with subsection (e)(3). Such program shall, subject to the payment of contributions under subsection (b), continue in operation for the 25-year period beginning on the date of enactment of this Act, or until the provisions of this title are repealed, whichever occurs first. Congress may at any time act to reauthorize and extend the Program established under this section.

(6) DUTIES.—The Commission shall—

(A) annually meet and review the most recent scientific developments and research relating to tobacco use and update the comprehensive list described in subsection (e)(2);

(B) develop rules and procedures for the administration of the program established under this section;

(C) develop procedures for paying compensation to claimants under this section, including procedures to provide for the payment of such claims over more than 1 year if sufficient funds are not available under subsection (b) for the year in which the claim is made;

(D) develop procedures for the submission of conflicts to binding arbitration;

(E) procedures for waiving the compensation limitations described in subsection (e) in cases of extraordinary circumstances;

(F) procedures for the conduct of internal reviews under subsection (e)(8)(A);

(G) carry out any other activities determined appropriate by the Commission; and

(H) at its discretion based on the remaining funds make a determination as to the availability of the Program for individuals with a partial disability that is directly attributable to the use of a tobacco product in accordance with subsection (e)(3), while assuring that claimants suffering from a total disability or terminal disease that is directly attributable to the use of a tobacco product have a priority when applying for compensation under the Program.

(7) REPORT.—

(A) IN GENERAL.—Not later than 180 days after the expiration of the period described in paragraph (3), the Commission shall prepare a report that describes the establishment, guidelines and operations of the Program, that recommends adjustments in the contribution levels under subsection (b), that provides the list of illnesses described in subsection (e)(3), and that provides the procedures described in subsection (e)(5).

(B) SUBMISSION.—The report described in subparagraph (A) shall be submitted to—

(i) President and the Secretary;

(ii) Majority and Minority Leaders of the Senate;

(iii) Committees on Commerce, Labor and Human Resources, Finance, and Judiciary of the Senate;

(iv) Speaker and Minority Leader of the House of Representatives; and

(v) Committees on Commerce, Judiciary, and Ways and Means of the House of Representatives.

(8) INFORMATION.—Each department, agency, and instrumentality of the executive branch of the Federal Government, including independent agencies, shall furnish to the Commission, upon request by the Commission, such information as the Commission determines to be necessary to carry out its functions under this section.

(9) USE OF SERVICES AND FACILITIES.—The Commission may utilize the services and facilities of any Federal agency without reimbursement, may accept voluntary services notwithstanding section 1342 of title 31, United States Code, and may enter into contracts with any public or private person or entity for reports or research in furtherance of the work of the Commission.

(10) TERMINATION.—The Commission shall terminate on the date that is 5 years after the date on which the final report of the Commission is submitted under paragraph (7). Congress may at any time act to reauthorize and extend the Commission established under this subsection.

(11) AUTHORIZATION OF APPROPRIATIONS.—Subject to the limitation described in subsection (e), there is authorized to be appropriated not to exceed \$1,000,000 for each of the fiscal years during which the Commission is in operation, from the National Tobacco Settlement Trust Fund to carry out this section.

(e) PROCEDURE.—The Commission, in developing the National Tobacco Compensation Program under subsection (d), shall establish—

(1) procedures under which an individual with a disease described in subsection (d)(5) may file a one-time administrative claim per separate and distinct disease with the Secretary seeking compensation for any and all diseases and conditions appearing on the comprehensive list described in paragraph (2);

(2) procedures to ensure that such claims are submitted on a form to be developed by the Commission that shall contain—

(A) the name and address of the individual;

(B) a description of the disease or condition for which the individual is seeking compensation; and

(C) any other supporting documentation that is determined appropriate by the Commission or the Secretary;

(3) in consultation with the Centers for Disease Control and Prevention, the Department of Health and Human Services, and appropriate committees of Congress, a comprehensive list of diseases and conditions which constitute total disability or are terminal for purposes of paying claims brought under this section on an equitable basis, taking into consideration age and tobacco product use history, including tobacco use in conjunction with exposure to asbestos and black lung disease;

(4) procedures to require that a claimant provide supporting documentation that such claimant has a compensable disease that is directly attributable to the use of tobacco, including documentation pertaining to the claimants tobacco use history and exposure to asbestos or black lung disease;

(5) procedures, in order to make a determination with respect to a claim under paragraph (2), or to make a determination with respect to the amount of compensation for which a claimant is eligible, for the requesting from a claimant of additional information relating to the disease or condition involved;

(6) procedures for the implementation of a schedule to pay claims in a manner that ensure the full payment of claims;

(7) streamlined procedures so as to ensure that a claimant is not required to be represented by an attorney;

(8) procedures to provide for the resolution of disputes regarding determinations of the Secretary concerning the eligibility of the claimant for compensation, or the amount of compensation to be paid, under which the claimant may—

(A) obtain an internal review of the determination of the Secretary;

(B) after a review under subparagraph (A), submit the dispute to arbitration as described in subsection (d)(6)(D) under procedures to be established by the Commission; and

(C) after an arbitration hearing under subparagraph (B), file a civil action against the manufacturer involved;

(9) procedures to provide for the collection of voluntary contributions under subsection (b); and

(10) procedures to ensure that the liability of manufacturers for claims under this section are separate based on the illnesses involved and the nature of the tobacco product involved.

(f) NO JUDICIAL ACTION.—Except as provided in subsection (e)(8)(C), upon the contribution of funds as provided for under subsection (b), an individual may not commence a tobacco claim in any Federal or State court against a tobacco product manufacturer who makes such a contribution.

(g) ADMINISTRATION AND ATTORNEYS FEES.—

(1) IN GENERAL.—The procedures developed under subsection (e) shall ensure that amounts paid from the Program in connection with administrative costs do not exceed an amount equal to 10 percent of the amounts available under the program is each fiscal year.

(2) ATTORNEYS FEES.—

(A) IN GENERAL.—Procedures developed under subsection (e) shall provide that, whenever the Secretary renders a determination favorable to a claimant under the Program and that claimant was represented by an attorney, the Secretary may determine and allow as part of its determination a reasonable fee for such representation, not in excess of 10 percent of the total of the benefits to which the claimant is entitled by reason of such determination. In case of any such determination, no fee may be payable or certified for payment for such representation except as provided in this paragraph.

(B) LIMITATION.—Any attorney who charges, demands, receives, or collects for services rendered in connection with proceedings to which subparagraph (A) applies, any amount in excess of that permitted under such subparagraph (A) shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than \$500, or imprisonment for not more than 1 year, or both.

(h) TIME FOR PAYMENT.—The Secretary shall take steps to ensure that, to the maximum extent practicable, claimants receive compensation in accordance with this section not later than 90 days after the date on which the claim involved is filed.

(i) LIMITATION WITH RESPECT TO PRISONERS.—No individual incarcerated in a Federal, State or local prison or jail may file a claim with the Program under this section.

(j) APPLICABILITY.—This section shall apply as provided for under subsection (b)(4). The provisions of section 1412 shall apply only if the voluntary contributions are not made in any year or are less than the amount described in subsection (b) in any year.

(k) EFFECTIVE DATE.—The Secretary shall implement the compensation program under this section not later than 90 days after the date on which the report of the Commission is submitted under subsection (d)(7).

FEINSTEIN AMENDMENT NO. 2460

(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):

| State | 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 |

DOMENICI AMENDMENTS NOS. 2461-2462

(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.

AMENDMENT NO. 2462

Strike section 401(e).

COATS AMENDMENTS NOS. 2463–2467

(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.

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.

AMENDMENT NO. 2465

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

SEC. ____ 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.

AMENDMENT NO. 2466

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

SEC. ____ 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.

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 non-

governmental 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.

CHAFEE (AND STEVENS)
AMENDMENT NO. 2468

(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:

“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 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.”.

**CHAFEE (AND OTHERS)
AMENDMENT NO. 2469**

(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).

ENZI AMENDMENTS NOS. 2470-2471

(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. ____ 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 author-

ized 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.

COATS AMENDMENT NO. 2472

(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. ____ 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 companies 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 non-participating 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 \$_____ 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.

HOLLINGS AMENDMENTS NOS. 2473-2475

(Ordered to lie on the table.)

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

AMENDMENT No. 2473

On page 58, strike lines 8 through line 23, and insert the following:

“(3) SECRETARY MAY NOT BAN CLASS OF PRODUCT OR ELIMINATE NICOTINE CONTENT WITHOUT CONGRESSIONAL AUTHORITY.—The Secretary may not, under this Act or any other provision of law, issue a regulation establishing a performance standard (or take other action)—

“(A) eliminating all cigarettes, all smokeless tobacco products, or any similar class of tobacco products; or

“(B) requiring the reduction of nicotine yields of a tobacco product to zero.

If the Secretary determines that such action should be taken, the Secretary shall so notify the Congress, with an explanation of the reasons therefor, and a request for legislative authority explicitly modifying, repealing, or overriding the preceding sentence.”

AMENDMENT No. 2474

On page 216, strike lines 11 through 18, and insert the following:

This title shall not apply to any State that, by law, provides that it shall not apply to that State.

AMENDMENT No. 2475

After section 1134, insert the following:

SEC. 1135. IMPORTATION OF TOBACCO PRODUCTS.

(a) FINDINGS.—The Congress finds that—
(1) if the price of cigarettes increases, there may be an increasing incentive to import tobacco leaf of substandard quality;

(2) the importation of substandard tobacco leaf could cause increased health problems, and possibly expose United States-grown tobacco leaf to infestation from abroad; and

(3) imported tobacco leaf must be reviewed in a uniform and consistent fashion to ensure the quality and uniform treatment of imports of tobacco leaf.

(b) REQUIREMENTS.—

(1) IN GENERAL.—No tobacco leaf not a product of the United States may be introduced into interstate commerce in the United States unless it is—

(A) imported through the Port of Omaha, Nebraska;

(B) held in customs custody for not less than 6 years; and

(C) entered under single-entry bond.

(2) AUTOMATED ENTRY.—Tobacco leaf not a product of the United States is not eligible for automated entry under the laws and procedures of the United States relating to the importation of such products.

(3) SUSPENSION OF DRAWBACK FOR DRASTIC REDUCTION IN TOBACCO COMPANIES' PURCHASE OF TOBACCO LEAF.—If for any marketing year the aggregate volume of tobacco leaf that United States tobacco product manufacturers purchase under the tobacco marketing program conducted by the Secretary of Agriculture under sections 320A and 320B of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314g and 1314h) (or under the law of any State or compact of States) is less than 85 percent of the aggregate volume of tobacco leaf the manufacturers purchased in the preceding marketing year, no drawback shall be allowed with respect to the duties paid on imported tobacco leaf and related products for a period of 24 months beginning on the first day of such marketing year.

SNOWE AMENDMENTS NOS. 2476-2477

(Ordered to lie on the table.)

Ms. SNOWE submitted two amendments intended to be proposed by her to the bill, S. 1415, supra; as follows:

AMENDMENT No. 2476

On page 408, between lines 5 and 6, insert the following:

Subtitle A—Provisions Relating to the Protocol and Liability”.

On page 444, after line 14, insert the following:

Subtitle B—Codification of Marketing and Advertising Restrictions

SEC. 1421. FINDINGS.

To demonstrate the need for restrictions on the marketing and advertising of tobacco products, and to demonstrate that the restrictions contained in this subtitle are constitutional and meet the requirements of the *Central Hudson* case that the asserted governmental interest is substantial, directly advances the governmental interest, and is no more extensive than is necessary to serve that governmental interest, Congress makes the following findings:

(1) The sale of tobacco to minors is illegal in the United States. Therefore, forms of marketing and advertising that appeal to children must be restricted accordingly.

(2) Substantial restrictions on tobacco marketing and advertising are necessary to protect the public health, reduce the illegal sale and purchase of tobacco products by minors, and reduce the cost of tobacco-related illnesses on Federal and State health care programs.

(3) As recognized in *New York v. Ferber*, protecting the physical and psychological well-being of children is a compelling, not merely a substantial, interest of the government.

(4) The cost of tobacco on public health care programs is substantial as evidenced by a 1995 study by Columbia University that found that the estimated cost of tobacco on the Medicare and Medicaid programs was \$25,500,000,000 and \$8,200,000,000 respectively. Therefore, reducing these costs, which absorb substantial public resources, by reducing the utilization of tobacco would serve a substantial government interest.

(5) According to the 1994 Surgeon General's Report, nearly 90 percent of all adults who have ever been regular smokers began smoking at or before the age of 18, and, according to a Robert Wood Johnson Foundation Survey, the average smoker begins smoking at age 13 and is hooked by age 14½. Therefore, reducing the attractiveness of tobacco to children will reduce the likelihood that a child ever tries tobacco, and ensure that the long-term costs of tobacco-related illnesses will be averted.

(6) Marketing and advertising plays a significant role in attracting teens to tobacco and determining the brands that they use. According to the Centers for Disease Control and Prevention, 86 percent of children who buy their own cigarettes choose one of the 3 most heavily advertised brands (Marlboro (60 percent), Camel (13.3 percent), or Newport (12.7 percent)). In contrast, most adult smokers opt for generic or “value category” cigarette brands that rely on little, if any, image advertising.

(7) Tobacco industry documents and memorandums make clear that the industry considers children a key market, studied the smoking habits of children, and developed products and marketing campaigns that are directly intended to attract children to the purchase and use of their products.

(8) According to a 1995 study by The Journal of the National Cancer Institute, tobacco marketing has a greater influence in spurring children to take up smoking than exposure to parents or peers who smoke, and must be restricted accordingly.

(9) Children are more sensitive to tobacco advertising than adults, as evidenced by a 1996 study in the Journal of Marketing that found that children are 3 times more sensitive than adults to cigarette advertising.

(10) Tobacco advertising in magazines and periodicals influences the decision of children to use tobacco, as cited in the proceedings of the Food and Drug Administration and its supporting documents. In addition,

children who report seeing cigarette advertising in magazines are more likely to experiment with tobacco.

(11) Cartoon images in advertising greatly enhance the appeal of tobacco to children, as evidenced by the "Joe Camel" marketing campaign. According to the Centers for Disease Control and Prevention, when advertising for the "Joe Camel" campaign rose from \$27,000,000 to \$43,000,000 between 1989 and 1993, Camel's market share among youth increased by more than 50 percent while its share among adults was unchanged. Therefore, because cartoon advertising has been demonstrated to be a direct appeal to minors and not adults, such images should be banned.

(12) Children as young as 3 to 6 years of age can recognize a character associated with smoking at the same rate as they recognize cartoons and fast food characters.

(13) Human and animal images in tobacco advertising, and the themes that these images portray, have a profound impact on children, as evidenced by the "Marlboro Man" and the "Marlboro Horses". The image of independence and freedom conveyed by these images has led to Marlboro cigarettes capturing nearly 60 percent of the youth market even though the brand accounts for only 12.7 percent of cigarette advertising overall. Therefore, images portraying human and animal images should be restricted to adult-only venues.

(14) Event sponsorships by tobacco companies increase the likelihood that children will use tobacco as these events connect the product to individuals and activities that are admired and respected by children.

(15) According to a report in the American Journal of Public Health, the observation of tobacco marketing in stores is a significant predictor of a child's likelihood of experimenting with tobacco, increasing the probability by 38 percent. Therefore, in-store marketing should be restricted accordingly.

(16) Tobacco promotions greatly enhance the likelihood that children will use tobacco products, as evidenced by a November 1996 study in the American Journal of Public Health. This study found that a child who was simply aware of tobacco promotions was twice as likely to use tobacco as a child who was not. In addition, it found that a child who is aware of tobacco promotion, has knowledge of an adolescent friend with promotional items, and participates in a promotional activity is 9.3 times more likely to use tobacco.

(17) A 1998 study of teenagers in the Journal of the American Medical Association showed that tobacco industry promotional activities influenced previously non-susceptible non-smokers to become susceptible or to experiment with smoking.

(18) Restrictions on the number and placement of point-of-sale advertisements in stores and other outlets that are permissible for children to enter are necessary to reduce the appeal of tobacco products to children, while ensuring that consumers who can legally purchase these products are able to receive useful information.

(19) As demonstrated in the Food and Drug Administration rule, billboards and other forms of outdoor advertising that are located near schools and playgrounds can affect the decision of children to use tobacco products. Therefore, bans on these forms of advertising near these facilities, and within distances that are frequently traveled by children to access these facilities, would be a narrowly-tailored method of fulfilling the government interest, while still allowing information to be provided in this format to consumers who can legally purchase these products at other locations that are less-frequently viewed by children.

(20) Through advertisements during, and sponsorship of, sporting events, tobacco has become strongly associated with sports and has become portrayed as an integral part of sports and the healthy lifestyle associated with rigorous sporting activity.

(21) Because children are influenced by the images, habits, and mannerisms depicted by actresses and actors in movies and other forms of print and film media, tobacco companies should not be permitted to receive payments for the inclusion of logos, symbols, or mottoes in these types of venues if they will be viewed by children under the age of 18 without the supervision of a parent or guardian.

(22) Because children are influenced by the behavior of musical and other live entertainers whom they admire, payments by tobacco companies to live entertainers or their agents should be restricted at events in which individuals under the age of 18 are permitted to attend, and a substantial number of these individuals would reasonably be expected to attend.

(23) To ensure that advertising and marketing efforts are not deceptive or misleading, descriptors such as "light" and "low tar" should be accompanied by a disclaimer that the product is not less hazardous than any other tobacco product.

(24) Restrictions on the placement of advertisements in buses, subways, and other forms of public transportation that are reasonably expected to be utilized by a significant number of children on a daily basis will ensure that children are not exposed to such advertising for an extended period of time during a commute, and will reduce the susceptibility of children to tobacco advertising accordingly.

SEC. 1422. ADVERTISING PROVISIONS.

(a) IN GENERAL.—A tobacco product may not be sold or distributed in the United States—

(1) if its advertising or labeling (including the package)—

(A) contains a cartoon character;

(B) except as provided in subsection (b), contains a human image or animal image;

(C) appears in an enclosed stadia during events that are conducted with a reasonable expectation that 5 percent or more of the attendees will be under the age of 18 years;

(D) appears within 5000 feet of any elementary or secondary school, playground, or public park containing playground equipment;

(E) appears in public transportation, including buses, subways, and trains, that is reasonably expected to be utilized by 5 percent or more of passengers under the age of 18 years on an average daily basis; or

(F) contains words such as "light" or "low tar" and is not accompanied by a disclaimer that words such as "light" or "low tar" describing the product do not render the product less hazardous than any other tobacco product, in addition to such other requirements as the Secretary may impose;

(2) if a logo, symbol, motto, selling message, recognizable color or pattern of colors, or any other indicia of the tobacco product that would be readily identifiable, and therefore appealing, to individuals under the age of 18 years is contained in a movie, program, or video game that an individual under the age of 18 years is able to attend or utilize without the accompaniment or consent of a parent or adult age 18 years or older for which a direct or indirect payment has been made to ensure its placement; or

(3) if a direct or indirect payment has been made by any manufacturer, distributor, or retailer to any entity for the purpose of promoting the image or use of a tobacco product through print or film media that is recogniz-

able, and therefore appealing, to individuals under the age of 18 years and at which individuals under the age of 18 years are permitted to attend without the accompaniment or consent of a parent or adult age 18 years or older, or through a live performance by an entertainment artist where individuals under the age of 18 years are permitted to attend without the accompaniment of a parent or adult age 18 years or older, and would reasonably expect that 5 percent or more of the audience will be under the age of 18 years.

(b) EXCEPTION.—The prohibition contained in subsection (a)(1)(B) shall not apply to a tobacco product advertisement that appears in an adult-only facility, or in any publication which the manufacturer, distributor, or retailer demonstrates to the Secretary is a newspaper, magazine, periodical, or other publication whose readers under the age of 18 years constitute 15 percent or less of the total readership as measured by competent and reliable survey evidence, and that is read by less than 2,000,000 persons under the age of 18 years as measured by competent and reliable survey evidence.

SEC. 1423. POINT-OF-SALE RESTRICTIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no manufacturer, distributor, or retailer shall engage in point-of-sale advertising of any tobacco product in any retail establishment (other than an establishment that sells only tobacco products) in which an individual under the age of 18 is present, or permitted to enter, at any time.

(b) EXCEPTION.—

(1) IN GENERAL.—A retailer may place 1 point-of-sale advertisement in or at each such location for its brand or the contracted house retailer or private label brand of its wholesaler.

(2) DISPLAY AREA.—The display area of any point-of-sale advertisement permitted under paragraph (1) (either individually or in the aggregate) shall not be larger than 576 square inches and shall consist of black letters on white background or another recognized typography.

(3) LIMITATION.—A point-of-sale advertisement permitted under paragraph (1) shall not be attached to or located within 2 feet of any display fixture on which candy is displayed for sale.

(c) AUDIO AND VIDEO.—Any audio or video format permitted under regulations promulgated by the Secretary may be distributed at the time of sale of a tobacco product to individuals over the age of 18 years, but no such format may be played or shown in or at any location where tobacco products are offered for sale and individuals under the age of 18 years are permitted.

(d) DEFINITION.—As used in this section, the terms "point-of-sale advertisement" and "point-of-sale advertising" mean all printed or graphical materials bearing the brand name (alone or in conjunction with any other word), logo, symbol, motto, selling message, or any other indicia of product identification identical or similar to, or identifiable with, those used for any brand of cigarettes or smokeless tobacco, which, when used for its intended purpose, can reasonably be anticipated to be seen by customers at a location where tobacco products are offered for sale.

SEC. 1424. STATUTORY ADVERTISING RESTRICTIONS.

(a) AUTHORITY OF SECRETARY.—The provisions of this subtitle shall in no way affect the authority of the Secretary to regulate tobacco as prescribed in any other provision of this Act or an amendment made by this Act.

(b) AUTHORITY OF FEDERAL TRADE COMMISSION.—The provisions of this subtitle shall in no way affect the authority of the Federal

Trade Commission to regulate tobacco as prescribed in any other provision of this Act or an amendment made by this Act.

(c) SEVERABILITY.—If any provision of this subtitle or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this subtitle and the application of the provisions of such to any person or circumstance shall not be affected thereby.

AMENDMENT NO. 2477

On page 408, between lines 5 and 6, insert the following:

Subtitle A—Provisions Relating to the Protocol and Liability”.

On page 444, after line 14, insert the following:

Subtitle B—Codification of Marketing and Advertising Restrictions

SEC. 1421. FINDINGS.

To demonstrate the need for restrictions on the marketing and advertising of tobacco products, and to demonstrate that the restrictions contained in this subtitle are constitutional and meet the requirements of the *Central Hudson* case that the asserted governmental interest is substantial, directly advances the governmental interest, and is no more extensive than is necessary to serve that governmental interest, Congress makes the following findings:

(1) The sale of tobacco to minors is illegal in the United States. Therefore, forms of marketing and advertising that appeal to children must be restricted accordingly.

(2) Substantial restrictions on tobacco marketing and advertising are necessary to protect the public health, reduce the illegal sale and purchase of tobacco products by minors, and reduce the cost of tobacco-related illnesses on Federal and State health care programs.

(3) As recognized in *New York v. Ferber*, protecting the physical and psychological well-being of children is a compelling, not merely a substantial, interest of the government.

(4) The cost of tobacco on public health care programs is substantial as evidenced by a 1995 study by Columbia University that found that the estimated cost of tobacco on the medicare and medicaid programs was \$25,500,000,000 and \$8,200,000,000 respectively. Therefore, reducing these costs, which absorb substantial public resources, by reducing the utilization of tobacco would serve a substantial government interest.

(5) According to the 1994 Surgeon General's Report, nearly 90 percent of all adults who have ever been regular smokers began smoking at or before the age of 18, and, according to a Robert Wood Johnson Foundation Survey, the average smoker begins smoking at age 13 and is hooked by age 14½. Therefore, reducing the attractiveness of tobacco to children will reduce the likelihood that a child ever tries tobacco, and ensure that the long-term costs of tobacco-related illnesses will be averted.

(6) Marketing and advertising plays a significant role in attracting teens to tobacco and determining the brands that they use. According to the Centers for Disease Control and Prevention, 86 percent of children who buy their own cigarettes choose one of the 3 most heavily advertised brands (Marlboro (60 percent), Camel (13.3 percent), or Newport (12.7 percent)). In contrast, most adult smokers opt for generic or “value category” cigarette brands that rely on little, if any, image advertising.

(7) Tobacco industry documents and memorandums make clear that the industry considers children a key market, studied the smoking habits of children, and developed products and marketing campaigns that are

directly intended to attract children to the purchase and use of their products.

(8) According to a 1995 study by The Journal of the National Cancer Institute, tobacco marketing has a greater influence in spurring children to take up smoking than exposure to parents or peers who smoke, and must be restricted accordingly.

(9) Children are more sensitive to tobacco advertising than adults, as evidenced by a 1996 study in the Journal of Marketing that found that children are 3 time more sensitive than adults to cigarette advertising.

(10) Tobacco advertising in magazines and periodicals influences the decision of children to use tobacco, as cited in the proceedings of the Food and Drug Administration and its supporting documents. In addition, children who report seeing cigarette advertising in magazines are more likely to experiment with tobacco.

(11) Cartoon images in advertising greatly enhance the appeal of tobacco to children, as evidenced by the “Joe Camel” marketing campaign. According to the Centers for Disease Control and Prevention, when advertising for the “Joe Camel” campaign rose from \$27,000,000 to \$43,000,000 between 1989 and 1993, Camel's market share among youth increased by more than 50 percent while its share among adults was unchanged. Therefore, because cartoon advertising has been demonstrated to be a direct appeal to minors and not adults, such images should be banned.

(12) Children as young as 3 to 6 years of age can recognize a character associated with smoking at the same rate as they recognize cartoons and fast food characters.

(13) Human and animal images in tobacco advertising, and the themes that these images portray, have a profound impact on children, as evidenced by the “Marlboro Man” and the “Marlboro Horses”. The image of independence and freedom conveyed by these images has led to Marlboro cigarettes capturing nearly 60 percent of the youth market even though the brand accounts for only 12.7 percent of cigarette advertising overall. Therefore, images portraying human and animal images should be restricted to adult-only venues.

(14) Event sponsorships by tobacco companies increase the likelihood that children will use tobacco as these events connect the product to individuals and activities that are admired and respected by children.

(15) According to a report in the American Journal of Public Health, the observation of tobacco marketing in stores is a significant predictor of a child's likelihood of experimenting with tobacco, increasing the probability by 38 percent. Therefore, in-store marketing should be restricted accordingly.

(16) Tobacco promotions greatly enhance the likelihood that children will use tobacco products, as evidenced by a November 1996 study in the American Journal of Public Health. This study found that a child who was simply aware of tobacco promotions was twice as likely to use tobacco as a child who was not. In addition, it found that a child who is aware of tobacco promotion, has knowledge of an adolescent friend with promotional items, and participates in a promotional activity is 9.3 time more likely to use tobacco.

(17) A 1998 study of teenagers in the Journal of the American Medical Association showed that tobacco industry promotional activities influenced previously non-susceptible non-smokers to become susceptible or to experiment with smoking.

(18) Restrictions on the number and placement of point-of-sale advertisements in stores and other outlets that are permissible for children to enter are necessary to reduce the appeal of tobacco products to children,

while ensuring that consumers who can legally purchase these products are able to receive useful information.

(19) As demonstrated in the Food and Drug Administration rule, billboards and other forms of outdoor advertising that are located near schools and playgrounds can affect the decision of children to use tobacco products. Therefore, bans on these forms of advertising near these facilities, and within distances that are frequently traveled by children to access these facilities, would be a narrowly-tailored method of fulfilling the government interest, while still allowing information to be provided in this format to consumers who can legally purchase these products at other locations that are less-frequently viewed by children.

(20) Through advertisements during, and sponsorship of, sporting events, tobacco has become strongly associated with sports and has become portrayed as an integral part of sports and the healthy lifestyle associated with rigorous sporting activity.

(21) Because children are influenced by the images, habits, and mannerisms depicted by actresses and actors in movies and other forms of print and film media, tobacco companies should not be permitted to receive payments for the inclusion of logos, symbols, or mottoes in these types of venues if they will be viewed by children under the age of 18 without the supervision of a parent or guardian.

(22) Because children are influenced by the behavior of musical and other live entertainers whom they admire, payments by tobacco companies to live entertainers or their agents should be restricted at events in which individuals under the age of 18 are permitted to attend, and a substantial number of these individuals would reasonably be expected to attend.

(23) To ensure that advertising and marketing efforts are not deceptive or misleading, descriptors such as “light” and “low tar” should be accompanied by a disclaimer that the product is not less hazardous than any other tobacco product.

(24) Restrictions on the placement of advertisements in buses, subways, and other forms of public transportation that are reasonably expected to be utilized by a significant number of children on a daily basis will ensure that children are not exposed to such advertising for an extended period of time during a commute, and will reduce the susceptibility of children to tobacco advertising accordingly.

SEC. 1422. ADVERTISING PROVISIONS.

(a) IN GENERAL.—A tobacco product may not be sold or distributed in the United States—

(1) if its advertising or labeling (including the package)—

(A) contains a cartoon character;

(B) except as provided in subsection (b), contains a human image or animal image;

(C) appears in an enclosed stadia during events that are conducted with a reasonable expectation that 5 percent or more of the attendees will be under the age of 18 years;

(D) appears within 5000 feet of any elementary or secondary school, playground, or public park containing playground equipment;

(E) appears in public transportation, including buses, subways, and trains, that is reasonably expected to be utilized by 5 percent or more of passengers under the age of 18 years on an average daily basis; or

(F) contains words such as “light” or “low tar” and is not accompanied by a disclaimer

that words such as "light" or "low tar" describing the product do not render the product less hazardous than any other tobacco product, in addition to such other requirements as the Secretary may impose;

(2) if a logo, symbol, motto, selling message, recognizable color or pattern of colors, or any other indicia of the tobacco product that would be readily identifiable, and therefore appealing, to individuals under the age of 18 years is contained in a movie, program, or video game that an individual under the age of 18 years is able to attend or utilize without the accompaniment or consent of a parent or adult age 18 years or older for which a direct or indirect payment has been made to ensure its placement; or

(3) if a direct or indirect payment has been made by any manufacturer, distributor, or retailer to any entity for the purpose of promoting the image or use of a tobacco product through print or film media that is recognizable, and therefore appealing, to individuals under the age of 18 years and at which individuals under the age of 18 years are permitted to attend without the accompaniment or consent of a parent or adult age 18 years or older, or through a live performance by an entertainment artist where individuals under the age of 18 years are permitted to attend without the accompaniment of a parent or adult age 18 years or older, and would reasonably expect that 5 percent or more of the audience will be under the age of 18 years.

(b) EXCEPTION.—The prohibition contained in subsection (a)(1)(B) shall not apply to a tobacco product advertisement that appears in an adult-only facility, or in any publication which the manufacturer, distributor, or retailer demonstrates to the Secretary is a newspaper, magazine, periodical, or other publication whose readers under the age of 18 years constitute 15 percent or less of the total readership as measured by competent and reliable survey evidence, and that is read by less than 2,000,000 persons under the age of 18 years as measured by competent and reliable survey evidence.

SEC. 1423. POINT-OF-SALE RESTRICTIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no manufacturer, distributor, or retailer shall engage in point-of-sale advertising of any tobacco product in any retail establishment (other than an establishment that sells only tobacco products) in which an individual under the age of 18 is present, or permitted to enter, at any time.

(b) EXCEPTION.—

(1) IN GENERAL.—A retailer may place 1 point-of-sale advertisement in or at each such location for its brand or the contracted house retailer or private label brand of its wholesaler.

(2) DISPLAY AREA.—The display area of any point-of-sale advertisement permitted under paragraph (1) (either individually or in the aggregate) shall not be larger than 576 square inches and shall consist of black letters on white background or another recognized typography.

(3) LIMITATION.—A point-of-sale advertisement permitted under paragraph (1) shall not be attached to or located within 2 feet of any display fixture on which candy is displayed for sale.

(c) AUDIO AND VIDEO.—Any audio or video format permitted under regulations promulgated by the Secretary may be distributed at the time of sale of a tobacco product to individuals over the age of 18 years, but no such format may be played or shown in or at any location where tobacco products are offered for sale and individuals under the age of 18 years are permitted.

(d) DEFINITION.—As used in this section, the terms "point-of-sale advertisement" and "point-of-sale advertising" mean all printed

or graphical materials bearing the brand name (alone or in conjunction with any other word), logo, symbol, motto, selling message, or any other indicia of product identification identical or similar to, or identifiable with, those used for any brand of cigarettes or smokeless tobacco, which, when used for its intended purpose, can reasonably be anticipated to be seen by customers at a location where tobacco products are offered for sale.

SEC. 1424. STATUTORY ADVERTISING RESTRICTIONS.

(a) AUTHORITY OF SECRETARY.—The provisions of this subtitle shall in no way affect the authority of the Secretary to regulate tobacco as prescribed in any other provision of this Act or an amendment made by this Act.

(b) AUTHORITY OF FEDERAL TRADE COMMISSION.—The provisions of this subtitle shall in no way affect the authority of the Federal Trade Commission to regulate tobacco as prescribed in any other provision of this Act or an amendment made by this Act.

(c) SEVERABILITY.—If any provision of this subtitle or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this subtitle and the application of the provisions of such to any person or circumstance shall not be affected thereby.

SEC. 1425. EFFECTIVE DATE.

The provisions of this subtitle shall become effective on the date that is 120 days after the enactment of the Act.

SEC. 1426. SUNSET PROVISION.

The provisions of this subtitle shall cease to apply beginning on the date on which all tobacco manufacturers to which the Act applies have entered into the Protocol.

SNOWE (AND JEFFORDS)

AMENDMENT NO. 2478

(Ordered to lie on the table.)

Ms. SNOWE (for herself and Mr. JEFFORDS) submitted an amendment intended to be proposed by them to the bill, S. 1415, supra; as follows:

On page 194, after line 8, after the period add the following: "The net revenues credited to the trust fund under section 401(b)(3) and allocated to this account shall be used for smoking prevention and counter-advertising programs as provided for in clauses (i) and (ii) of paragraph (2)(C), with not less than 50 percent of such revenues being used for State and community-based prevention activities under section 1981C(b) of the Public Health Service Act."

SNOWE (AND OTHERS)

AMENDMENT NO. 2479

(Ordered to lie on the table.)

Ms. SNOWE (for herself, Mr. SMITH of Oregon, and Mr. ROBB) submitted an amendment intended to be proposed by them to the bill, S. 1415, supra; as follows:

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

(III) OTHER.—Other programs including—

(aa) the required completion by individuals under 18 years of age of a mandatory, State approved anti-smoking, anti-drug and anti-alcohol class, prior to such individual receiving a drivers permit or license;

(bb) the mandatory suspension of the drivers permit or license of an individual under 18 years for the possession of, purchase of, or attempting to purchase tobacco products; and

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

ALLARD AMENDMENT NO. 2480

(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.

DOMENICI AMENDMENTS NOS. 2481-2489

(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. ____ 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. ____ 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.

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.

AMENDMENT No. 2484

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.—

(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 be 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:

(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 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.

(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. __. 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. 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.

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.—

(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 esti-

mated 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:

(i) Food and Drug Administration activities.

(1) 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.—

(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.

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

(a) IN GENERAL.—The tables contained in 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. ____ 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' 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 Treas-

ury 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.

(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 following:

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 exceed \$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.

GORTON AMENDMENTS NOS. 2490–2491

(Ordered to lie on the table.)

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

AMENDMENT NO. 2490

At the appropriate place in the pending amendment, add the following:

SEC. 604. STATE TOBACCO TAX COMPLIANCE

(a) IN GENERAL.—An Indian tribe, tribal corporation, or individual member of an Indian tribe engaged in tobacco retailing shall collect all applicable tobacco excise and sales taxes lawfully imposed by the State, within the exterior boundaries of which the purchase occurs, on nonmembers of the Indian tribe as a consequence of the purchase of tobacco products by the nonmember from the Indian tribe, tribal corporation, or individual member.

(b) REMITTANCE TO TREASURY DEPARTMENT.—To the extent that all such taxes are not collected and not remitted to the appropriate State by the Indian tribe, tribal corporation, or individual member of an Indian tribe (or, in the manner provided by State law, by any other person), the tribe, tribal corporation, or individual member shall remit such taxes to the Treasury of the United States, which shall, in turn, remit such taxes to the State in which the purchase by the nonmember took place. The Secretary of the Treasury of the United States shall promulgate regulations within 120 days to enforce this section.

(c) EXEMPTION UNDER STATE LAW.—Subsections (a) and (b) shall not apply if (1) the State's laws provide that Indian tribes or tribal corporations are not obligated to remit excise and sales taxes to the State on the condition that such tribe or tribal corporation imposes and collects tobacco excise and sales taxes on purchases of tobacco products by nonmembers that are equal to or greater than the applicable excise and sales taxes lawfully imposed by the State on the purchase of tobacco products within the State's exterior borders; or (2) the State's laws exempt or waive the application of such taxes. Nothing in this section is intended to prohibit a State from enacting a law consistent with the provisions of this section.

(d) TRIBAL-STATE AGREEMENTS.—Subsections (a) and (b) shall not apply to Indian tribes or tribal corporations if the tribe or tribal corporation has an agreement with the State, within which the purchase of tobacco products by nonmembers occurs, on the collection and allocation of excise and sales taxes on the purchase of tobacco products by nonmembers. Nothing in this section prohibits a tribe and a State from entering into such an agreement after the date of enactment of this Act.

AMENDMENT NO. 2491

At the appropriate place in the pending amendment, add the following:

SEC. 604. STATE TOBACCO TAX COMPLIANCE.

An Indian tribe or tribal corporation shall collect any excise or sales tax imposed by a State, within the exterior borders of which the sale occurs, on nonmembers of the Indian tribe as a consequence of the purchase of tobacco products by the non-member from the Indian tribe or tribal corporation. The Indian tribe or tribal corporation shall remit such taxes collected to the Treasury of the United States, which shall, in turn, remit the taxes to the State in which they were collected.

LUGAR (AND McCONNELL)
AMENDMENTS NOS. 2492-2502

(Ordered to lie on the table.)

Mr. LUGAR (for himself and Mr. McCONNELL) submitted 11 amendments to be proposed by them to the bill, S. 1415, supra; as follows:

AMENDMENT No. 2492

Strike section 1024.

AMENDMENT No. 2493

Strike title X.

AMENDMENT No. 2494

Strike section 1021(d)(4)(E).

AMENDMENT No. 2495

Strike section 1021(d)(13).

AMENDMENT No. 2496

Strike title X (relating to long-term economic assistance for farmers).

AMENDMENT No. 2497

Strike title X and insert the following:

TITLE X—PAYMENTS TO TOBACCO
FARMERS

SEC. 1001. BUDGETARY TREATMENT.

Subtitle A of title XV 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 subtitle A of title XV.

SEC. 1002. BUYOUT PAYMENTS TO OWNERS.

(a) IN GENERAL.—Notwithstanding, and in lieu of, section 1514, the Secretary of Agriculture shall make buyout payments for each of the 1999 through 2001 marketing years for each kind of tobacco involved to an owner that owns quota at the time of entering into a tobacco transition contract.

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

(1) 46 percent shall be made for the 1999 marketing year;

(2) 27 percent shall be made for the 2000 marketing year; and

(3) 27 percent shall be made for the 2001 marketing year.

(c) COMPENSATION FOR LOST VALUE.—The payment shall constitute compensation for the lost value to the owner of the quota.

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

(1) \$8.00; by

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

SEC. 1003. TRANSITION PAYMENTS TO PRODUCERS.

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

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

(2) entered into a tobacco transition contract.

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

(1) 46 percent shall be made for the 1999 marketing year;

(2) 27 percent shall be made for the 2000 marketing year; and

(3) 27 percent shall be made for the 2001 marketing year.

(c) TRANSITION PAYMENTS LIMITED TO LEASED QUOTA.—A producer shall be eligible for transition payments only for the portion of the production of the producer that is subject to quota that is leased (as defined in section 1503(5) of this Act) during the 3 crop years described in subsection (a)(1).

(d) COMPENSATION FOR LOST REVENUE.—The payments shall constitute compensation for the lost revenue incurred by a tobacco producer for a kind of tobacco.

(e) PRODUCTION HISTORY; PRODUCTION.—

(1) PRODUCTION HISTORY.—The Secretary shall base a transition payment made to a producer on the average quantity of tobacco subject to a marketing quota that is produced by the producer for each of the 1995 through 1997 crops.

(2) PRODUCTION.—The producer shall have the burden of demonstrating to the Secretary the production of tobacco for each of the 1995 through 1997 crops.

(f) PAYMENT CALCULATION.—Under this section, the total amount of the transition payment made to a producer shall be determined by multiplying—

(1) \$4.00; by

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

SEC. 1004. EFFECTIVE DATE.

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

AMENDMENT No. 2498

Strike title X and insert the following:

TITLE X—TOBACCO TRANSITION

SEC. 1001. SHORT TITLE.

This title may be cited as the "Tobacco Transition Act".

SEC. 1002. PURPOSES.

The purposes of this title are—

(1) to authorize the use of binding contracts between the United States and tobacco quota owners and tobacco producers to compensate them for the termination of Federal programs that support the production of tobacco in the United States;

(2) to make available to States funds for economic assistance initiatives in counties of States that are dependent on the production of tobacco; and

(3) to terminate Federal programs that support the production of tobacco in the United States.

SEC. 1003. DEFINITIONS.

In this title:

(1) ASSOCIATION.—The term "association" means a producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers.

(2) BUYOUT PAYMENT.—The term "buyout payment" means a payment made to a quota owner under section 1014 for each of the 1999 through 2001 marketing years.

(3) CONTRACT.—The term "contract" or "tobacco transition contract" means a contract entered into under section 1012.

(4) GOVERNOR.—The term "Governor" means the chief executive officer of a State.

(5) LEASE.—The term "lease" means—

(A) the rental of quota on either a cash rent or crop share basis;

(B) the rental of farmland to produce tobacco under a farm marketing quota; or

(C) the lease and transfer of quota for the marketing of tobacco produced on the farm of a lessor.

(6) MARKETING YEAR.—The term "marketing year" means—

(A) in the case of Flue-cured tobacco, the period beginning July 1 and ending the following June 30; and

(B) in the case of each other kind of tobacco, the period beginning October 1 and ending the following September 30.

(7) OWNER.—The term "owner" means a person that, at the time of entering into a tobacco transition contract, owns quota provided by the Secretary.

(8) PRICE SUPPORT.—The term "price support" means a nonrecourse loan provided by the Commodity Credit Corporation through an association for a kind of tobacco.

(9) PRODUCER.—The term "producer" means a person that for each of the 1995 through 1997 crops of tobacco (as determined by the Secretary) that were subject to quota—

(A) leased quota;

(B) shared in the risk of producing a crop of tobacco; and

(C) marketed the tobacco subject to quota.

(10) QUOTA.—The term "quota" means the right to market tobacco under a basic marketing quota or acreage allotment allotted to a person under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.).

(11) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(12) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

(13) TOBACCO.—The term "tobacco" means any kind of tobacco for which—

(A) a marketing quota is in effect;

(B) a marketing quota is not disapproved by producers; or

(C) price support is available.

(14) TOBACCO PRODUCT MANUFACTURER.—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.

(15) TRANSITION PAYMENT.—The term "transition payment" means a payment made to a producer under section 1015 for each of the 1999 through 2001 marketing years.

(16) TRUST FUND.—The term "Trust Fund" means the Tobacco Community Revitalization Trust Fund established by section 1011.

(17) UNITED STATES.—The term "United States", when used in a geographical sense, means all of the States.

Subtitle A—Tobacco Production Transition

**CHAPTER 1—TOBACCO TRANSITION
CONTRACTS**

SEC. 1011. TOBACCO COMMUNITY REVITALIZATION TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund to be known as the "Tobacco Community Revitalization Trust Fund", consisting of amounts paid into the Trust Fund under subsection (d).

(b) ADMINISTRATION.—The Trust Fund shall be administered by the Secretary of the Treasury.

(c) USE.—Funds in the Trust Fund shall be available for making—

(1) buyout payments;

(2) transition payments;

(3) rural economic assistance block grants under section 1021;

(4) payments to carry out sections 106A and 106B of the Agricultural Act of 1949 (7 U.S.C. 1445-1, 1445-2);

(5) payments to reimburse the Commodity Credit Corporation for net losses under section 1032(f)(3); and

(4) payments for tobacco related administrative costs and subsidies described in section 1052.

(d) TRANSFER FROM NATIONAL TOBACCO SETTLEMENT TRUST FUND.—The Secretary of the Treasury shall transfer from the National Tobacco Settlement Trust Fund to the Trust Fund such amounts as the Secretary of Agriculture determines are necessary to carry out this title.

(e) **TERMINATION.**—The Trust Fund shall terminate effective September 30, 2024.

SEC. 1012. OFFER AND TERMS OF TOBACCO TRANSITION CONTRACTS.

(a) **OFFER.**—The Secretary shall offer to enter into a tobacco transition contract with each owner and producer.

(b) **TERMS.**—

(1) **OWNERS.**—In exchange for a payment made under section 1014, an owner shall agree to relinquish the quota owned by the owner.

(2) **PRODUCERS.**—In exchange for a payment made under section 1015, a producer shall agree to relinquish the value of the quota leased by the producer.

(c) **RIGHT TO GROW TOBACCO.**—Each owner or producer that enters into a contract shall have the right to continue the production of tobacco for each of the 1999 and subsequent crops of tobacco.

SEC. 1013. ELEMENTS OF CONTRACTS.

(a) **DEADLINES FOR CONTRACTING.**—

(1) **COMMENCEMENT.**—To the maximum extent practicable, the Secretary shall commence entering into contracts under this chapter not later than 90 days after the date of enactment of this Act.

(2) **DEADLINE.**—The Secretary may not enter into a contract under this chapter after June 30, 1999.

(b) **DURATION OF CONTRACT.**—The term of a contract shall—

(1) begin on the date that is the beginning of the 1999 marketing year for a kind of tobacco; and

(2) terminate on the date that is the end of the 2001 marketing year for the kind of tobacco.

(c) **TIME FOR PAYMENT.**—A buyout payment or transition payment shall be made not later than the date that is the beginning of the marketing year for a kind of tobacco for each year of the term of a tobacco transition contract of an owner or producer.

SEC. 1014. BUYOUT PAYMENTS TO OWNERS.

(a) **IN GENERAL.**—The Secretary shall make buyout payments in 3 equal installments, 1 installment for each of the 1999 through 2001 marketing years for each kind of tobacco involved, to an owner that owns quota at the time of entering into a tobacco transition contract.

(b) **COMPENSATION FOR LOST VALUE.**—The payment shall constitute compensation for the lost value to the owner of the quota.

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

(1) \$8.00; by

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

SEC. 1015. TRANSITION PAYMENTS TO PRODUCERS.

(a) **IN GENERAL.**—The Secretary shall make transition payments in 3 equal installments, 1 installment for each of the 1999 through 2001 marketing years for each kind of tobacco produced, to a producer that—

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

(2) entered into a tobacco transition contract.

(b) **TRANSITION PAYMENTS LIMITED TO LEASED QUOTA.**—A producer shall be eligible for transition payments only for the portion of the production of the producer that is subject to quota that is leased during the 3 crop years described in subsection (a)(1).

(c) **COMPENSATION FOR LOST REVENUE.**—The payments shall constitute compensation for the lost revenue incurred by a tobacco producer for a kind of tobacco.

(d) **PRODUCTION HISTORY; PRODUCTION.**—

(1) **PRODUCTION HISTORY.**—The Secretary shall base a transition payment made to a

producer on the average quantity of tobacco subject to a marketing quota that is produced by the producer for each of the 1995 through 1997 crops.

(2) **PRODUCTION.**—The producer shall have the burden of demonstrating to the Secretary the production of tobacco for each of the 1995 through 1997 crops.

(e) **PAYMENT CALCULATION.**—Under this section, the total amount of the transition payment made to a producer shall be determined by multiplying—

(1) \$4.00; by

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

CHAPTER 2—RURAL ECONOMIC ASSISTANCE BLOCK GRANTS

SEC. 1021. RURAL ECONOMIC ASSISTANCE BLOCK GRANTS.

(a) **IN GENERAL.**—From funds in the Trust Fund, the Secretary shall use \$200,000,000 for each of fiscal years 1999 through 2003 to provide block grants to tobacco-growing States to assist areas of such a State that are economically dependent on the production of tobacco.

(b) **PAYMENTS BY SECRETARY TO TOBACCO-GROWING STATES.**—

(1) **IN GENERAL.**—The Secretary shall use the amount available for a fiscal year under subsection (a) to make block grant payments to the Governors of tobacco-growing States.

(2) **AMOUNT.**—The amount of a block grant paid to a tobacco-growing State shall be based on—

(A) the number of counties in the State in which tobacco production is a significant part of the county's economy; and

(B) the level of economic dependence of the counties on tobacco production.

(c) **GRANTS BY STATES TO ASSIST TOBACCO-GROWING AREAS.**—

(1) **IN GENERAL.**—A Governor of a tobacco-growing State shall use the amount of the block grant to the State under subsection (b) to make grants to counties or other public or private entities in the State to assist areas that are dependent on the production of tobacco, as determined by the Governor.

(2) **AMOUNT.**—The amount of a grant paid to a county or other entity to assist an area shall be based on—

(A) the ratio of gross tobacco sales receipts in the area to the total farm income in the area; and

(B) the ratio of all tobacco related receipts in the area to the total income in the area.

(3) **USE OF GRANTS.**—A county or other entity that receives a grant under this subsection may use the grant in a manner determined appropriate by the county or entity (with the approval of the State) to assist producers and other persons that are economically dependent on the production of tobacco, including use for—

(A) on-farm diversification, alternatives to the production of tobacco, and risk management;

(B) off-farm activities such as education, retraining, and development of non-tobacco related jobs; and

(C) assistance to tobacco warehouse owners or operators.

(d) **TERMINATION OF AUTHORITY.**—The authority provided by this section terminates October 1, 2003.

Subtitle B—Tobacco Price Support and Production Adjustment Programs

CHAPTER 1—TOBACCO PRICE SUPPORT PROGRAM

SEC. 1031. INTERIM REFORM OF TOBACCO PRICE SUPPORT PROGRAM.

(a) **PRICE SUPPORT RATES.**—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended to read as follows:

“SEC. 106. TOBACCO PRICE SUPPORT RATES.

“The price support rate for each kind of tobacco for which quotas have been approved shall be reduced by—

“(1) for the 1999 crop, 25 percent from the 1998 support rate for a kind of tobacco;

“(2) for the 2000 crop, 10 percent from the 1999 support rate for a kind of tobacco; and

“(3) for the 2001 crop, 10 percent from the 2000 support rate for a kind of tobacco.”.

(b) **NO NET COST TOBACCO FUND AND ACCOUNT.**—

(1) **NO NET COST TOBACCO FUND.**—Section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445-1) is amended to read as follows:

“SEC. 106A. NO NET COST TOBACCO FUND.

“(a) **DEFINITIONS.**—In this section:

“(1) **ASSOCIATION.**—The term ‘association’ means a producer-owned cooperative marketing association that has entered into a loan agreement with the Corporation to make price support available to producers of a kind of tobacco.

“(2) **CORPORATION.**—The term ‘Corporation’ means the Commodity Credit Corporation, an agency and instrumentality of the United States within the Department of Agriculture through which the Secretary makes price support available to producers.

“(3) **NET GAINS.**—The term ‘net gains’ means the amount by which the total proceeds obtained from the sale by an association of a crop of tobacco pledged to the Corporation for a price support loan exceeds the principal amount of the price support loan made by the Corporation to the association on the crop, plus interest and charges.

“(4) **NO NET COST TOBACCO FUND.**—The term ‘No Net Cost Tobacco Fund’ means the capital account established within each association under this section.

“(5) **PURCHASER.**—The term ‘purchaser’ means any person that purchases in the United States, either directly or indirectly for the account of the person or another person, Flue-cured or burley tobacco.

“(6) **TOBACCO.**—The term ‘tobacco’ means any kind of tobacco for which—

“(A) a marketing quota is in effect;

“(B) a marketing quota is not disapproved by producers; or

“(C) price support is available.

“(7) **TRUST FUND.**—The term ‘Trust Fund’ means the National Tobacco Settlement Trust Fund established in the Treasury of the United States consisting of amounts that are appropriated or credited to the Trust Fund from the tobacco settlement approved by Congress.

“(b) **PRICE SUPPORT PROGRAM; LOANS.**—The Secretary—

“(1) may carry out the tobacco price support program through the Corporation; and

“(2) shall, except as otherwise provided by this section, continue to make price support available to producers through loans to associations that, under agreements with the Corporation, agree to make loan advances to producers.

“(c) **ESTABLISHMENT OF FUND.**—

“(1) **IN GENERAL.**—Each association shall establish within the association a No Net Cost Tobacco Fund.

“(2) **AMOUNT.**—There shall be transferred from the Trust Fund to each No Net Cost Tobacco Fund such amount as the Secretary determines will be adequate to reimburse the Corporation for any net losses that the Corporation may sustain under its loan agreements with the association, based on—

“(A) reasonable estimates of the amounts that the Corporation has lent or will lend to the association for price support for the 1982 and subsequent crops of tobacco, except that for the 1986 and subsequent crops of burley tobacco, the Secretary shall determine the amount of assessments without regard to

any net losses that the Corporation may sustain under the loan agreements of the Corporation with the association for the 1983 crop of burley tobacco; and

“(B) the proceeds that will be realized from the sales of tobacco that are pledged to the Corporation by the association as security for loans.

“(d) ADMINISTRATION.—The Secretary shall—

“(1) require that the No Net Cost Tobacco Fund established by each association be kept and maintained separately from all other accounts of the association and be used exclusively, as prescribed by the Secretary, for the purpose of ensuring, insofar as practicable, that the Corporation, under its loan agreements with the association with respect to 1982 and subsequent crops of tobacco, will suffer no net losses (including recovery of the amount of loans extended to cover the overhead costs of the association), after any net gains are applied to net losses of the Corporation under paragraph (3), except that, notwithstanding any other provision of law, the association may, with the approval of the Secretary, use funds in the No Net Cost Tobacco Fund, including interest and other earnings, for—

“(A) the purposes of reducing the association's outstanding indebtedness to the Corporation associated with 1982 and subsequent crops of tobacco and making loan advances to producers as authorized; and

“(B) any other purposes that will be mutually beneficial to producers and purchasers and to the Corporation;

“(2) permit an association to invest the funds in the No Net Cost Tobacco Fund in such manner as the Secretary may approve, and require that the interest or other earnings on the investment shall become a part of the No Net Cost Tobacco Fund;

“(3) require that loan agreements between the Corporation and the association provide that the Corporation shall retain the net gains from each of the 1982 and subsequent crops of tobacco pledged by the association as security for price support loans, and that the net gains will be used for the purpose of—

“(A) offsetting any losses sustained by the Corporation under its loan agreements with the association for any of the 1982 and subsequent crops of tobacco; or

“(B) reducing the outstanding balance of any price support loan made by the Corporation to the association under the loan agreements for 1982 and subsequent crops of tobacco; and

“(4) effective for the 1986 and subsequent crops of tobacco, if the Secretary determines that the amount in the No Net Cost Tobacco Fund or the net gains referred to in paragraph (3) exceeds the total amount necessary for the purposes specified in this section, suspend the transfer of amounts from the Trust Fund to the No Net Cost Tobacco Fund under this section.

“(e) NONCOMPLIANCE.—

“(1) IN GENERAL.—If any association that has entered into a loan agreement with the Corporation with respect to any of the 1982 or subsequent crops of tobacco fails or refuses to comply with this section (including regulations promulgated under this section) or the terms of the agreement, the Secretary may terminate the agreement or provide that no additional loan funds may be made available under the agreement to the association.

“(2) PRICE SUPPORT.—If the Secretary takes action under paragraph (1), the Secretary shall make price support available to producers of the kind or kinds of tobacco, the price of which had been supported through loans to the association, through such other means as are authorized by this

Act or the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.).

“(f) TERMINATION OF AGREEMENT OR ASSOCIATION.—If, under subsection (e), a loan agreement with an association is terminated, or if an association having a loan agreement with the Corporation is dissolved, merges with another association, or otherwise ceases to operate, the No Net Cost Tobacco Fund or the net gains referred to in subsection (d)(3) shall be applied or disposed of in such manner as the Secretary may approve or prescribe, except that the net gains shall, to the extent necessary, first be applied or used for the purposes specified in this section.

“(g) REGULATIONS.—The Secretary shall issue such regulations as are necessary to carry out this section.”

(2) NO NET COST TOBACCO ACCOUNT.—Section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445-2) is amended to read as follows:

“SEC. 106B. NO NET COST TOBACCO ACCOUNT.

“(a) DEFINITIONS.—In this section:

“(1) AREA.—The term ‘area’, when used in connection with an association, means the general geographical area in which farms of the producer-members of the association are located, as determined by the Secretary.

“(2) ASSOCIATION.—The term ‘association’ has the meaning given the term in section 106A(a)(1).

“(3) CORPORATION.—The term ‘Corporation’ has the meaning given the term in section 106A(a)(2).

“(4) NET GAINS.—The term ‘net gains’ has the meaning given the term in section 106A(a)(3).

“(5) NO NET COST TOBACCO ACCOUNT.—The term ‘No Net Cost Tobacco Account’ means an account established by and in the Corporation for an association under this section.

“(6) PURCHASER.—The term ‘purchaser’ has the meaning given the term in section 106A(a)(5).

“(7) TOBACCO.—The term ‘tobacco’ means any kind of tobacco for which—

“(A) a marketing quota is in effect;

“(B) a marketing quota is not disapproved by producers; or

“(C) price support is available.

“(8) TRUST FUND.—The term ‘Trust Fund’ has the meaning given the term in section 106A(a)(7).

“(b) PRICE SUPPORT PROGRAM; LOANS.—Notwithstanding section 106A, the Secretary shall, on the request of any association, and may, if the Secretary determines, after consultation with the association, that the accumulation of the No Net Cost Tobacco Fund for the association under section 106A is, and is likely to remain, inadequate to reimburse the Corporation for net losses that the Corporation sustains under its loan agreements with the association—

“(1) continue to make price support available to producers through the association in accordance with loan agreements entered into between the Corporation and the association; and

“(2) establish and maintain in accordance with this section a No Net Cost Tobacco Account for the association in lieu of the No Net Cost Tobacco Fund established within the association under section 106A.

“(c) ESTABLISHMENT OF ACCOUNT.—

“(1) IN GENERAL.—A No Net Cost Tobacco Account established for an association under subsection (b)(2) shall be established within the Corporation.

“(2) AMOUNT.—There shall be transferred from the Trust Fund to each No Net Cost Tobacco Account such amount as the Secretary determines will be adequate to reimburse the Corporation for any net losses that the Corporation may sustain under its loan agreements with the association, based on—

“(A) reasonable estimates of the amounts that the Corporation has lent or will lend to the association for price support for the 1982 and subsequent crops of tobacco, except that for the 1986 and subsequent crops of burley tobacco, the Secretary shall determine the amount of assessments without regard to any net losses that the Corporation may sustain under the loan agreements of the Corporation with the association for the 1983 crop of burley tobacco; and

“(B) the proceeds that will be realized from the sales of a kind of tobacco that are pledged to the Corporation by the association as security for loans.

“(3) ADMINISTRATION.—On the establishment of a No Net Cost Tobacco Account for an association, any amount in the No Net Cost Tobacco Fund established within the association under section 106A shall be applied or disposed of in such manner as the Secretary may approve or prescribe, except that the amount shall, to the extent necessary, first be applied or used for the purposes specified in that section.

“(d) USE.—Amounts deposited in a No Net Cost Tobacco Account established for an association shall be used by the Secretary for the purpose of ensuring, insofar as practicable, that the Corporation under its loan agreements with the association will suffer, with respect to the crop involved, no net losses (including recovery of the amount of loans extended to cover the overhead costs of the association), after any net gains are applied to net losses of the Corporation under subsection (g).

“(e) EXCESS AMOUNTS.—If the Secretary determines that the amount in the No Net Cost Tobacco Account or the net gains referred to in subsection (g) exceed the total amount necessary to carry out this section, the Secretary shall suspend the transfer of amounts from the Trust Fund to the No Net Cost Tobacco Account under this section.

“(f) TERMINATION OF AGREEMENT OR ASSOCIATION.—In the case of an association for which a No Net Cost Tobacco Account is established under subsection (b)(2), if a loan agreement between the Corporation and the association is terminated, if the association is dissolved or merges with another association that has entered into a loan agreement with the Corporation to make price support available to producers of a kind of tobacco, or if the No Net Cost Tobacco Account terminates by operation of law, amounts in the No Net Cost Tobacco Account and the net gains referred to in subsection (g) shall be applied to or disposed of in such manner as the Secretary may prescribe, except that the net gains shall, to the extent necessary, first be applied to or used for the purposes specified in this section.

“(g) NET GAINS.—The provisions of section 106A(d)(3) relating to net gains shall apply to any loan agreement between an association and the Corporation entered into on or after the establishment of a No Net Cost Tobacco Account for the association under subsection (b)(2).

“(h) REGULATIONS.—The Secretary shall issue such regulations as are necessary to carry out this section.”

(3) CONFORMING AMENDMENTS.—

(A) Section 314(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314(a)) is amended in the first sentence—

(i) by striking “(1)”; and

(ii) by striking “, or (2)” and all that follows through “106B(d)(1) of that Act”.

(B) Section 320B(c)(1) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314h(c)(1)) is amended by inserting after “1445-2)” the following: “(as in effect before the effective date of the amendments made by section 1031(b) of the Tobacco Transition Act)”.

(c) ADMINISTRATIVE COSTS.—Section 1109 of the Agriculture and Food Act of 1981 (Public Law 97-98; 7 U.S.C. 1445 note) is repealed.

(d) CROPS.—

(1) IN GENERAL.—Except as provided in paragraph (2), this section and the amendments made by this section shall apply with respect to the 1998 through 2001 marketing years.

(2) PRICE SUPPORT RATES.—Subsection (a) and the amendments made by subsection (a) shall apply with respect to the 1999 through 2001 crops of the kind of tobacco involved.

SEC. 1032. TERMINATION OF TOBACCO PRICE SUPPORT PROGRAM.

(a) PARITY PRICE SUPPORT.—Section 101 of the Agricultural Act of 1949 (7 U.S.C. 1441) is amended—

(1) in the first sentence of subsection (a), by striking “tobacco (except as otherwise provided herein), corn,” and inserting “corn”;

(2) by striking subsections (c), (g), (h), and (i);

(3) in subsection (d)(3)—

(A) by striking “, except tobacco,”; and

(B) by striking “and no price support shall be made available for any crop of tobacco for which marketing quotas have been disapproved by producers;”;

(4) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

(b) TERMINATION OF TOBACCO PRICE SUPPORT AND NO NET COST PROVISIONS.—Sections 106, 106A, and 106B of the Agricultural Act of 1949 (7 U.S.C. 1445, 1445-1, 1445-2) are repealed.

(c) DEFINITION OF BASIC AGRICULTURAL COMMODITY.—Section 408(c) of the Agricultural Act of 1949 (7 U.S.C. 1428(c)) is amended by striking “tobacco.”

(d) REVIEW OF BURLEY TOBACCO IMPORTS.—Section 3 of Public Law 98-59 (7 U.S.C. 625) is repealed.

(e) POWERS OF COMMODITY CREDIT CORPORATION.—Section 5 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c) is amended by inserting “(other than tobacco)” after “agricultural commodities” each place it appears.

(f) TRANSITION PROVISIONS.—

(1) LIABILITY.—The amendments made by this section shall not affect the liability of any person under any provision of law as in effect before the effective date of this section.

(2) TOBACCO INVENTORIES.—The Secretary shall issue regulations that require the orderly sale of tobacco inventories held by associations.

(3) NET LOSSES TO THE COMMODITY CREDIT CORPORATION.—

(A) TRANSFER.—The Secretary of the Treasury shall annually transfer from the Trust Fund to the Commodity Credit Corporation an amount that the Secretary of Agriculture determines will be adequate to reimburse the Corporation for net losses sustained under price support loan agreements with associations.

(B) AMOUNT.—The Secretary of Agriculture shall base the determination of the amount to be transferred under subparagraph (A) on a reasonable estimate of—

(i) the outstanding balance due on price support loans; and

(ii) the proceeds that will be realized from the sales of tobacco that are pledged to the Corporation as security for price support loans.

(g) CROPS.—

(1) IN GENERAL.—Except as provided in paragraph (2), this section and the amendments made by this section shall apply with respect to the 2002 and subsequent crops of the kind of tobacco involved.

(2) NET LOSSES TO THE COMMODITY CREDIT CORPORATION.—Subsection (f)(3) shall apply

with respect to the 2002 and subsequent marketing years until—

(A) all price support loans for each kind of tobacco are repaid to the Commodity Credit Corporation; and

(B) the Commodity Credit Corporation has been reimbursed for all net losses sustained as a result of price support loans provided through the 2001 crop of the kind of tobacco involved.

CHAPTER 2—TOBACCO PRODUCTION ADJUSTMENT PROGRAMS

SEC. 1041. TERMINATION OF TOBACCO PRODUCTION ADJUSTMENT PROGRAMS.

(a) DECLARATION OF POLICY.—Section 2 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1282) is amended by striking “tobacco.”

(b) DEFINITIONS.—Section 301(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1301(b)) is amended—

(1) in paragraph (3)—

(A) by striking subparagraph (C); and

(B) by redesignating subparagraph (D) as subparagraph (C);

(2) in paragraph (6)(A), by striking “tobacco,”;

(3) in paragraph (7), by striking the following:

“tobacco (flue-cured), July 1—June 30;

“tobacco (other than flue-cured), October 1-September 30;”;

(4) in paragraph (10)—

(A) by striking subparagraph (B); and

(B) by redesignating subparagraph (C) as subparagraph (B);

(5) in paragraph (11)(B), by striking “and tobacco”;

(6) in paragraph (12), by striking “tobacco,”;

(7) in paragraph (14)—

(A) in subparagraph (A), by striking “(A)”;

(B) by striking subparagraphs (B), (C), and (D);

(8) by striking paragraph (15);

(9) in paragraph (16)—

(A) by striking subparagraph (B); and

(B) by redesignating subparagraph (C) as subparagraph (B); and

(10) by redesignating paragraphs (16) and (17) as paragraphs (15) and (16), respectively.

(c) PARITY PAYMENTS.—Section 303 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1303) is amended in the first sentence by striking “rice, or tobacco,” and inserting “or rice.”

(d) MARKETING QUOTAS.—Part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.) is repealed.

(e) ADMINISTRATIVE PROVISIONS.—Section 361 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1361) is amended by striking “tobacco.”

(f) ADJUSTMENT OF QUOTAS.—Section 371 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1371) is amended—

(1) in the first sentence of subsection (a), by striking “peanuts, or tobacco” and inserting “or peanuts”; and

(2) in the first sentence of subsection (b), by striking “peanuts or tobacco” and inserting “or peanuts”.

(g) REPORTS AND RECORDS.—Section 373 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1373) is amended—

(1) by striking “peanuts, or tobacco” each place it appears in subsections (a) and (b) and inserting “or peanuts”; and

(2) in subsection (a)—

(A) in the first sentence, by striking “all persons engaged in the business of redrying, prizing, or stemming tobacco for producers,”; and

(B) in the last sentence, by striking “\$500;” and all that follows through the period at the end of the sentence and inserting “\$500.”

(h) REGULATIONS.—Section 375(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1375(a)) is amended by striking “peanuts, or tobacco” and inserting “or peanuts”.

(i) EMINENT DOMAIN.—Section 378 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1378) is amended—

(1) in the first sentence of subsection (c), by striking “cotton, tobacco, and peanuts” and inserting “cotton and peanuts”; and

(2) by striking subsections (d), (e), and (f).

(j) BURLEY TOBACCO FARM RECONSTITUTION.—Section 379 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379) is amended—

(1) in subsection (a)—

(A) by striking “(a)”;

(B) in paragraph (6), by striking “, but this clause (6) shall not be applicable in the case of burley tobacco”; and

(2) by striking subsections (b) and (c).

(k) ACREAGE-POUNDAGE QUOTAS.—Section 4 of the Act entitled “An Act to amend the Agricultural Adjustment Act of 1938, as amended, to provide for acreage-poundage marketing quotas for tobacco, to amend the tobacco price support provisions of the Agricultural Act of 1949, as amended, and for other purposes”, approved April 16, 1965 (Public Law 89-12; 7 U.S.C. 1314c note), is repealed.

(l) BURLEY TOBACCO ACREAGE ALLOTMENTS.—The Act entitled “An Act relating to burley tobacco farm acreage allotments under the Agricultural Adjustment Act of 1938, as amended”, approved July 12, 1952 (7 U.S.C. 1315), is repealed.

(m) TRANSFER OF ALLOTMENTS.—Section 703 of the Food and Agriculture Act of 1965 (7 U.S.C. 1316) is repealed.

(n) ADVANCE RECOURSE LOANS.—Section 13(a)(2)(B) of the Food Security Improvements Act of 1986 (7 U.S.C. 1433c-1(a)(2)(B)) is amended by striking “tobacco and”.

(o) TOBACCO FIELD MEASUREMENT.—Section 112 of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203) is amended by striking subsection (c).

(p) LIABILITY.—The amendments made by this section shall not affect the liability of any person under any provision of law as in effect before the effective date under subsection (q).

(q) CROPS.—This section and the amendments made by this section shall apply with respect to the 1999 and subsequent crops of the kind of tobacco involved.

Subtitle C—Funding

SEC. 1051. TRUST FUND.

(a) REQUEST.—The Secretary of Agriculture shall request the Secretary of the Treasury to transfer from the Trust Fund amounts authorized under sections 1014, 1015, 1021, 1032, and 1052 and the amendments made by section 1031 to the account of the Commodity Credit Corporation.

(b) TRANSFER.—On receipt of such a request, the Secretary of the Treasury shall transfer amounts requested under subsection (a).

(c) USE.—The Secretary of Agriculture shall use the amounts transferred under subsection (b) to carry out the activities described in subsection (a).

(d) TERMINATION OF AUTHORITY.—The authority provided under this section shall expire on September 30, 2024.

SEC. 1052. TOBACCO RELATED ADMINISTRATIVE COSTS AND SUBSIDIES.

(a) IN GENERAL.—For each of fiscal years 1999 through 2024, the Secretary shall—

(1) estimate the costs to the Federal Government relating to tobacco that involve—

(A) agricultural extension;

(B) handling, sampling, grading, inspecting, and weighing;

(C) crop insurance; and

(D) administering the tobacco price support program; and

(2) use funds transferred from the Trust Fund to the Commodity Credit Corporation to cover the costs estimated under paragraph (1).

(b) ADJUSTMENTS.—At the end of each of fiscal years 1999 through 2024, the Secretary shall—

(1) use funds transferred from the Trust Fund to the Commodity Credit Corporation in any amount by which the amount of funds transferred under subsection (a)(2) for the fiscal year is less than the actual costs described in subsection (a)(1) for the fiscal year; or

(2) transfer funds from the Commodity Credit Corporation to the Trust Fund in any amount by which the amount of funds transferred for the fiscal year under subsection (a)(2) is more than the actual costs described in subsection (a)(1) for the fiscal year.

SEC. 1053. COMMODITY CREDIT CORPORATION.

The Secretary may use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this title and the amendments made by this title.

Subtitle D—Miscellaneous

SEC. 1061. LIABILITY FOR OBLIGATIONS OF TOBACCO PRODUCT MANUFACTURERS.

A person that owns or produces tobacco, or owns or operates a tobacco warehouse, shall not be liable for—

(1) any action or legal penalty or obligation of a manufacturer of a tobacco product under this Act; or

(2) any financial penalty or payment owed by a manufacturer of a tobacco product under this Act.

SEC. 1062. FDA REGULATION OF TOBACCO PRODUCTION AND FARMS.

Notwithstanding any other provision of law, an officer, employee, or agent of the Food and Drug Administration shall not—

(1) regulate the production of a crop of tobacco by a person; or

(2) enter the farm of a person that owns or produces tobacco without the consent of the person.

AMENDMENT NO. 2499

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

TITLE X—PAYMENTS TO TOBACCO FARMERS

SEC. 1001. BUDGETARY TREATMENT.

Subtitle A of title XV 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 subtitle A of title XV.

SEC. 1002. BUYOUT PAYMENTS TO OWNERS.

(a) IN GENERAL.—Notwithstanding, and in lieu of, section 1514, the Secretary of Agriculture shall make buyout payments for each of the 1999 through 2001 marketing years for each kind of tobacco involved to an owner that owns quota at the time of entering into a tobacco transition contract.

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

(1) 46 percent shall be made for the 1999 marketing year;

(2) 27 percent shall be made for the 2000 marketing year; and

(3) 27 percent shall be made for the 2001 marketing year.

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

(1) \$8.00; by

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

SEC. 1003. TRANSITION PAYMENTS TO PRODUCERS.

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

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

(2) entered into a tobacco transition contract.

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

(1) 46 percent shall be made for the 1999 marketing year;

(2) 27 percent shall be made for the 2000 marketing year; and

(3) 27 percent shall be made for the 2001 marketing year.

(c) TRANSITION PAYMENTS LIMITED TO LEASED QUOTA.—A producer shall be eligible for transition payments only for the portion of the production of the producer that is subject to quota that is leased (as defined in section 1503(5) of this Act) during the 3 crop years described in subsection (a)(1).

(d) PRODUCTION HISTORY; PRODUCTION.—

(1) PRODUCTION HISTORY.—The Secretary shall base a transition payment made to a producer on the average quantity of tobacco subject to a marketing quota that is produced by the producer for each of the 1995 through 1997 crops.

(2) PRODUCTION.—The producer shall have the burden of demonstrating to the Secretary the production of tobacco for each of the 1995 through 1997 crops.

(e) PAYMENT CALCULATION.—Under this section, the total amount of the transition payment made to a producer shall be determined by multiplying—

(1) \$4.00; by

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

SEC. 1004. EFFECTIVE DATE.

This title takes effect 2 days after the date of enactment of this Act.

AMENDMENT NO. 2500

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

TITLE X—PAYMENTS TO TOBACCO FARMERS

SEC. 1001. BUDGETARY TREATMENT.

Subtitle A of title XV 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 subtitle A of title XV.

SEC. 1002. BUYOUT PAYMENTS TO OWNERS.

(a) IN GENERAL.—Notwithstanding, and in lieu of, section 1514, the Secretary of Agriculture shall make buyout payments for each of the 1999 through 2001 marketing years for each kind of tobacco involved to an owner that owns quota at the time of entering into a tobacco transition contract.

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

(1) 46 percent shall be made for the 1999 marketing year;

(2) 27 percent shall be made for the 2000 marketing year; and

(3) 27 percent shall be made for the 2001 marketing year.

(c) COMPENSATION FOR LOST VALUE.—The payment shall constitute compensation for the lost value to the owner of the quota.

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

(1) \$8.00; by

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

SEC. 1003. TRANSITION PAYMENTS TO PRODUCERS.

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

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

(2) entered into a tobacco transition contract.

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

(1) 46 percent shall be made for the 1999 marketing year;

(2) 27 percent shall be made for the 2000 marketing year; and

(3) 27 percent shall be made for the 2001 marketing year.

(c) TRANSITION PAYMENTS LIMITED TO LEASED QUOTA.—A producer shall be eligible for transition payments only for the portion of the production of the producer that is subject to quota that is leased (as defined in section 1503(5) of this Act) during the 3 crop years described in subsection (a)(1).

(d) COMPENSATION FOR LOST REVENUE.—The payments shall constitute compensation for the lost revenue incurred by a tobacco producer for a kind of tobacco.

(e) PRODUCTION HISTORY; PRODUCTION.—

(1) PRODUCTION HISTORY.—The Secretary shall base a transition payment made to a producer on the average quantity of tobacco subject to a marketing quota that is produced by the producer for each of the 1995 through 1997 crops.

(2) PRODUCTION.—The producer shall have the burden of demonstrating to the Secretary the production of tobacco for each of the 1995 through 1997 crops.

(f) PAYMENT CALCULATION.—Under this section, the total amount of the transition payment made to a producer shall be determined by multiplying—

(1) \$4.00; by

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

AMENDMENT NO. 2501

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

TITLE X—PAYMENTS TO TOBACCO FARMERS

SEC. 1001. BUDGETARY TREATMENT.

Subtitle A of title XV 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 subtitle A of title XV.

SEC. 1002. BUYOUT PAYMENTS TO OWNERS.

(a) IN GENERAL.—Notwithstanding, and in lieu of, section 1514, the Secretary of Agriculture shall make buyout payments for each of the 1999 through 2001 marketing years for each kind of tobacco involved to an owner that owns quota at the time of entering into a tobacco transition contract.

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

(1) 46 percent shall be made for the 1999 marketing year;

(2) 27 percent shall be made for the 2000 marketing year; and

(3) 27 percent shall be made for the 2001 marketing year.

(c) COMPENSATION FOR LOST VALUE.—The payment shall constitute compensation for the lost value to the owner of the quota.

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

(1) \$8.00; by

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

SEC. 1003. TRANSITION PAYMENTS TO PRODUCERS.

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

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

(2) entered into a tobacco transition contract.

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

(1) 46 percent shall be made for the 1999 marketing year;

(2) 27 percent shall be made for the 2000 marketing year; and

(3) 27 percent shall be made for the 2001 marketing year.

(c) **TRANSITION PAYMENTS LIMITED TO LEASED QUOTA.**—A producer shall be eligible for transition payments only for the portion of the production of the producer that is subject to quota that is leased (as defined in section 1503(5) of this Act) during the 3 crop years described in subsection (a)(1).

(d) **COMPENSATION FOR LOST REVENUE.**—The payments shall constitute compensation for the lost revenue incurred by a tobacco producer for a kind of tobacco.

(e) **PRODUCTION HISTORY; PRODUCTION.**—

(1) **PRODUCTION HISTORY.**—The Secretary shall base a transition payment made to a producer on the average quantity of tobacco subject to a marketing quota that is produced by the producer for each of the 1995 through 1997 crops.

(2) **PRODUCTION.**—The producer shall have the burden of demonstrating to the Secretary the production of tobacco for each of the 1995 through 1997 crops.

(f) **PAYMENT CALCULATION.**—Under this section, the total amount of the transition payment made to a producer shall be determined by multiplying—

(1) \$4.00; by

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

SEC. 1004. EFFECTIVE DATE.

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

AMENDMENT NO. 2502

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

TITLE X—PAYMENTS TO TOBACCO FARMERS

SEC. 1001. BUDGETARY TREATMENT.

Subtitle A of title XV 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 subtitle A of title XV.

SEC. 1002. BUYOUT PAYMENTS TO OWNERS.

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

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

(1) 46 percent shall be made for the 1999 marketing year;

(2) 27 percent shall be made for the 2000 marketing year; and

(3) 27 percent shall be made for the 2001 marketing year.

(c) **COMPENSATION FOR LOST VALUE.**—The payment shall constitute compensation for the lost value to the owner of the quota.

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

(1) \$8.00; by

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

SEC. 1003. TRANSITION PAYMENTS TO PRODUCERS.

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

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

(2) entered into a tobacco transition contract.

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

(1) 46 percent shall be made for the 1999 marketing year;

(2) 27 percent shall be made for the 2000 marketing year; and

(3) 27 percent shall be made for the 2001 marketing year.

(c) **TRANSITION PAYMENTS LIMITED TO LEASED QUOTA.**—A producer shall be eligible for transition payments only for the portion of the production of the producer that is subject to quota that is leased (as defined in section 1503(5) of this Act) during the 3 crop years described in subsection (a)(1).

(d) **COMPENSATION FOR LOST REVENUE.**—The payments shall constitute compensation for the lost revenue incurred by a tobacco producer for a kind of tobacco.

(e) **PRODUCTION HISTORY; PRODUCTION.**—

(1) **PRODUCTION HISTORY.**—The Secretary shall base a transition payment made to a producer on the average quantity of tobacco subject to a marketing quota that is produced by the producer for each of the 1995 through 1997 crops.

(2) **PRODUCTION.**—The producer shall have the burden of demonstrating to the Secretary the production of tobacco for each of the 1995 through 1997 crops.

(f) **PAYMENT CALCULATION.**—Under this section, the total amount of the transition payment made to a producer shall be determined by multiplying—

(1) \$4.00; by

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

MURKOWSKI AMENDMENTS NOS. 2503-2504

(Ordered to lie on the table.)

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

AMENDMENT NO. 2503

At the end of title VI, add the following:

SEC. ____ COLLECTION OF STATE TOBACCO EXCISE AND SALES TAXES FROM INDIAN TRIBES.

(a) **IN GENERAL.**—An Indian tribe, tribal corporation, or individual member of an Indian tribe engaged in tobacco retailing shall collect all lawfully-imposed, non-discriminatory tobacco excise and sales taxes imposed by a State, within the exterior borders of

which the purchase occurs, on nonmembers of the Indian tribe as a consequence of the purchase of tobacco products by the nonmember from the Indian tribe, tribal corporation, or individual member of an Indian tribe.

(b) **ENFORCEMENT.**—

(1) **IN GENERAL.**—To that extent that all such taxes are not collected and remitted to the appropriate State by the Indian tribe, tribal corporation, or individual member of an Indian tribe (or, in the manner provided by State law, by any other person), such tribe, corporation, or individual shall remit such taxes to the Treasury of the United States, which shall, in turn, remit such taxes to the State in which the purchase by the nonmember took place.

(2) **AUTHORITY OF SECRETARY OF THE TREASURY.**—The Secretary of the Treasury of the United States shall—

(A) have the authority to enforce the requirements of subsection (a) and to administer the collection of tobacco excise and sales taxes under subsection (b)(1);

(B) issue regulations to implement subsection (b)(1) within 180 days of enactment; and

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

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

(1) the law of a State provides that Indian tribes or tribal corporations are not obligated to collect and remit such State's tobacco excise and sales taxes to the State provided that the tribe or tribal corporation imposes and collects tobacco excise and sales taxes on the purchase of tobacco products by nonmembers that are equal to or greater than the tobacco excise and sales taxes imposed by the State on the sale of tobacco products within the State's exterior borders; or

(2) the Indian tribe or tribal corporation has entered into an agreement with a State, within which the purchase of tobacco products by a nonmember occurs, on the collection and allocation of the State's tobacco excise and sales taxes on the purchase of tobacco products by nonmembers from the Indian tribe or tribal corporation, and such agreement provides that the Indian tribe or tribal corporation imposes and collects tobacco excise and sales taxes on the purchase of tobacco products by nonmembers that are equal to or greater than the tobacco excise and sales taxes imposed by the State on the sale of tobacco products within the State's exterior borders.

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

AMENDMENT NO. 2504

At the end of title VI, add the following:

SEC. ____ UNIFORMITY OF TOBACCO PRODUCT SALES PRICES.

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

(b) **DETERMINATION OF EXCESS.**—For purposes of subsection (a), the excess shall be determined without regard to any State tax on the sale of tobacco products if such tax is collected and remitted to the State by such

tribe, tribal corporation, or individual member.

(c) ENFORCEMENT THROUGH REMITTANCE OF FEE.—The fee imposed under this section shall be remitted at least quarterly by such tribe, tribal corporation, or individual member to the Treasury of the United States, unless such tribe or tribal corporation has provided the Secretary with proper certification that such fee shall not be used to provide a refund or rebate to Indians who purchase tobacco products on such Indian lands.

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

LIEBERMAN AMENDMENT NO. 2505

(Ordered to lie on the table.)

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

In title XIV, §1412(c)(2), insert on p. 435, line 23, after "this title:" "Such mechanism shall, to the greatest extent possible, ensure that in the event the liability cap is met in any calendar year, compensatory damage awards registered with the Secretary shall be given priority for payment over registered punitive damage awards."

KENNEDY AMENDMENTS NOS. 2506-2507

(Ordered to lie on the table.)

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

AMENDMENT No. 2506

Strike section 405, and insert the following:

SEC. 405. TAX TREATMENT OF PAYMENTS.

(a) IN GENERAL.—Payments made under section 402 shall not be considered to be ordinary and necessary business expenses for purposes of chapter 1 of the Internal Revenue Code of 1986 and shall not be deductible under the Internal Revenue Code of 1986.

(b) FULL PAYMENT BY MANUFACTURERS.—

(1) DETERMINATION.—For each calendar year, the Secretary of the Treasury shall determine whether and by what amount—

(A) the amount paid to the Internal Revenue Service for such calendar year by manufacturers of tobacco products; exceeds

(B) the amount that would have been paid by such manufactures for such calendar year in absence of the application of subsection (a).

(2) TRANSFER.—With respect to a calendar year, the Secretary of the Treasury shall transfer to the National Tobacco Trust Fund an amount equal to the excess determined for such calendar year under paragraph (1).

AMENDMENT No. 2507

Strike section 405, and insert the following:

SEC. 405. TAX TREATMENT OF PAYMENTS.

(a) IN GENERAL.—Payments made under section 402 shall not be considered to be ordinary and necessary business expenses for purposes of chapter 1 of the Internal Revenue Code of 1986 and shall not be deductible under the Internal Revenue Code of 1986.

(b) FULL PAYMENT BY MANUFACTURERS.—

(1) DETERMINATION.—For each calendar year, the Secretary of the Treasury shall determine whether and by what amount—

(A) the amount paid to the Internal Revenue Service for such calendar year by manufacturers of tobacco products; exceeds

(B) the amount that would have been paid by such manufactures for such calendar year

in absence of the application of subsection (a).

(2) TRANSFER.—With respect to a calendar year, the Secretary of the Treasury shall transfer to the National Tobacco Trust Fund an amount equal to the excess determined for such calendar year under paragraph (1).

CRAIG AMENDMENTS NOS. 2508-2509

(Ordered to lie on the table.)

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

AMENDMENT No. 2508

Beginning on page 192, strike line 8 and all that follows through line 2 on page 193, and insert the following:

(1) AMOUNTS.—

(A) 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, at least 62 percent of the amounts designated for allocation under the settlement payments shall be allocated to this account. If, after 10 years, the estimated 25-year total amount projected to received in this account will be different than amount than \$340,200,000,000, then beginning with the eleventh year the 62 percent share will be adjusted as necessary to achieve that 25-year total amount. Notwithstanding section 452(b) or any other provision of this Act, amounts received by a State under this subsection may be used as the State determines appropriate.

(B) STATE LOSS OF REVENUE ADJUSTMENTS.—

(i) IN GENERAL.—Amounts provided to a State under this subsection for a fiscal year shall take into account the decrease in the amount of revenue that the State received during the previous fiscal year as a result of a decrease in the demand for tobacco products in the State based on the enactment of this Act.

(ii) DETERMINATIONS.—The Joint Committee on Taxation established under section 8001 of the Internal Revenue Code of 1986 shall make determinations under clause (i) relating to the amount by which the revenues of a State have decreased during a fiscal year as a result of the enactment of this Act.

AMENDMENT No. 2509

Beginning on page 179, strike lines 21 and all that follows through line 4 on page 180, and insert the following:

(c) NET REVENUES AND ADJUSTMENTS FOR LOSS OF REVENUES BY STATES.—

(1) NET REVENUES.—For purposes of subsection (b), the term "net revenues" means the amount estimated by the Congressional Budget Office based on the excess of—

(A) the amounts received in the Treasury under subsection (b), over

(B) an amount equal to—

(i) the decrease in the taxes imposed by chapter 1 and chapter 52 of the Internal Revenue Code of 1986, and other offsets, resulting from the amounts received under subsection (b); and

(ii) the increase in direct and indirect Federal spending as a result of the enactment of this Act (including increases in cost of living adjustments resulting from an increase in the Consumer Price Index as a result of required tobacco product price increases).

(2) STATE LOSS OF REVENUE ADJUSTMENTS.—

(A) IN GENERAL.—Amounts provided to a State under section 451 for a fiscal year shall be increased by an amount equal to the decrease in the amount of revenue that the State received during the previous fiscal

year as a result of a decrease in the demand for tobacco products in the State based on the enactment of this Act.

(B) DETERMINATIONS.—The Joint Committee on Taxation established under section 8001 of the Internal Revenue Code of 1986 shall make determinations under subparagraph (A) relating to the amount by which the revenues of a State have decreased during a fiscal year as a result of the enactment of this Act.

(C) FUNDING.—Amounts in the Trust Fund shall be made available to carry out this paragraph.

DOMENICI AMENDMENTS NOS. 2510-2511

(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. 2510

At the appropriate place, insert the following:

SECTION 1. PERMANENT EXTENSION OF RESEARCH CREDIT.

(a) IN GENERAL.—Section 41 of the Internal Revenue Code of 1986 (relating to credit for increasing research activities) is amended by striking subsection (h).

(b) CONFORMING AMENDMENT.—Section 45C(b)(1) of the Internal Revenue Code of 1986 is amended by striking subparagraph (D).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after June 30, 1998.

SEC. 2. MODIFICATIONS OF CREDIT FOR QUALIFIED RESEARCH EXPENSES.

(a) FIXED-BASE PERCENTAGE.—Subparagraph (A) of section 41(c)(3) of the Internal Revenue Code of 1986 (defining fixed-base percentage) is amended to read as follows:

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the fixed-base percentage is the percentage which the aggregate qualified research expenses of the taxpayer for taxable years beginning in the base period is of the aggregate gross receipts of the taxpayer for such taxable years. For purposes of the preceding sentence, the base period for any taxable year is any period of 4 consecutive taxable years elected by the taxpayer from the 10 immediately preceding taxable years."

(b) START-UP COMPANIES.—

(1) FIXED-BASE PERCENTAGE.—

(A) IN GENERAL.—Clause (i) of section 41(c)(3)(B) of such Code (relating to start-up companies) is amended to read as follows:

"(i) TAXPAYERS TO WHICH SUBPARAGRAPH APPLIES.—The fixed-base percentage shall be determined under this subparagraph if the taxpayer did not have both gross receipts and qualified research expenses in each of the 10 taxable years described in subparagraph (A)."

(B) MAXIMUM PERCENTAGE NOT TO APPLY.—Section 41(c)(3)(C) of such Code (relating to maximum fixed-base percentage) is amended by adding at the end the following: "This subparagraph shall not apply to a taxpayer to which subparagraph (B) applies."

(C) CONFORMING AMENDMENTS.—Section 41(c)(3)(B)(ii) of such Code is amended—

(i) by striking "1st 5 taxable years beginning after December 31, 1993" and inserting "1st 5 taxable years in the 10-year period described in subparagraph (A)", and

(ii) by inserting "and" at the end of subclause (V), by striking "and" at the end of subclause (VI), and by striking subclause (VII).

(2) REPEAL OF MINIMUM BASE AMOUNT FOR START-UP COMPANIES.—Section 41(c)(2) of the

Internal Revenue Code of 1986 (relating to minimum base amount) is amended by adding at the end the following: "This paragraph shall not apply to a taxpayer to which paragraph (3)(B) applies."

(C) REPEAL OF LIMITATION ON CONTRACT RESEARCH EXPENSES.—Section 41(b)(3) of the Internal Revenue Code of 1986 (defining contract research expenses) is amended—

(1) by striking "65 percent of" in subparagraph (A), and

(2) by striking subparagraph (C).

(D) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

(2) TRANSITION RULE.—In the case of a taxpayer's 1st 5 taxable years beginning after December 31, 1998, the taxpayer may elect to have section 41 of the Internal Revenue Code of 1986 applied without regard to the amendments made by subsections (a) and (b).

SEC. 3. MODIFICATIONS OF BASIC RESEARCH CREDIT.

(A) EXPANSION OF CREDIT TO RESEARCH DONE WITH NATIONAL LABORATORIES AND FEDERAL RESEARCH CENTERS.—Section 41(e)(6) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

"(E) NATIONAL LABORATORIES AND RESEARCH CENTERS.—Any organization which is—

"(i) a national laboratory specified by the Secretary of Energy as being under contract with the Department of Energy, or

"(ii) a federally funded research and development center (within the meaning of section 2367 of title 10, United States Code)."

(B) BASIC RESEARCH.—Section 41(e)(7) of the Internal Revenue Code of 1986 (relating to definitions and special rules) is amended by adding at the end the following new subparagraph:

"(F) SPECIFIC COMMERCIAL OBJECTIVE.—For purposes of subparagraph (A), research shall not be treated as having a specific commercial objective if—

"(i) all results of such research are to be published in such a manner as to be available to the general public prior to their use for a commercial purpose, or

"(ii) such research is done for a consortium of domestic corporations which represent substantially all of the domestic corporations conducting business within the sector to which the research relates."

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

AMENDMENT No. 2511

On page ____, after line ____, insert the following:

SEC. ____. DEDICATION OF FUNDS TO MEDICARE AFTER FISCAL YEAR 2008.

(A) EXPIRATION OF AUTHORITY.—Notwithstanding any other provision of this Act, the following shall expire on September 30, 2008:

(1) All authority provided in this Act to obligate and expend funds from the National Tobacco Trust Fund.

(2) All obligations of the Federal Government to make any payment to any person or government under this Act.

(3) All provisions in this Act which result, directly or indirectly, in an increase in direct spending by the Federal Government.

(B) TRANSFER OF FUNDS.—After September 30, 2008, the following amounts shall be transferred to the Federal Hospital Insurance Trust Fund (part A):

(1) The net revenues resulting from—

(A) amounts paid under section 402;

(B) amounts equal to the fines or penalties paid under section 402, 403, or 405, including interest thereon; and

(C) amounts equal to penalties paid under section 202, including interest thereon.

(2) The unobligated balances in the National Tobacco Trust Fund.

ROTH AMENDMENTS NOS. 2512-2515

(Ordered to lie on the table.)

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

AMENDMENT No. 2512

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

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

(B) ELIMINATION OF LIMITATION ON MEDICAID COVERAGE OF SMOKING CESSATION AGENTS.—Section 1927(d)(2) of the Social Security Act (42 U.S.C. 1396r-8(d)(2)) is amended by striking subparagraph (E) and redesignating subparagraphs (F) through (J) as subparagraphs (E) through (I), respectively.

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

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

(3) DISTRIBUTION FORMULA.—

(A) IN GENERAL.—Except as provided in paragraph (5), amounts in the State Litigation Settlement Account shall be available, without further appropriations, to make payments to each State in the amount determined under subparagraph (B). The Secretary shall transfer amounts available under this subsection to each State as amounts are credited to the State Litigation Settlement Account without undue delay.

(B) AMOUNT.—Except as provided in paragraph (4), the amount of any payment to a State under subparagraph (A) for any calendar year shall be equal to the percentage of the amounts transferred to the State Litigation Settlement Account for such calendar year determined 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. |

(C) APPLICATION OF MEDICAID COST RECOVERY RULES.—Subject to section 1903(d)(7) of the Social Security Act, a State may use amounts received under this paragraph as the State determines appropriate.

(4) MINIMUM PAYMENTS TO SETTLEMENT STATES.—

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

(i) the amount of the payment determined under paragraph (3)(B), or

(ii) the aggregate payments which, but for paragraph (5), would have been received by such State for such calendar year under the settlement, judgment, or other agreement with respect to which payments were waived under paragraph (5).

(B) REALLOCATION OF AMOUNTS FOR OTHER STATES.—If the amount determined under subparagraph (A)(ii) exceeds the amount determined under subparagraph (A)(i) for 1 or more States for any calendar year, the amount of the payments under paragraph (3)(A) to all States to which subparagraph (A) does not apply shall be ratably reduced by the aggregate amount of such excess for all 4 States.

(5) WAIVER OF PAYMENTS FROM STATE LITIGATION.—

(A) IN GENERAL.—No payment shall be made from the State Litigation Settlement Account to any State unless such State agrees to waive its rights to receive funds after the date of the enactment of this Act under any settlement, entry of a court judgment, or other agreement, that resolves litigation by the State against a tobacco manufacturer or a group of tobacco manufacturers for expenditures of the State for tobacco-related diseases or conditions.

(B) REDISTRIBUTION OF WAIVED PAYMENTS.—If a waiver is not in effect under this paragraph with respect to a State for a calendar year, any payments out of the State Litigation Settlement Account which would otherwise have been made to such State shall be reallocated to all other States receiving such payments for such calendar year in the same proportion as the payments received by any State bear to all such payments.

(C) WAIVER.—Any waiver under subparagraph (A) shall be made before the date which is 1 year after the date of the enactment of this section and, once made, is irrevocable.

(6) BUDGETARY TREATMENT.—This subsection constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide payments to States in accordance with the provisions described in paragraph (3).

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

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

“(7)(A) Except as provided under subparagraph (B), the provisions of this subsection relating to the treatment of overpayments, and any other cost recovery rules applicable to payments made under this title, shall apply to the portion of any of the following amounts that is used for expenditures under or related to the State plan (or a waiver of such plan) under this title:

“(i) Payments from the State Litigation Settlement Account established under section 9512(d) of the Internal Revenue Code of 1986.

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

“(B) Upon receipt of certification by the chief executive officer of a State that the State shall not use payments described in clauses (i) or (ii) of subparagraph (A) for expenditures under or related to the State plan (or a waiver of such plan) under this title, the Secretary shall waive the application of the provisions of this subsection relating to the treatment of overpayments, and any other cost recovery rules applicable to payments made under this title, to such payments.”

Beginning on page 200, strike line 1 and all that follows through page 206, line 19.

AMENDMENT NO. 2513

Beginning on page 203, strike line 21 and all that follows through page 206, line 15, and insert the following:

(f) INCREASE IN LIMITATION ON EXPENDITURES UNDER CHILDREN'S HEALTH INSURANCE PROGRAM.—Section 2105(c)(2)(A) of the Social Security Act (42 U.S.C. 1397ee(c)(2)(A)) is amended by striking “10” and inserting “15”.

AMENDMENT NO. 2514

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

SEC. 456. REPEAL.

(a) REPEAL.—Section 8401 of the Transportation Equity Act for the 21st Century is repealed.

(b) EFFECTIVE DATE.—The repeal made by subsection (a) shall take effect as if included in the enactment of the Transportation Equity Act for the 21st Century.

(c) OFFSET.—The amount in the Trust Fund established under section 401 that is in excess of the amount that is required to offset the direct spending in this Act shall be reduced by an amount equal to the amount necessary to fund the increase in the amounts specified for allocation under section 2003(c) of the Social Security Act (42 U.S.C. 1397b(c)) as a result of the repeal made by subsection (a).

AMENDMENT NO. 2415

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

SEC. 456. AUTHORITY FOR STATE INNOVATION UNDER THE MEDICAID PROGRAM.

Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended by adding at the end the following:

“(aa)(1) Notwithstanding any other provision of this title, a State may, subject to paragraph (2), contract with 1 or more private entities to administer and integrate the procedures for determining eligibility for medical assistance (including presumptive eligibility for such assistance, in the case of

pregnant women and children, in accordance with sections 1920 and 1920A) under the State plan (or a waiver of such plan).

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

ROTH (AND OTHERS) AMENDMENT NO. 2516

(Ordered to lie on the table.)

Mr. ROTH (for himself, Mrs. BOXER, Mr. GRASSLEY, Mr. DOMENICI, Mr. NICKLES, Mr. GRAHAM, Mr. COATS, Mr. BOND, Mr. ALLARD, and Mr. ABRAHAM) submitted an amendment intended to be proposed by them to the bill, S. 1415, supra; as follows:

At the appropriate place, insert:

SEC. ____ DEDUCTION FOR HEALTH INSURANCE COSTS FOR INDIVIDUALS NOT ELIGIBLE TO PARTICIPATE IN EMPLOYER-SUBSIDIZED HEALTH PLANS.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions) is amended by redesignating section 222 as section 223 and by inserting after section 221 the following new section:

“SEC. 222. HEALTH INSURANCE COSTS.

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

“(b) LIMITATIONS.—

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

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

“(B) plans which do not include such coverage and are not such contracts.

“(2) LONG-TERM CARE PREMIUMS.—In the case of a qualified long-term care insurance contract (as defined in section 7702B(b)), only eligible long-term care premiums (as defined in section 213(d)(10)) shall be taken into account under subsection (a).

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

“(c) SPECIAL RULES.—For purposes of this section—

“(1) COORDINATION WITH MEDICAL DEDUCTION, ETC.—Any amount paid by a taxpayer for insurance to which subsection (a) applies shall not be taken into account in computing the amount allowable to the taxpayer as a deduction under section 213(a).

“(2) DEDUCTION NOT ALLOWED FOR SELF-EMPLOYMENT TAX PURPOSES.—The deduction allowable by reason of this section shall not be taken into account in determining an individual's net earnings from self-employment (within the meaning of section 1402(a)) for purposes of chapter 2.

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

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

“(B) the taxpayer or the taxpayer's spouse is required to pay a premium for such coverage in an amount not less than 100 percent of the applicable premium (within the meaning of section 4980B(f)(4)) for the period of such coverage.”

(b) CONFORMING AMENDMENTS.—

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

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

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

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

“Sec. 222. Health insurance costs.

“Sec. 223. Cross reference.”

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

LANDRIEU AMENDMENTS NOS. 2517-2520

(Ordered to lie on the table.)

Ms. LANDRIEU submitted four amendments intended to be proposed by her to the bill, S. 1415, supra; as follows:

AMENDMENT NO. 2517

On page 182, strike lines 11 through 23, and insert the following:

(b) ANNUAL PAYMENTS.—Each calendar year beginning after the required payment date under subsection (a)(3) the participating 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, an amount equal to the product of \$0.65 and the total number of units of tobacco products that were sold in the United States in the previous year.

(2) For year 2, an amount equal to the product of \$1.25 and the total number of units of tobacco products that were sold in the United States in the previous year.

(3) For year 3, and each subsequent year, an amount equal to the amount paid in the prior year adjusted in accordance with section 403.

AMENDMENT NO. 2518

On page 141, between lines 12 and 13, insert the following:

“(f) TOBACCO ILLNESS ASSISTANCE PROGRAM.—The Secretary shall establish a program to provide assistance and compensation to individuals (and entities providing services to such individuals) suffering from tobacco-related illnesses and conditions. Under such program the Secretary shall ensure that assistance is targeted at individuals who are determined to be uninsured or underinsured and who can demonstrate financial hardship.

AMENDMENT NO. 2519

On page 193, line 16, add at the end the following: “Such formula shall take into account factors that include—

“(1) the number of smokers in each State;

“(2) the number of cases of cancer in each State;

“(3) the per capita income in each State; and

“(4) the number of teen smokers in each State.”

AMENDMENT NO. 2520

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

(f) FEDERAL EMPLOYEES CHILD CARE ACCOUNT.—

(1) IN GENERAL.—There is established within the trust fund a separate account, to be known as the Federal Employees Child Care Account. Of the net revenue credited to the trust fund under section 401(b)(1) in each fiscal year, \$10,000,000 shall be allocated to this account.

(2) USE OF FUNDS.—Amounts in the account under paragraph (1) shall be made available to the Director of the Office of Personnel Management for the purpose of ensuring the availability of affordable child care for Federal employees. Such funds shall be provided to such individuals on the basis of a sliding scale to be developed by the Director taking into consideration total family income and the Federal pay scales.

(3) AUTHORIZATION OF APPROPRIATIONS.—Amounts allocated to the account under paragraph (1) shall be available to the extent and in the amounts provided in advance in appropriations acts, to remain available until expended, only for the purpose described in paragraph (2).

**DURBIN (AND DEWINE)
AMENDMENT NO. 2521**

(Ordered to lie on the table.)

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

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

Subtitle A—Performance Objectives to Reduce Underage Use

SEC. 201. FINDINGS.

Congress finds the following:

(1) Reductions in the underage use of tobacco products are critically important to the public health.

(2) Achieving this critical public health goal can be substantially furthered by increasing the price of tobacco products to discourage underage use if reduction targets are not achieved and by creating financial incentives for manufacturers to discourage youth from using their tobacco products.

(3) When reduction targets in underage use are not achieved on an industry-wide basis, the price increases that will result from an industry-wide assessment will provide an additional deterrence to youth tobacco use.

(4) Manufacturer-specific incentives that will be imposed if reduction targets are not met by a manufacturer provide a strong incentive for each manufacturer to make all efforts to discourage youth use of its brands and insure the effectiveness of the industry-wide assessments.

SEC. 202. PURPOSES AND GOALS.

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

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

SEC. 203. ANNUAL PERFORMANCE SURVEYS.

(a) ANNUAL PERFORMANCE SURVEY.—Beginning not later than 1999 and annually thereafter the Secretary shall conduct a survey, in accordance with the methodology in subsection (e)(1), to determine for each type of tobacco product—

(1) the percentage of all children who used such type of tobacco product within the past 30 days; and

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

(b) USE OF PRODUCT.—A child shall be considered to have used a manufacturer's tobacco product if the child identifies the manufacturer's tobacco product as the usual brand of tobacco product smoked or used by the child within the past 30 days.

(c) SEPARATE TYPES OF PRODUCTS.—For purposes of this subtitle cigarettes and smokeless tobacco shall be considered separate types of tobacco products.

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

(e) METHODOLOGY.—

(1) IN GENERAL.—The survey required by subsection (a) shall—

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

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

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

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

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

(3) SURVEY DEEMED CORRECT, PROPER, AND ACCURATE.—A survey using the methodology required by this subsection is deemed conclusively to be proper, correct, and accurate for purposes of this Act.

(4) SECRETARY MAY ADOPT DIFFERENT METHODOLOGY.—The Secretary by notice and comment rulemaking may adopt a survey methodology that is different than the methodology described in paragraph (1) if the different methodology is at least as statistically precise as that methodology.

SEC. 204. PERFORMANCE OBJECTIVES.

(a) BASELINE LEVEL.—The baseline level for each type of tobacco product, and for each manufacturer with respect to each type of tobacco product, is the percentage of children determined to have used such tobacco product in the first annual performance survey (in 1999).

(b) INDUSTRY-WIDE NON-ATTAINMENT ASSESSMENTS.—For the purpose of determining industry-wide non-attainment assessments, the performance objective for the reduction of the percentage of children determined to have used each type of tobacco product is the percentage in subsection (d) as measured from the baseline level for such type of tobacco product.

(c) PERFORMANCE OBJECTIVES FOR EXISTING MANUFACTURERS.—Each existing manufacturer shall have as a performance objective the reduction of the percentage of children determined to have used each type of such manufacturer's tobacco products by at least the percentage specified in subsection (d) as measured from the baseline level for such manufacturer for such product.

(d) REQUIRED PERCENTAGE REDUCTIONS.—The reductions required in this subsection are as follows:

(1) In the case of cigarettes—

(A) with respect to the third and fourth annual performance surveys, 20 percent;

(B) with respect to the fifth and sixth annual performance surveys, 40 percent;

(C) with respect to the seventh, eighth, and ninth annual performance surveys, 55 percent; and

(D) with respect to the 10th annual performance survey and each annual performance survey thereafter, 67 percent.

(2) In the case of smokeless tobacco—

(A) with respect to the third and fourth annual performance surveys, 12.5 percent;

(B) with respect to the fifth and sixth annual performance surveys, 25 percent;

(C) with respect to the seventh, eighth, and ninth annual performance surveys, 35 percent; and

(D) with respect to the 10th annual performance survey and each annual performance survey thereafter, 45 percent.

(e) PERFORMANCE OBJECTIVE RELATIVE TO THE DE MINIMIS LEVEL.—If the percentage of children determined to have used a type of the tobacco products of an existing manufacturer in an annual performance survey is equal to or less than the de minimis level, the manufacturer shall be considered to have achieved the applicable performance objective.

(f) PERFORMANCE OBJECTIVES FOR NEW MANUFACTURERS.—Each new manufacturer shall have as its performance objective maintaining the percentage of children determined to have used each type of such manufacturer's tobacco products in each annual performance survey at a level equal to or less than the de minimis level for that year.

(g) DE MINIMIS LEVEL.—The de minimis level shall be 1 percent of children for the applicable year.

SEC. 205. MEASURES TO HELP ACHIEVE THE PERFORMANCE OBJECTIVES.

(a) ANNUAL DETERMINATION.—Beginning in 2001, and annually thereafter, the Secretary shall, based on the annual performance surveys conducted under section 203, determine if the performance objectives for each type of tobacco product under section 204 has been

achieved and if each manufacturer has achieved the applicable performance objective under section 204.

(b) **INDUSTRY-WIDE NON-ATTAINMENT ASSESSMENTS.**—

(1) **INDUSTRY-WIDE NON-ATTAINMENT PERCENTAGE.**—The Secretary shall determine the industry-wide non-attainment percentage, if any, for cigarettes and for smokeless tobacco for each calendar year.

(2) **NON-ATTAINMENT ASSESSMENT FOR CIGARETTES.**—For each calendar year in which the performance objective under section 204(b) is not attained for cigarettes, the Secretary shall assess a surcharge on cigarette manufacturers as follows:

| If the non-attainment percentage is: | The surcharge is: |
|--|--|
| Not more than 5 percentage points | \$40,000,000 multiplied by the non-attainment percentage |
| More than 5 but not more than 20 percentage points | \$200,000,000, plus \$120,000,000 multiplied by the non-attainment percentage in excess of 5 but not in excess of 20 percentage points |
| More than 20 percentage points | \$2,000,000,000 |

(3) **NON-ATTAINMENT ASSESSMENT FOR SMOKELESS TOBACCO.**—For each year in which the performance objective under section 204(b) is not attained for smokeless tobacco, the Secretary shall assess a surcharge on smokeless tobacco product manufacturers as follows:

| If the non-attainment percentage is: | The surcharge is: |
|--|--|
| Not more than 5 percentage points | \$4,000,000 multiplied by the non-attainment percentage |
| More than 5 but not more than 20 percentage points | \$20,000,000, plus \$12,000,000 multiplied by the non-attainment percentage in excess of 5 but not in excess of 20 percentage points |
| More than 20 percentage points | \$200,000,000 |

(4) **STRICT LIABILITY; JOINT AND SEVERAL LIABILITY.**—Liability for any surcharge imposed under this subsection shall be—

- (A) strict liability; and
- (B) joint and several liability—
 - (i) among all cigarette manufacturers for surcharges imposed under paragraph (2); and
 - (ii) among all smokeless tobacco manufacturers for surcharges imposed under paragraph (3).

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

(6) **EXEMPTIONS FOR SMALL MANUFACTURERS.**—

(A) **ALLOCATION BY MARKET SHARE.**—The Secretary shall allocate the assessments under this subsection according to each manufacturer's share of the domestic cigarette or domestic smokeless tobacco market, as appropriate, in the year for which the surcharge is being assessed, based on actual Federal excise tax payments.

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

turer's total market share for the type of tobacco product.

(c) **MANUFACTURER-SPECIFIC SURCHARGES.**—

(1) **IN GENERAL.**—If the Secretary determines that the required percentage reduction in use of a type of tobacco product has not been achieved by a manufacturer for a year, the Secretary shall impose a surcharge on such manufacturer under this paragraph.

(2) **CIGARETTES.**—For each calendar year in which a cigarette manufacturer fails to achieve the performance objective under section 204(c), the Secretary shall assess a surcharge on that manufacturer in an amount equal to the manufacturer's share of youth incidence for cigarettes multiplied by the following surcharge level:

| If the non-attainment percentage for the manufacturer is: | The surcharge level is: |
|---|--|
| Not more than 5 percentage points | \$80,000,000 multiplied by the non-attainment percentage |
| More than 5 but not more than 24.1 percentage points | \$400,000,000, plus \$240,000,000 multiplied by the non-attainment percentage in excess of 5 but not in excess of 24.1 percentage points |
| More than 24.1 percentage points | \$5,000,000,000 |

(3) **SMOKELESS TOBACCO.**—For each calendar year in which a smokeless tobacco product manufacturer fails to achieve the performance objective under section 204(c), the Secretary shall assess a surcharge on that manufacturer in an amount equal to the manufacturer's share of youth incidence for smokeless tobacco products multiplied by the following surcharge level:

| If the non-attainment percentage for the manufacturer is: | The surcharge level is: |
|---|--|
| Not more than 5 percentage points | \$8,000,000 multiplied by the non-attainment percentage |
| More than 5 but not more than 24.1 percentage points | \$40,000,000, plus \$24,000,000 multiplied by the non-attainment percentage in excess of 5 but not in excess of 24.1 percentage points |
| More than 24.1 percentage points | \$500,000,000 |

(4) **MANUFACTURER'S SHARE OF YOUTH INCIDENCE.**—For purposes of this subsection, the term "manufacturer's share of youth incidence" means—

- (A) for cigarettes, the percentage of all youth smokers determined to have used that manufacturer's cigarettes; and
- (B) for smokeless tobacco products, the percentage of all youth users of smokeless tobacco products determined to have used that manufacturer's smokeless tobacco products.

(5) **DE MINIMIS LEVELS.**—If a manufacturer is a new manufacturer or the manufacturer's baseline level for a type of tobacco product is less than the de minimis level, the non-attainment percentage (for purposes of paragraph (2) or (3)) shall be equal to the number of percentage points by which the percentage of children who used the manufacturer's tobacco products of the applicable type exceeds the de minimis level.

(d) **SURCHARGES TO BE ADJUSTED FOR INFLATION.**—

(1) **IN GENERAL.**—Beginning with the fourth calendar year after the date of enactment of this Act, each dollar amount in the tables in subsections (b)(2), (b)(3), (c)(2), and (c)(3) shall be increased by the inflation adjustment.

(2) **INFLATION ADJUSTMENT.**—For purposes of paragraph (1), the inflation adjustment for any calendar year is the percentage (if any) by which—

- (A) the CPI for the preceding calendar year; exceeds
- (B) the CPI for the calendar year 1998.

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

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

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

(f) **BUSINESS EXPENSE DEDUCTION.**—In order to maximize the financial deterrent effect of the assessments and surcharges established in this section, any such payment shall not be deductible as an ordinary and necessary business expense or otherwise under the Internal Revenue Code of 1986.

(g) **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.

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

SEC. 206. DEFINITIONS.

In this subtitle:

(1) **CHILDREN.**—The term "children" means individuals who are 12 years of age or older and under the age of 18.

(2) **CIGARETTE MANUFACTURERS.**—The term "cigarette manufacturers" means manufacturers of cigarettes sold in the United States.

(3) **EXISTING MANUFACTURER.**—The term "existing manufacturer" means a manufacturer which manufactured a tobacco product on or before the date of the enactment of this title.

(4) **NEW MANUFACTURER.**—The term "new manufacturer" means a manufacturer which begins to manufacture a type of tobacco product after the date of the enactment of this title.

(5) **NON-ATTAINMENT PERCENTAGE.**—The term "non-attainment percentage" means the number of percentage points yielded—

(A) for a calendar year in which the percent incidence of underage use of the applicable type of tobacco product is less than the baseline level, by subtracting—

- (i) the percentage by which the percent incidence of underage use of the applicable type of tobacco product in that year is less than the baseline level, from
- (ii) the required percentage reduction applicable in that year; and

(B) for a calendar year in which the percent incidence of underage use of the applicable type of tobacco product is greater than the baseline level, adding—

- (i) the percentage by which the percent incidence of underage use of the applicable type of tobacco product in that year is greater than the baseline level; and

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

(6) **SMOKELESS TOBACCO PRODUCT MANUFACTURERS.**—The term “smokeless tobacco product manufacturers” means manufacturers of smokeless tobacco products sold in the United States.

DURBIN AMENDMENTS NOS. 2522–2524

(Ordered to lie on the table.)

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

AMENDMENT NO. 2522

In section 1404(a)(1)(B), strike “on mass transit vehicles” and insert “on or in mass transit vehicles and systems”.

AMENDMENT NO. 2523

In the amendment made by section 221, insert after the part heading the following:

“SEC. 1980. DEFINITION.

“In this part and part E, the term ‘tobacco product’ has the meaning given such term in section 201(kk) of the Federal Food, Drug and Cosmetic Act, and shall include cigars, smokeless tobacco, and cigarettes.

AMENDMENT NO. 2524

At the appropriate place, insert the following:

SEC. ____ CONGRESSIONAL ACCOUNTABILITY.

(a) **APPLICATION OF LAWS.**—Section 102 of the Congressional Accountability Act of 1995 (2 U.S.C. 1302) is amended by adding at the end the following:

“(12) Section 502 of the National Tobacco Policy and Youth Smoking Reduction Act.”.

(b) **PROCEDURES.**—Title II of the Congressional Accountability Act of 1995 (2 U.S.C. 1311 et seq.) is amended—

(1) by redesignating parts E and F as parts F and G, respectively; and

(2) by inserting after part D the following:

“PART E—TOBACCO SMOKE EXPOSURE REDUCTION REQUIREMENTS

“SEC. 222. RIGHTS AND PROTECTIONS UNDER THE NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT.

“(a) **REDUCTION OF EXPOSURE.**—

“(1) **RIGHTS AND PROTECTIONS.**—Each responsible entity shall comply with section 502 of the National Tobacco Policy and Youth Smoking Reduction Act.

“(2) **DEFINITION.**—For the purpose of this section and the application of such section 502 under this section—

“(A) the term ‘public facility’ means a building owned by or leased to an entity of the legislative branch of the Federal Government, that is not a building or portion excluded under section 501(2)(B) of the National Tobacco Policy and Youth Smoking Reduction Act; and

“(B) the term ‘responsible entity’ means an employing office, the General Accounting Office, the Government Printing Office, the Library of Congress, and any other entity of the legislative branch.

“(b) **REMEDY.**—The remedy for a violation of subsection (a) shall be such order enjoining the violation or such civil penalty as would be appropriate if issued under subsection (b) or (e) of section 503 of the National Tobacco Policy and Youth Smoking Reduction Act.

“(c) **PROCEDURES.**—

“(1) **HEARINGS AND REVIEW.**—After providing notice as described in section 503(c) of the National Tobacco Policy and Youth Smoking Reduction Act, an aggrieved person may file a complaint alleging a violation of

subsection (a) with the Office against the responsible entity. The complaint shall be submitted to a hearing officer for decision pursuant to subsection (b) through (h) of section 405, subject to review by the Board pursuant to section 406.

“(2) **JUDICIAL REVIEW.**—A party aggrieved by a final decision of the Board under paragraph (1) may file a petition for review with the United States Court of Appeals for the Federal Circuit pursuant to section 407.

“(d) **REGULATIONS TO IMPLEMENT SECTION.**—

“(1) **IN GENERAL.**—The Board shall, pursuant to section 304, issue regulations to implement this section.

“(2) **AGENCY REGULATIONS.**—The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) except to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

“(3) **OFFICE RESPONSIBLE FOR CORRECTION.**—The regulations issued under paragraph (1) shall include a method of identifying, for purposes of this section and for different categories of violations of subsection (a), the office responsible for correction of a particular violation.

“(e) **EFFECTIVE DATE.**—Subsections (a) through (c) shall be effective on January 1, 1999.”.

(c) **CONFORMING AMENDMENTS.**—

(1) The table of contents of the Congressional Accountability Act of 1995 is amended by striking the items relating to parts E and F of title II of such Act and inserting the following:

PART E—TOBACCO SMOKE EXPOSURE REDUCTION REQUIREMENTS

Sec. 222. Rights and protections under the National Tobacco Policy and Youth Smoking Reduction Act.

PART F—GENERAL

Sec. 225. Generally applicable remedies and limitations.

PART G—STUDY

Sec. 230. Study and recommendations regarding General Accounting Office, Government Printing Office, and Library of Congress.

(2) Section 407(a)(1)(C) of the Congressional Accountability Act of 1995 (2 U.S.C. 1407(a)(1)(C)) is amended by inserting before the comma the following: “, or a party aggrieved by a final decision of the Board under section 222(c)”.

(3) Section 414 of such Act (2 U.S.C. 1414) is amended by inserting “222,” after “220,”.

(4) Section 415(c) of such Act (2 U.S.C. 1415(c)) is amended—

(A) in the subsection heading, by striking “AND ACCESS” and inserting “ACCESS, AND TOBACCO SMOKE EXPOSURE REDUCTION”; and

(B) by striking “or 215” and inserting “215, or 222”.

BINGAMAN AMENDMENT NO. 2525

(Ordered to lie on the table.)

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

At the end of section 451, add the following:

(f) **VETERANS COMPENSATION ACCOUNT.**—

(1) **IN GENERAL.**—There is established within the trust fund a separate account, to be known as the Veterans Compensation Ac-

count. Of the net revenues credited to the trust fund under section 401(b)(1), \$10,000,000,000 shall be allocated to this account over the 5-fiscal year period beginning on the date of enactment of this Act.

(2) **AUTHORIZATION OF APPROPRIATIONS.**—Amounts in the Veterans Compensation 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 disability payments to former military personnel who became addicted to tobacco while on active duty and who have sustained a disability for tobacco-related illnesses.

MURRAY AMENDMENT NO. 2526

(Ordered to lie on the table.)

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

At the end of section 501(2), add the following:

(D) **CHILD CARE PROVIDERS.**—The term “public facility” includes any residence or facility at which a licensed or certified child care provider provides child care services, regardless of whether the residence or facility serves 10 or more individuals each day.

CONRAD AMENDMENTS NOS. 2527–2529

(Ordered to lie on the table.)

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

AMENDMENT NO. 2527

On page 124, line 8, strike “5” and insert “50”.

AMENDMENT NO. 2528

On page 125, strike lines 4 through 8, and insert the following:

“an amount equal to 40 percent of the amount determined under section 1933 of the Public Health Service Act (42 U.S.C. 300x-33) for the State for the fiscal year from the amounts otherwise payable under this Act.”.

AMENDMENT NO. 2529

On page 195, between lines 17 and 18, insert the following flush sentence:

“Not less than \$500,000,000 of the amounts made available under this subparagraph shall be used each year to carry out counter-advertising activities under clause (i).”.

KERREY AMENDMENT NO. 2530

(Ordered to lie on the table.)

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

Strike title XV and insert the following:

TITLE XV—TOBACCO TRANSITION

SEC. 1501. DEFINITIONS.

In this title:

(1) **GOVERNOR.**—The term “Governor” means the chief executive officer of a State.

(2) **LEASE.**—The term “lease” means—

(A) the rental of quota on either a cash rent or crop share basis;

(B) the rental of farmland to produce tobacco under a farm marketing quota; or

(C) the lease and transfer of quota for the marketing of tobacco produced on the farm of a lessor.

(3) **OWNER.**—The term “owner” means a person that, on the date of enactment of this Act, owns quota provided by the Secretary.

(4) PRODUCER.—The term “producer” means a person that for each of the 1995 through 1997 crops of tobacco (as determined by the Secretary) that were subject to quota—

(A) leased quota or farmland;

(B) shared in the risk of producing a crop of tobacco; and

(C) marketed the tobacco subject to quota.

(5) QUOTA.—The term “quota” means the right to market tobacco under a basic marketing quota or acreage allotment allotted to a person under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.).

(6) SECRETARY.—The term “Secretary” means the Secretary of Agriculture.

(7) STATE.—The term “State” means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

(8) TOBACCO.—The term “tobacco” means any kind of tobacco for which—

(A) a marketing quota is in effect;

(B) a marketing quota is not disapproved by producers; or

(C) price support is available.

Subtitle A—Payments for Lost Value of Tobacco Crops

SEC. 1511. PAYMENTS FOR LOST VALUE OF TOBACCO CROPS.

(a) IN GENERAL.—For each of fiscal years 1999 through 2005, the Secretary shall make payments for the lost value of tobacco crops to owners and producers from funds made available from the National Tobacco Trust Fund established by section 401.

(b) AMOUNT.—

(1) OWNERS.—The amount of the payment made to an owner for a fiscal year under this section shall equal 30 percent of the value of the tobacco produced under a tobacco farm marketing quota or farm acreage allotment established owned by the owner under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for the 1997 crop year.

(2) PRODUCERS.—The amount of the payment made to a producer for a fiscal year under this section shall equal 15 percent of the value of the tobacco produced by the producer 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 the 1997 crop year.

Subtitle B—Rural Economic Assistance Block Grants

SEC. 1521. RURAL ECONOMIC ASSISTANCE BLOCK GRANTS.

(a) IN GENERAL.—From funds made available from the National Tobacco Trust Fund established by section 401, the Secretary shall use \$200,000,000 for each of fiscal years 1999 through 2003 to provide block grants to tobacco-growing States to assist areas of such a State that are economically dependent on the production of tobacco.

(b) PAYMENTS BY SECRETARY TO TOBACCO-GROWING STATES.—

(1) IN GENERAL.—The Secretary shall use the amount available for a fiscal year under subsection (a) to make block grant payments to the Governors of tobacco-growing States.

(2) AMOUNT.—The amount of a block grant paid to a tobacco-growing State shall be based on, as determined by the Secretary—

(A) the number of counties in the State in which tobacco production is a significant part of the county’s economy; and

(B) the level of economic dependence of the counties on tobacco production.

(c) GRANTS BY STATES TO ASSIST TOBACCO-GROWING AREAS.—

(1) IN GENERAL.—A Governor of a tobacco-growing State shall use the amount of the block grant to the State under subsection (b) to make grants to counties or other public or private entities in the State to assist areas

that are dependent on the production of tobacco, as determined by the Governor.

(2) AMOUNT.—The amount of a grant paid to a county or other entity to assist an area shall be based on—

(A) the ratio of gross tobacco sales receipts in the area to the total farm income in the area; and

(B) the ratio of all tobacco related receipts in the area to the total income in the area.

(3) USE OF GRANTS.—A county or other entity that receives a grant under this subsection may use the grant in a manner determined appropriate by the county or entity (with the approval of the State) to assist producers and other persons that are economically dependent on the production of tobacco, including use for—

(A) on-farm diversification, alternatives to the production of tobacco, and risk management;

(B) off-farm activities such as education, retraining, and development of non-tobacco related jobs; and

(C) assistance to tobacco warehouse owners or operators.

(d) TERMINATION OF AUTHORITY.—The authority provided by this section terminates September 30, 2003.

Subtitle C—Tobacco Price Support and Production Adjustment Programs

SEC. 1531. TERMINATION OF TOBACCO PRICE SUPPORT PROGRAM.

(a) PARITY PRICE SUPPORT.—Section 101 of the Agricultural Act of 1949 (7 U.S.C. 1441) is amended—

(1) in the first sentence of subsection (a), by striking “tobacco (except as otherwise provided herein), corn,” and inserting “corn”;

(2) by striking subsections (c), (g), (h), and (i);

(3) in subsection (d)(3)—

(A) by striking “, except tobacco,”; and

(B) by striking “and no price support shall be made available for any crop of tobacco for which marketing quotas have been disapproved by producers;”;

(4) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

(b) TERMINATION OF TOBACCO PRICE SUPPORT AND NO NET COST PROVISIONS.—Sections 106, 106A, and 106B of the Agricultural Act of 1949 (7 U.S.C. 1445-1, 1445-2) are repealed.

(c) DEFINITION OF BASIC AGRICULTURAL COMMODITY.—Section 408(c) of the Agricultural Act of 1949 (7 U.S.C. 1428(c)) is amended by striking “tobacco.”

(d) REVIEW OF BURLEY TOBACCO IMPORTS.—Section 3 of Public Law 98-59 (7 U.S.C. 625) is repealed.

(e) POWERS OF COMMODITY CREDIT CORPORATION.—Section 5 of the poration Charter Act (15 U.S.C. 714c) is amended by inserting “(other than tobacco)” after “agricultural commodities” each place it appears.

(f) TRANSITION PROVISIONS.—

(1) LIABILITY.—The amendments made by this section shall not affect the liability of any person under any provision of law as in effect before the effective date of this section.

(2) TOBACCO STOCKS AND LOANS.—The Secretary shall issue regulations that require—

(A) the orderly disposition of tobacco stocks; and

(B) the repayment of all tobacco price support loans by not later than 1 year after the effective date of this section.

(g) CROPS.—This section and the amendments made by this section shall apply with respect to the 1999 and subsequent crops of the kind of tobacco involved.

SEC. 1532. TERMINATION OF TOBACCO PRODUCTION ADJUSTMENT PROGRAMS.

(a) DECLARATION OF POLICY.—Section 2 of the Agricultural Adjustment Act of 1938 (7

U.S.C. 1282) is amended by striking “tobacco”.

(b) DEFINITIONS.—Section 301(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1301(b)) is amended—

(1) in paragraph (3)—

(A) by striking subparagraph (C); and

(B) by redesignating subparagraph (D) as subparagraph (C);

(2) in paragraph (6)(A), by striking “tobacco”;

(3) in paragraph (7), by striking the following:

“tobacco (flue-cured), July 1—June 30;

“tobacco (other than flue-cured), October 1—September 30;”;

(4) in paragraph (10)—

(A) by striking subparagraph (B); and

(B) by redesignating subparagraph (C) as subparagraph (B);

(5) in paragraph (11)(B), by striking “and tobacco”;

(6) in paragraph (12), by striking “tobacco”;

(7) in paragraph (14)—

(A) in subparagraph (A), by striking “(A)”;

(B) by striking subparagraphs (B), (C), and (D);

(8) by striking paragraph (15);

(9) in paragraph (16)—

(A) by striking subparagraph (B); and

(B) by redesignating subparagraph (C) as subparagraph (B); and

(10) by redesignating paragraphs (16) and (17) as paragraphs (15) and (16), respectively.

(c) PARITY PAYMENTS.—Section 303 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1303) is amended in the first sentence by striking “rice, or tobacco,” and inserting “or rice.”

(d) MARKETING QUOTAS.—Part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.) is repealed.

(e) ADMINISTRATIVE PROVISIONS.—Section 361 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1361) is amended by striking “tobacco.”

(f) ADJUSTMENT OF QUOTAS.—Section 371 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1371) is amended—

(1) in the first sentence of subsection (a), by striking “peanuts, or tobacco” and inserting “or peanuts”; and

(2) in the first sentence of subsection (b), by striking “peanuts or tobacco” and inserting “or peanuts”.

(g) REPORTS AND RECORDS.—Section 373 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1373) is amended—

(1) by striking “peanuts, or tobacco” each place it appears in subsections (a) and (b) and inserting “or peanuts”; and

(2) in subsection (a)—

(A) in the first sentence, by striking “all persons engaged in the business of redrying, prizing, or stemming tobacco for producers,”; and

(B) in the last sentence, by striking “\$500;” and all that follows through the period at the end of the sentence and inserting “\$500.”

(h) REGULATIONS.—Section 375(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1375(a)) is amended by striking “peanuts, or tobacco” and inserting “or peanuts”.

(i) EMINENT DOMAIN.—Section 378 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1378) is amended—

(1) in the first sentence of subsection (c), by striking “cotton, tobacco, and peanuts” and inserting “cotton and peanuts”; and

(2) by striking subsections (d), (e), and (f).

(j) BURLEY TOBACCO FARM RECONSTITUTION.—Section 379 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379) is amended—

(1) in subsection (a)—

(A) by striking “(a)”;

(B) in paragraph (6), by striking “, but this clause (6) shall not be applicable in the case of burley tobacco”; and

(2) by striking subsections (b) and (c).

(k) ACREAGE-POUNDAGE QUOTAS.—Section 4 of the Act entitled “An Act to amend the Agricultural Adjustment Act of 1938, as amended, to provide for acreage-poundage marketing quotas for tobacco, to amend the tobacco price support provisions of the Agricultural Act of 1949, as amended, and for other purposes”, approved April 16, 1965 (Public Law 89-12; 7 U.S.C. 1314c note), is repealed.

(l) BURLEY TOBACCO ACREAGE ALLOTMENTS.—The Act entitled “An Act relating to burley tobacco farm acreage allotments under the Agricultural Adjustment Act of 1938, as amended”, approved July 12, 1952 (7 U.S.C. 1315), is repealed.

(m) TRANSFER OF ALLOTMENTS.—Section 703 of the Food and Agriculture Act of 1965 (7 U.S.C. 1316) is repealed.

(n) ADVANCE RECOURSE LOANS.—Section 13(a)(2)(B) of the Food Security Improvements Act of 1986 (7 U.S.C. 1433c-1(a)(2)(B)) is amended by striking “tobacco and”.

(o) TOBACCO FIELD MEASUREMENT.—Section 1112 of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203) is amended by striking subsection (c).

(p) LIABILITY.—The amendments made by this section shall not affect the liability of any person under any provision of law as in effect before the effective date under subsection (q).

(q) CROPS.—This section and the amendments made by this section shall apply with respect to the 1999 and subsequent crops of the kind of tobacco involved.

Subtitle D—Miscellaneous

SEC. 1541. TOBACCO PRODUCERS MARKETING CORPORATION.

(a) ESTABLISHMENT.—There is established a corporation to be known as the “Tobacco Producers Marketing Corporation”, which shall be a federally chartered instrumentality of the United States.

(b) DUTIES.—The Corporation negotiate with buyers of tobacco produced in the United States on behalf of producers of the tobacco that elect to be represented by the Corporation (referred to in this section as “participating producers”).

(c) BOARD OF DIRECTORS.—

(1) IN GENERAL.—The powers of the Corporation shall be vested in a Board of Directors.

(2) MEMBERS.—The Board of Directors shall be composed of members elected by participating producers.

(3) MEMBERSHIP QUALIFICATIONS.—A member of the Board shall not hold any Federal, State, or local elected office or be a Federal officer or employee.

(4) CHAIRPERSONS.—The chairperson of the Board shall be elected by members of the Board.

(5) EXECUTIVE DIRECTOR.—

(A) APPOINTMENT.—The Board shall appoint an Executive Director.

(B) DUTIES.—The Executive Director shall be the chief executive officer of the Corporation, with such power and authority as may be conferred by the Board.

(C) COMPENSATION.—The Executive Director shall receive basic pay at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(6) OFFICERS.—The Board shall establish the offices and appoint the officers of the Corporation, including a Secretary, and define the duties of the officers in a manner consistent with this section.

(7) MEETINGS.—

(A) IN GENERAL.—The Board shall meet at least 3 times each fiscal year at the call of a

Chairperson or at the request of the Executive Director.

(B) LOCATION.—The location of a meeting shall be subject to approval of the Executive Director.

(C) QUORUM.—A quorum of the Board shall consist of a majority of the members.

(8) TERM; VACANCIES.—

(A) TERM.—The term of office of a member of the Board elected under paragraph (2) shall be 4 years.

(B) VACANCIES.—A vacancy on the Board shall be filled in the same manner as the original appointment was made.

(9) COMPENSATION.—

(A) IN GENERAL.—A member of the Board shall receive, for each day (including travel time) that the member is engaged in the performance of the functions of the Board, compensation at a rate not to exceed the daily equivalent of the annual rate in effect for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(B) EXPENSES.—A member of the Board shall be reimbursed for travel, subsistence, and other necessary expenses incurred by the member in the performance of the duties of the member.

(10) CONFLICT OF INTEREST; FINANCIAL DISCLOSURE.—

(A) CONFLICT OF INTEREST.—Except as provided in subparagraph (C), a member of the Board shall not vote on any matter concerning any application, contract, or claim, or other particular matter pending before the Corporation, in which, to the knowledge of the member, the member, spouse, or child of the member, partner of the member, or organization in which the member is serving as officer, director, trustee, partner, or employee, or any person or organization with which the member is negotiating or has any arrangement concerning prospective employment, has a financial interest.

(B) VIOLATIONS.—Violation of subparagraph (A) by a member of the Board shall be cause for removal of the member, but shall not impair or otherwise affect the validity of any otherwise lawful action by the Corporation in which the member participated.

(C) EXCEPTIONS.—

(i) IN GENERAL.—Except as provided in clause (ii), the prohibitions contained in subparagraph (A) shall not apply if—

(I) a member of the Board advises the Board of the nature of the particular matter in which the member proposes to participate, and if the member makes a full disclosure of the financial interest, prior to any participation; and

(II) the Board determines, by majority vote, that the financial interest is too remote or too inconsequential to affect the integrity of the member's services to the Corporation in that matter.

(ii) VOTE.—The member involved shall not vote on the determination under clause (i)(II).

(D) FINANCIAL DISCLOSURE.—A Board member shall be subject to the financial disclosure requirements of subchapter B of chapter XVI of title 5, Code of Federal Regulations (or any corresponding or similar regulation or ruling), applicable to a special Government employee (as defined in section 202(a) of title 18, United States Code).

(11) BYLAWS.—The Board shall adopt, and may from time to time amend, any bylaw that is necessary for the proper management and functioning of the Corporation.

(12) PERSONNEL.—The Corporation may select and appoint officers, attorneys, employees, and agents, who shall be vested with such powers and duties as the Corporation may determine.

(d) GENERAL POWERS.—In addition to any other powers granted to the Corporation under this section, the Corporation—

(1) shall have succession in its corporate name;

(2) may adopt, alter, and rescind any bylaw and adopt and alter a corporate seal, which shall be judicially noticed;

(3) may enter into any agreement or contract with a person or private or governmental agency;

(4) may lease, purchase, accept a gift or donation of, or otherwise acquire, use, own, hold, improve, or otherwise deal in or with, and sell, convey, mortgage, pledge, lease, exchange, or otherwise dispose of, any property or interest in property, as the Corporation considers necessary in the transaction of the business of the Corporation;

(5) may sue and be sued in the corporate name of the Corporation, except that—

(A) no attachment, injunction, garnishment, or similar process shall be issued against the Corporation or property of the Corporation; and

(B) exclusive original jurisdiction shall reside in the district courts of the United States, and the Corporation may intervene in any court in any suit, action, or proceeding in which the Corporation has an interest;

(6) may independently retain legal representation;

(7) may provide for and designate such committees, and the functions of the committees, as the Board considers necessary or desirable;

(8) may indemnify officers of the Corporation, as the Board considers necessary and desirable, except that the officers shall not be indemnified for an act outside the scope of employment;

(9) may, with the consent of any board, commission, independent establishment, or executive department of the Federal Government, including any field service, use information, services, facilities, officials, and employees in carrying out this section, and pay for the use, which payments shall be transferred to the applicable appropriation account that incurred the expense;

(10) may obtain the services and fix the compensation of any consultant and otherwise procure temporary and intermittent services under section 3109(b) of title 5, United States Code;

(11) may use the United States mails on the same terms and conditions as the Executive agencies of the Federal Government;

(12) shall have the rights, privileges, and immunities of the United States with respect to the right to priority of payment with respect to debts due from bankrupt, insolvent, or deceased creditors;

(13) may collect or compromise any obligations assigned to or held by the Corporation, including any legal or equitable rights accruing to the Corporation;

(14) shall determine the character of, and necessity for, obligations and expenditures of the Corporation and the manner in which the obligations and expenditures shall be incurred, allowed, and paid, subject to provisions of law specifically applicable to Government corporations;

(15) may make final and conclusive settlement and adjustment of any claim by or against the Corporation or a fiscal officer of the Corporation;

(16) may sell assets, loans, and equity interests acquired in connection with the financing of projects funded by the Corporation; and

(17) may exercise all other lawful powers necessarily or reasonably related to the establishment of the Corporation to carry out this title and the powers, purposes, functions, duties, and authorized activities of the Corporation.

SEC. 1542. ASSISTANCE FOR PRODUCERS EXPERIENCING LOSSES OF FARM INCOME.

(a) IN GENERAL.—Notwithstanding any other provision of this title, from amounts made available to carry out this title, the Secretary shall use \$250,000,000 for each of fiscal years 1999 through 2004 to establish a program to indemnify eligible producers that have experienced, or are experiencing, catastrophic losses in farm income, as determined by the Secretary.

(b) GROSS INCOME AND PAYMENT LIMITATIONS.—In carrying out this section, the Secretary shall, to the maximum extent practicable, use gross income and payment limitations established for the Disaster Reserve Assistance Program under section 813 of the Agricultural Act of 1970 (7 U.S.C. 1427a).

SEC. 1543. SAVINGS.

Except as provided in section 1542, any savings derived as a result of this title shall be used for tobacco use prevention and cessation initiatives.

BOND AMENDMENTS NOS. 2531–2532

(Ordered to lie on the table.)

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

AMENDMENT No. 2531

(1) Title II, Subtitle B add the following:

SEC. 231. (B)(2)(D)(ii)(III) Strike the section in its entirety and add the following: "A system of graduated sanctions for underage youths who possess, purchase or attempt to purchase tobacco products, the sanction for the first offense shall be no less than a requirement of community service and the sanction for the second offense shall be no less than a requirement of community service or a fine."

(2) SEC. 232. Add the following:

SEC. 232(b)(3) have a law that provides for a system of graduated sanctions for underage youths who possess, purchase or attempt to purchase tobacco products, the sanction for the first offense shall be no less than a requirement of community service and the sanction for the second offense shall be no less than a requirement of community service or a fine."

(3) Title II, Subtitle C, SEC. 261 add the following:

SEC. 1981A(4) A state receiving or expending, or if any of the state's agencies receives or expends, under this subtitle funds from the Tobacco Settlement Trust Fund, that state shall establish to the Secretary that it has laws or regulations that include such measures as fines, suspension of driver's license privileges, or community service requirements, for underage youths who possess, purchase or attempt to purchase tobacco products.

AMENDMENT No. 2532

Title II, Subtitle B, SEC. 231. State Retail Licensing and Enforcement Block Grants. Add the following:

SEC. 231(a) After "to carry out the provisions of this section." add the following: \$100,000,000 of the annual appropriation shall be used for block grants to state and local law enforcement agencies to assist in providing the resources necessary for law enforcement to enforce sanctions on underage youths who possess, purchase or attempt to purchase tobacco products and enforce the remaining provisions of this title.

SHELBY AMENDMENTS NOS. 2533–2534

(Ordered to lie on the table.)

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

AMENDMENT No. 2533

On page 441, line 5, insert before the period the following: ", including the success of the claimant in prior related litigation that contributed materially and directly to the result obtained".

AMENDMENT No. 2534

On page 440, line 25, insert before the period the following: ", both in the litigation in which the award is sought, and to the extent, if any, that the result of such litigation has the effect of making available documentary evidence that materially and directly contributes to a successful result in other pending or subsequent litigation involving the same or similar issues involving different litigants".

HATCH AMENDMENTS NOS. 2535–2539

(Ordered to lie on the table.)

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

AMENDMENT No. 2535

On page 58, strike lines 8 through 23, and insert the following:

"(3) PROCEDURE FOR GENERAL PROHIBITION OF TOBACCO PRODUCTS AND ELIMINATION OF NICOTINE.—

"(A) NONDELEGATION.—The Secretary may not delegate the authority provided under this section to promulgate a regulation that results in a general prohibition of cigarettes or smokeless tobacco or the reduction of nicotine yields of a tobacco product to zero.

"(B) CONGRESSIONAL REVIEW.—In accordance with section 801 of title 5, United States Code, Congress shall review, and may disapprove, any rule of the Secretary establishing, amending, or revoking a tobacco product health risk reduction standard, except that with respect to a standard that results in a general prohibition of cigarettes or smokeless tobacco or the reduction of nicotine yields of a tobacco product to zero, such standard shall only take effect following the date of enactment of a joint resolution of approval of such standard. The provisions of section 802 of title 5, United States Code, relating to certain disapproval resolutions shall apply to the consideration of any joint resolution of approval under this subsection.

AMENDMENT No. 2536

On page 28, between lines 2 and 3, insert the following:

"(d) APPLICATION OF FDA RULE.—The provisions of the final regulations promulgated by the Secretary in the rule dated August 28, 1996 (61 Fed. Reg. 44615-18) shall be given effect as follows:

"(1)(A) The regulations codified in sections 897.1, 897.2, 897.3, 897.10, 897.12, 897.14, and 897.16(b) through (d) of title 21, Code of Federal Regulations, shall be deemed to have been promulgated by the Secretary pursuant to chapter IX of the Federal Food, Drug and Cosmetic Act (as added by section 103 of this Act).

"(B) The Secretary shall promulgate a regulation under section 701(a) of the Federal Food, Drug and Cosmetic Act to—

"(i) transfer the regulations referred to in subparagraph (A) to the appropriate part of the Code of Federal Regulations; and

"(ii) make such other amendments to such regulations if the Secretary determines that such amendments are necessary to conform such regulations to the provisions of this Act.

"(2) Any portion or provision of the final regulations not specifically referred to in paragraph (1) shall be considered null and void.

AMENDMENT No. 2537

Beginning on page 67, strike line 4 and all that follows through line 6 on page 79.

AMENDMENT No. 2538

Beginning on page 42, strike line 10 and all that follows through line 20 on page 43.

AMENDMENT No. 2539

On page 52, strike lines 3 through 16, and insert the following:

"(a) PERFORMANCE STANDARDS.—

"(1) ADOPTION.—

"(A) IN GENERAL.—Within 24 months after the date of enactment of this chapter, the Secretary, in accordance with the regulatory policies and principles set forth in Executive Order No. 12866 (including the policies and principles set forth in the January 11, 1996 Office of Management and Budget guidance document entitled, 'Economic Analysis of Federal Regulations Under Executive Order 12866'), shall adopt performance standards for tobacco products that maximize the net benefits to the public health.

"(B) OBJECTIVE.—Performance standards under subparagraph (A) shall have as their major objective reducing the overall health risks to the public. Such performance standards shall take into account—

"(i) the increased or decreased likelihood that existing consumers of tobacco products will stop using such products;

"(ii) the increased or decreased risk of likelihood that existing users of tobacco products will reduce their use of such products; and

"(iii) the increased or decreased likelihood that those who do not use tobacco products will start using such products.

"(C) CONSIDERATIONS.—In establishing performance standards under subparagraph (A), the Secretary shall identify, make available for public comment, and consider relevant factors including the following:

"(i) Whether the proposed standard will result in a reduction in the health risks associated with the use of the tobacco product, constituent, or component.

"(ii) Whether the proposed standards will result in a significant increase in the number of individuals seeking tobacco product cessation or withdrawal treatments, including an assessment of the effectiveness, availability, and accessibility of such treatments.

"(iii) Whether the proposed standard will result in any possible countervailing effects on the health of adolescent tobacco users, adult tobacco users, or nontobacco users, such as the creation of a significant demand for, and supply of, contraband tobacco products specifically including increased consumption of tobacco products that do not meet the requirements of this chapter.

"(iv) Whether the proposed standard is technologically feasible for commercial manufacturing.

"(v) Whether the proposed standard is likely to be accepted by and affordable to adult consumers of tobacco products.

Nothing in this subparagraph shall be construed as requiring the Secretary to make a finding on each of the individual considerations described in this subparagraph. The issuance of performance standards requires the balancing of many considerations and other factors and performance standards shall not be invalidated solely on the basis of the Secretary's evaluation of any of the individual considerations described in this subparagraph.

"(2) TECHNICAL PROVISION.—In implementing this Act, any reference to 'appropriate for the protection of public health' in this section, and sections 906(d)(1) and 910, shall be deemed to be a reference to 'maximize the net benefits to the public health'.

DODD AMENDMENT NO. 2540

(Ordered to lie on the table.)

At the end of section 452, add the following:

() ASSISTANCE FOR CHILDREN.—A State shall use not less than \$1,250,000,000 of the amount described in subsection (b)(2) for each fiscal year to carry out activities under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.).

KERRY (AND OTHERS)
AMENDMENT NO. 2541

(Ordered to lie on the table.)

Mr. KERRY (for himself, Mr. CHAFEE, Mr. CAMPBELL, Mr. KENNEDY, Mr. DODD, Mr. WELLSTONE, Mr. JOHNSON, Mrs. BOXER, Mr. SPECTER, Ms. LANDRIEU, Mr. DURBIN, and Mr. GRAHAM) submitted an amendment intended to be proposed by them to the bill, S. 1415, supra; as follows:

At the End of Section 452, add the following:

() ASSISTANCE FOR CHILDREN.—A State shall use not less than 50 percent of the amount described in subsection (b)(2) for each fiscal year to carry out activities under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.).

JEFFORDS (AND BINGAMAN)
AMENDMENT NO. 2542

(Ordered to lie on the table.)

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

On page 159, line 8, strike "such sums as may be necessary" and all that follows through line 11, and insert "not less than 5 percent of such funds in fiscal year 1999, 10 percent of such funds in fiscal year 2000, 15 percent of such funds in fiscal year 2001, and 20 percent of such funds in fiscal year 2002 and each subsequent fiscal year, shall be used to expand existing support for epidemiological, behavioral, psychopharmacological, psychobiological, psychophysiological, health services and social science research related to the prevention and treatment of tobacco addiction. Research described in this paragraph shall include research on the effect of nicotine on the brain and behavior."

On page 159, line 13, strike "may" and insert "shall".

On page 160, line 18, strike "may" and insert "shall".

On page 161, between lines 15 and 16, insert the following:

"(h) RESEARCH AND COLLABORATION.—The Director may conduct and support neurobiological, biomedical, biochemical, or other biological research related to tobacco addiction, and shall encourage collaboration between such research and research conducted under subsection (c), except that research described in this subsection shall not be included in determining whether the requirement of subsection (c) has been satisfied with respect to a fiscal year."

JEFFORDS AMENDMENT NO. 2543

(Ordered to lie on the table.)

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

On page 194, line 8, add after the period the following: "Each agency authorized to receive funds under this subsection shall con-

sult with the committees of the House or Representatives and the Senate with jurisdiction over each such agency to establish, consistent with the Government Performance and Responsibility Act of 1993—

"(A) goals and performance measures for activities under this Act within the jurisdiction of each such agency; and

"(B) annual financial accountings of the allocation and expenditure of funds appropriated to each such agency as authorized under this subsection."

On page 194, line 10, add after "be" the following: "authorized to be appropriated for each of the fiscal years 1999 through 2008, and such authorization shall expire after such period. Such amounts shall be".

On page 197, line 8, add after the period the following: "Each agency authorized to receive funds under this subsection shall consult with the committees of the House or Representatives and the Senate with jurisdiction over each such agency to establish, consistent with the Government Performance and Responsibility Act of 1993—

"(A) goals and performance measures for activities under this Act within the jurisdiction of each such agency; and

"(B) annual financial accountings of the allocation and expenditure of funds appropriated to each such agency as authorized under this subsection."

On page 197, line 11, add after "be" the following: "authorized to be appropriated for each of the fiscal years 1999 through 2008, and such authorization shall expire after such period. Such amounts shall be".

ASHCROFT AMENDMENTS NOS.
2544-2553

(Ordered to lie on the table.)

Mr. ASHCROFT submitted 10 amendments intended to be proposed by him to the bill, S. 1415, supra; as follows:

AMENDMENT No. 2544

In section 452, beginning on page 200, strike line 8 and all after, through page 202, line 14.

AMENDMENT No. 2545

Strike lines 7-11, page 161.

AMENDMENT No. 2546

Strike lines 1-5, page 154.

AMENDMENT No. 2547

Strike lines 14-20, page 196.

AMENDMENT No. 2548

Strike section 1107.

AMENDMENT No. 2549

Strike section 1104.

AMENDMENT No. 2550

Strike section 405.

AMENDMENT No. 2551

On page 180, line 10, after the period add the following: "Amounts credited to the Trust fund under subsection (b) may be used to fund anti-illegal drug programs in States and other programs that target illegal drugs."

AMENDMENT No. 2552

At the appropriate place, insert the following:

SEC. —. METHAMPHETAMINE PENALTY INCREASES.

(a) CONTROLLED SUBSTANCES ACT.—Section 401(b)(1) of the Controlled Substances Act (21 U.S.C. 841(b)(1)) is amended—

(1) in subparagraph (A)(viii)—

(A) by striking "100 grams" and inserting "50 grams"; and

(B) by striking "1 kilogram" and inserting "500 grams"; and

(2) in subparagraph (B)(viii)—

(A) by striking "10 grams" and inserting "5 grams"; and

(B) by striking "100 grams" and inserting "50 grams".

(b) CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.—Section 1010(b) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)) is amended—

(1) in paragraph (1)(H)—

(A) by striking "100 grams" and inserting "50 grams"; and

(B) by striking "1 kilogram" and inserting "500 grams"; and

(2) in paragraph (2)(H)—

(A) by striking "10 grams" and inserting "5 grams"; and

(B) by striking "100 grams" and inserting "50 grams".

AMENDMENT No. 2553

On page _____, strike lines _____ through _____, and insert the following:

SEC. —. MODIFICATION OF SYNAR AMENDMENT.

Section 1926 of the Public Health Service Act (42 U.S.C. 300x-26) is amended—

(1) in subsection (a)(1), to read as follows:

"(1) IN GENERAL.—Subject to paragraph (2), for fiscal year 1999 and subsequent fiscal years, the Secretary may make a grant under section 1921 only if the State involved has in effect a law providing that it is unlawful for—

"(A) any manufacturer, retailer, or distributor of tobacco products, or for any individual to sell or distribute any such product to any individual under the age of 18; and

"(B) any individual under the age of 18 to purchase or possess any such product."; and

(2) in subsection (b)(1), by adding at the end the following: "In enforcing such law the State shall ensure that penalties for violations of such law are at least as stringent as penalties applied for the illegal distribution or possession of alcohol to or by minors."

SEC. —. INCREASED PENALTIES FOR DRUG OFFENSES INVOLVING MINORS.

(a) INCREASED PENALTIES FOR DISTRIBUTING DRUGS TO MINORS.—Section 418 of the Controlled Substances Act (21 U.S.C. 859) is amended—

(1) in subsection (a), by striking "one year" and inserting "10 years"; and

(2) in subsection (b), by striking "one year" and inserting "20 years".

(b) INCREASED PENALTY FOR DRUG TRAFFICKING IN OR NEAR A SCHOOL OR OTHER PROTECTED LOCATION.—Section 419 of the Controlled Substances Act (21 U.S.C. 860) is amended—

(1) in subsection (a), by striking "one year" and inserting "10 years"; and

(2) in subsection (c), by striking "three years" each place that term appears and inserting "20 years".

(c) INCREASED PENALTIES FOR USING MINORS TO DISTRIBUTE DRUGS.—Section 420 of the Controlled Substances Act (21 U.S.C. 861) is amended—

(1) in subsection (b), by striking "one year" and inserting "10 years"; and

(2) in subsection (c), by striking "one year" and inserting "20 years".

SEC. —. DISTRICT OF COLUMBIA.

(a) INCREASED PENALTIES FOR SALE TO MINORS.—Section 1120 of title 22 of the District of Columbia Code is amended by striking subsection (d) and inserting the following:

"(d)(1) Upon finding that a licensee has violated subsection (a) or (b) of this section, the Mayor shall—

"(A) on the first violation, fine the licensee not less than \$1,000 and not more than \$2,000,

or suspend the license for 10 consecutive days;

"(B) on the second violation, fine the licensee not less than \$2,000 and not more than \$4,000 and suspend the license for 20 consecutive days; and

"(C) on the third violation and each subsequent violation, fine the licensee not less than \$4,000 and not more than \$10,000 and suspend the license for 30 consecutive days, or revoke the license.

"(2) In the event of revocation or suspension of the license pursuant to this subsection the Mayor shall post a notice in a conspicuous place on the exterior of the premises stating the reason for the revocation or suspension. The notice shall remain posted through the prescribed dates. The licensee shall immediately notify the Mayor if the notice is removed or defaced. Failure of the licensee to notify the Mayor may result in the extension of the prescribed period of revocation or suspension."

(b) PENALTIES FOR PURCHASE BY MINORS.—Section 1120 of title 22 of the District of Columbia Code is amended—

(1) in the caption, by inserting "or purchase of tobacco by" after "to"; and

(2) in subsection (a)—

(A) by inserting "(1)" after "(a)"; and

(B) by adding at the end the following:

"(2)(A) No person who is under 18 years of age shall possess or purchase any cigarette or other tobacco product.

"(B)(i) Any person under 21 years of age who falsely represents his or her age for the purpose of procuring a cigarette or other tobacco product shall be deemed guilty of a misdemeanor and be fined not more than \$300 for each offense, and in default in the payment of the fine shall be imprisoned for not longer than 30 days.

"(ii) A civil fine may be imposed as an alternative sanction for any infraction of this subsection, or any rules or regulations issued under the authority of this subsection, pursuant to sections 6-2701 to 6-2723 ("Civil Infractions Act"). Adjudication of any infraction of this section shall be pursuant to sections 6-2701 to 6-2723.

"(C) In addition to the penalties provided in subparagraph (B), any person who violates any provision of this subsection shall be subject to the following additional penalties:

"(i) Upon the first violation, shall have his or her driving privileges in the District suspended for a period of 90 consecutive days.

"(ii) Upon the second violation, shall have his or her driving privileges in the District suspended for a period of 180 days.

"(iii) Upon the third violation and each subsequent violation, shall have his or her driving privileges in the District suspended for a period of 1 year."

MCCAIN AMENDMENT NO. 2554

(Ordered to lie on the table.)

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

On page 106, strike lines 7 through 11, and insert the following:

(3) SURVEY METHODOLOGY SCOPE OF REVIEW.—A survey using the methodology required by this subsection shall be subject to judicial review only by the United States Court of Appeals for the District of Columbia Circuit, based on the standard set forth in section 706(2)(A) of title 5, United States Code.

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

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

On page 188, strike line 8.

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

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

On page 188, beginning in line 15, strike "CPI, adjusted (for calendar year 2002 and later years) by the volume adjustment under paragraph (2)." and insert "CPI."

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

On page 188, beginning in line 18, strike "subparagraph (A)," and insert "paragraph (1)."

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

(b) LIMITATION BASED ON ANNUAL INCREASE IN PRICE-PER-PACK.—Notwithstanding the amount set forth in paragraph (1), (2), (3), (4) or (5) of section 402(b) and the amount determined under paragraph (6) of that section, the amount of the payment required under section 402(b) for any calendar year from cigarette manufacturers shall not exceed an amount which, when divided by the number of packs of cigarettes sold during the calendar year, will be equal to—

(1) 65 cents in year 1;

(2) 70 cents in year 2;

(3) 80 cents in year 3;

(4) \$1.00 in year 4; or

(5) \$1.10 in year 5 and thereafter.

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

(d) ADJUSTMENT.—Beginning with the second calendar year after the date of enactment of this Act, the amounts set forth in subsection (b) shall be adjusted as provided in subsection (a)(1).

STEVENS AMENDMENT NO. 2555

(Ordered to lie on the table.)

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

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

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

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

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

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

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

(C) USE OF HEALTH CARE FUNDS.—Amounts made available to the Indian Health Service under this paragraph shall be—

(1) made available to Indian tribes pursuant to the provisions of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.), except in Alaska where such amounts shall, notwithstanding any other provision of law, be made available

pursuant to such Act only to the Consortium (as that term is used in section 325 of Public Law 105-83) which shall be eligible to enter into contracts, compacts, or other funding agreements under such Act without further resolutions of the Regional Corporations, Village Corporations, tribes and/or villages represented by the members of the Consortium; and

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

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

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

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

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

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

INOUYE AMENDMENT NO. 2556

(Ordered to lie on the table.)

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

On page 402, strike lines 15-25 and insert in lieu thereof the following:

If the Congress enacts legislation to provide for the payment of asbestos claims, then unobligated amounts in the National Tobacco Trust Fund established by title IV of this Act may be made available, as provided by appropriations Act, to make those payments.

MACK AMENDMENT NO. 2557

(Ordered to lie on the table.)

Mr. MACK 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. STATE SETTLEMENTS.

(a) IN GENERAL.—Notwithstanding any other provision of law, or of this Act, amounts received by a State as a result of the resolution by such State of tobacco-related civil actions through settlement or court judgment with tobacco product manufacturers shall not be available to the Secretary as reimbursement of Medicaid expenditures or considered as Medicaid overpayments for purposes of recoupment.

HUTCHISON (AND MACK)

AMENDMENTS NOS. 2558-2559

(Ordered to lie on the table.)

Mrs. HUTCHISON (for herself and Mr. MACK) submitted two amendments intended to be proposed by them to the bill, S. 1415, supra; as follows:

AMENDMENT NO. 2558

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

SEC. 456. NO REDUCTION OF STATE FUNDS.

Notwithstanding any other provision of this Act, payments under this Act to a State that, as of the date of enactment of this Act, has resolved tobacco-related civil actions through settlement or court judgment with tobacco product manufacturers, shall not be less than the State would have otherwise received under the State settlement or judgment.

AMENDMENT NO. 2559

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

SEC. 456. STATE OPT-IN.

(a) IN GENERAL.—A State that, as of the date of enactment of this Act, has resolved tobacco-related civil actions through settlement or court judgment with tobacco product manufacturers, shall not be eligible to receive funds under section 452 unless the State provides notice in writing to the Secretary affirmatively electing to receive such funds and comply with the requirements of such section.

HUTCHISON AMENDMENTS NOS.
2560-2561

(Ordered to lie on the table.)

Mrs. HUTCHISON submitted two amendments intended to be proposed by her to the bill, S. 1415, supra; as follows:

AMENDMENT No. 2560

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

SEC. 456. STATE SETTLEMENTS.

(a) IN GENERAL.—Notwithstanding any other provision of law, or of this Act, amounts received by a State as a result of the resolution by such State of tobacco-related civil actions through settlement or court judgment with tobacco product manufacturers shall not be available to the Secretary as reimbursement of Medicaid expenditures or considered as Medicaid overpayments for purposes of recoupment.

(b) USE OF FUNDS.—Amounts received by a State under a settlement described in subsection (a) may be used in any manner that the State determines appropriate, consistent with State law.

AMENDMENT No. 2561

On page 442, between lines 4 and 5, insert the following:

(d) OFFSET OF STATE LIABILITY FOR FEES.—In the case of a State that has pursued an independent civil action against tobacco product manufacturers, and that may be liable for attorneys fees, the total amount of any determination of attorneys fees to be paid by such manufacturers through arbitration under this section shall be applied as a dollar-for-dollar offset against any potential State liability for attorneys fees.

TORRICELLI AMENDMENTS NOS.
2562-2563

(Ordered to lie on the table.)

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

AMENDMENT No. 2562

At the appropriate place, insert the following:

SEC. ____ MICHAEL GILLICK CHILDHOOD CANCER RESEARCH STUDY.

(a) FINDINGS.—Congress finds that—

(1) during the period from 1979 to 1995, Ocean County, New Jersey, had a significantly higher rate of childhood brain cancer than the rest of the United States, including a rate of brain and central nervous system cancer that was nearly 75 percent above the rate of other States;

(2) during the period from 1979 to 1995—

(A) there were 350 cases of childhood cancer in Ocean County, of which 90 cases were in Dover Township, and of those 24 were in Toms River alone;

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

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

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

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

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

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

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

“(B) GRANT TO THE STATE OF NEW JERSEY.—The Administrator of ATSDR may make 1 or more grants to the State of New Jersey to carry out paragraph (1).

“(C) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this paragraph—

“(i) \$2,000,000 for fiscal year 1999; and

“(ii) \$1,000,000 for fiscal year 2000.”.

AMENDMENT No. 2563

On page 201, between lines 19 and 20, insert the following:

(3) MEDICAID CHILDREN'S ENROLLMENT PERFORMANCE BONUS.—

(A) SET ASIDE OF FUNDS.—Notwithstanding the preceding paragraphs of this subsection, 8 percent of the amount received under this section in a fiscal year shall not be used by a State unless the State satisfies the requirements of subparagraphs (B) and (C).

(B) DEMONSTRATION OF IMPLEMENTATION OF OUTREACH STRATEGIES.—A State shall demonstrate to the satisfaction of the Secretary that the State has a commitment to reach and enroll children who are eligible for but not enrolled under the State plan through effective implementation of each of the following outreach activities:

(i) STREAMLINED ELIGIBILITY PROCEDURES.—

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

(aa) children in families with incomes that do not exceed the effective income level (expressed as a percent of the poverty line) that has been specified under such State plan (including under a waiver authorized by the Secretary or under section 1902(r)(2) of such Act (42 U.S.C. 1396a(r)(2))) for the child to be eligible for medical assistance under section 1902(l)(2) or 1905(n)(2) (as selected by a State) of such Act (42 U.S.C. 1396a(l)(2), 1396d(n)(2)) for the age of such child; and

(bb) children determined eligible for such assistance, and enrolled in the State plan under title XIX of the Social Security Act, in accordance with the requirements of paragraphs (1) and (2) of section 1931(b) of such Act (42 U.S.C. 1396a-1(b)).

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

(aa) using shortened and simplified applications for the children described in subclause (I);

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

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

(ii) CONTINUOUS ELIGIBILITY FOR CHILDREN.—The State provides (or demonstrates to the satisfaction of the Secretary that, not later than fiscal year 2001, the State shall provide) for 12-months of continuous eligibility for children in accordance with section 1902(e)(12) of the Social Security Act (42 U.S.C. 1396a(e)(12)).

(iii) PRESUMPTIVE ELIGIBILITY FOR CHILDREN.—The State provides (or demonstrates to the satisfaction of the Secretary that, not later than fiscal year 2001, the State shall provide) for making medical assistance available to children during a presumptive eligibility period in accordance with section 1920A of the Social Security Act (42 U.S.C. 1396r-1a).

(iv) OUTSTATIONING AND ALTERNATIVE APPLICATIONS.—The State complies with the requirements of section 1902(a)(55) of the Social Security Act (42 U.S.C. 1396a(a)(55)) (relating to outstationing of eligibility workers for the receipt and initial processing of applications for medical assistance and the use of alternative application forms).

(v) SIMPLIFIED VERIFICATION OF ELIGIBILITY REQUIREMENTS.—The State demonstrates to the satisfaction of the Secretary that the State uses only the minimum level of verification requirements as are necessary for the State to ensure accurate eligibility determinations under the State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(C) REPORT ON NUMBER OF ENROLLMENTS RESULTING FROM OUTREACH.—A State shall annually report to the Secretary on the number of full year equivalent children that are determined to be eligible for medical assistance under the State plan under title XIX of the Social Security Act and are enrolled under the plan as a result of—

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

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

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

(D) PROCEDURE FOR REDISTRIBUTION OF UNUSED SET ASIDES.—The Secretary shall determine an appropriate procedure for the redistribution of funds set aside under this paragraph for a State for a fiscal year that are not used by the State during that fiscal year because the State did not satisfy the requirements of subparagraphs (B) and (C) to States that have satisfied such requirements for such fiscal year and have fully expended the amount of State funds so set aside.

(E) OFFSET OF FEDERAL EXPENDITURES.—The amount allocated to the State Litigation Settlement Account for a fiscal year shall, in addition to any reductions required under the third sentence of section 451(a), be further reduced by the additional estimated Federal expenditures that will be incurred as a result of increased State expenditures resulting from the application of this paragraph.

(F) APPLICATION OF RESTRICTION ON SUBSTITUTION OF SPENDING.—The provisions of subsection (c) of this section apply to this paragraph in the same manner and to the same extent as such provisions apply to the program described in paragraph (2)(G) of this subsection.

WARNER AMENDMENTS NOS. 2564-
2566

(Ordered to lie on the table.)

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

AMENDMENT NO. 2564

Strike Section 1031.

AMENDMENT NO. 2565

Strike Title II.

AMENDMENT NO. 2566

Strike Subtitle A of Title XI.

JEFFORDS AMENDMENT NO. 2567

(Ordered to lie on the table.)

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

On page 198, strike lines 3 through 10 and insert the following: "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) Agency for Health Care Policy and Research under section 1991E of the Public Health Service Act, as added by this Act. Of the total amounts allocated to this account, not less than 1 percent, but not more than 3 percent shall be used for this purpose."

THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

ABRAHAM (AND OTHERS)
AMENDMENT NO. 2568

(Ordered to lie on the table.)

Mr. ABRAHAM (for himself, Mr. FEINGOLD, Mr. DEWINE, Mr. ASHCROFT, Mrs. SNOWE, and Mr. MACK) intended to be proposed by them to the bill (S. 2057) to authorize appropriations for the fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the appropriate place in the bill, insert the following section:

SEC. . EXPRESSING THE SENSE OF THE CONGRESS THAT THE PRESIDENT OF THE UNITED STATES SHOULD RECONSIDER HIS DECISION TO BE FORMALLY RECEIVED IN TIANANMEN SQUARE BY THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA.

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

(1) Nine years ago on June 4, 1989, thousands of Chinese students peacefully gathered in Tiananmen Square to demonstrate their support for freedom and democracy;

(2) It was with horror that the world witnessed the response of the Government of the People's Republic of China as tanks and military units marched into Tiananmen Square;

(3) Chinese soldiers of the People's Republic of China were ordered to fire machine guns and tanks on young, unarmed civilians;

(4) "Children were killed holding hands with their mothers," according to a reliable eyewitness account;

(5) According to the same eyewitness account, "students were crushed by armored personnel carriers";

(6) More than 2,000 Chinese pro-democracy demonstrators died that day, according to the Chinese Red Cross;

(7) Hundreds continue to languish in prisons because of their belief in freedom and democracy;

(8) Nine years after the massacre on June 4, 1989, the Government of the People's Republic of China has yet to acknowledge the Tiananmen Square massacre; and

(9) By being formally received in Tiananmen Square, the President would bestow legitimacy on the Chinese government's horrendous actions of 9 years ago:

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that the President should reconsider his decision to be formally received in Tiananmen Square until the Government of the People's Republic of China acknowledges the Tiananmen Square massacre, pledges that such atrocities will never happen again, and releases those Chinese students still imprisoned for supporting freedom and democracy that day.

ADDITIONAL STATEMENTS

TRIBUTE TO GENERAL BERNARD
A. SCHRIEVER

• Mr. BENNETT. Mr. President, I rise today to pay tribute to General Bernard A. Schriever, a modern-day pioneer whose legendary contributions to our nation's defense will be appropriately recognized on Friday, June 5, 1998, when Falcon Air Force Base will be renamed in his honor. General Schriever, a retired four-star general, is widely regarded as the father of the ICBM.

General Schriever was born in Bremen, Germany, on September 14, 1910. His family immigrated to the United States when he was seven years old, and he became a naturalized citizen at age 13 and finished his early schooling in San Antonio, Texas. His flying career began in the late 1920s, as a mail-carrier flying between my home state of Utah and Wyoming. In 1931, he received a Bachelor of Science degree from Texas A&M, and a reserve appointment in the Field Artillery. He earned his wings as a second lieutenant in the Army Air Corps Reserve in June 1933.

After obtaining his Master's degree in Aeronautical Engineering from Stanford University in 1942, he gained rapid promotions and positions of increasing responsibility during World War II. He was Chief of Staff of the 5th Air Force Service Command and later Commander of the Advanced Headquarters for the Far Eastern Air Force Service Command. After the war he became the Chief of the scientific Liaison Section at Headquarters USAF and held other scientific evaluation jobs as they pertained to military weaponry.

Beginning in 1954 when he assumed command of the Air Force Ballistic Missile Division and later with the Air Research and Development Command, General Schriever pushed forward research and development on all technical phases of the Atlas, Titan, Thor and Minuteman ballistic missiles. He also provided for the launching sites and equipment, tracking facilities, and ground support equipment necessary to the deployment of these systems.

With the expansion of the Air Research and Development Command, he

became Commander of the newly created Air Force Systems Command (AFSC). Among the many creative programs he conceived and directed at AFSC was Project Forecast I, completed in 1964, which enlisted the best scientific and technological minds of that period in the projection of the aerospace world for the future.

After retiring from the Air Force on August 31, 1966, with more than 33 years of active military service, General Schriever became a consultant to government and industry where he could most effectively use his knowledge and experience pursuing technology and its management into military operational capabilities.

General Schriever has had several important government advisory assignments since his retirement in 1966, including: by Executive Order, Chairman, President's Advisory Commission on Management Improvement (PACMI); member, National Commission on Space; member, President's Foreign Intelligence Advisory Board; member, Strategic Defense Initiative (SDI) Technical Advisory Committee; Chairman, SDI Institute, and various ad hoc advisory committees and panels involving national security (DoD) and space (NASA).

General Schriever has been awarded four honorary Doctor of Science degrees, one honorary Doctor of Aeronautical Science degree, one honorary Doctor of Engineering degree, and one honorary Doctor of Laws degree, by various colleges and universities, including Utah State University. Inducted into Aviation Hall of Fame in 1980. Elected Honorary Fellow AIAA, recipient of James Forrestal Award 1986. Member of NAE. He received the National Air and Space Museum Trophy for Lifetime Achievement in November 1996.

General Schriever remains very active even today, and continues to serve on several important advisory boards to government, industry, and education. He currently chairs the Guidance Council for the Space Dynamics Lab at Utah State University in my home state. Several years ago, I was honored to have General Schriever participate as the featured speaker at my annual conference, SpaceTalk.

General Schriever's patriotism, intelligence, and vision have served our country well. The United States is more secure thanks to his many contributions and achievements. Thank you, General Schriever, for your dedication to the nation's well-being. I congratulate you and wish you continued success.●

RACE FOR THE CURE

• Mr. LEAHY. Mr. President, fifteen years ago the first Susan G. Komen Breast Cancer Foundation Race For The Cure was held in Dallas. This year, at least 500,000 participants in more than 85 communities nationwide will host 5-K runs and 1-mile fitness run/